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Wednesday
January 6, 1982

Highlights

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Highlights

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Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 3]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum size requirement applicable to fresh shipments of Honey tangerines from 2 11/16 inches to 2 9/16 inches in diameter on and after January 4, 1982. This action allows an increase in the supply of tangerines in recognition of demand conditions and the size composition of available supply in the interest of growers and consumers.

EFFECTIVE DATE: January 4, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

Interim regulation 5, setting minimum grade and size requirements for Florida Honey tangerines, was effective for the period October 19, 1981, through December 6, 1981. The final rule became effective on and after December 7, 1981. The final rule provided, among other things, that the minimum diameter of Florida Honey tangerines be not smaller than 2 11/16 inches.

This amendment would relax limitations on the handling of Honey tangerines by permitting each handler, on and after January 4, 1982, to ship 176 size (2 9/16 inches) Honey tangerines.

The committee reports that the total quantity of Dancy tangerines and tangelos, which are currently being harvested, is less than anticipated and there is a need to augment the total available supply of fruit for market by permitting shipment of smaller sized Honey tangerines. Honey tangerines are maturing approximately two weeks early this season. This amendment allows shipment of smaller sizes which normally would not be mature at this time. Growers and packers also need to include Honey tangerines in their harvesting operations to avoid the loss of harvesting and packing crews which would be idle due to the diminishing supply of Dancy tangerines and tangelos. Thus, relaxation of the regulation is necessary to allow a greater proportion of the available supply of marketable fruit to reach the market.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Honey tangerines. Handlers have been apprised of such provisions and the effective date.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the provisions of § 905.306 (Orange, Grapefruit, Tangerine and Tangelo Regulation 6 (46 FR 60170; 60411; 61441) are amended by amending Table I, paragraph (a) and Table II, paragraph (b) to read as follows:

§ 905.306 Orange, grapefruit, tangerine and tangelo regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Tangerines:			
Honey.....	On and after Jan. 4, 1982.	Florida No. 1.....	2 9/16

* * * * *

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Tangerines:			
Honey.....	On and after Jan. 4, 1982.	Florida No. 1.....	2 9/16

* * * * *

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

Dated: December 30, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-295 Filed 1-5-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1924

New Full-Time Family Farmer and Rancher Development Project—Correction

AGENCY: Farmers Home Administation, USDA.

ACTION: Final rule—correction.

SUMMARY: This document corrects a final rule published December 14, 1981 (46 FR 60801). This action is necessary as this regulation no longer applies to Single Family Housing borrowers who are not also indebted for an active farmer program type loan.

FOR FURTHER INFORMATION CONTACT: Carl O. Opstad, Directives Management Branch, Farmers Home Administration, USDA, Washington, D.C. 20250, telephone (202) 382-9725.

PART 1924—CONSTRUCTION AND REPAIR

The following correction is made in FR Doc. 81-35693 appearing on pages 60801 through 60806 in the issue of December 14, 1981.

Section 1924.51 appearing on page 60803 is corrected to read as follows:

§ 1924.51 General.

This Subpart sets forth policies for providing management assistance to individual applicants and borrowers. The term "individual" as used in this Subpart also applies to farming partnerships, corporations and cooperatives receiving Farmer Program loans. This Subpart pertains to all insured loan applicants/borrowers who depend on farm income for loan repayment (except for Rural Housing (RH) borrowers who are not also indebted for an active farmer program type loan), including those Farm Ownership (FO), Soil and Water (SW) and/or Operating (OL) loan applicants and borrowers who are afforded the services of a "New Full-Time Family Farmer and Rancher Development Committee." (See Exhibit A of this Subpart).

(7 U.S.C. 1989; 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: December 28, 1981.

Dwight O. Calhoun,

Acting Administrator, Farmers Home Administration.

[FR Doc. 82-324 Filed 1-5-82; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 1942

Development Grants for Community Domestic Water and Waste Disposal Systems

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding development grants for community domestic water and waste disposal systems. The purpose of this action is to clarify the information to be submitted to the National Office for projects requesting 100 percent grant funding and to specify that Form FmHA 1942-31, "Association Water or Sewer System Grant Agreement," be executed at the time of grant closing. The action is needed to eliminate the premature execution of the grant agreement.

EFFECTIVE DATE: January 6, 1982.

FOR FURTHER INFORMATION CONTACT: Yoonie MacDonald, Loan Specialist, (202) 447-5717, Room 6322, South Agriculture Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor.

Two options were considered in selecting the final option: (1) No action on part of FmHA. This would result in either the Administrator not having adequate information by which to make funding determination or a written request be made to state directors for additional information on a case-by-case basis. Also applicants would continue to execute the document at inappropriate time. (2) Clarify and amend regulations to include changes as stated. Option 2 is selected since it appears to best meet the needs that exist for FmHA and the public.

This action will not result in any increase in costs to the Government or the public and will not affect the proposed budget levels. It is believed that this action will not cause any adverse impact on the public or any part associated with grant assistance and requires no additional recordkeeping. The major impact of this regulation change will be the improved efficiency of the agency and public in use and interpretation of the regulations. We do not foresee any significant economic or social effects from this action.

These regulations are currently under agency review and will be submitted to OMB for clearance in accordance with the provisions of the Federal Reports Act of 1942.

The FmHA programs and projects which are affected by this instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

((CFDA No. 10.418) (Water and Waste Disposal Systems for Rural Communities))

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Section 1942.357 of Subpart H, Part 1942, Chapter XVIII, Title 7 in the Code of Federal Regulations is amended to clearly define the information to be provided by the State Director to the Administrator for projects which request grant only assistance on FmHA portion of project funding. This will prevent submission of incomplete material for National Office review; and clarify that Form FmHA 1942-31, "Association Water and Sewer System Grant Agreement," is to be executed only at the time of grant closing. The present regulation has resulted in applicants executing grant agreements prematurely.

FmHA published this amendment as a proposed rule in the Federal Register on December 10, 1980, (45 FR 81211) and requested comment. No comments were received and the proposed rule is being published as a final rule without change.

PART 1942—ASSOCIATIONS

Accordingly, in § 1942.357 of Subpart H of Part 1942, paragraph (b) is redesignated to (c), a new (b) is added, and (c)(1) is revised to read as follows:

§ 1942.357 Application review and approval.

* * * * *

(b) All grants that require National Office review will be submitted in accordance with § 1942.5(b)(1) of Subpart A of Part 1942 of this Chapter.

(c) * * *

(1) An item which reads:

"Attached is a copy of Form FmHA 1942–31, 'Association Water or Sewer System Grant Agreement' for your review. You will be required to execute a completed form at the time of grant closing."

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: December 2, 1981.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-312 Filed 1-5-82; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 81-071]

Importation of Birds; Procedures for the Approval of Commercial Bird Quarantine Facilities and Recovery of Costs of Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends Title 9, Code of Federal Regulations, Part 92, to make the operator of an approved quarantine facility for the importation of birds responsible for the maintenance and operation of the quarantine facility and for the cost of services provided by the Department at the quarantine facility. This action is necessary because an operator of an approved quarantine facility for the importation of birds controls the facility, and, therefore, is in a better position than an importer to assure that the quarantine facility is maintained and operated in accordance with the regulations in Title 9, Code of Federal Regulations, Part 92, and to pay for charges for services provided by the Department at the quarantine facility. The effect of this action is to relieve an importer of birds of the responsibilities presently imposed upon him by the regulations in Title 9, Code of Federal Regulations, Part 92, for the maintenance and operation of an approved quarantine facility for the importation of birds and for the costs for services provided by the Department at the approved quarantine facility. All costs for the use of a facility by an importer could be negotiated with the operator of the facility.

This document also amends Title 9, Code of Federal Regulations, Part 92, to provide for withdrawal of approval of any approved quarantine facility which has not been used to quarantine birds for a period of one year. This action is necessary to prevent a misallocation of Department personnel which may result when Department personnel are made available to provide services at approved quarantine facilities which remain unused for prolonged periods of time. The effect of this action is to give the Deputy Administrator the authority to withdraw approval from any approved quarantine facility which has not been used to quarantine birds for a period of one year.

This document also amends Title 9, Code of Federal Regulations, Part 92, to reduce the time from 7 days to 3 days, from the most recent contact with birds in an approved quarantine facility, that designated personnel employed by a Cooperator agree to refrain from having contact with other birds and poultry. The intended effect of this action is to provide for better management and utilization of personnel while still maintaining adequate disease control at approved quarantine facilities.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. S. S. Richeson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Classification: This final action has been reviewed in conformance with Executive Order 12291, and has been classified as not a "major rule." The Department has determined that this action will have an annual effect on the economy of less than $100 million, 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 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.

Regulatory Flexibility

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. Only 10 of the 93 approved bird quarantine facilities are presently not active. These 10 approved bird quarantine facilities could be affected by this action which provides the Deputy Administrator authority to withdraw approval from those facilities which have not been used for one year or longer. This action also makes the operator of approved bird quarantine facilities, rather than the importer of the birds, responsible for the costs and operations of the approved bird quarantine facilities. However, currently operators of approved quarantine facilities also import birds into the facilities, and, other importers which may use any of the facilities could negotiate all costs for the use of the facilities with operators of the facilities. Also, this action reduces the time from 7 days to 3 days, from the most recent contact with birds in an approved quarantine facility, that designated personnel employed by a Cooperator agree to refrain from having contact with other birds and poultry. Although this aspect of the amendment affects all 93 entities currently approved as bird quarantine facilities, the amendment should not have a significant economic impact because it merely reduces by 4 days the amount of time that designated employees of Cooperators must refrain from contact with other birds and poultry to avoid possible transmission of disease organisms.

Background

On Friday, April 24, 1981, there was published in the **Federal Register** (46 FR 23264) a proposed amendment to the regulations (9 CFR Part 92) concerning reducing the time from 7 days to 3 days, from the most recent contact with birds in an approved quarantine facility, that designated personnel employed by a Cooperator agree to refrain from having contact with other birds and poultry.

A 60 day comment period was provided for receipt of comments which expired on June 24, 1981. No comments were received.

On Monday, May 11, 1981, there was published in the **Federal Register** (46 FR 26065–26069) a proposed amendment to the regulations (9 CFR Part 92) concerning a shift of responsibility for the maintenance and operation of an approved quarantine facility and for the costs of services provided by the Department at a quarantine facility. Essentially, the document proposed to shift all such responsibilities from the importer of birds solely to the operators of quarantine facilities. Further, the document proposed that the Deputy Administrator have the authority to withdraw approval from any approved quarantine facility which has not been used to quarantine birds for a period of one year.

A 60 day comment period was provided for receipt of comments which expired on July 10, 1981. Three comments were received, all of which were against that aspect of the proposal

which would provide the Deputy Administrator with authority to withdraw approval from an approved quarantine facility which has not been used to quarantine birds for a period of one year. One commentor contended that importers and operators were being forced from the "free enterprise" system. Further, the commentor stated that the operation of an approved quarantine facility for some importers and operators is their only means of support.

The Department believes that a quarantine facility which remains unused for a period of one year or more is not a major source of income. The Department does not intend to "force" importers or operators from the "free enterprise system" or to remove from such persons, their only or major means of support. As stated in the proposal, the Deputy Administrator only has authority to remove approval from facilities which have not been used to quarantine birds for a year or longer. The Department's intent is to prevent a misallocation of personnel which results when the Department makes personnel available to provide services at approved quarantine facilities which remain unused for prolonged periods of time.

Another commentor was concerned that a 90-day ban on countries infected with viscerotropic velogenic Newcastle disease (VVND) would affect the supply of birds. It was suggested that this lack of supply would make it impossible for an operator to use an approved quarantine facility for a year or longer. This in turn would give the Deputy Administrator authority to withdraw approval from the quarantine facility. Furthermore, experience has shown that a 90-day ban involves only a few countries at a time and there always has been an adequate supply of birds from countries in which there is no ban. There has never been a situation in which inadequacy of supply caused nonuse of an approved quarantine facility for a period of one year.

The third comment stated that operators would be forced to use their approved quarantine facilities at least once a year and, if necessary, to accomplish this purpose, import birds of questionable disease status (possibly infected with VVND) in order to keep the quarantine facility active. Birds infected with VVND would not pass quarantine and, therefore, would not enter the United States. Further, there has always existed an abundant supply of birds which can be entered into an approved facility with some assurance that they are not affected with VVND. The Department does not anticipate that any operator will be forced to place questionable birds in an approved facility to assure that it is used once a year. However, in light of these comments, the Department has amended the proposed rule concerning the Deputy Administrator's authority to withdraw approval from any approved quarantine facility which has not been used to quarantine birds for a period of one year. The amendment eliminates the provision which would have made the withdrawal of approval effective upon receipt by the operator of written notice from the Deputy Administrator of the withdrawal of approval, and places the provisions for withdrawal of approval of quarantine facilities which have not been used to quarantine birds for a period of one year in a new subparagraph (ii)(D) in § 92.11(f)(6). Therefore, the provisions regarding notice and opportunity for a hearing set forth in present § 92.11(f)(6)(i) are applicable to a withdrawal of approval based upon the failure to use an approved quarantine facility to quarantine birds for a period of one year. These provisions provide a forum in which an operator of a quarantine facility will be afforded an opportunity for a due process hearing regarding the merits or validity of a withdrawal of approval of the facility for failure to use it for a period of one year.

Alternatives Considered

1. Do not amend the regulations.

(a) *Advantages:*

(i) None.

(b) *Disadvantages:*

(i) Allows approved quarantine facilities to stand idle for prolonged periods thereby causing a misallocation of Department personnel who are made available to provide services at such facilities.

(ii) The operator at present may have no financial responsibility for a bird importation, and the operation and maintenance of the facility may not be the sole responsibility of the operator but may be shared with the importer. However, the importer may not control and operate the facility, and, therefore, would not be able to assure that the quarantine facility is always maintained and operated in accordance with the regulations.

(iii) Continued confusion in billing and identification or persons responsible for costs.

(iv) Continued separate cooperative agreements with importers and operators before facility may be used for importing birds.

(c) *Costs:*

If the regulations are not amended, no new costs will be incurred by either the Department or industry.

2. Amend present regulations to provide the Deputy Administrator with authority to withdraw approval from quarantine facilities which have not been used to quarantine birds for a period of one year and place fiscal responsibility on the operator.

(a) *Advantages:*

(i) This amendment would place more responsibility on the operators of bird quarantine facilities to comply with USDA regulations and thereby reduce the risk of VVND and other communicable diseases of poultry entering the United States.

(ii) The amended regulations would eliminate unused quarantine facilities and thereby reduce costs to the Department caused by the allocation of personnel to provide services for such quarantine facilities.

(iii) All financial and operational responsibility would be fixed on the operator and thereby focus responsibility on a single entity.

(iv) Eliminates a cooperative agreement with the importer, thereby reducing the amount of paperwork and administrative costs necessary for approving the use of quarantine facilities.

(b) *Disadvantages:*

The operator would be more responsible for bird shipments which would make them more cautious in business dealings, perhaps reducing the number of bird shipments.

(c) *Costs:*

(i) USDA costs may be reduced because personnel will not have to be allocated for quarantine facilities that are used less frequently than once a year.

(ii) This amendment would shift fiscal responsibility from the importer to the operator.

3. Provide for withdrawal of approval for quarantine facilities which are not used to quarantine birds for one year but leave costs the responsibility of the importer.

(a) *Advantages:*

(i) Permits the Department to terminate approval of inactive approved quarantine facilities after they have remained unused for a year.

(ii) Less opposition by operators.

(b) *Disadvantages:*

Same as under 1 (ii)–(iv).

(c) *Costs:*

(i) USDA costs may be reduced because personnel will not have to be allocated for quarantine facilities that are used less frequently than once a year.

(ii) No change in costs for industry.

4. Reduce the waiting period that the Cooperator's designated employees in

commercial bird quarantine facilities refrain from contact with other birds and poultry from 7 days to 3 days following the most recent contact with birds in the approved quarantine facility.

(a) *Advantages:*

(i) Would permit better management and utilization of personnel for the industry.

(b) *Disadvantages:*

(i) None—less restrictive.

(c) *Cost:*

(i) No additional costs will be incurred by the Department or the industry and costs, because of the ability to better utilize personnel, may be reduced for the industry.

Options 2 and 4 were selected as providing more effective management and disease controls.

Approval of Quarantine Facilities and Costs of Operation

The regulations in 9 CFR 92.11(e) require that each lot of commercial birds, zoological birds, or research birds imported into the United States be quarantined for a minimum of 30 days at a USDA quarantine facility or in a facility provided by the importer and approved by the Deputy Administrator. Section 92.11(f) provides that to qualify as an approved quarantine facility and to retain such approval, certain standards for approved quarantine facilities and handling procedures for the importation of birds must be met and that the cost of the facility and all costs associated with its maintenance and operation shall be borne by the importer. Section 92.12(a) provides that the Deputy Administrator, Veterinary Services, may prescribe rates for the costs to the Department incurred in the care, feed, and handling of the birds, sanitation of the facilities, inspection, and other services as may be required from the time of unloading at a quarantine port to the time of release from quarantine.

On August 9, 1978, there was published in the **Federal Register** (43 FR 35457–35459) a rule that required importers, effective October 1, 1978, to reimburse Veterinary Services for all costs incurred in providing services required at approved quarantine facilities for the importation of birds, and a schedule of fees to be charged importers for such services. Further, the regulations in § 92.11 paragraphs (e) and (f) impose responsibility for the maintenance and operation of approved quarantine facilities upon the importer using such facilities. This document amends § 92.11(e), (f), and (g) of the regulations to require that the operator of the facility, rather than the importer, pay for all charges for services provided by Veterinary Services at the approved quarantine facility and bear all costs associated with and be responsible for the maintenance and operation of the facility. This amendment is necessary because an operator of an approved quarantine facility controls the facility and, therefore, is the more logical person upon which to impose such costs and charges and responsibility for the maintenance and operation of the facility in accordance with the applicable regulations.

Presently, § 92.11(e) requires, among other things, that imported birds be quarantined for 30 days at a USDA quarantine facility or in a facility provided by the importer and approved by the Deputy Administrator. This document amends § 92.11(e) to eliminate the requirement that the approved quarantine facility be provided by the importer. The Department does not believe that this requirement is necessary. The Department's concern is that if the birds are not quarantined in a USDA quarantine facility, the birds must be quarantined in a facility approved by the Deputy Administrator.

Presently, §§ 92.11(e) and 92.11(f)(7)(i) of the regulations require, among other things, that when an approved quarantine facility is about to be used, a Cooperative and Trust Fund Agreement as set forth in § 92.11(f)(7) of the regulations must be executed by the importer and the Department and appropriate funds deposited with the Deputy Administrator. Further, § 92.11(f)(7)(ii) of the regulations only authorizes the Deputy Administrator to provide services required by an importer at an approved quarantine facility if the Deputy Administrator determines that the importer has executed a Cooperative and Trust Fund Agreement. This document amends §§ 92.11(e) and 92.11(f)(7)(i) to require that, prior to the use of an approved quarantine facility, the operator rather than the importer must execute the Cooperative and Trust Fund Agreement and deposit appropriate funds with the Deputy Administrator. Further, this document amends § 92.11(f)(7)(ii) to authorize the Deputy Administrator to provide services required by the operator at an approved quarantine facility if the Deputy Administrator determines that the operator has executed a Cooperative and Trust Fund Agreement. These amendments are necessary because the operator is the person in control of the approved quarantine facility and, therefore, is in a better position than an importer to ensure that the facility is maintained and the birds are handled in accordance with the terms of the Cooperative and Trust Fund Agreement.

Presently, § 92.11(f)(7)(iii) sets forth the Cooperative and Trust Fund Agreement which must be executed by the importer and the amount of money which must be deposited with the Veterinary Services. As stated above, this document requires that the operator execute the Cooperative and Trust Fund Agreement and deposit agreed upon amounts of money with Veterinary Services. Therefore, this document amends the Cooperative and Trust Fund Agreement set forth in § 92.11(f)(7)(iii) to provide for the execution of such Agreement by the operator of the facility and for the depositing of funds with Veterinary Services by the operator of the facility.

Presently, § 92.11(f)(8) provides for a separate Cooperative Agreement to be executed by the operator of the quarantine facility and the Animal and Plant Health Inspection Service. These amendments delete § 92.11(f)(8) and place the terms of this agreement in the Cooperative and Trust Fund Agreement in § 92.11(f)(7)(iii). The need for two agreements is no longer necessary because the person who would be required to execute the two agreements are the same. Therefore, the two agreements are combined, reducing the amount of paperwork and administrative costs necessary prior to the use of approved quarantine facilities.

Importers wishing to use a facility should benefit from these amendments by negotiating all costs for the use of the facility with the operator of the facility. The Department benefits by having a responsible operator with a financial interest provide responsible management of the facility. By adopting this procedure, importers applying for a permit would not be required to execute a Cooperative and Trust Fund Agreement nor deposit the required funds with the Department. It would only be necessary for the applicant to reserve space at an approved facility.

Presently, § 92.11(f)(6) provides that approval of a quarantine facility will only be given after an inspection of the facility to determine if the facility meets the standards set forth in § 92.11(f). Further, approval may be withdrawn or denied if, among other things, any requirement of § 92.11 is not met. This document amends § 92.11(f)(6) to provide that approval of any facility may also be withdrawn by the Deputy Administrator, if the approved quarantine facility has not been used to quarantine birds for a period of one year. Before the withdrawal of approval

the operator of the facility will be informed of the reasons for the proposed action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding. This additional ground for withdrawal is necessary to prevent a misallocation of personnel which results when the Department makes personnel available to provide services at approved quarantine facilities which remain unused for prolonged periods of time.

The Department has approved 93 privately owned quarantine facilities for the quarantine of imported birds. Of these, 10 facilities have not been used to quarantine birds since being approved.

Waiting Period for Employees

It is important that employees of Cooperators operating approved bird quarantine facilities carry out their duties in ways to avoid the possible transmission of Newcastle disease virus from one premises or area to another.

Therefore, the Cooperative and Trust Fund Agreement requires a Cooperator to furnish to the Service a signed statement from each of the designated personnel employed by the Cooperator. This signed statement must contain an agreement by such personnel that for a period of 7 days, from their most recent contact with birds in the approved quarantine facility, such personnel will refrain from having contact with other birds and poultry. Such condition shall not be applicable from the date that the birds are released from quarantine.

The operational requirements for an approved quarantine facility provide that personnel granted access to the bird holding area wear protective clothing and footwear which are removed and decontaminated after being soiled or contaminated. Further, such personnel must shower when leaving the bird holding and necropsy areas.

Based upon information provided by the Department's scientific advisors that work with exotic Newcastle disease, it appears that personnel who follow these decontamination procedures would not transmit the virus after a period of 3 days following exposure to the virus. Therefore, to provide more effective management and utilization of personnel, the Cooperative and Trust Fund Agreement is amended to require that the Cooperator furnish to the Service a signed statement from each of the designated personnel in which such personnel agree that for a period of 3 days from the most recent contact with birds in the approved quarantine facility, the designated personnel will refrain from having contact with other birds and poultry.

The Department is amending the regulations as proposed with only a few minor nonsubstantive changes.

The proposed amendment of Monday, May 11, 1981, (46 FR 26065–26069) proposed the addition of the definitions of the words "person" and "operator" as new proposed §§ 92.1(y) and 92.1(z). These words were defined just as set forth in the proposal, in a final rule published on Monday, May 11, 1981 (46 FR 26040–26042). The Department, therefore, believes there is no reason to republish the definitions of these words in this document except to correct a typographical error in the definition of the word "operator."

The proposal, (46 FR 26065–26069) would have amended the Cooperative and Trust Fund Agreement to provide that the operator enter into said agreement with the United States Department of Agriculture, Animal and Plant Health Inspection Service, rather than the United States Department of Agriculture, Animal and Plant Health Inspection Service, rather than the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services. The Department did not intend to amend the Cooperative and Trust Fund Agreement in this manner. Therefore, this final rule retains the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, as one of the parties of said agreement.

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 in the following respects:

1. In § 92.1(z) (46 FR 26041) the typographical error is corrected to read:

§ 92.1 Definitions.

* * * * *

(z) *Operator.* For the purposes of § 92.11 any person operating an approved quarantine facility.

§ 92.11 Quarantine requirements. [Amended]

2. In § 92.11(e), the following phrase in the first sentence is removed:

* * * * *

(e) *Birds.* * * * which are provided by the importer and * * *

3. In § 92.11(e), the period at the end of the third sentence is removed and a comma is added in its place.

4. In § 92.11(e), the 7th and 8th sentences are revised to read:

* * * * *

(e) *Birds* *** Prior to use of an approved quarantine facility, a Cooperative and Trust Fund Agreement as set forth in paragraph (f)(7) of this section shall be executed by the operator of the facility and the Department and appropriate funds shall be deposited with the Deputy Administrator pursuant to the Cooperative and Trust Fund Agreement. During the quarantine period, the operator of the facility and the importer shall comply with handling procedures (including inspection and testing) as provided in paragraph (f) of this section.

* * *

* * * * *

5. In § 92.11(f), the second sentence of the introductory text is revised to read:

* * * * *

(f) *Standards for approved quarantine facilities and handling procedures for importation of birds.* *** The cost of the facility and all costs associated with the maintenance and operation of the facility shall be borne by the operator in accordance with the provisions of §§ 92.11(g) and 92.12 (a) and (c).

* * * * *

6. In § 92.11, new paragraph (f)(6)(ii)(D) is added to read:

* * * * *

(f) * * *

(6) * * *

(ii) * * *

(D) The approved quarantine facility has not been used to quarantine birds for a period of one year.

* * * * *

7. In § 92.11(f)(7)(i), the first sentence is revised to read:

* * * * *

(f) * * *

(7) *Cooperative and Trust Fund Agreement for services required by operator of approved quarantine facilities for the importation of birds.* (i) When a quarantine facility for the importation of birds is approved by the Deputy Administrator as provided in paragraph (e) of this section, a Cooperative and Trust Fund Agreement as set forth in paragraph (f)(7)(iii) of this section shall be executed by the operator of the facility and the Department and, in conjunction therewith, the operator shall deposit with the Deputy Administrator, Veterinary Services, funds adequate to cover all costs incurred by the

Department in providing services required for two complete quarantine periods in accordance with the provisions of the Cooperative and Trust Fund Agreement.

* * * * *

7. Section 92.11(f)(7)(ii) is revised to read:

* * * * *

(f) * * *

(7) * * *

(ii) The Deputy Administrator is authorized to provide services required by the operator of an approved quarantine facility in conjunction with the importations made through the facility for the importation of birds when he determines that the operator has executed a Cooperative and Trust Fund Agreement specified in paragraph (f)(7)(iii) of this section and has deposited funds in connection therewith as provided in such agreement.

* * * * *

9. In § 92.11(f)(7)(iii), the first sentence and the second sentence up to the first comma are revised to read:

* * * * *

(f) * * *

(7) * * *

(iii) *Cooperative and Trust Fund Agreement.*

Cooperative and Trust Fund Agreement between——(name of operator) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.

This Agreement is made and entered into by and between——(name of operator), hereinafter referred to as the Cooperator ***

* * * * *

10. In § 92.11, paragraph (f)(7)(iii)(A) is revised to read:

* * * * *

(f) * * *

(7) * * *

(iii) * * *

(A) *The Cooperator Agrees:*

(1) To operate the approved quarantine facility in accordance with all Federal Laws and regulations.

(2) To provide a current list of designated personnel employed by the Cooperator who will be used to handle and care for birds during a quarantine period. The list will include the legal names, current residential addresses, and social security numbers of the designated personnel. The list will be furnished to the port veterinarian at the time an application for an import permit to import birds into the quarantine facility is submitted to the Service. The list will be updated for any changes in or additions to the designated personnel in advance of such personnel working in the quarantine facility.

(3) To furnish to the Service a signed statement from each of the designated personnel employed by the Cooperator which provides that such personnel agree that for a period of 3 days from their most recent contact with birds in the approved quarantine facility, such personnel will refrain from having contact with other birds and poultry. Such condition shall not be applicable from the date that the birds are released from quarantine.

(4) To not permit any designated personnel which the Service determines to be unfit to be employed at a quarantine facility upon written notice from the Service. Such determination shall be based upon such employee's committing or aiding and abetting in the commission of any violation of Title 9, Code of Federal Regulations, Part 92. The Cooperator further agrees to suspend any designated employee from working at a quarantine facility when the Service has reason to believe that such employee has violated any provision of Title 9, Code of Federal Regulations, Part 92, and the Deputy Administrator has determined that the actions of such employee constitute a severe threat to introduce or disseminate a communicable disease of poultry into the United States. Such action shall be made upon receipt of notice from the Service requiring such action by the Cooperator.

(5) To allow the unannounced entry into the quarantine facility of Service personnel or other persons authorized by the Service for the purpose of inspecting birds in quarantine, the operations at the quarantine facility and to ascertain compliance with the Standards for approved quarantine facilities and handling procedures for importation of birds contained in Title 9, Code of Federal Regulations, § 92.11(f).

(6) To provide permanent restrooms in both the clean and the quarantine areas of the approved quarantine facility.

(7) To provide a T.V. monitoring system or a window or windows sufficient to provide a full view of the quarantine area excluding the clothes changing area.

(8) To install a communication system between the clean and quarantine areas of the approved quarantine facility. Such communication system shall not interfere with the maintenance of the biological security of the quarantine area.

(9) To secure all windows and any openings in the quarantine facility in a manner satisfactory to the Department which will insure the biological security of the quarantine facility and prevent the unauthorized removal of birds.

(10) To install tamperproof hasps and to install hinges on doors from which the pins cannot be removed.

(11) To install a hood with a viewing window over the necropsy table.

(12) To bag waste material in leakproof bags. Such material shall be handled in a manner that spoilage is kept to a minimum and control of pests is maintained. Such material shall be disposed of by incineration or by public sewer or other method authorized by the Deputy Administrator to prevent the spread of disease. The disposition of such material shall only be under the direction and supervision of the Service.

(13) To feed chlortetracycline to psittacine birds, upon their arrival in the facility, in accordance with the guidelines of the United States Public Health Service to reduce the risk of infecting Service employees, as well as other individuals having contact with the birds. If non-psittacine species are quarantined in the same facility with psittacine species, they will all be fed the chlortetracyline-medicated feed.

(14) To install an electronic security system which is coordinated through or with the local police so that monitoring of the quarantine facility is maintained whenever Service personnel are not at the facility or, in lieu of such electronic monitoring system to arrange for continuous guarding of the facility with personnel from a bonded, security company. *Provided,* That, if exotic Newcastle disease is diagnosed in any of the birds in the quarantine facility, continuous guarding of the facility with personnel from a bonded security company shall be maintained by the Cooperator. The electronic security system if installed shall be of the "silent type" and shall be triggered to ring at the monitoring site and not at the facility. The electronic system shall be approved by Underwriter's Laboratories.

Written instructions shall be provided to the monitoring agency which shall require that upon activation of the alarm, the police and a representative of the Service designated by the Service shall be notified by the monitoring agency. Such instructions, as well as any changes in such instructions, shall be filed in writing with the Deputy Administrator, Veterinary Services. The Cooperator shall notify the Service whenever a break in security occurs or is suspected of occurring.

(15) To not have non-Service personnel in the quarantine area when birds are in the quarantine facility unless Service personnel are present.

(16) To have seals of the Service placed on all entrances and exits of the facility when determined necessary by the Service and to take all necessary steps to insure that such seals are only broken in the presence of Service personnel.

(17) To decide what the disposition of a lot of birds will be within 48 hours following official notification that such a lot is infected with or exposed to velogenic viscerotropic Newcastle disease. Final disposition of the infected or exposed lot is to be accomplished within 4 working days following official notification. Disposition of the birds will be under the supervision of the Service.

(18) To furnish a telephone number or numbers to the Service at which the Cooperator can be reached on a daily basis or furnish the same for an agent or representative that can act and make decisions on the Cooperator's behalf.

(19) To deposit with the Service upon execution of this agreement the amount of $—— (equal to the approximate cost to the Department for two 30-day quarantine periods) to be used by the Service to defray all expenses incurred by the Service in providing services required, and as funds from that amount are obligated, monthly bills for costs incurred based on official accounting records will be issued to restore the deposit to its original level.

(20) To provide for the maintenance and operation of the approved quarantine facility

in accordance with standards for approved guarantine facilities and handling procedures for importation of birds as provided in Part 92 of 9 CFR.

* * * * *

11. In § 92.11(f)(7)(iii)(B), paragraphs (3)–(7) are added to read:

* * * * *

(f) * * *
(7) * * *
(iii) * * *
(B) *The Service Agrees:*

* * * * *

(3) To issue or validate permits on a timely basis depending upon the availability of personnel.

(4) To inform the Cooperator when a diagnosis of VVND has been made in any facility.

(5) To promptly inform the Embassy or Consulate of the foreign country to which lots of birds, refused entry into the United States due to a diagnosis of VVND, are to be shipped.

(6) To notify in writing the Cooperator of any designated employee which the Service believes should be suspended from work at the approved quarantine facility and the basis for such action. Similar notice shall be afforded to the designated employee. Subsequent to such suspension, the designated employee shall have the right to request an immediate review of such action by the Deputy Administrator, Veterinary Services, including presenting his views to the Deputy Administrator in an informal conference. If the Deputy Administrator makes a final determination that grounds existed to suspend such employee, he shall notify the Cooperator and the suspended employee of his decision and such employee shall be discharged by the Cooperator.

(7) Prior to any final determination being made by the Service concerning the discharge of any designated personnel employed by the Cooperator, the Service will inform, in writing, the Cooperator and the designated personnel of the basis for such action. If such person contests such action he or she shall be permitted to present his or her views to the Deputy Administrator, Veterinary Services, provided such request is made within 30 days of the receipt of the aforementioned written notice. If a final determination is made by the Deputy Administrator that such personnel should be discharged, he shall notify such personnel and the Cooperator of such determination.

* * * * *

12. In § 92.11(f)(7)(iii)(C), paragraphs (1), (2), and (3) are redesignated (3), (4), and (5) respectively, and new paragraphs (1) and (2) are added to read:

* * * * *

(f) * * *
(7) * * *
(iii) * * *
(C) *It is Mutually Agreed and Understood:*

(1) That a maximum capacity will be established for each approved quarantine lot. This will be based upon the capacity of the approved quarantine facility to handle the birds. The number of birds on the permits will not exceed this capacity.

(2) If the seals referred to in paragraph (f)(7)(iii)(A)(16) of this section are broken by other than Service personnel, it will be considered a breach in security and an immediate accounting of all birds in the facility shall be made by the Service. If any birds are determined to be missing from the facility, the quarantine period will be extended for at least an additional 30-day period.

* * * * *

13. In § 92.11(f)(7)(iii)(C), the paragraph following the signature block is removed.

14. Section 92.11(f)(8) is removed.

15. In § 92.11(g), the introductory language up to the colon is revised to read:

* * * * *

(g) *Charges for services.* The charges to be borne by the operator for services provided for quarantine facilities approved in accordance with paragraph (f) of this section shall be:

* * * * *

(41 Stat. 270, sec. 2, 32 Stat. 792, as amended, sec. 11, 58 Stat. 734, as amended, secs. 2, 3, and 4, 76 Stat. 129, 130, and sec. 11, 76 Stat. 132 (7 U.S.C. 450b and 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f respectively))

Done at Washington, D.C., this 28th day of December 1981.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-26 Filed 1-5-82; 8:45 am]
BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Advance Notification to States of Transportation of Certain Types of Nuclear Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to implement a federal statute which requires the NRC to promulgate regulations providing for timely notification to the governor of any state prior to transport of certain types of nuclear waste, including spent fuel, to, through, or across the boundary of that state. This notification provides the governor advance information, not otherwise available to the governor, related to nuclear waste transportation in his state. Shipment of spent fuel is covered under a separate amendment to the Commission's regulations on the physical protection of plants and materials since information regarding these shipments contains sensitive safeguards data which must be protected.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: John P. Roberts, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301–427–4205).

SUPPLEMENTARY INFORMATION:

Background

Section 301(a) of Pub. L. 96–295 requires the Nuclear Regulatory Commission to

Promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification requirement shall not apply to nuclear waste in such quantities and of such types as the Commission specifically determines do not pose a potentially significant hazard to the health and safety of the public.

On December 9, 1980, the NRC published a **Federal Register** notice (45 FR 81058) inviting public comments on a proposed rule providing for advance notification to governors of states of the transportation of nuclear waste. The 90-day comment period expired March 9, 1981. Copies of the proposed rule with a request for comments were also sent to state governors. The final rule is essentially the same as the proposed rule except that its scope has been restricted to cover only large quantity (defined in § 71.4(f) as exceeding Type B radioactivity limits) shipments of radioactive waste and spent fuel not covered under advance notification provisions of 10 CFR Part 73.

The Rule

The Commission and the Department of Transportation (DOT) have established packaging standards for packages for various quantities of radioactive material to provide for adequate safety of the public. There are two basic categories of packages, Type A and Type B. Type A packages must be designed to withstand the rigors of normal transport but are not designed to withstand transport accidents. Therefore, the quantities and types of radioactive material which may be transported in Type A packages are limited so that, if material release occurs in an accident, no significant hazard to public health and safety would result. Type B packages, which contain larger quantities of radioactive material, are designed to withstand both the normal

conditions of transport and specified accident conditions. While limits are set for Type B quantities of radioactive materials, there are no quantity limits for radioactive material per se in Type B containers. Accordingly, quantities larger than Type B, designated large quantities, may also be transported in Type B containers. However, regulatory requirements, which set limits on such factors as weight, volume, decay heat generation, and criticality control, place practical restrictions on the contents of Type B containers.

The NRC has recently affirmed the adequacy with respect to safety of existing 10 CFR Part 71 in its Withdrawal of Advance Notice of Rulemaking, "Radioactive Material Packaging and Transportation by Air," (46 FR 21619, April 13, 1981). In reaching this conclusion, it cited NUREG–0170, the Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, which, after considering the types and quantities of materials shipped in Type A and Type B and large quantity packaging, states that the potential risk of transportation is small.

Radioactive material shipments, including spent fuel shipments, were considered in NUREG–0170 and are subject to the NRC regulations in 10 CFR Part 71 which the Commission found to be adequate with respect to transportation safety. However, the Congress in Section 301(a) of Pub. L. 96–295 has specifically required prenotification for spent fuel shipments. Thus, while Congress leaves to the Commission's judgment, on the basis of potential significant hazard to public health and safety, which types of nuclear waste may be excluded from prenotification, it has also made it clear that at least one type of material, spent fuel, is not to be excluded. Shipments of spent fuel are almost all large quantity (defined in § 71.41(f) as exceeding Type B radioactivity limits) shipments. Almost all spent fuel shipments will contain in excess of 100 grams mass of spent fuel and will be covered under the amendment to 10 CFR Part 73.

At the present time, all large quantity shipments of radioactive waste, excluding spent fuel, are of low level waste. In the future, should reprocessing of power reactor spent fuel resume, shipments of solidified high level waste would be expected to occur. Such shipments would be expected to be in large quantities, and the characteristics of such high level waste would be similar, in terms of radioactivity and heat load, to spent fuel.

After reviewing the data on radioactive waste shipments which is currently available, the Commission has determined that its conclusion on the adequacy of existing 10 CFR Part 71 with respect to the safety of radioactive material transportation should be reaffirmed. It also has determined that, in accordance with the intent of Congress in Section 301 of Pub. L. 96–295, for shipments of radioactive waste which include large quantities of radioactive waste and spent fuel required to be shipped in Type B packaging, prenotification shall be required. Shipments of all other types of radioactive materials do not pose a potentially significant hazard to the public health safety, and such types of materials are excluded from shipment prenotification requirements.

The NRC also recognizes that, while the term "large quantity" may be eliminated as a result of proposed rulemaking to revise regulations for the transportation of radioactive material to make them compatible with those of the International Atomic Energy Agency ("Packaging of Radioactive Material for Transportation and Transportation of Radioactive Material Under Certain Conditions, Compatibility with IAEA Regulations," 44 FR 48234, at 48236, August 17, 1979), this revision will address types and quantities of radioactive materials presently covered under these regulations so that no purpose would be served at this time in attempting in this rulemaking to separately redefine the term "large quantity" for advance notification.

In accordance with the intent of Congress and consistent with the Commission's determination that shipments of radioactive waste do not pose a potentially significant hazard to the health and safety of the public, the Commission is amending its regulations in 10 CFR Part 71 to require NRC licensees to notify state governors in advance of all large quantity shipments of radioactive waste and of spent fuel not covered under the amendment to 10 CFR Part 73 (generally 100 grams mass or less) required to be shipped in Type B packaging.

Advance notification requirements for spent fuel shipments in excess of 100 grams mass are being addressed by the Commission in a separate rulemaking action in 10 CFR Part 73 for safeguards purposes. A companion notice covering this action is published elsewhere in this issue of the **Federal Register.** Shipments of large quantities (defined in § 71.4(f) as exceeding Type B radioactivity limits) of radioactive waste, including spent fuel not subject to 10 CFR Part 73 (approximately 100 grams mass or less) are covered in this amendment to 10 CFR Part 71.

The amendment to 10 CFR Part 71 will require licensees to supply the following information: the name, address, and telephone number of the shipper, carrier and receiver of the shipment, a description of the material to be transported, point of origin, estimated period of departure, estimated periods of arrival at state boundaries, the destination of the shipment, the estimated period of arrival, and a point of contact for current shipment information. This information would be provided by mail postmarked at least seven days or delivered by messenger at least four days in advance of the estimated period of departure, to the offices of the governors of affected states or their designees. A new information requirement contained in a recent DOT rulemaking ("Radioactive Material; Routing and Driver Training Requirements," 46 FR 5298, January 19, 1981) may lessen the impact of this amendment since shippers are on notice that they may need to develop procedures for reporting to DOT and can arrange to extend this effort to include NRC. The DOT Final Rule "Radioactive Materials; Routing and Driver Training Requirements," would require that route plans for large quantity shipments be submitted to the DOT Materials Transportation Bureau (49 CFR 173.22(c) 46 FR 5298 at 5316, January 19, 1981).

This final rule, unlike the DOT Final Rule (46 FR 5298), affects only NRC licensees, resulting, at the outset, in a situation where governors will not receive notification concerning a fraction of the total number of shipments, since some shipments of interest will be made by Agreement State licensees. This situation was anticipated, as noted in the additional views of several representatives (opposed to the requirement of section 301) appearing at page 37 of H. Rept. 96–194, Part 2 (June 29, 1979):

> Further, the NRC currently licenses possession of radioactive materials in only 25 [now 24] states. Under agreements between the NRC and the remaining states, those states would also have to implement regulations under this amendment.

The Comments

NRC received 62 letters containing more than 300 comments on the proposed rule. Comments were received from these entities as follows:

	Commentors
State governors or state agencies	21
Individuals from public sector	19
Nuclear industry	18
Federal agencies	3
City mayor	1
Total	62

The comments covered three general categories: (1) the scope of the rule, (2) its impacts and (3) administrative considerations.

1. *Scope of the Rule.* a. *Contents of packages subject to prenotification requirement.* Comments received ranged from favoring inclusion of almost all radioactive wastes for prenotification to not promulgating any amendment at all.

Initially, the NRC contemplated that all waste required to be shipped in Type B packaging should be included. Type B packaging designs are required to be accident resistant because Type B quantities of radioactive wastes are potentially a more significant hazard to the public health and safety if they are not adequately contained. However, NRC regulatory requirements for Type B packaging have been found to be adequate. As has been noted herein, the NRC has recently affirmed the adequacy with respect to safety of Type B packaging in a withdrawal of Advance Notice of Rulemaking, "Radioactive Material; Packaging and Transportation by Air" (46 FR 21619, April 13, 1981). In reaching this conclusion, it cited NUREG–0170, the Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, which, after considering the types and quantities of materials shipped in Type A and Type B and large quantity packaging states that the potential risk of transportation is small. Upon further consideration and review of the currently available data on radioactive waste shipments, the Commission has determined that shipments of radioactive waste do not pose a potentially significant hazard to the health and safety of the public. However, Congress has specifically required prenotification of shipments of spent fuel, which are almost always large quantity shipments, for prenotification. Accordingly, the Commission is amending the regulations in 10 CFR Part 71 to require NRC licensees to notify state governors or their designees in advance of all large quantity shipments of radioactive waste and of spent fuel not covered under the amendment to 10 CFR Part 73 required to be in Type B packaging. In the opinion of the Commission, this amendment is consistent with the intent of Congress which specifically included spent fuel, almost always shipped in large quantities, in the prenotification provisions of section 301(a) of Pub. L. 96–295, but also authorized the Commission to determine which types of radioactive waste may be excluded from prenotification requirements.

The NRC also believes that the varying concerns of the states can best be addressed by limiting NRC prenotification requirements to large quantity shipments of radioactive waste, including spent fuel. In its recent June 8, 1981 meeting, the State Planning Council on Radioactive Waste Management endorsed prenotification of high-level or large quantity shipments of radioactive materials, including spent fuel.

Finally, after consideration of comments, the NRC believes that inclusion of all shipments of Type B packaged waste is likely to cause an unwieldy paper management problem and reduce the utility of the notification system. For this reason the NRC determines that limiting advance notification to large quantity shipments will significantly reduce an undue administrative burden of notification on states and shippers. The number of shipments expected under this more restricted rule is a few hundred annually and will more likely be less than one percent of the 24,000 Type B shipments per year previously estimated in the proposed rule.

b. *Emergency preparedness concerns.* These issues are already being addressed outside this rulemaking action and therefore do not require further discussion at this time. As the Commission noted on April 13, 1981 in its Withdrawal of Advance Notice of Rulemaking (46 FR 21619),

> In another separate action, the NRC, in cooperation with the Federal Emergency Management Agency and other federal agencies is currently developing guidance material to be used by state agencies in developing emergency response plans for transportation accidents involving radioactive material.

c. *State and local authority.* Since the advance notification rule is solely informational and does not in any way preempt existing state or local authority with respect to regulation of transportation of radioactive materials, the concerns raised on the impact of the rule on state and local authority, particularly on the issue of preemption, are not germane. With respect to concerns over the failure to include Agreement State licensees under prenotification requirements, Congress did not choose to amend the Atomic Energy Act of 1954, as amended, to subject Agreement State licensees to this requirement. However, NRC plans to work with Agreement States to make regulations equivalent to this rule a matter of compatibility.

2. *Impact.* Concern was expressed over the potential impacts that the proposed amendment could have on the public health and on the safety of radioactive materials shipping. Such comment varied considerably because of widely differing views of commenters as to the present dangers to the public of radioactive waste shipping and whether a greater degree of regulation would enhance or diminish public safety. Concern was also expressed over potential problems for shipping accruing from the implementation of the proposed amendment. Potential problems raised included additional radiation exposure to the public, impeding efficient shipping, the financial and administrative burden of reporting on shippers, carriers, state agencies, and safeguards. In general, these comments indicated concern that the impact of the amendment was negative. However, with respect to safeguards, inclusion of all Type B shipments under proposed § 73.37(f) was also advocated. A third area of concern was that NRC regulations be coordinated with the Department of Transportation. This concern was generally directed toward the prospect of alleviating the administrative burden resulting from federal regulations on shipping.

The NRC has already addressed the issue of shipment safety in determining what types of wastes should be excluded from prenotification. In accordance with the provisions of section 301(a) of Pub. L. 96–295 only shipments of large quantities of radioactive waste, including spent fuel, required to be shipped in Type B packaging are subject to the prenotification requirement. Under existing transportation regulations, such shipments are placarded and information on them is not restricted from the public. Moreover, this regulation does not preempt existing state and local authority over transportation. The NRC has therefore concluded that requiring prenotification for large quantity shipments of spent fuel and radioactive waste will have negligible negative impacts on public health and safety and efficient shipping.

The Commission also believes that the exclusion from the prenotification requirement of all radioactive waste shipments except large quantities required to be shipped in Type B packaging, including spent fuel not covered under the amendment on advance notification to 10 CFR Part 73, will significantly reduce the financial and administrative burden on states, carriers, and shippers of such notification. Based on estimates

contained in NUREG–0170, the Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, in 1985 shipments of Type B wastes are expected to number 24,000 while large quantity shipments are only expected to number, at most, a few hundred annually and more probably less than one percent of the 24,000 Type B waste shipments.

With respect to coordination with the Department of Transportation, DOT announced in the preamble to its final rule on "Radioactive Materials; Routing and Driver Training Requirements" (46 FR 5298, January 19, 1981) that,

> In order to prevent a possibly severe inconsistency between NRC and DOT transportation requirements, the DOT will have to wait at least until final rules are issued for NRC licensees before undertaking a rulemaking proceeding to consider specific prenotification requirements for other types of large quantity shipments.

3. *Administrative Considerations.* A number of changes which were suggested or raised for consideration in comments may be categorized as administrative in nature. These included: inclusion of route information, use of generic reporting, creation of a federal clearing-house for notification, designation of a state agency addressee for notification receipt other than the office of the governor, restrictions on notification information to be supplied, clearer definition of carrier and licensee responsibilities, requesting state acknowledgement of notification before a shipment could enter a state, additional documentation requirements related to notification, and changes in the period required prior to shipment.

With one exception, notification to a governor's designee, which will serve to facilitate state response, these comments have not been adopted in this rule. Three of these comments, inclusion of route information, use of generic reporting, and the creation of a federal clearinghouse for reporting information were substantially resolved in the recent DOT rulemaking on "Radioactive Materials; Routing and Driver Training Requirements" (46 FR 5298, January 19, 1981), the preamble to this final DOT rule states in part,

> Also a provision is added to § 173.22(c) to require shippers of a large quantity package of radioactive materials to file a copy of the route plan prepared for that shipment within 90 days following the shipment with DOT. The Department intends to consolidate the information contained in the route plans and supply it to interested parties.

This effort by DOT to obtain post-shipment information is likely to provide greater accuracy in such reporting, and any NRC efforts would be largely duplicative.

The Commission believes that proposals on restricting information to be supplied in reporting would be confusing and burdensome. Provision for some state governors to decline to receive prenotification would also be a burden to licensees. Governors are not required to take any action on prenotifications received and are free to dispose of them since they will not contain protected information that Part 73 prenotifications will. Provision for receipt of partial information, which was also suggested, would result in increased paperwork since, for a single shipment, different amounts of information would be required for different states and militate against use of a standard reporting form. As already noted, summary information is expected to be available from DOT as a result of its highway routing rule. In addition, NRC staff plans to forward to DOT advance notifications received for DOT's data base. Another restriction suggested, requiring a state to reapply periodically for continued receipt of notification, does not comport with congressional intent in section 301 of Pub. L. 96–295.

The text of § 71.5a makes it clear that responsibility for advance notification of a shipment of nuclear waste, as defined in § 71.4(r), rests with the licensee, i.e., the shipper, not the carrier. Requiring shippers to await state acknowledgement of notifications would likely impede interstate shipping and could burden interstate commerce by effectively excluding shipments from states which did not choose to establish means of promptly acknowledging such notifications. With regard to suggestions that would require additional documentation from licensees, such as, for example, requiring licensees to document telephoned notification changes by letter, the NRC concludes that the additional burden on industry and states is not worth such effort. No change has been made in the period of time within which advance notification of a shipment must be given. A shorter period would tend to reduce the effectiveness of notification by mail and a longer period does not seem necessary. Basing the period on arrival at individual state boundaries rather than shipment departure would result in multiple and differing notifications for a single shipment which would require additional effort and possibly contribute to confusion in reporting.

Environmental Impact Statement

In accordance with 10 CFR 51.5(d)(3), an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with this rulemaking action because the amendments are nonsubstantive and insignificant from the standpoint of environmental impact.

Paperwork Statement

The Nuclear Regulatory Commission has submitted this rule to the Office of Management and Budget for such review as may be appropriate under the Paperwork Reduction Act, Pub. L. 96–511. The SF–83, "Request for Clearance," Supporting Statement, and other related documentation submitted to OMB have been placed in the NRC Public Document Room at 1717 H Street NW., Washington, DC 20555 for inspection and copying for a fee.

After careful consideration of the comments on the proposed rule, the Commission, for the reasons set out in the preamble and pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, Section 301 of Pub. L. 96–295 (94 Stat. 789–790), and Sections 552 and 553 of Title 5 of the United States Code, has adopted the following amendments to 10 CFR Part 71 which are published as a document subject to codification.

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

1. In the table of contents for 10 CFR Part 71, the portion of Subpart A which precedes the center heading "Exemptions" is revised to read as follows:

Subpart A—General Provisions

* * * * *

2. The authority for 10 CFR Part 71 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161 b, i and o, 182, 183, Pub. L. 83–703, 68 Stat. 930, 932, 933, 935, 948, 949, 950, 953, 954, as

amended (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201 (b), (i) and (o), 2232 and 2233), Secs. 201, 202, and 206, Pub. L. 93–438, 88 Stat. 1242 as amended, 1244, and 1246 (42 U.S.C. 5841, 5842 and 5846).

For the purposes of Sec. 223, Pub. L. 83–703, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 71.61–71.63 issued under Sec. 161o, 68 Stat. 950 as amended (42 U.S.C. 2201(o)). Secs. 71.4 (r) and (s), 71.5a and 71.5b also issued under Sec. 301, Pub. L. 96–295, 94 Stat. 789–790.

3. In § 71.4, new paragraphs (r) and (s) are added to read as follows:

§ 71.4 Definitions.

* * * * *

(r) "Nuclear waste" as used in §§ 71.5a–71.5b means:

(1) Any large quantity of source, by-product, or special nuclear material required by this part to be in Type B packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site, or

(2) Any large quantity of irradiated fuel required by this part to be in Type B packaging while transported to, through, or across state boundaries irrespective of destination if the quantity of irradiated fuel is less than that subject to advance notification requirements of 10 CFR Part 73.

(s) "State" as used in §§ 71.5a–71.5b means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

4. Immediately following § 71.5, a new centerhead and new §§ 71.5a and 71.5b are added to read as follows:

Advance Notification to States of Transport of Nuclear Waste

§ 71.5a Transport of nuclear waste—advance notification requirement.

Prior to the transport of any nuclear waste outside of the confines of the licensee's plant or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall comply with the procedures in § 71.5b for advance notification to the governor of a state or the governor's designee for the transport of nuclear waste to, through, or across the boundary of the state.

§ 71.5b Advance notification of shipment of nuclear waste; revision notice; cancellation notice.

(a) *Where, when, and how advance notification must be sent.* The notification required by § 71.5a must be made in writing to the office of each appropriate governor or governor's designee and to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of Part 73 of this chapter. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor or of the governor's designee at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A list of the mailing addresses of the governors and governors' designees is available upon request from the Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the notification shall be retained by the licensee as a record for one year.

(b) *Information to be furnished in advance notification of shipment.* Each advance notification of shipment of nuclear waste must contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment.

(2) A description of the nuclear waste contained in the shipment as required by the regulations of the U.S. Department of Transportation in 49 CFR §§ 172.202 and 172.203(d);

(3) The point of origin of the shipment, and the seven-day period during which departure of the shipment is estimated to occur;

(4) The seven-day period during which arrival of the shipment at state boundaries is estimated to occur;

(5) The destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

(6) A point of contact with a telephone number for current shipment information.

(c) *Revision notice.* A licensee who finds that schedule information previously furnished to a governor or governor's designee in accordance with § 71.5b(b) will not be met, shall telephone a responsible individual in the office of the governor of the state or of the governor's designee and inform that individual of the extent of the delay relative to the schedule originally reported in writing under the provisions of § 71.5b(b). The licensee shall maintain a record of the name of the individual contacted for one year.

(d) *Cancellation notice.* (1) Each licensee who cancels a nuclear waste shipment for which advance notification has been sent as required by § 71.5a shall send a cancellation notice to the governor of each state or the governor's designee previously notified and to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of Part 73 of this chapter.

(2) The notice shall state that it is a cancellation and shall identify the advance notification which is being cancelled. A copy of the notice shall be retained by the licensee as a record for one year.

Dated at Washington, D.C. this 30th day of December 1981.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-259 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

Advance Notification to Governors Concerning Shipments of Irradiated Reactor Fuel

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to implement a federal statute which requires the NRC to promulgate regulations regarding notification to state governors of the transport of spent fuel through a state. This notification will provide the governor advance information, not otherwise available to the governor, related to spent fuel transportation in his state. Shipment of certain other forms of nuclear waste is covered under a separate amendment to the Commission's regulation 10 CFR Part 71. Separate amendments are needed because information regarding spent fuel shipments contains sensitive safeguards data which must be protected. The information pertaining to the other waste shipments is not sensitive.

EFFECTIVE DATE: July 6, 1982.

ADDRESS: The comments received may be examined at the NRC Public Document Room at 1717 H Street, NW, Washington D.C.

FOR FURTHER INFORMATION CONTACT: Tom R. Allen, Regulatory Improvements Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301–427–4181).

SUPPLEMENTARY INFORMATION:

Background

Section 301(a) of Pub. L. 96–295 states: "The Nuclear Regulatory Commission,

within 90 days of enactment of this Act, shall promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification requirements shall not apply to nuclear waste in such quantities and of such types as the Commission specifically determines do not pose a potentially significant hazard to the health and safety of the public."

On December 9, 1980, the NRC published a **Federal Register** notice (45 FR 81060) inviting public comments on a proposed rule providing for advance notification to governors of states of the transportation of spent fuel. The 90-day comment period expired March 9, 1981. Copies of the proposed rule, with a request for comments, were also sent to state governors. The final rule is essentially the same as the proposed rule except that it has been modified to permit notification of a governor's designee (rather than the governor).

The Rule

The amendment to 10 CFR Part 73 will require licensees to supply the following information: the name, address, and telephone number of the shipper, carrier and receiver of the shipment, a description of the material to be transported, point of origin, estimated date and time of departure, estimated date and time of arrival at state boundaries, and a description of the shipment route to be used within the state. This information would be provided by mail, postmarked at least seven days or delivered by messenger at least four days in advance of the estimated date of departure, to the offices of the governors (or governors' designees) of affected states. Any person receiving schedule information would be required to protect it against unauthorized disclosure. The information protection measures are set forth in § 73.21 of 10 CFR Part 73 and are the subject of a separate rulemaking notice (46 FR 51718, October 22, 1981). Schedule information would be downgraded a short time after completion of the shipment, so that protection need not be continued. The state official would be renotified in the event of schedule changes in excess of six hours.

The Comments

NRC received 60 letters containing more than 300 comments on the proposed rule. Comments were received from these entities as follows:

	Commenters
State governors or state agencies	24
Individuals from public sector	23
Nuclear industry	9
Federal agencies	3
City mayor	1
Total	60

Some of these comments resulted in minor changes to the rule or in changes in the way the NRC will administer the rule. These comments relate to three general groupings.

The first such group of comments resulted in modification of the rule. A number of comments requested that the regulation be modified to require advance notifications be sent to a state official designated by the governor, rather than being sent to the governor himself. The Commission has decided that notification of a governor's designee has significant information handling and information protection advantages. Accordingly, the final rule has been modified to provide for notification of a governor's designee.

One comment requested that the advance notification information include the telephone number of the shipper and receiver. This suggestion is being adopted because during times of emergencies it would allow quick access to additional technical information about a shipment at insignificant additional cost. For completeness, the rule modification has been expanded to include the telephone number of the carrier.

A final comment requested that the regulation make clear that renotification can be done routinely by telephone. Paragraph § 73.37(f)(4) in the regulation has been modified to make this point clear.

In addition to the revisions resulting from public comment revisions were also made to simplify the information protection provisions of § 73.37(f)(3) and to clarify that they apply to intrastate shipments as well as to interstate shipments.

The second such group of comments made suggestions that were adopted but did not result in modification of the rule. Rather, these suggestions will be carried out by the NRC in the administration of the rule.

One comment in this group stressed the importance of a governor's right to decline to receive notifications and suggested that the regulations make this right explicit, while opposing comments insisted that a governor should not be given the option of declining to receive the notifications. The Commission continues to believe that in view of the information protection requirements of § 73.21, a governor should have the option to decline to receive advance notification information relevant to spent fuel shipments. If requested by a governor, the NRC will remove that governor's name from the list of governors to be notified.

One of these comments suggested that the notification should be made to a single contact within each state, and that localities within the state that need the information would obtain it from that contact. Another suggested that the NRC should make available to licensees a list of the responsible persons in each state to be notified in the event of a change of schedule. The Commission has decided that it is consistent with the intent of Congress that notifications should be made to a single designated individual within each state who is to receive notifications and renotifications. The NRC will make available a list of these individuals.

One comment requested that the list of governors to receive advance notifications should include the executives of certain Pacific Island territories and the U.S. Secretary of Interior (for shipments that would stop over at these Pacific Island territories). This suggestion is consistent with the language of the statute, which includes territories as states. The list of governors will be so modified.

One comment requested that a standardized advance notification form be used. The NRC adopted the suggestion and will issue a suggested format as a guidance document.

The Commission also received comments which were evaluated but not adopted. Some of these were in the form of suggestions, while others provided information for consideration. Some dealt with matters beyond the scope of this regulatory action or with matters beyond the authority of the Commission. These comments are discussed below:

1. *Scope of the Rule.* Several comments made suggestions concerned with the scope of the rule. These suggestions were rejected because they would modify the scope of the rule in ways that are inconsistent with NRC understanding of law or inconsistent with the aims of this particular rulemaking.

a. *Application to other than NRC licensees or to non-radioactive materials.* One comment suggested that the rule should apply to all transporters of radioactive fuel, rather than being limited to NRC licensees. Another comment expressed concern that the rule would be unjustifiably extended to include vast numbers of shipments of nonradioactive waste. These comments

were rejected because the NRC has no authority to apply the rule to persons other than NRC licensees.

b. *Promulgation of the rule by DOT, rather than NRC.* One comment contended that the DOT, rather than the NRC, should promulgate the rule. However, since Congress specifically directed the NRC to issue the rule, DOT has not undertaken the promulgation of such a rule.

c. *Emergency response and other state actions.* Some comments requested that the NRC identify state actions needed for optimum utilization of the information and provide more information on emergency response. Apart from information protection rules, which was required by Pub. L. 96–295, the NRC does not regulate state use of advance notification information. Accordingly, it would be inappropriate to incorporate advice concerning state use of notification information in a regulation. Although emergency response by states is a timely and important subject, these issues are already being addressed outside this rulemaking action, and therefore do not require further discussion here. As the Commission noted on April 13, 1981 in its withdrawal of advance notice of rulemaking (46 FR 21619):

> In another separate action, the NRC in cooperation with the Federal Emergency Management Agency and other federal agencies is currently developing guidance material to be used by state agencies in developing emergency response plans for transportation accidents involving radioactive material.

d. *State and local authority.* A group of comments pointed out differences between the proposed rule and existing state laws and asked whether the rule would preempt the existing state laws. In that regard, local regulations that call for the advance disclosure of spent fuel shipment schedule information could be affected by new NRC requirements for the protection of such schedule information. In accordance with a separate rulemaking, NRC licensees as well as any other person who has advance schedule information will be prohibited from furnishing it to any local official other than a member of a local enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies (see § 73.21(c) in 46 FR 51718, October 22, 1981). It should be noted that the protection provisions of § 73.21(c) do not apply to any of the other information provided to governors or the designees in accordance with this regulation.

Other comments requested that the rule provide for advance notification of citizens along spent fuel shipment routes. The NRC has not adopted this suggestion because it is beyond the scope of Pub. L. 96–295, and because a local official could obtain such information from his state governor's office as appropriate.

e. *Routing.* Some comments suggested that the rule require that shipments be routed on interstate highways and that the NRC consult with state police before approving a route. The issue of whether to route shipments only on interstates is outside the scope of the advance notification rule. Routing of spent fuel shipments is covered in 10 CFR 73.37 and in DOT regulation 49 CFR 173 and 177. However, it should be noted that the NRC encourages the use of interstate highways and, routinely consults with state police before approving a route.

2. *Impacts.* Some comments contended that the rule was unsupported and would be burdensome and ineffective. Congress has decided that, rather than being burdensome and ineffective, advance notification to states is beneficial because it enables states to contribute to the security, safety, and ease of transport of shipments. Therefore, Congress directed the NRC to issue requirements for its licensees to carry out advance notification.

3. *Administrative.* Comments in this group generally requested clarification of how various details of the rule would be interpreted and administered or set forth alternatives to the measures proposed. The specific comments are discussed below.

a. *Waterborne and airborne shipments.* One comment asked how the rule will apply to waterborne and airborne shipments. Notifications for waterborne shipments would be given as for highway shipments. There are no airborne shipments of spent fuel.

b. *Shipper-carrier division of responsibility.* Some comments asked whether the shipper or the carrier is intended to be responsible for notification under various conditions. Generally two licensees, a shipper and a carrier, are involved in each spent fuel shipment. Both are responsible for physical protection, including advance notification. As a practical matter, division of responsibility for carrying out the physical protection requirements is a subject of agreement between the shipper and the carrier.

c. *Series shipments.* One comment requested clarification concerning the way in which series of shipments are related with respect to protection of schedule information. Shipments in a series are related in the sense that knowledge of the schedule details of one shipment in the series could aid in predicting the schedule of subsequent shipments in the series. For this reason, schedule information protection is required until after the last shipment in a series is completed.

d. *Documentation to demonstrate compliance.* One comment asked what documentation a licensee must maintain to demonstrate compliance with the regulation. The Commission has decided that maintenance of a recordkeeping system by licensees is not required at this time. For its inspection the NRC will rely on a sampling process wherein NRC records concerning the details of notification will be checked against state records for the same shipment.

e. *Notification lead times.* Some comments inquired about the basis for the proposed lead times for notifications, suggested various alternative lead times, and asked whether there are circumstances under which a shipment could be made with less than four days advance notification. The notification lead times are selected to offer a reasonable compromise between the needs for (1) timely advance notification, (2) avoidance of unnecessarily long periods for protection of schedule information, and (3) avoidance of unnecessary numbers of renotifications stemming from schedule changes. NRC regulations in 10 CFR Part 73 provide for the granting of exceptions to the provisions of Part 73, including the provision for four-day notification lead time, but there must be good cause for the exception to be granted.

f. *Confirmation of receipt of notification.* One comment suggested that, prior to entering a state with a shipment, licensees obtain confirmation from the state that notification has been received. The suggestion was not adopted because it could lead to significant delays of shipments en route and thereby weaken safeguards of the shipments.

g. *Use of registered or certified mail.* One comment suggested that notifications be sent only by certified or registered mail to ensure delivery. The suggestion was not adopted because NRC analysis showed insignificant benefit.

h. *Clearinghouse for notifications.* One comment suggested that the NRC establish a Federal clearinghouse or other centralized unit to transmit notifications to states. The suggestion was not adopted because it is not necessary to the notification process, it would be costly, and it could cause notification delays.

i. *Notification through mutual agreement.* One comment suggested that notifications be carried out through mutual agreement between licensee and state, rather than having the details specified by the NRC in a regulation. The suggestion was rejected because notifications would likely be nonuniform from state to state and would be difficult for the NRC to enforce.

j. *Schedule tolerance.* Several comments suggested various alternatives to the proposed ± 6 hours tolerance be considered. The ± 6 hour tolerance was retained because it appears to be a reasonable compromise between (1) the need for carriers to be allowed to have significant flexibility in schedules for long distance shipments and (2) the need for schedule accuracy in order to assure that states have the opportunity to contribute to the security and safety of transport of shipments.

k. *Relevant state law.* Some comments contended that the NRC should have evaluated all of the relevant advance notification rules now in force in several of the states. The NRC staff reviewed a number but not all of the state advance notification laws and consulted with representatives of some states that have operational advance notification laws. Some provisions of the proposed rule were adopted from state laws.

l. *General rather than specific notifications.* Some comments suggested that states need only general information (routes, number of shipments using that route, typical quantity of material in a shipment, etc.) rather than shipment specific information. The suggestion was rejected because states will have a greater range of alternatives to contribute to the security, safety, and ease of transport of spent fuel shipments if the notifications are in advance and are shipment specific.

4. *Information protection.* Numerous comments were concerned with the information protection provisions in the proposed rule, under which shipment schedule information would be required to be protected.

Concerns surrounding the basis for protection of information, and the ways in which such information should be handled, are addressed in a separate rulemaking (see 10 CFR 73.21, 46 FR 51718, October 22, 1981).

After careful consideration of these comments, the Commission has adopted the amendment in final form.

Environmental Impact Statement

In accordance with 10 CFR 51.5(d)(3), an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with this rulemaking action because the amendments are nonsubstantive and insignificant from the standpoint of environmental impact.

Paperwork Statement

The Nuclear Regulatory Commission has submitted this rule to the Office of Management and Budget for such review as may be appropriate under the Paperwork Reduction Act, Pub. L. 96–511. The SF–83, "Request for Clearance," Supporting Statement, and other related documentation submitted to OMB have been placed in the NRC Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 for inspection and copying for a fee.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, Section 301 of Pub. L. 96–295 (94 Stat. 789–790), and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Part 73 are published as a document subject to codification.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 147, 161b, 161i, 161o, Pub. L. 85–703, 68 Stat. 930, 948–950, as amended, Pub. L. 85–507, 72 Stat. 327, Pub. L. 88–489, Stat. 602, Pub. L. 93–377, 88 Stat. 475, Pub. L. 96–295, 94 Stat. 780 (42 U.S.C. 2073, 2201, 2167); Sec. 201, Pub. L. 93–438, 88 Stat. 1242, 1243, as amended, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841). For the purposes of Sec. 223, 68 Stat. 958, as amended, 42 U.S.C. 2273, 73.37(g) and § 73.55 are issued under Sec. 161b, 68 Stat. 948, as amended, 42 U.S.C. 2201(b); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issed under Sec. 161i, 68 Stat. 949, as amended, 42 U.S.C. 2201(i); and §§ 73.20(c)(i), 73.24(b)(i), 73.26(b)(3), (h)(6), (i)(6) and (k)(4), 73.27(a) and (b), 73.37(f), 73.40(b) and (d), 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71 and 73.72 are issued under Sec. 161o, 68 Stat. 950, as amended, 42 U.S.C. 2201(o). Paragraph 73.37(f) also is issued under Section 301 Pub. L. 96–295, 94 Stat. 280.

2. Section 73.37 is amended by adding paragraphs (f) and (g) to read as follows:

§ 73.37 Requirements for physical protection of irradiated reactor fuel in transit.

* * * * *

(f) Prior to the transport of spent fuel within or through a state a licensee subject to this section shall notify the governor or the governor's designee. The licensee shall comply with the following criteria in regard to a notification: (1) The notification must be in writing and sent to the office of each appropriate governor or the governor's designee. A notification delivered by mail must be postmarked at least 7 days before transport of a shipment within or through the state. A notification delivered by messenger must reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the state. A list of the mailing addresses of governors and governors' designees is available upon request from the Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) The notification must include the following information:

(i) The name, address, and telephone number of the shipper, carrier and receiver.

(ii) A description of the shipment as specified by the Department of Transportation in 49 CFR § 172.202 and § 172.203(d).

(iii) A listing of the routes to be used within the state.

(iv) A statement that the information described below in § 73.37(f)(3) is required by NRC regulations to be protected in accordance with the requirements of § 73.21.

(3) The licensee shall provide the following information on a separate enclosure to the written notification:

(i) The estimated date and time of departure from the point of origin of the shipment.

(ii) The estimated date and time of entry into the governor's state.

(iii) For the case of a single shipment whose schedule is not related to the schedule of any subsequent shipment, a statement that schedule information must be protected in accordance with the provisions of § 73.21 until at least 10 days after the shipment has entered or originated within the state.

(iv) For the case of a shipment in a series of shipments whose schedules are related, a statement that schedule information must be protected in accordance with the provisions of § 73.21 until 10 days after the last shipment in the series has entered or originated within the state and an estimate of the date on which the last shipment in the series will enter or originate within the state.

(4) A licensee shall notify by telephone or other means a responsible individual in the office of the governor or in the office of the governor's designee of any schedule change that differs by more than 6 hours from the schedule information previously furnished in accordance with § 73.37(f)(3), and shall inform that individual of the number of hours of

advance or delay relative to the written schedule information previously furnished.

(g) State officials, state employees, and other individuals, whether or not licensees of the Commission, who receive schedule information of the kind specified in § 73.37(f)(3) shall protect that information against unauthorized disclosure as specified in § 73.21.

Dated at Washington, D.C. this 30th day of December 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-216 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 298

[Reg. ER-1278; Economic Regulations Amendment No. 20 to Part 298; Docket 40133]

Classification and Exemption of Air Taxi Operators Dual Authority After Domestic Route Deregulation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB's "dual authority" rule includes exemptions that allow certificated air carriers to operate with small aircraft under the air taxi rule as if they were air taxi operators. For passenger service, the exemptions have been limited to flights outside the carrier's certificated route system. The CAB now removes that route limitation, so that all of a certificated carrier's passenger operations with small aircraft will be considered as operations under the air taxi rule. There is a special provision for service within Alaska.

DATES: Adopted: December 22, 1981. Effective: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

Background

The Board's air taxi rule, 14 CFR Part 298, defines "air taxi operator" essentially as an air carrier that uses only small aircraft (up to 60 seats/18,000 pound payload capacity), does not have a certificate under section 401 of the Federal Aviation Act, and meets certain other conditions. Subpart B of Part 298 exempts air taxi operators from the section 401 certificate requirements, section 403 tariff-filing requirements, and a variety of other provisions of the Act. The exemption is conditioned on compliance with registration, liability insurance, reporting, and other requirements.

A certificated carrier is by definition not an air taxi operator, regardless of the size of its aircraft, and so has not qualified for air taxi operators' Subpart B exemptions. In a series of orders in recent years, however, the Board granted exemptions from this definitional constraint to various carriers, enabling the carriers to hold dual authority. These orders generally enabled a dual authority carrier to conduct small-aircraft operations off its certificated route system as an air taxi operator under Part 298, while performing on-route operations with small or large aircraft under its section 401 certificate.

In a recent final rule, the Board eliminated the need for individual dual authority exemption orders by amending Part 298 to embody the dual authority scheme directly in a new Subpart I of the air taxi regulation (ER-1251; 46 FR 51371; October 20, 1981). The scheme in the rule resulted in a slight change in terminology. A dual authority carrier is no longer both a certificated carrier and an air taxi operator at the same time. Instead, it is simply a certificated carrier, and Subpart I gives it the exemptions set out in Subpart B for air taxi operators *as if it were* an air taxi operator. The dual authority carrier's exemptions are conditioned on compliance with Subparts C through H, as they are for true air taxi operators, and further conditioned on the terms of Subpart I itself. In § 298.90(a), Subpart I provides that the exemptions cover small aircraft operations outside the carrier's certificated route system and, for cargo-only service, all the carrier's small aircraft operations, regardless of whether they are on- or off-route. These operations of a dual authority carrier are considered as "operations under Part 298" or "air taxi *operations*" rather than as operations under its certificate, even through the carrier is not an air taxi *operator*.

The Proposed Rule (EDR-433)

Under section 1601(a)(1)(C) of the Federal Aviation Act, the Board will have no authority after December 31, 1981, to specify terminal or intermediate points in certificates authorizing domestic passenger air transportation. The practical effect of this change is to give most certificated carriers virtually unlimited domestic route authority. As a result, the provision in § 298.90(a) established by ER-1251 that limits the Subpart I exemption for passenger service to operations outside a carrier's "certificated route system" will lose its meaning and some type of change in the regulatory scheme will be necessary.

The Board therefore proposed in EDR-433 (46 FR 51390; October 20, 1981) to remove the route limitation, effective December 31, 1981, so that all of a dual authority carrier's passenger operations with small aircraft would come under Part 298. Even if such a change were not compelled by the impending changes in domestic route regulation, this would be the next logical step in the Board's efforts to align regulatory requirements with the nature of a carrier's operations instead of the less significant criterion of whether the carrier holds a certificate. The proposal noted, for example, that the Board had already granted unlimited domestic fare flexibility to certificated carriers for their small aircraft operations, to provide parity with Part 298 operations (PS-92, 45 FR 24115, April 9, 1980). Similarly, the Board had recently amended the denied boarding compensation rule to exclude coverage of small aircraft entirely (ER-1237, 46 FR 42442, August 21, 1981). And the smoking rule had been amended to apply uniformly to U.S. carriers' operations of aircraft with 30 or more seats, without regard to whether a carrier holds a certificate (ER-1245, 46 FR 45934, September 16, 1981).

The main practical effect of the proposal would be to extend the tariff-filing exemption. The reason for this is that the main exemptions that part 298 provides to air taxi operators (subpart B) and dual authority certificated carriers for their covered operations (Subpart I, incorporating Subpart B) are from the section 401 certificate requirement and the section 403 tariff-filing requirement. The proposed extension of Subpart I coverage from off-route small aircraft operations to all small aircraft operations would have no substantive effect with regard to the section 401 exemption, because a section 401 exemption for operations already authorized by the carrier's section 401 certificate would merely be redundant.

Under the proposed scheme there would be no change in §§ 298.93 or 298.11(b), the provisions that directly address tariff filing. But the proposed change in § 298.90 from a route criterion to an aircraft-size criterion would change the effect of those provisions, to result in the following scheme: A certificated carrier would continue to file tariffs for all its large aircraft operations. For its small aircraft operations, tariffs would not be required except for joint fares that it had agreed

to with another carrier where the other carrier used large aircaft. For connecting service on its own system that involved both large and small aircraft, tariff filing would be optional domestically, and optional internationally except for through fares that were less than the sum of the local fares.

The other main feature of EDR–433 was the Board's proposal to eliminate the air taxi registration requirement for most dual authority carriers. The main purpose of the registration scheme has been to provide the Board with certificates of insurance and a list of the air taxi operator's aircraft that can be used to verify that the insurance covers all of them. Under the Board's new insurance rules (Part 205; ER–1253; 46 FR 52572; October 27, 1981), all carriers will be filing certificates of insurance, and certificated carriers will not have to file lists of their aircraft. Any certificated carrier with unlimited domestic route authority beginning January 1, 1982, therefore, will have all the authority of an air taxi operator, except for the tariff-filing exemption and international small-aircraft route freedom, even without having to register for Part 298 operations. The proposal noted that there appears to be no reason to require a certificated carrier to register merely to obtain the tariff exemption and that remaining route authority. The effect of this amendment would be that most certificated carriers would become dual authority carriers automatically, without registering under § 298.21.

The proposal to eliminate the registration requirement for dual authority carriers included an exception for those carriers whose only section 401 certificate authority was obtained under the unused authority program, section 401(d)(5). Referring to an interpretation of section 1601(a)(1)(C) that it was about to announce in Order 81–11–23, the Board stated that those carriers would not have unlimited domestic route authority. Without such unlimited authority, the above reasoning would be inapplicable to them.

Additional features of the notice of proposed rulemaking were as follows:

Antitrust provisions. Sections 408 and 409 of the Act generally require prior Board approval of merger and other control transactions and interlocking relationships involving air carriers. Exemptions from the prior approval requirements in certain cases are provided by §§ 298.11(g), 298.14, and 298.92. The exemptions were explained in detail in ER–1251. The basic scheme is as follows: To determine whether the exemption is available for a specific transaction or relationship, examine the transaction or relationship but ignore certain operations, to be discussed below. If section 408 or 409 still applies to what is left in the picture, Part 298 provides no exemption. If, on the other hand, section 408 or 409 does not apply to what is left (*i.e.*, it applied to the original transaction or relationship only by virtue of the involvement of the ignored operations), than Part 298 does provide an exemption.

In the scheme established in ER–1251, the operations to be ignored in performing the above analysis of a transaction or relationship are as follows: "operations under this part, or under section 401(d)(5) (unused authority) or 401(d)(7) (automatic entry) of the Act." The references to section 401(d)(5) and (d)(7) were included so that a carrier whose only certificate authority came from those provisions would be treated like an air taxi operator. The Board proposed in EDR–433 to eliminate those references. This would simplify the rule. It would have little or no substantive effect, however, because the meaning of "operations under this part" would be broadened, by the main amendment proposed in EDR–433, to include all small-aircraft operations. Most, if not all, carriers whose only certificate authority is under section 401(d)(5) use small aircraft exclusively, so their section 401(d)(5) operations would continue to be ignored in the exemption analysis even without a specific reference to that provision. And the reference to section 401(d)(7) is no longer necessary, because the automatic market entry program has ended and all the carriers that obtained authority under it also have authority under section 401(d)(1) or (d)(3) of the Act.

Joint fares and 90-day notice of service suspensions. Section 37(c) of the Airline Deregulation Act (49 U.S.C. 1482a) entitles commuter air carriers—air taxi operators that perform at least five scheduled round trips per week between a pair of points—to participate in any uniform joint fare system established by the Board. It also requires that a participating commuter give 90 days' notice before terminating its service in a market in which joint fares are offered. Failure to give the notice makes the commuter ineligible to participate in the joint fare system. The Board proposed in EDR–433 to amend § 298.94 to interpret section 37(c) as applying to none of the operations of a dual authority carrier.

Elimination of large-aircraft reporting. An air taxi operator is required by § 298.32 to report to the Board any proprietary interest in, and operations with, large aircraft. A dual authority carrier is required by § 298.96 to file the same reports, but not for aircraft that are used exclusively in its section 401 operations. The Board tentatively concluded in EDR–433 that these reports have outlived their usefulness, and proposed to eliminate both § 298.32 and § 298.96.

Schedule filing. Under § 298.99, a dual authority carrier files schedules for its commuter operations under § 298.60 and for its section 401 operations under Part 231, *Transportation of Mail; Mail Schedules.* To avoid forcing certificated carriers to switch their schedule-filing routines for small-aircraft service that until December 31, 1981, had been on-route, the Board proposed to amend § 298.99 to give carriers the option of filing schedules under either § 298.60 or Part 231.

Airports. Under section 612 of the Act, the Federal Aviation Administration issues "airport operating certificates" to certain airports. Section 610 requires an airport to have an airport operating certificate if it serves any "air carriers certificated by the Civil Aeronautics Board." These provisions raise the following question: Must an airport have a section 612 airport operating certificate if it receives service from a dual authority carrier pursuant to that carrier's air taxi authority, but does not otherwise receive any service from a carrier that holds a certificate from the Board? The Board noted in EDR–433 that the FAA had interpreted the Act and the existing dual authority scheme as not requiring airports to have section 612 certificates in such cases. The Board expressed its understanding that if the dual authority amendments were adopted as proposed, the FAA interpretation would continue, so that the requirement for a section 612 certificate would depend simply on whether the airport receives service from large aircraft.

International markets; duration of exemptions. In some international markets, such as New York-Ottawa, where bilateral agreements or public interest considerations call for some type of government oversight of market entry or terms of service, the needed U.S. government control could be compromised by the unlimited small-aircraft international route authority afforded to air taxi operators and dual authority carriers by Part 298. In some of these markets the Board may need to withdraw or condition the Part 298 exemptions. The rule already includes a provision, §298.13, that enables the Board to terminate an exemption with respect to an air taxi operator or class of air taxi operators, upon an appropriate finding. The Board proposed in EDR–433

to revise § 298.13 in three ways: (1) to clarify that exemptions can be withdrawn or conditioned on a market-by-market basis; (2) to reflect the fact that Part 298 now affords exemptions not only to air taxi operators but also to other persons such as certificated carriers, persons controlling air carriers, and officers and directors of air carriers; and (3) to reflect the Airline Deregulation Act's elimination of the "undue burden" standard for exemptions under section 416 of the Federal Aviation Act.

Comments and Response

Comments on EDR–433 were filed by the Air Line Pilots Association, the Alaska Transportation Commission, CAS Aviation, Hawaiian Airlines, and the Regional Airline Association, and jointly by the following seven Alaskan carriers, which either hold section 401 certificates or have certificate applications pending before the Board: Cape Smythe Air Service, Channel Flying, Harold's Air Service, Hermens Air, L.A.B. Flying Service, Southeast Alaska Airlines, and Tyee Airlines.

With exceptions related to Alaska and the antitrust provisions, the comments generally supported the proposed rule. The Board has decided to amend Part 298 essentially as proposed, except that dual authority carriers will not be exempted from tariff filing or price regulation for service within Alaska. The specific comments and the Board's responses are as follows:

Hawaiian Airlines. Hawaiian, a certificated carrier, supported the proposal without qualification. It noted that the elimination of tariff filing for its small aircraft operations would give it the flexibility that its air taxi rivals already have to undertake and respond to pricing initiatives.

Alaskan carriers. These commenters also supported the proposal, but pointed out a potential ambiguity in terminology. They referred to section 105(a) of the Federal Aviation Act, in which paragraph (1) generally preempts State regulation of air carriers that have authority from the Board, and paragraph (2) states:

> Except with respect to air transportation (other than charter air transportation) *provided pursuant to a certificate issued by the Board under section 401 of this Act*, the provisions of [paragraph (1)] shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska. (emphasis added)

The effect of section 105(a)(2) is that for air transportation wholly within Alaska, State regulation is preempted only for scheduled service "provided pursuant to" a section 401 certificate. Thus, the State may regulate Part 298 air taxi operators and the charter service of certificated carriers.

The Alaskan carriers then referred to proposed § 290.90(b), which states:

> All of a certificated carrier's operations with small aircraft shall be considered as operations "under this part" and not under its section 401 certificate.

These commenters were concerned that the combined effect of section 105(a)(2) and § 290.90(b) would be to subject Alaskan certificated carriers operating small aircraft to possible regulation by the State of Alaska. This could arguably result from considering such operations as "under Part 298" rather than under a certificate. The carriers stated that such a result would be contrary to both the stated purpose of the notice of proposed rulemaking and the Act's preemption provision. They pointed out that Munz Northern and Kodiak Western, for example, are certificated carriers that have not been subject to regulation by the State over their scheduled routes at all.

In proposing these amendments, the Board did not intend to deprive Federally-certificated Alaskan carriers of the benefits of State preemption. The Board is therefore adding a sentence to § 298.90(b) to clarify that, for the purposes of section 105(a)(2) of the Act, a certificated carrier's operations "under Part 298" are nonetheless considered as "provided pursuant to" its certificate.

Regional Airline Association (RAA). The RAA sought a clarification or change in the proposal to eliminate the Part 298 registration requirement for most dual authority carriers but retain it for those whose only certificate authority was obtained under the section 401(d)(5) unused authority program. Continued registration for those carriers was based on the interpretation that after December 31, 1981, their domestic route authority would still be limited. The RAA pointed out that under Order 81–11–23, some of them will also have unlimited domestic route authority, namely, those whose section 401(d)(5) certificates were originally awarded by January 1, 1981. The rationale for eliminating the registration requirement therefore applies to this subgroup of carriers as well, and the rule has been revised accordingly.

The RAA also expressed a concern that the Federal Aviation Administration's interpretation of the section 612 airport certification requirements would not continue, especially for those airports that have already been certificated but would no longer need certificates as a result of the Board's expanded definition of operations "under Part 298." It is the Board's understanding, however, that the FAA interpretation will continue. For further information about that interpretation, interested persons may contact the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591

Alaska Transportation Commission (ATC). The ATC strongly supported the effect of the proposed rule on section 612 airport certification requirements. It objected, however, to changes affecting fares and tariffs. It referred to the Board's reasoning in EDR–433 that little was to be gained from retaining tariffs for certificated carriers' small-plane service since the Board had already deregulated fares for such service in PS–92. It pointed out that this argument is inapplicable to service within Alaska, because PS–92 did not affect that service. Intra-Alaska passenger service, regardless of aircraft size, is still subject to the statutory fare flexibility zone that ranges from 50 percent below to 5 percent above the standard industry fare level. The ATC suggested that retention of this limited flexibility is in the public interest in Alaska because most service there is with small aircraft, many markets are thin, and, even through there is now competition on many routes, the number of single-carrier markets is likely to increase significantly in the near future.

The Board has already recognized that intra-Alaska service presents unusual circumstances that might call for special regulatory treatment, and has deferred action on broadening certificated carriers' fare flexibility there (PS–96; 45 FR 48600; July 21, 1980). True air taxi operators, moreover, are subject to regulation by the ATC. While the Board takes no position now on the merits of ATC's argument that greater fare flexibility is unwise, it agrees that such a change should not be made inadvertently in this rulemaking proceeding, which focused more on tariff filing than on fare levels themselves. Also, if certificated carriers' intra-Alaska fares will continue to be subject to some Board regulation, tariff filing needs to be retained.

The final rule therefore includes in § 298.90(c) an exception for intra-Alaska service. Certificated carriers will be exempted from the Act as if they were air taxi operators, except that for service wholly within Alaska they will not have the exemptions from sections 403 and 404 that are available to air taxi operators under §§ 298.11 (b), (c), and (d). Although the ATC comment referred

only to passenger fares, this exception also covers cargo rates. The combined effect of the Air Cargo Deregulation Act (Pub. L. 95–163), the Board's implementing rule (14 CFR Part 291), and the Alaska preemption provision (section 105(a)(2)) is that cargo rates for intra-Alaska service have continued to be subject to regulation by either the Board or the ATC, and decisions concerning that policy are outside the scope of this proceeding.

A conforming change is made in § 298.93, which sets out carriers' tariff-filing options for through service that includes one segment that is subject to tariff filing and another that is not.

The ATC also questioned the proposal to eliminate the Part 298 registration requirement for most dual authority carriers. It stated that the registration provides an up-to-date list of a carrier's aircraft, which enables the Board to make sure that the carrier has proper insurance coverage. It argued that this is especially important for smaller carriers, regardless of whether they hold certificates, because smaller carriers change aircraft often, do not usually have fleet policies, and often have limited assets to satisfy potential damage claims.

In EDR–433, however, the Board stated that there is little point in retaining a registration procedure when, even without registering, a certificated carrier with unlimited domestic route authority will already have most of the benefits of registering. The ATC has not refuted this argument, which applies with even greater force in Alaska because the Board's decision to retain tariff filing and statutory fare flexibility for dual authority carriers operating there means that the main benefit of registering would only be small-aircraft international route freedom. Moreover, eliminating the registration does not change the underlying requirement of Part 205 that a carrier always have insurance coverage in force, so the aircraft list provided by the Part 298 registration is at most an enforcement tool. And that tool is not as important for certificated carriers that have been found fit by the Board as it is for true air taxi operators, because the fitness determination includes an examination of a carrier's compliance disposition. The Board would consider the failure to maintain required insurance coverage as an especially serious violation, and as possible grounds for revocation of a carrier's certificate, a risk that a carrier would not undertake lightly. If experience does show a problem in this area, however, the Board will consider further remedies in a future rulemaking proceeding.

Air Line Pilots Association (ALPA). ALPA supported the proposed broadening of the scope of Subpart I to cover all small-aircraft operations of certificated carriers. It objected, however, to the exemptions from prior approval for mergers and acquisitions (section 408) and interlocking relationships (section 409). It argued that exempting certificated carriers' acquisitions of large commuter operators that compete with them directly conflicts with the Airline Deregulation Act of 1978 and constitutes unsound policy. It suggested that for certain city-pairs, there is no relation between the size of aircraft used and the likely effect that a consolidation between two actual competitors would have on competition. ALPA also suggested that, especially in small markets, elimination of a competitor could raise the public interest concerns that the Board must consider in section 408 prior approval proceedings. It suggested further that if such acquisitions bring "two sets of heterogeneous employment structures . . . under common control," they raise public interest concerns about their effects on employees. ALPA also advocated retention of the requirement that air taxi operators report their interests in large aircraft, to avoid compounding these problems by "eliminating a valuable cross-check." It concluded that these acquisitions should be reviewed by the Board in a manner that allows for notice and comment on all potential competitive and public interest consequences.

ALPA's comment is not relevant to the amendments of the antitrust provisions (§§ 298.11(g) and 298.92) that were proposed in EDR–433. Those amendments are merely technical and conforming in nature, as discussed above. Rather, ALPA's comment addresses the final rule adopted in ER–1251, for which the Board had previously published notice of proposed rulemaking EDR–412 (45 FR 73087; November 4, 1980). The Board has nonetheless considered the comment on its merits, and finds it unpersuasive. Acquisition by a certificated carrier of even a large commuter that competes with it directly is not likely to reduce competition substantially. The large number of commuter carriers and free entry into the industry, coupled with after-the-fact Board scrutiny under antitrust principles, militate against that result. As for the labor and other public interest considerations, ALPA has not shown that that type of consolidation would raise issues that would be unique to it and not arise in consolidations involving only Part 298 carriers, which have long been covered by the exemption. In view of the remoteness of the likelihood of serious anticompetitive problems in the cases covered by the exemptions adopted in ER–1251, the benefits of prior Board review under sections 408 and 409 are outweighed by the burden on the Board's and carriers' resources. The Board also sees no reason to retain the requirement that air taxi operators report their interests in large aircraft. It has outlived its orginal purpose, and as a means of alerting the Board to competitive problems it would be an inefficient method at best.

The Board is therefore adopting the amendments of §§ 298.11(g) and 298.92 as proposed, but with one editorial change. As proposed, § 298.92 would read:

> Certificated carriers *operating under this part* are exempted from sections 408(a) and 409 of the Act for transactions and relationships to which those sections apply only because of the involvement of operations under this part. (emphasis added)

The final rule omits the underscored words, to correct a drafting error and eliminate the suggestion that a certificated carrier, in order to avail itself of the exemption for an acquisition or interlock with an air taxi operator, must itself be performing some small-aircraft operations. The Board never intended such a result, as is clear from the discussion in the supplementary information sections of EDR–412, ER–1251, and EDR–433.

CAS Aviation. This air taxi operator stated that the Board should delay this rulemaking pending a Congressional review, because "airline operations under Part 298 FAR Part 135 on-demand are not qualified to conduct this type of flight activity as it presently exists." It stated further that the proposal discriminates against non-scheduled operators because they, unlike scheduled carriers, must have reservations under the General Aviation Reservations Program. The commenter appears to have misunderstood the Board's proposal. Moreover, the reservations program is administered by the FAA and is not affected by this rulemaking.

Miscellaneous

The Board has recently issued ER–1279, adopted December 21, 1981. That rule amends Part 231, the schedule-filing rule for certificated carriers, to reflect the Board's interpretation that after December 31, 1981, these carriers are required to file domestic schedules only

for freighter service that is provided within Alaska or Hawaii. This rule makes a conforming change in § 298.99(a), the schedule-filing provision for dual authority carriers.

Regulatory Flexibility Act

In accordance with 5 U.S.C. § 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–534, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The small air carriers that are affected by this rule are the dual authority carriers that use only small aircraft. For them, the primary result is merely to extend to all their routes (except in Alaska) a tariff-filing exemption that already covers most of their routes.

The Final Rule

PART 298—EXEMPTION FOR AIR TAXI OPERATIONS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*, as follows:

1. The authority for Part 298 is:

Authority: Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

PART 298 [HEADING REVISED]

2. Part 298 is retitled *Exemptions for Air Taxi Operations.*

PART 298 [AMENDED]

3. The Table of Contents is amended by removing §§ 298.32 and 298.96.

4. In § 298.2, a new paragraph (v) is added, to read:

§ 298.2 Definitions.

* * * * *

(v) "Small aircraft" means any aircraft that is not a large aircraft, as defined in this section.

5. In § 298.11, paragraph (g) is amended by removing the last clause, so that as revised it reads:

298.11 Exemption authority.

Air taxi operators are hereby relieved from the following provisions of Title IV of the Act only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to conduct air taxi operations:

* * * * *

(g) Sections 408(a) and 409, for transactions and relationships to which those sections apply only because of the involvement of operations under this part.

6. Section 298.13 is revised to read:

§ 298.13 Duration of exemption.

The exemption from any provision of title IV of the Act provided by this part shall continue in effect only until such time as the Board shall find that enforcement of that provision would be in the public interest, at which time the exemption shall terminate or be conditioned with respect to the person, class of persons, or service (*e.g.*, limited-entry foreign air transportation market) subject to the finding.

§ 298.32 [Removed]

7. Section 289.32, *Requirements relating to interests in large aircraft or their operations*, is removed and reserved.

8. In Subpart I, § 298.90 is revised to read:

§ 298.90 Exemption for certificated carriers.

(a) Each certificated carrier is exempted from the Act in the manner set forth in Subpart B, subject to the terms of this subpart and Subparts C through H, as if it were an air taxi operator, for operations that are performed with small aircraft. However, a certificated carrier need not comply with the registration provisions of Subpart C (§§ 298.21–24) unless its only section 401 certificate authority was obtained—

(1) After January 1, 1981, and

(2) Under section 401(d)(5) of the Act (unused authority).

(b) All of a certificated carrier's operations with small aircraft shall be considered as operations "under this part" and not under its section 401 certificate. However, for the purposes of section 105(a)(2) of the Act (limiting Federal preemption of State regulation for certain intra-Alaska service), a certificated carrier's operations under this part shall be considered as "provided pursuant to" its certificate.

(c) Notwithstanding §§ 298.11 (b), (c), or (d), certificated carriers operating under this part are not exempted from section 403 or 404 of the Act with respect to air transportation conducted wholly within the State of Alaska.

9. In § 298.92, the words "operating under this part" and the last clause are removed so that the section as revised reads:

§ 298.92 Antitrust provisions.

Certificated carriers are exempted from sections 408(a) and 409 of the Act for transactions and relationships to which those sections apply only because of the involvement of operations under this part.

10. Section 298.93 is amended to read:

§ 298.93 Through service options.

(a) *Interstate and overseas air transportation.* If a certificated carrier provides interstate or overseas air transportation that includes a segment for which tariff filing is required and another segment for which tariff filing is not required, then for through service over that routing the carrier has the option of filing or not filing a tariff. If the carrier files a tariff for through service, it is not exempt from section 403 or section 404(b) of the Act for that air transportation, except to the extent set forth in § 221.3(e) of this chapter (domestic tariff flexibility).

(b) *Foreign air transportation.* If a certificated carrier provides foreign air transportation that includes a segment for which tariff filing is required and another segment for which tariff filing is not required, then for through service over that routing the carrier has the option of filing a tariff or charging the sum of the applicable local rates, fares, or charges. If the carrier files a tariff for through service, it is not exempt from section 403 or section 404(b) of the Act for that air transportation.

11. Section 298.94 is revised to read:

§ 298.94 Joint fares and 90-day notice of service modifications, suspensions or terminations.

The 90-day notice requirement in section 37(c) of the Airline Deregulation Act of 1978, 49 U.S.C. 1482a, does not apply to a certificated carrier's operations under this part.

§ 298.96 [Removed]

12. Section 298.96, *Special reporting requirements relating to large aircraft*, is removed and reserved.

13. In § 298.99, paragraph (a) is revised to read:

§ 298.99 Scope of filing and reporting requirements.

(a) For its operations under this part, a certificated carrier shall file flight schedules for its service in foreign air transportation and for cargo-only air transportation within the States of Alaska or Hawaii. It may file the schedules in accordance with either § 298.60 *(Filing of flight schedules by commuter air carriers)* or Part 231 of this chapter *(Transportation of Mail: Mail Schedules).*

* * * * *

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-203 Filed 1-5-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 373, 376, 378, 385 and 399

Extension of Foreign Policy Export Controls

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

ACTION: Notice of rule related action.

SUMMARY: As authorized in section 6 of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) (hereinafter "the Act") the Secretary of Commerce determined on December 31, 1981, that all export controls maintained for foreign policy purposes should continue beyond December 31, 1981, until February 28, 1982.

DATE: Effective as of January 1, 1982.

FOR FURTHER INFORMATION CONTACT: James Nobel, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377-3205.

SUPPLEMENTARY INFORMATION: In a proposed rule published in the Federal Register (46 FR 43842, September 1, 1981) the Department sought comments on how controls imposed or extended effective January 1, 1981 and those subsequently imposed had affected exporters and the general public. We received numerous comments.

All current foreign policy controls, except those imposed on December 30, 1981, which do not require extension at this time, are extended until February 28, 1982. Controls are extended in their present form for a two month period so that they may be considered in a deliberate and comprehensive manner, especially in view of the situation in Eastern Europe. The comments received as a result of the September 1, 1981, request will be considered in this review.

At the same time, nuclear nonproliferation controls are continued in effect pursuant to section 17(d) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978.

The public record concerning comments is maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. The records may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records within the facility may be obtained from Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the foreign policy controls are extended.

Authority: Secs. 6, and 13, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41-1, 45 FR 11862 (February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980).

Dated: December 31, 1981.

Bohdan Denysyk,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 81-37475 Filed 12-31-81; 1:00 pm]
BILLING CODE 3510-25-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33-6368; 34-18349; 35-22324; 39-680; IC-12114 and IA-787; File No. S7-917]

Equal Access to Justice Act Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission is promulgating and requesting comments upon procedural rules implementing the Equal Access to Justice Act. The Act, which took effect October 1, 1981, provides for the award of attorney fees and other expenses to certain parties who prevail over the federal government in certain administrative and court proceedings.

DATES: Effective January 6, 1982. Comments should be received by the Commission on or before January 6, 1983.

ADDRESSES: All communications concerning this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Such communications should refer to File No. S7-917 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW, Washington D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Harlan W. Penn, Office of the General Counsel, Securities and Exchange Commission, 500 N. Capitol St., Washington, D.C. 20549; (202) 272-2454.

SUPPLEMENTARY INFORMATION: On June 18, 1981, the Chairman of the Administrative Conference of the United States issued model regulations for Federal agency implementation of the Equal Access to Justice Act, Pub. L. 96-481, 94 Stat. 2325 (46 FR 32900, June 25, 1981). The Act authorizes the award of attorney fees and other expenses to certain parties who prevail against the United States in adversary adjudications (under section 554 of the Administrative Procedure Act, 5 U.S.C. 554), in which the position of the United States is represented by counsel or otherwise, conducted by Federal agencies and in civil court proceedings other than tort actions. Eligible parties include individuals with a net worth of no more than $1 million; sole owners of unincorporated businesses, partnerships, corporations, associations or organizations with a net worth of no more than $5 million and no more than 500 employees; and tax-exempt charitable, educational or religious organizations and agricultural cooperative associations with no more than 500 employees, regardless of net worth. The Act became effective on October 1, 1981, and applies to proceedings pending on that date.

The Act permits an award of fees and expenses to prevailing parties other than the federal government where the federal agency could not show that its position in the proceeding was "substantially justified or that special circumstances make an award unjust." (Sections 203(a)(1), 204(a)). Thus, as to certain cases involving agencies of the federal government, and individuals or entities subject to net worth tests, the Act creates an exception to the longstanding "American Rule" under which attorney fees ordinarily are not recoverable by the prevailing party in federal litigation. *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975). Specifically, unless the agency establishes that its position as party to the proceeding was "substantially justified or that special circumstances make an award unjust," the Act permits awards of "fees and expenses" to private parties in:

(a) on-the-record agency adjudications subject to 5 U.S.C. 554 [of the Administrative Procedure Act ("APA")], in which the party

prevails in a proceeding brought by or against the agency (Section 203(a)(1));

(b) civil actions brought by or against an agency in which the party prevails (Section 204(a)); and

(c) actions for judicial review of an agency adjudication conducted pursuant to 5 U.S.C. 554 in which the party prevails (Section 204(a)).

The Commission believes that it will have no difficulty in establishing substantial justification for the positions taken in proceedings and that, under the Act, the class of claimants who may seek an award of fees and expenses will not be large. While the number of claims for awards will vary from agency to agency, it is apparent that responding to and determining such requests will be a significant obligation of agencies including the Securities and Exchange Commission.

The Act directs agencies to establish procedures for the award of fees in their administrative proceedings, after consultation with the Chairman of the Administrative Conference. To facilitate this process, the Administrative Conference developed the model regulations with the help of a task force of volunteers from numerous Federal agencies. The Model Rules have proven to be a helpful guide in drafting the rules promulgated today. The Model Rules take an approach designed to permit determination of requests promptly and without excessive diversion of government resources. The Commission's rules take the same approach but tailor it to Commission needs. As required by the Act the Commission has consulted with the Chairman of the Administrative Conference in the preparation of these rules. A copy of the comment letter received from Stephen L. Babcock, Executive Director, Administrative Conference of the United States, will be placed in the public file. Those interested are also urged to examine the Model Rules and accompanying commentary. 46 FR 32900 (June 25, 1981); 46 FR 15895 (March 10, 1981).

The Commission's rules, which follow its Rules of Practice (17 CFR 201.1 *et seq.*), specify the proceedings and applicants covered and the fees and expenses allowable and set forth the procedures for processing of applications. The significant differences between the Commission's rules and the Model Rules are highlighted below, with the corresponding designations of the Model Rules and the Commission's Rules found in 17 CFR:

1. *When the Act applies.* Section 201.32 includes a sentence not found in Model Rule 0.102. This change is made to clarify that some proceedings which are technically open on October 1, 1981, are not subject to the Act. The phrase "substantially concluded" is meant to exclude proceedings open but only awaiting completion of remedial action or formal closing or similar action. A change of this type was suggested in the discussion which accompanied the Model Rules. (46 FR 32900, 32901.)

2. *Proceedings covered.* Section 201.33 has been altered from the text of Model Rule 0.103 to reflect the fact that the Commission does not conduct rate-making or licensing proceedings. It has also been altered to reflect the Commission's view that the Act does not authorize an agency to award fees against another agency or department of government as set forth in the Model Rules. Similar changes have been made in other parts of the Model Rules. Commission proceedings which are covered by the Act include those listed in the Appendix to the rules. Model Rule 0.103(b) provides for designation of a proceeding as an adversary adjudication for purposes of the Act even though not listed. It has been omitted. There is serious question whether the Act would permit payment of fees if the proceedings are not required to be under 5 U.S.C. 554 but are nonetheless voluntarily so conducted. In addition, the Commission recognizes that the Act does not apply to proceedings before self-regulatory organizations, to review thereof by the Commission, or to Commission investigations.

3. *Rulemaking on maximum rates for attorney fees.* Model Rule 0.107 has been omitted. It provides for raising the $75 per hour limit on attorney fees by rule. The Commission may, of course, amend these rules when appropriate and will also consider requests from affected persons or the public that the rules be amended. *See* 17 CFR 202.6.

4. *Net worth exhibit.* The Commission's Office of the General Counsel opposed the provision in the proposed Model Rules requiring fee award applicants to submit a detailed statement of their net worth. This was viewed as unduly burdensome on eligible applicants and creating administrative problems since confidential financial information was sought. The Administrative Conference therefore simplified the requirement and gave applicants greater leeway in structuring the submission. The exhibit will be helpful in considering applications. Therefore § 201.42(a) is identical with Model Rule 0.202(a). Section 201.42(b) is simplified from the corresponding Model Rule in that it refers to the Commission's provision for requesting confidential treatment under its Rules of Practice. *See* 17 CFR 201.25.

Effective Date of Rules; Request for Additional Comments

The rules are procedural within the meaning of 5 U.S.C. 552(b)(A); thus publication of the rules in preliminary proposed form is not required. The rules will be effective January 6, 1982. The Commission intends to review the rules after approximately one year. Comments received prior to January 6, 1983, will be considered by the Commission during this review.

Authority

This rulemaking is effected under the authority of section 19 of the Securities Act of 1933, 15 U.S.C. 77r; sections 23 and 24 of the Securities Exchange Act of 1934, 15 U.S.C. 78w and 78x; section 20 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79t; section 319 of the Trust Indenture Act of 1939, 15 U.S.C. 77sss; section 38 of the Investment Company Act of 1940, 15 U.S.C. 80a-37; section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b-11; and section 203(a)(1) of the Equal Access to Justice Act, 5 U.S.C. 504(c)(1).

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

Conclusion

PART 201—RULES OF PRACTICE

Part 201 of Chapter II, Title 17, Code of Federal Regulations is amended by designating §§ 201.1 through 201.28 as "Subpart A—Rules of Practice" and by adding Subpart B, to read as follows:

§§ 201.1 through 201.28 [Redesignated as Subpart A]

Subpart B—Regulations Pertaining To The Equal Access To Justice Act

Sec.

Sec.

Authority: Sec. 19, Securities Act of 1933, 15 U.S.C. 77r; Sections 23 and 24, Securities Exchange Act of 1934, 15 U.S.C. 78w and 78x; Section 20, Public Utility Holding Company Act of 1935, 15 U.S.C. 79t; section 319, Trust Indenture Act of 1939, 15 U.S.C. 77sss; section 38, Investment Company Act of 1940, 15 U.S.C. 80a-37; section 211, Investment Advisers Act of 1940, 15 U.S.C. 80b-11; and section 203(a)(1), Equal Access to Justice Act, 5 U.S.C. 504(c)(1).

§ 201.31 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this subpart), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Commission. An eligible party may receive an award when it prevails over the Commission, unless the Commission's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Commission will use in ruling on those applications. These rules do not impose a burden on competition

§ 201.32 When the Act applies.

The Act applies to adversary adjudications described in § 201.33 pending before the Commission at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final agency action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final agency action occurs. Proceedings which have been substantially concluded before October 1, 1981, are not covered although officially pending for purposes such as concluding remedial actions found in Commission orders or private undertakings.

§ 201.33 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Commission. These are on the record adjudications under 5 U.S.C. 554 in which the position of an Office or Division of the Commission as a party, not including *amicus* participation, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. *See* Appendix, 17 CFR 201.60.

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 201.34 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this subpart, unless the administrative law judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 201.35 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the Office or Division over which the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on counsel for an Office or Division of the Commission, which must show that its position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 201.36 Allowable fees and expenses.

(a) Subject to the limitation of paragraph (b), awards will be based on rates customarily charged, in the locale of the hearing, by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the reasonable rate at which the Commission pays witnesses with similar expertise. However, an award may also include the reasonable expenses of the attorney, agent or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses. No award may include fees and expenses for preparation of or

proceedings related to an application under this subpart.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the administrative law judge shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 201.37 Delegations of authority.

The Commission may by order delegate authority to take final action on matters pertaining to the Equal Access to Justice Act in particular cases.

§ 201.41 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant, the proceeding for which an award is sought and contain the information required in this subpart. The application shall show that the applicant has prevailed and specify the position(s) of the opposing Office or Division in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 201.42 Net worth exhibit.

(a) Each applicant, except a qualified tax-exempt organization or cooperative association, must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 201.34(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The administrative law judge or the Commission may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that exhibit in accordance with 17 CFR 201.25.

§ 201.43 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The applicant may be required to provide vouchers, receipts, or other substantiation for any fees or expenses claimed.

§ 201.44 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Commission's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the later of (1) The date on which an initial decision or other recommended disposition of the merits of the proceeding by an administrative law judge becomes administratively final; (2) issuance of an order disposing of any petitions for reconsideration of the Commission's final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

§ 201.51 Filing and service of documents.

Any application for an award or other document related to an application shall be filed and served in the same manner as other papers in proceedings under the Commission's Rules of Practice. In addition, a copy of each application for fees and expenses shall be served on the General Counsel of the Commission.

§ 201.52 Answer to application.

(a) Within 30 days after service of an application, counsel representing the Office or Division of the Commission may file an answer to the application. Unless the Office or Division of the Commission counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If counsel for the Office or Division of the Commission and the applicant believe that the issues in the fee

application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted upon request by agency counsel and the applicant.

(c) The answer shall explain any objections to the award requested and identify the facts relied on in support of that position. If the answer is based on any alleged facts not already in the record of the proceeding, it shall include supporting affidavits or a request for further proceedings under § 201.55.

§ 201.53 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 201.55.

§ 201.54 Settlement.

The applicant and counsel for the Office or Division of the Commission may agree on a proposed settlement of the award before final action of the application, either in connection with a settlement of the underlying proceeding or after the underlying proceeding has been concluded, in accordance with the Commission's standard settlement procedure. *See* 17 CFR 201.8. If a prevailing party and counsel for the Office or Division of the Commission agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 201.55 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or counsel for the Office or Division of the Commission, or on his or her own initiative, the administrative law judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request for further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 201.56 Decision.

The administrative law judge shall issue an initial decision on the application promptly after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the Commission's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 201.57 Commission review.

In accordance with the procedures set forth in 17 CFR 201.17, either the applicant or counsel for the Office or Division of the Commission may seek review of the initial decision on the fee application, or the Commission may decide to review the decision on its own initiative. If neither the applicant nor counsel for the Division or Office of the Commission seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the administrative law judge for further proceedings.

§ 201.58 Judicial review.

Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 201.59 Payment of award.

An applicant seeking payment of an award shall submit to the Comptroller of the Commission a copy of the Commission's final decision granting the award, accompanied by a sworn statement that the applicant will not seek review of the decision in the United States courts. The Commission will pay the amount awarded to the applicant as authorized by law, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

§ 201.60 Appendix—Adversary adjudications conducted by the Commission under 5 U.S.C. 554.

Securities Exchange Act of 1934

Section 11A(b)(6), 15 U.S.C. 78k–1(b)(6) (suspension or revocation of registration, or censure of a securities information processor).

Section 12(j), 15 U.S.C. 78l(j) (suspension of effective date or revocation of registration of a security).

Section 15(b)(4), 15 U.S.C. 78o(b)(4) (suspension or revocation of registration, or censure of a broker or dealer).

Section 15(b)(6), 15 U.S.C. 78o(b)(6) (censure, suspension or bar of an associate of a broker or dealer).

Section 15(B)(c)(2), 15 U.S.C. 78o–4(c)(2) (suspension or revocation of registration, or censure of a municipal securities dealer).

Section 15(B)(c)(4), 15 U.S.C. 78o–4(c)(4) (censure, suspension or bar of an associate of a municipal securities dealer).

Section 15B(c)(8), 15 U.S.C. 78o–4(c)(8) (removal or censure of member of the Municipal Securities Rulemaking Board).

Section 17A(C)(3)(A), 15 U.S.C. 78q–1(c)(3)(A) (denial of registration or postponement of effective date of registration of a transfer agent).

Section 197h(1), 15 U.S.C. 78s(h)(1) (suspension or revocation of registration, or censure of a self-regulatory organization).

Section 19(h)(2), 15 U.S.C. 78s(h)(2) (suspension or expulsion of a member of a self-regulatory organization).

Section 19(h)(3), 15 U.S.C. 78s(h)(3) (suspension or bar of a person from being associated with a national securities exchange or registered securities association).

Section 19(h)(4), 15 U.S.C. 78s(h)(4) (removal or censure of a director or officer of a self-regulatory organization).

Investment Advisers Act of 1940

Section 203(e), 15 U.S.C. 80b–3(e) (suspension or revocation of registration, or censure of an investment adviser).

Section 203(f), 15 U.S.C. 80b–3(f) (censure, suspension or bar of an associate of an investment adviser).

By the Commission.

December 18, 1981.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-304 Filed 1-5-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

49 CFR Chapter X

Notice of References for Information Collection Requirements

Issued December 31, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Technical amendments.

SUMMARY: The Federal Energy Regulatory Commission is providing, as

a reference in its regulations, the control numbers assigned by the Office of Management and Budget (OMB) for regulations that describe current information collection requirements.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357–8033.

Text of References

Following the text of each part, section, or paragraph of Title 18, United States Code, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

CFR citation	OMB control No.
18 CFR 1.38	1902-0094
18 CFR 1.40	1902-0095
18 CFR 1.41	1902-0085
18 CFR 2.56a	1902-0055
18 CFR 2.69	1902-0060
18 CFR 2.78	1902-0056
18 CFR 2.79	1902-0060
18 CFR Part 4 Subpart D	1902-0073
18 CFR Part 4 Subpart F	1902-0058
18 CFR Part 6	1902-0068
18 CFR Part 9	1902-0069
18 CFR 11.26	1902-0087
18 CFR 11.31	1902-0087
18 CFR 13.1	1902-0087
18 CFR 24.1	1902-0079
18 CFR Part 33	1902-0082
18 CFR Part 34	1902-0043
18 CFR Part 35 Subpart A	1902-0096
18 CFR 35.12	1902-0096
18 CFR 35.13	1902-0096
18 CFR Part 45	1902-0083
18 CFR 46.6	1902-0099
18 CFR Part 101	1902-0021
18 CFR Part 104	1902-0029
18 CFR Part 116	1902-0021
18 CFR Part 125	1902-0098
18 CFR Part 153	1902-0062
18 CFR 154.61	1902-0070
18 CFR 154.62	1902-0070
18 CFR 154.63	1902-0070
18 CFR 154.64	1902-0070
18 CFR 154.65	1902-0070
18 CFR 154.91	1902-0070
18 CFR 154.92	1902-0055
18 CFR 154.93	1902-0055
18 CFR 154.94	1902-0055
18 CFR 154.95	1902-0055
18 CFR 154.96	1902-0055
18 CFR 154.97	1902-0055
18 CFR 154.98	1902-0055
18 CFR 154.99	1902-0055
18 CFR 154.100	1902-0055
18 CFR 154.101	1902-0055
18 CFR Part 156	1902-0061
18 CFR 157.5	1902-0060
18 CFR 157.6	1902-0060
18 CFR 157.7	1902-0060
18 CFR 157.8	1902-0060
18 CFR 157.9	1902-0060
18 CFR 157.10	1902-0060
18 CFR 157.11	1902-0060
18 CFR 157.12	1902-0060
18 CFR 157.13	1902-0060
18 CFR 157.14	1902-0060
18 CFR 157.15	1902-0060
18 CFR 157.16	1902-0060
18 CFR 157.17	1902-0060
18 CFR 157.18	1902-0060
18 CFR 157.20	1902-0045
18 CFR 157.22	1902-0045
18 CFR 157.100	1902-0060
18 CFR Part 158	1902-0098
18 CFR 160.1	1902-0098
18 CFR Part 201	1902-0028
18 CFR Part 204	1902-0030
18 CFR Part 216	1902-0028
18 CFR Part 225	1902-0098
18 CFR 250.5	1902-0109
18 CFR 250.10	1902-0006
18 CFR 250.13	1902-0008
18 CFR 250.14	1902-0036
18 CFR 260.8	1902-0005
18 CFR 260.9	1902-0004
18 CFR Part 271 Subpart K	1902-0057
18 CFR 273.302	1902-0084
18 CFR 275.204	1902-0093
18 CFR 276.102	1902-0041
18 CFR 276.103	1902-0040
18 CFR 276.104	1902-0039
18 CFR 276.108	1902-0098
18 CFR 277.210	1902-0098
18 CFR Part 281	1902-0066
18 CFR 282.502	1902-0028
18 CFR Part 284 Subpart A	1902-0086
18 CFR 284.105	1902-0086
18 CFR 284.106	1902-0086
18 CFR 284.107	1902-0060
18 CFR 284.125	1902-0086
18 CFR 284.126	1902-0086
18 CFR 284.127	1902-0060
18 CFR Part 284 Subpart D	1902-0086
18 CFR Part 284 Subpart E	1902-0086
18 CFR Part 284 Subpart F	1902-0086
18 CFR 284.221	1902-0086
18 CFR Part 284 Subpart H	1902-0086
18 CFR Part 290	1902-0042
18 CFR Part 292	1902-0075
18 CFR 300.10	1902-0088
18 CFR 300.11	1902-0088
18 CFR Part 351	1902-0022
18 CFR Part 352	1902-0022
18 CFR Part 356	1902-0098
18 CFR 360.100	1902-0015
18 CFR 360.101	1902-0016
18 CFR 360.102	1902-0017
18 CFR 360.103	1902-0014
18 CFR 360.104	1902-0013
18 CFR 361.100	1902-0011
18 CFR 361.101	1902-0018
18 CFR 361.102	1902-0010
18 CFR 361.103	1902-0009

Following the text of the Part of Title 49, United States Code cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column:

CFR citation	OMB control No.
49 CFR Part 1300	1902-0089

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-323 Filed 1-5-82; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 270

[Docket No. RM80-33]

Order Vacating Partial Stay and Amending Regulations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order vacating partial stay and amending regulations.

SUMMARY: On August 20, 1981, the Federal Energy Regulatory Commission (Commission) stated it would reconsider the effective date of the Btu rule (18 CFR 270.204) and granted a partial stay of the December 1, 1978, effective date for the period December 1, 1978, to April 24, 1981. The Btu rule prescribes the standard for determining the Btu content of natural gas in calculating maximum lawful prices. This order reconsiders and affirms the December 1, 1978, effective date of the Btu rule. Accordingly, the partial stay of the effective date is vacated, and § 270.204 is amended to clarify that, effective December 1, 1978, maximum lawful prices for first sales of natural gas are applied to the actual Btu's delivered.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Room 8113, Washington, D.C. 20426, (202) 357–8033

Order Vacating Partial Stay and Amending Regulations

Issued: December 24, 1981.

On August 20, 1981, the Federal Energy Regulatory Commission (Commission) granted a partial stay of the December 1, 1978, effective date of the Btu rule (18 CFR 270.204), pending further order, for the period December 1, 1978, to April 24, 1981. The Btu rule prescribes the standard for determining the Btu content of natural gas in calculating maximum lawful prices under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432)(NGPA).

The Commission has reconsidered the effective date of the Btu rule. For the reasons discussed herein and previously stated in Order Nos. 93 and 93–A, the Commission reaffirms the December 1, 1978, effective date. Accordingly, the partial stay of the effective date is vacated, and, effective December 1, 1978, maximum lawful prices for first sales of natural gas are to be determined by the actual Btu's delivered. In addition, § 270.204 of the Commission's regulations is clarified by adding a new paragraph stating that the maximum lawful price for any first sale is applied to the Btu's actually delivered.[1]

I. Background

The NGPA was signed into law on November 9, 1978. On November 28, 1978, the Commission issued interim regulations, effective December 1, 1978,

[1] Persons allegedly aggrieved by the Commission's decision have previously sought, and been denied, rehearing on the effective date issue. This order is essentially the result of a reconsideration, on the Commission's own motion, of the denial of rehearing. Because the Commission merely reaffirms its prior orders, rehearing of this order is not a prerequisite for judicial review.

to implement the NGPA. One of the interim regulations was § 270.204. That section described the standard test conditions for determining the Btu content of a unit volume of natural gas.

On July 16, 1980, the Commission issued Order No. 93 (45 FR 49077, July 23, 1980) in the instant docket which, *inter alia*, amended and issued in final form the interim regulation in § 270.204. In response to comments questioning the relationship of the interim regulation to determination of maximum lawful prices under the NGPA, the Commission clarified that the maximum lawful price for first sales of natural gas is determined by adjusting the results obtained under the test conditions set forth in § 270.204 to reflect the actual Btu content of the gas at delivery conditions (Btu rule). This interpretation applied to both the interim regulation and the final rule.

On April 24, 1981, the Commission issued Order No. 93–A (46 FR 24537, May 1, 1981) which denied rehearing. The order explained in more detail the Commission's rationale for adopting the Btu rule. The Commission again stated that under the interim rule, effective December 1, 1978, as well as the final rule, the maximum lawful price for first sales of natural gas is to be determined on the basis of the number of Btu's actually delivered and that the test results obtained pursuant to § 270.204 are to be adjusted accordingly.

Subsequently, several applications for rehearing and stay of Order No. 93–A were filed. The applications objected to the December 1, 1978, effective date of the Btu rule. On July 30, 1981, the Commission denied the petitions for rehearing and stay.

On August 20, 1981, the Commission vacated its July 30 order denying rehearing and stay and granted a stay of the effectiveness of the Btu rule for the period December 1, 1978, to April 24, 1981. The Commission stated therein that it would reconsider the December 1, 1978, effective date.

Numerous petitions for review had been filed in the United States Court of Appeals for the District of Columbia Circuit after rehearing was denied in Order No. 93–A and the July 30 order. For this reason, the order vacating the order denying rehearing and granting a partial stay was made subject to the Court's approval and the Commission sought remand of the record. On September 17, 1981, the court remanded the record.[2]

II. Commission Decision

In implementing the NGPA, the Commission has required that maximum lawful prices "per MMBtu" be determined on the basis of the MMBtu's actually delivered in a first sale. That requirement is not at issue here. The only question now before the Commission is whether the December 1, 1978, effective date is appropriate. The Commission believes that it is.

Prior to the Commission's clarification in Order No. 93 of the relationship of the test conditions outlined in § 270.204 to the determination of maximum lawful prices, the record indicates there was some confusion in the natural gas industry on the issue of whether the test results must be adjusted in order to determine maximum lawful prices. Some producers apparently demanded that maximum lawful prices be applied to the actual Btu's delivered in a first sale.[3] On the other hand, some pipelines insisted that maximum lawful prices be applied to the Btu's determined under the standard conditions described in § 270.204, without further adjustment to reflect actual delivery conditions, which is similar to the method used to determine just and reasonable rates under the Natural Gas Act (15 U.S.C. 717–717(w)). Thus, it does not appear from a review of the record that there was an interpretation different from the Commission's that was uniformly adopted throughout the industry. Under these circumstances, the Commission is not persuaded to change the December 1, 1978, effective date of the Btu rule, so as to impose a different interpretation for the period prior to the issuance of Order No. 93.

The Commission emphasizes, as it did in Order No. 93–A, that the Btu rule does not require that the industry change its measurement or pricing practices. Application of the Btu rule to a first sale merely determines the maximum lawful price that can be charged for natural gas under the NGPA. The rule neither alters the method called for in the contract for measuring the Btu content of the gas, nor requires payment of a price different from that provided for by the contract, as long as it is at or below the applicable maximum lawful price.

III. Amendment to § 270.204

The Commission is amending the language of § 270.204 of its regulations by adding a new paragraph (c) to reflect the Commission's interpretation of the NGPA and its regulations that the maximum lawful price prescribed under the NGPA for any first sale applies to the Btu's actually delivered in that sale.

In accordance with section 553 (b) and (c) of the Administrative Procedure Act (5 U.S.C. 553)(APA), the Commission finds that public notice and comment are unnecessary, because this amendment is merely a clarification and effects no substantive change in the regulations. For the same reasons, the Commission, in accordance with section 553(d) of the APA, makes the amendment effective December 1, 1978, the effective date of the interim regulation.

The Commission orders

For the reasons set forth above, the Commission orders:

(1) the partial stay of the Btu rule for the period December 1, 1978, to April 24, 1981, is vacated; and

(2) § 270.204 of Subpart B, Chapter I of Title 18, Code of Federal Regulations is amended as set forth below, effective December 1, 1978.

(Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3350, 15 U.S.C. 3301–3432.)

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

Section 270.204 is amended by adding a new paragraph (c) to read as follows:

§ 270.204 Btu content per cubic foot of natural gas.

* * * * *

(c) *Application of the maximum lawful price.* The maximum lawful price prescribed by the NGPA and this part for any first sale of natural gas applies to the Btu's actually delivered in that first sale.

[FR Doc. 82–300 Filed 1–5–82; 8:45 am]

BILLING CODE 6717–01–M

[2] This order resolves the issue before the Commission. Therefore, the Solicitor is directed to transmit a copy of this order to the United States Court of Appeals for the District of Columbia Circuit.

[3] *See, e.g.*, Joint Supplemental Comments of Indicated Producers, filed January 31, 1979, at 6; Application of Indicated Producers for Rehearing, filed February 2, 1979, at 13.

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP OH5257/R94; PH-FRL-2022-2]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; (±) Cyano (3-Phenoxyphenyl) Methyl (+)-4-(Difluoromethoxy)-Alpha-(1-Methylethyl) Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation to permit residues of the insecticide (±)cyano (3-phenoxyphenyl) methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in cottonseed oil. This regulation to establish the maximum permissible level for residues of the insecticide in cottonseed oil was requested by the American Cyanamid Co.

EFFECTIVE DATE: Effective on: January 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: Frank D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 21, 1980 (45 FR 34054) which announced that the American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted a food additive petition (FAP OH5257) proposing that 21 CFR 193.99 be amended by the establishment of a regulation permitting residues of the insecticide (±)cyano (3-phenoxyphenyl) methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in the food commodity cottonseed oil at 0.2 part per million (ppm).

There were no comments received in response to this petition.

The data submitted in the petition and other relevant material have been evaluated. The toxicity and other relevant data pertaining to this insecticide are included in the final rule on the raw agricultural commodity cottonseed (PP OF2347/R380) found elsewhere in today's **Federal Register.**

The insecticide is considered useful for the purpose for which the food additive regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et seq.) Therefore, the food additive regulation is established in 21 CFR 193.99 as set forth below.

Any person adversely affected by this regulation may, on or before February 5, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 501-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemption from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: January 6, 1982.

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

Dated: December 22, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 21 CFR 193.99 is revised to read as follows:

§ 193.99 (+)Cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate.

A regulation is established permitting residues of the insecticide (+)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on the following food commodity:

Commodity	Part per million (ppm)
Cottonseed Oil	0.02

[FR Doc. 82-319 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-81-950]

Combination and Manufactured (Mobile) Home Lot Loans

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Final rule.

SUMMARY: Section 338 of the Omnibus Budget Reconciliation Act of 1981 amended the National Housing Act to permit increased loan limits under HUD's Combination and Manufactured (Mobile) Home Lot Loan Program. This rule will increase the loan limits to the maximum authorized by the 1981 Act.

EFFECTIVE DATE: January 6, 1982.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9178, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6680. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 338 of the Act amended the National Housing Act to permit increased loan amounts under HUD's Combination and Manufactured (Mobile) Home Lot Loan Program. The limit for single-section homes with suitably developed lots will be increased from $27,500 to $35,000 and the dollar limit for multi-section homes with suitably developed lots from $36,000 to $47,500.

The loan limit for the purchase of a suitably developed lot only by the present owner of a manufactured (mobile) home is increased to $12,500.

Section 338(b) of the 1981 Act also authorizes higher dollar amount limits in areas where there are high land costs or high set-up costs. The Department is in the process of compiling the necessary information to implement this section of the Act.

The subject matter of this rulemaking action relates to loans or contracts and

is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption. In this instance, delay in effectiveness of this rule would cause unnecessary hardships to mobile home and lot buyers who need to use the increased loan amounts which Congress has permitted. In addition, because the rulemaking action does no more than effectuate an authorization enacted by Congress without further regulatory qualification or modification by the Department, the Secretary has determined that public comment is unnecessary and that this regulation should be published as a final rule.

The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this final rule from the 30-day delay in effectiveness provided in the Administrative Procedure Act (5 U.S.C. 553(d)).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2) (C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying (at a charge of ten cents per page) during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

The Catalog of Federal Domestic Assistance program number is 14.162 Mortgage Insurance—Combination and Manufactured (Mobile) Home Lot Loans (F).

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Accordingly, 24 CFR 201.1504 is revised to read as follows:

§ 201.1504 Maximum loan amounts and terms.

(a) Maximum insurable loan amounts and terms shall not exceed the lesser of:

(1) $35,000 for 20 years and 32 days for the purchase of a single-section manufactured (mobile) home and a suitably developed lot.

(2) $47,500 for 25 years and 32 days for the purchase of a multi-section manufactured (mobile) home and a suitably developed lot.

(3) 130 percent of the total price of a new manufactured (mobile) home, as stated in the manufacturer's invoice plus the actual cost and installation of central air conditioning and/or heat pumps, plus the Secretary's estimate of the value of the manufactured (mobile) home lot; or

(4) 90 percent of the Secretary's estimate of the value of a used manufactured (mobile) home, if the used manufactured (mobile) home was previously financed with a loan under this part, plus the Secretary's estimate of the value of the manufactured (mobile) home lot.

(b) The maximum loan amount for the purchase of a suitably developed lot on which to place a manufactured (mobile) home owned by the borrower shall not exceed the lesser of the Secretary's estimate of the value of the lot or $12,500, and the maximum loan term shall not exceed 15 years and 32 days.

(Title I Sec. 2, 48 Stat. 1246 (12 U.S.C. 1703 as amended))

Issued at Washington, D.C., December 9, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-309 Filed 1-5-82; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 201

[Docket No. R-81-951]

Property Improvement and Manufactured (Mobile) Home Loans

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Final rule.

SUMMARY: Section 338 of the Omnibus Budget Reconciliation Act of 1981 amended the National Housing Act to permit increased loan limits for manufactured (mobile) home loans. This rule will increase the loan limits to the maximum authorized by the 1981 Act. It also will increase the loan terms for single-section homes to the maximum authorized by the Act.

EFFECTIVE DATE: January 6, 1982.

FOR FOR FURTHER INFORMATION CONTACT:

John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9172, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6680. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 338 of the Omnibus Budget Reconciliation Act of 1981 amended section 2(b) of the National Housing Act to authorize increases for manufactured (mobile) home loans in the following amounts: (1) On single-section homes from $20,000 to $22,500; (2) on multi-section homes from $30,000 to $35,000.

The loan maturity for single section homes was also authorized to be increased from 15 years and 32 days to 20 years and 32 days.

The subject matter of this rulemaking action relates to loans or contracts and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption. In this instance, delay in effectiveness of this rule would cause unnecessary hardships to mobile home buyers who need to use the increased loan amounts which Congress has permitted. In addition, because the rulemaking action does no more than effectuate an authorization enacted by Congress without further regulatory qualification or modification by the Department, the Secretary has determined that public comment is unnecessary and that this regulation should be published as a final rule.

The Secretary also has determined that, for reasons stated above, good cause exists for exempting this final rule from the 30-day delay in effectiveness provided in the Administrative Procedure Act (5 U.S.C. 553(d)).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying (at a charge of ten cents per page) during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban

Development, 451 Seventh Street, SW, Washington, D.C. 20410.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

The Catalog of Federal Domestic Assistance program number is 14.110 Mobile Home Loan Insurance. Financing Purchase of Mobile Homes as Principal Residences of Borrowers (Title I).

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Accordingly, 24 CFR Part 201 is amended by revising paragraphs (a) and (c) of § 201.530 and § 201.560 to read as follows:

§ 201.530 Maximum loan amount.

(a) *Basic limitation.* The proceeds of a manufactured (mobile) home loan shall not exceed the lesser of $22,500 ($35,000 where the manufactured (mobile) home is composed of two or more modules) or 116 percent of the total price for such home, as stated in the manufacturer's invoice (ninety percent of the appraised value of a used manufactured (mobile) home if the used manufactured (mobile) home was previously financed with a loan under this part). The appraised value of a used manufactured (mobile) home shall be determined by a HUD approved manufactured (mobile) home appraiser.

* * * * *

(c) The charges and fees authorized in paragraph (b) of this section may be added to the loan, if the inclusion of such items does not increase the total loan proceeds to more than $22,500 ($35,000 where the manufactured (mobile) home is composed of two or more modules).

* * * * *

§ 201.560 Maturity provisions.

The obligation shall have a term of not less than 1 year or more than 20 years and 32 days for either single or multiple section homes. A multi-section home is permitted only one transportation trip after manufacture unless specified shipping precautions are observed.

(Title I, Sec. 2, 48 Stat. 1246 (12 U.S.C. 1703 as amended))

Issued at Washington, D.C., December 9, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-310 Filed 1-5-82; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[WH-FRL 2009-8]

Texas Department of Water Resources Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State program.

SUMMARY: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the Federal Register each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, an UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Texas was listed as needing an UIC program on September 25, 1978 (43 FR 43420). It submitted an application on July 24, 1981, covering an UIC program to be administered by the Texas Department of Water Resources (TDWR). On August 28, 1981, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Texas UIC program submitted by the TDWR (46 FR 43472). A public hearing was held on September 28, 1981 in Dallas, Texas. After careful review of the application and comments received from the public, I have determined that the Texas UIC program submitted by the TDWR meets the requirements established by Federal regulations pursuant to Section 1421 of the SDWA, and hereby approve the Texas UIC program submitted by the TDWR.

EFFECTIVE DATE: This approval is effective January 6, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Van Wyk, Ground Water Protection Section, U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTAL INFORMATION: *Authority:* Section 1422(b)(1) of the Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq), and the Consolidated Permits Regulations (40 CFR Parts 122, 123, 124) and the Technical Criteria and Standards; State Underground Injection Control Programs Regulations (40 CFR Part 146).

The Texas Department of Water Resources UIC program governs Classes I, III, IV, and V injection wells excepting wells used for in situ combustion of fossil fuels or for recovery of geothermal energy; and geothermal wells used for heating or aquaculture.

EPA is publishing this approval effective immediately so that Texas can begin issuing UIC permits for Class I wells under the UIC program.

OMB Approval

Under Executive Order 12291, EPA must judge whether a rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis (RIA). This rule is not major because approval of the Texas Department of Water Resources UIC program, submitted pursuant to section 1422 of the Safe Drinking Water Act, will not impose any new requirements. Rather, this rule only approves State actions.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1422 of the Safe Drinking Water Act of the application by the Texas Department of Water Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: December 30, 1981.
John W. Hernandez,
Acting Administrator.
[FR Doc. 82-290 Filed 1-5-82; 8:45 am]
BILLING CODE 6560-29-M

40 CFR Part 180

[PP OF2347/R380; PH-FRL-2022-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; (±) Cyano (3-Phenoxyphenyl) Methyl (+)-4-(Difluoromethoxy)-Alpha-(1-Methylethyl) Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: This rule establishes a tolerance for residues of the insecticide (±)cyano (3-phenoxyphenyl) methyl (+)-4-difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity cottonseed. This regulation to establish the maximum permissible level for residues of the insecticide on cottonseed was requested by the American Cyanamid Co.

EFFECTIVE DATE: Effective on January 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: Frank D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 21, 1980 (45 FR 34054) which announced that the American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted a pesticide petition (PP OF2347) proposing that 40 CFR 180.400 be amended by the establishment of a tolerance for residues of the insecticide (±)cyano (3-phenoxyphenyl) methyl (+)-4-difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity cottonseed at 0.1 part per million (ppm).

There were no comments received in response to this petition.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 81 milligrams (mg)/kilogram (kg) for male rats and 67 mg/kg for female rats; a 21-day delayed hen neurotoxicity study with a no-observable-effect level (NOEL) of 5,000 mg/kg, the highest dose tested (HDT); teratology studies (in rats and rabbits), with a NOEL of 8.0 mg/kg/day (HDT) for rats and a NOEL of 60 mg/kg/day (HDT) for rabbits; a 3 generation rat reproduction study with a NOEL of 30 ppm; 90-day subchronic rat and dog feeding studies with a NOEL of 60 ppm for rats and 150 ppm for dogs (HDT); a 24-month rat chronic feeding/oncogenicity study which resulted in a systemic NOEL of 60 ppm (no oncogenic effects were noted at 120 ppm (HDT): an 18-month mouse oncogenic study (no oncogenic effects at 120 ppm (HDT)); and the following mutagenicity studies: an Ames test at 1,000 μg/Plate (HDT) and a rat dominant lethal test at 10.0 mg/kg (HDT) (both negative).

Data considered desirable but currently lacking are:

(1) a guinea pig sensitization study;

(2) a 6-month dog feeding study;

(3) an acute inhalation LD_{50} on the formulation (4-hour); and

(4) a second neurotoxicity study in hens at higher dosage levels.

Actions being taken to obtain the lacking information are:

(1) the petitioner has agreed in writing to submit the guinea pig sensitization study;

(2) the 6-month dog study is in progress and will be extended and reported as a 2-year dog study;

(3) the petitioner has agreed in writing to conduct the 4-hour inhalation study on the formulation and submit the test results by January 30, 1983; and

(4) the petitioner has agreed in writing to repeat the 21-day delayed neurotoxicity study in hens at higher dose levels and submit the results to the Agency by January 30, 1983.

The acceptable daily intake (ADI) is calculated to be 0.0150 mg/kg/day based on the 3-generation rat reproduction study and its NOEL of 30 ppm using a 100-fold safety factor. The maximum permissible intake (MPI) is calculated to be 0.9000 mg/day for a 60-kg person. Approval of the tolerance for cottonseed and the related tolerance for cottonseed oil would result in a theoretical maximum residue contribution (TMRC) of 0.0004 mg/day/1.5 kg and will utilize 0.05 percent of the ADI.

Analytical methods are currently being validated for enforcement purposes. The validation will be completed by February 31, 1982. American Cyanamid Company has agreed in writing that if the analytical methods are found to be inadequate for enforcement, adequate analytical methods will be developed and submitted to the Agency by January 5, 1983; otherwise the Company will remove the product from the market and will not contest the revocation of tolerance.

There are currently no regulatory actions pending against the registration of this pesticide. There are no other relevant considerations to be made in establishing this tolerance.

A related document establishing a regulation permitting residues of this chemical in cottonseed oil appears elsewhere in this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance for residues of the insecticide in or on cottonseed will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before February 5, 1982, file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 501-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemption from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: February 6, 1982.

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

Dated: December 22, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.400 to read as follows:

§ 180.400 (+)Cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxyl)-alpha-(1-methylethyl)benzeneacetate; tolerance for residues.

A tolerance is established for residues of the insecticide (+)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methyl)benzeneacetate in or on the following raw agricultural commodity:

Commodity	Part per million (ppm)
Cottonseed	0.1

[FR Doc. 82-318 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 2E1293/7E1980/R377; PH-FRL-2019-5]

2,4-D; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the pesticide 2,4-D (2,4-dichlorophenoxyacetic acid). This regulation was requested by the Interregional Research Project No. 4 (IR-4). This regulation will establish a maximum permissible level for residues of 2,4-D on apricots at 5 parts per million (ppm), and millet grain at 0.5 ppm and millet forage and straw at 20 ppm.

EFFECTIVE DATE: Effective on January 6, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-100), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of October 27, 1981 (46 FR 53395) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted to EPA pesticide petitions number 2E1293 on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California, and 7E1980 on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Kansas, Minnesota, Nebraska, Nevada, and North Dakota.

The petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act propose the establishment of a tolerance for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from application of its dimethylamine salt in or on the raw agricultural commodity apricots at 2 ppm (PP 2E1293) and the establishment of tolerances for residues of 2,4-D and its metabolite 2,4-dichlorophenol (2,4-DCP) in or on the raw agricultural commodities millet grain at 0.5 ppm and millet forage and straw at 20 ppm (PP 7E1980). Later PP 2E1293 was amended to propose a tolerance of 5 ppm in or on apricots. It was also later determined that tolerances in millet grain, straw and forage should be in terms of 2,4-D *per se* rather than in terms of parent plus metabolite.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petitions and all other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought.

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before February 5, 1982, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

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

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

Effective on January 6, 1982.

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

Dated: December 15, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.142 is revised by reformatting the commodities in an alphabetized columnar listing, adding a new explanatory sentence relating to the apricot tolerance and alphabetically inserting the raw agricultural commodity apricots in paragraph (a), and alphabetically inserting the raw agricultural commodities millet forage, millet grain, and millet straw in paragraph (b).

Section 180.142 is revised to read as follows:

§ 180.142 2,4-D; tolerances for residues.

(a) Tolerances are established for residues of the herbicide, plant regulator, and fungicide 2,4-D (2,4-dichlorophenoxyacetic acid) in or on raw agricultural commodities as follows:

Commodity	Parts per million
Apples	5
Apricots	5
Citrus fruits	5
Pears	5
Potatoes	0.2
Quinces	5

(1) The tolerance on apricots also includes residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from the preharvest application of 2,4-D

preharvest application of 2,4-D dimethylamine salt to apricots.

(2) The tolerance on citrus fruits also includes residues 2,4-D from the preharvest application of 2,4-D isopropyl ester and 2,4-D butoxyethyl ester and from the postharvest application of 2,4-D alkanolamine salts and 2,4-D isopropyl ester to citrus fruits.

(b) Tolerances are established for residues of 2,4-D at:

Commodity	Parts per million
Barley, grain	0.5
Barley, forage	20
Blueberries	0.1
Corn, fodder	20
Corn, forage	20
Corn, fresh, sweet (K+CWHR)	0.5
Corn, grain	0.5
Cranberries	0.5
Grapes	0.5
Grass hay	300
Grasses, pasture	1,000
Grasses, rangeland	1,000
Millet, forage	20
Millet, grain	0.5
Millet, straw	20
Oats, forage	20
Oats, grain	0.5
Rice	0.1
Rice, straw	20
Rye, forage	20
Rye, grain	0.5
Sorghum, fodder	20
Sorghum, forage	20
Sorghum, grain	0.5
Sugarcane	2
Sugarcane, forage	20
Wheat, forage	20
Wheat, grain	0.5

(1) *Salts.* Residues on all the above may result from application of 2,4-D in acid form, or in the form of one or more of the following salts:

(i) The inorganic salts: Ammonium, lithium, potassium, and sodium.

(ii) The amine salts: Alkanolamines of the ethanol and isopropanol series, alkyl (C-12), alkylk (C-13), alkyl (C-14), alkylamines derived from tall oil, amylamine, diethanolamine, diethylamine, diisopropanolamine, dimethylamine, N,N-dimethyl-linoleylamine, N,N-dimethyloleyamine, ethanolamine, ethylamine, heptylamine, isopropanolamine, isopropylamine, linoleylamine, methylamine, morpholine, octylamine, oleylamine, N-oleyl-1,3-propylenediamine, propylamine, triethanolamine, triethylamine, triisopropanolamine, and trimethyamine.

(2) *Esters.* Residues on all the above may result from application of 2,4-D in acid form, or in the form of one or more of the following esters: amyl (pentyl), butoxyethoxypropyl, butoxyethyl, butoxypolythylene glycol butyl ether, butoxypropyl, butyl, dipropylene glycol isobutyl ether, ethoxyethoxyethyl, ethoxyethoxypropyl, ethyl, ethoxypropyl, isobutyl, isooctyl (including, but not limited to, 2-ethylhexyl, 2-ethyl-4-methylpentyl, and 2-octyl), isopropyl, methyl, polyethylene glycol 200, polypropoxybutyl, polypropylene glycol, propylene glycol, propylene glycol butyl ether, propylene glycol isobutyl ether, tetrahydrofurfuryl, and tripropylene glycol isobutyl ether.

(c) Tolerances are established for negligible residues of 2,4-D from application of its dimethylamine salt to irrigation ditch banks in the Western United States in programs of the Bureau of Reclamation, U.S. Department of Interior; cooperating water user organizations; the Bureau of Sport Fisheries, U.S. Department of Interior; Agricultural Research Service, U.S. Department of Agriculture; and the Corps of Engineers, U.S. Department of Defense. Where tolerances are established at higher levels from other uses of 2,4-D on the following crops, the higher tolerance applies also to residues from the irrigation ditch bank use cited in this paragraph.
The established tolerances follow:

Commodity	Parts per million
Avocados	0.1 (N)
Citrus fruits	0.1 (N)
Cottonseed	0.1 (N)
Cucurbits	0.1 (N)
Forage grasses	0.1 (N)
Forage legumes	0.1 (N)
Fruiting vegetables	0.1 (N)
Grain crops	0.1 (N)
Hops	0.1 (N)
Leafy vegetables	0.1 (N)
Nuts	0.1 (N)
Pome fruits	0.1 (N)
Root crop vegetables	0.1 (N)
Seed and pod vegetables	0.1 (N)
Small fruits	0.1 (N)
Stone fruits	0.1 (N)

(d) A tolerance is established for residues of 2,4-D sodium salt and alkanolamine salts (of the ethanol and isopropanol series), calculated as 2,4-D (2,4-dichlorophenoxyacetic acid) as follows:

Commodity	Parts per million
Asparagus	5

(e) A tolerance is established for residues of 2,4-D from application of its alkanolamine salts (of the ethanol and isopropanol series) as follows:

Commodity	Parts per million
Strawberries	0.05

(f) Tolerances are established for residues of 2,4-D from application of its dimethylamine salt for water hyacinth control in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers and streams that are quiescent or slow moving in programs conducted by the Corps of Engineers or other Federal, State, or local public agencies. Where tolerances are established at higher levels from other uses of the dimethylamine salt of 2,4-D on crops included within these commodity groups, the higher tolerances also apply to residues from the aquatic uses cited in this paragraph. The established tolerances follow:

Commodity	Parts per million
Crops in paragraph (c) of this section	1.0
Crop groupings in paragraph (c) of this section	1.0
Fish	1.0
Shellfish	1.0

(g) [Reserved]

(h) Tolerances are established for residues of 2,4-dichlorophenoxyacetic acid (2,4-d) and/or its metabolite, 2,4-dichlorophenol (2,4-DCP) in food products of animal origin as follows.

Commodity	Parts per million
Cattle, fat	0.2
Cattle, kidney	2
Cattle, meat	0.2
Cattle, mbyp (exc. kidney)	0.2
Eggs	0.05
Goats, fat	0.2
Goats, kidney	2
Goats, meat	0.2
Goats, mbyp (exc. kidney)	0.2
Hogs, fat	0.2
Hogs, kidney	2
Hogs, meat	0.2
Hogs, mbyp (exc. kidney)	0.2
Horses, fat	0.2
Horses, kidney	2
Horses, meat	0.2
Horses, mbyp (exc. kidney	0.2
Milk	0.1
Poultry	0.05
Sheep, fat	0.2
Sheep, kidney	2
Sheep, meat	0.2
Sheep, mbyp (exc. kidney)	0.2

(i) A tolerance is established for residues of 2,4-D from applications of its dimethylamine salt or its butoxyethanol ester for Eurasian Watermilfoil control in programs conducted by the Tennessee Valley Authority in dams and reservoirs of the TVA system as follows:

Commodity	Parts per million
Fish	1.0

[FR Doc. 82-116 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 1F2449/R366; PH-FRL-2021-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Acephate

AGENCY: Environmental Protection Agency EPA.

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the residues of the insecticide acephate and its cholinesterase-inhibiting metabolite in or on grasses (pasture and range) and grass hay. This regulation to establish the maximum permissible level for residues of acephate in or on the above commodities was requested by Chevron Chemical Co.

EFFECTIVE DATE: January 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 21, 1981 (46 FR 6061) that Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804, had submitted a petition (1F2449) to EPA. The petition proposed that 40 CFR Part 180 be amended by establishing a tolerance for the combined residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite *O,S*-dimethyl phosphoramidothioate in or on the raw agricultural commodity grass (pasture and range) at 3.0 parts per million (ppm). The petitioner subsequently amended the petition by increasing the proposed tolerance from 3.0 ppm to 15 ppm and by including the term grass hay. No comments were received in response to the notice of filing.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance were a 2-year oral dog feeding study with a no-observable-effect level (NOEL) of 100 ppm based on a systemic toxicity; a rat teratology study with a NOEL of 200 mg/kg; a 90-day cholinesterase rat study with a NOEL of 5 ppm based on brain, plasma, and red blood cell activity; an interim (12 months) report on an ongoing 2-year rat feeding/oncogenic study which indicates a NOEL of 5 ppm for cholinesterase activity for red blood cells and plasma for both male and female rats, and 5 ppm for female rats and less than 5 ppm for male rats for brain cholinesterase activity. On the basis of this incomplete report and an interim report of oncogenic effects in the mouse, acephate does not appear to be a carcinogen.

Data desirable but currently lacking include:

1. Final and complete report on a recently conducted rat feeding/oncogenicity study [1] and a mouse oncogenicity study.
2. Reproduction (rat) and neurotoxicity study.[1]
3. Teratology study in a mammalian species other than the rat.

Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the proposed tolerance because the proposed use will not increase the current theoretical maximum residue contribution (TNRC) to the human diet. Residues from the proposed use of acephate on pasture and rangeland could only occur in human food items as secondary residues in the milk, meat, fat, and meat byproducts of cattle, goats, horses, and sheep resulting from the feeding of the treated pasture and rangeland grasses to these livestock. Any such residue would not exceed 0.1 ppm, the currently established tolerance for each of the above mentioned food products.

The metabolism of acephate is adequately understood and an adequate analytical method (gas chromatograph equipped with a thermionic detector) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Thus, based on the above information considered by the Agency, it is concluded that the tolerance of 15 ppm in or on grass (pasture and range) and grass hay would protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, on or before February 5, 1982 file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A–110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945). Effective on: January 6, 1982.

(Sec. 408(d)(1), 68 Stat. 512; (7 U.S.C. 136))

Dated: December 14, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS 17 OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by adding "grass (pasture and range)" and "grass hay" to § 180.108 and alphabetically arranging the commodities to read as follows:

§ 180.108 Acephate; tolerances for residues.

* * * * *

Commodity	Parts per million
Beans (succulent and dry form, of which no more than 1 ppm is *O,S*-dimethyl phosphoramidothioate)	3
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Celery (of which no more than 1 ppm is *O,S*-dimethyl phosphoramidothioate)	10
Cottonseed	2
Eggs	0.1
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Grass (pasture & range)	15
Grass hay	15
Hogs, fat	0.1
Hogs, meat	0.1

[1] These studies have now been submitted and are under review.

Commodity	Parts per million
Hogs, mbyp	0.1
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Lettuce (head, of which no more than 1 ppm is *O,S*-dimethyl phosphoramidothioate)	10
Milk	0.1
Mint hay (of which no more than 1 ppm is *O,S*-dimethyl phosphoramidothioate)	15.0
Peppers (bell, of which no more than 1 ppm is *O,S*-dimethyl phosphoramidothioate)	4
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, mbyp	0.1
Soybeans	1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1

[FR Doc. 82-317 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[OPP-260040A; PH-FRL-2021-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Technical Amendment; Beans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule amends 40 CFR 180.1(h) by clarifying and updating the entry for "beans." This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment identifies by generic name those vegetables intended whenever a tolerance is established for the agricultural commodities "beans."

EFFECTIVE DATE: Effective on January 6, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708, (A-100), 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of October 26, 1981 (46 FR 52141) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted an amendment request to EPA on behalf of the IR-4 Technical Committee, requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, revise the crop grouping "beans" in 40 CFR 180.1(h) and add new crop groupings, "beans (dry)" and "beans (succulent)." The IR-4 requested these amendments in order to clarify and update the relationship between the general category "beans," in column A and the specific raw agricultural commodities listed in column B.

IR-4 originally proposed to redefine "beans" as "beans (dry) and beans (succulent)." Subsequently, the request was modified to indicate the genera of beans to be included in the definition.

The Administrator concurred with IR-4 that 40 CFR 180.1(h) should be revised to clarify and update the general category "beans" in column A and the corresponding specific raw agricultural commodities in column B by naming the five genera (*Cicer, Glycine, Phaseolus, Vicia,* and *Vigna* spp.).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

Based on the information considered by the Agency, it is concluded that the regulation established by revising 40 CFR Part 180 will protect the public health. Therefore, the regulation is revised as set forth below.

Any person adversely affected by this regulation may, by February 5, 1982, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 116, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: January 6, 1982.

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

Dated: November 25, 1981.

James M. Conlon,

Deputy Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.1(h) is amended by revising the current column B definition of "Beans" and adding new entries for "Beans (dry)" and "Beans (succulent)" to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
* * * * *	
Beans	*Cicer* sp. (including chickpeas and garbanzo beans); *Glycine* sp. (including soybeans); *Phaseolus* sp. (including kidney beans, lima beans, mung beans, navy beans, pinto beans, snap beans, and wax beans); *Vicia* sp. (including broad beans, fava beans); *Vigna* sp. (including asparagus beans, blackeyed peas and cowpeas).
Beans (dry)	All beans in dry form only.
Beans (succulent)	All beans in succulent form only.
* * * * *	

[FR Doc. 82-315 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 8E2035/R385; PH-FRL-2021-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Carbaryl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide carbaryl in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the insecticide in or on the commodities was requested by Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on January 6, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of October 21, 1981 (46 FR 51622) which announced that IR-4, New Jersey Argicultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted a pesticide petition (PP 8E2035) on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of New York, proposing that 40 CFR 180.169 be amended by the establishment of tolerances for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate in or on the raw agricultural commodities birdsfoot trefoil forage and birdsfoot trefoil hay at 100 parts per million (ppm).

There were no comments received in response to this notice of proposed rulemaking. The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

The insecticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, by February 5, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

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

Effective on January 6, 1982.

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

Dated: December 15, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.169 is amended by adding and alphabetically inserting the commodities birdsfoot trefoil forage and hay to paragraph (a) to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) * * *

Commodity	Parts per million (ppm)
* * * * *	
Birdsfoot trefoil, forage	100.0
Birdsfoot trefoil, hay	100.0
* * * * *	

[FR Doc. 82-313 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 428

Sale of Replacement Farm Units to Teton Flood Victims

AGENCY: Bureau of Reclamation, Interior.

ACTION: Revocation of regulations.

SUMMARY: Part 428 of this title was issued to prescribe methods for selecting eligible farmers to purchase land, and prescribe methods of selling replacement farm land located in the Idaho National Energy Laboratory (INEL), Idaho. Under the provisions of the Act of February 25, 1978 (92 Stat. 76), the sale of the INEL land was to be completed within 5 years. All of the eligible farmers have been identified and the land sold. There is no longer any need for Part 428; therefore, revocation of the Part is necessary.

EFFECTIVE DATE: January 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. L. David Williamson, Senior Staff Assistant for Land Resources Management, Operation and Maintenance Policy Staff, Bureau of Reclamation, Washington, D.C. 20240, telephone (202) 343-5204.

SUPPLEMENTAL INFORMATION: The primary author of this document is Mr. Terence G. Cooper, Staff Assistant, Land Resources Management, Operation and Maintenance Policy Staff, Bureau of Reclamation, Washington, D.C. 20240, telephone (202) 343-5204.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

PART 428 [REMOVED]

Under the authority of the Secretary of the Interior contained in 43 U.S.C. 373, 43 CFR part 428 is hereby removed and reserved.

Dated: December 23, 1981.

Garrey E. Carruthers,

Assistant Secretary—Land and Water Resources.

[FR Doc. 82-303 Filed 1-5-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order 1493; Amdt. 10]

Escanaba and Lake Superior Railroad Co. Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 10 to Service Order No. 1493.

SUMMARY: Amendment No. 10 extends the expiration date of Service Order No. 1493, which authorizes Escanaba and Lake Superior Railroad Company to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee) (MILW). The MILW Trustee has indicated that sufficient progress has been made in negotiations on compensation and that he concurs with this extension.

EFFECTIVE: 11:59 p.m., December 30, 1981, and continuing in effect until 11:59

p.m., January 30, 1982, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: December 30, 1981.

Upon further consideration of Service Order No. 1493 (46 FR 10742, 14896, 19822, 25311, 34593, 39148, 44190, 49127, 58491 and 54562), and good cause appearing therefor:

PART 1033—CAR SERVICE

It is ordered, Service Order No. 1493 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

§ 1033.1493 Service Order 1493.

(a) Escanaba and Lake Superior Railroad Company authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee).* * *

* * * * *

(n) *Expiration date.* The provisions of this order are extended to permit an additional (30) thirty days for the Escanaba and Lake Superior Railroad Company to complete compensation negotiations, and shall expire at 11:59 p.m., January 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 30, 1981.

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

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

By the Commission, Railroad Service Board, members John H. O'Brien, William F. Sibbald, Jr. and Melvin F. Clemens, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-242 Filed 1-5-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Fees

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The NOAA implements a new schedule of fees for fish caught by foreign vessels in the U.S. fishery conservation zone. The schedule complies with the requirements of the Magnuson Fishery Conservation and Management Act, as amended by the American Fisheries Promotion Act. The purpose of the rule is to have foreign vessels pay for the foreign share of the U.S. costs of administering the Magnuson Act, beginning January 1, 1982.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT:

A. J. Bilik, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: The NOAA implements a new schedule of fees for fish caught by foreign vessels in the U.S. fishery conservation zone (FCZ). The new fees will result in collections of approximately $34.6 million during 1982. This amount is determined by the formula set forth in section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

An advance notice of proposed rulemaking (ANPR) was published at 46 FR 37533 (July 21, 1981). A public hearing was held in Washington, D.C. on August 5. The purpose of the ANPR and the hearing was to set forth the NOAA interpretation of the Magnuson Act and to obtain information. Twenty-seven comments were received and summarized in the proposed rule published at 46 FR 55729 on November 12, 1981. The preamble to the proposed rule throughly discussed the fee schedule and associated issues raised in response to the ANPR. Only seven comments were received on the proposed rule during the 30-day comment period that closed December 14. The following summarizes the substantive comments, suggestions, and actions taken. No data were submitted by any commenters.

1. *Comment:* Under the proposed method of determining the fraction of the total harvest taken by foreigners, the Canadian catch in the "Georges Bank" disputed zone is included in the foreign catch. Since Canada does not pay any fees for this catch, the other foreigners are subsidizing the Canadian harvest. Instead, the United States should calculate the fees Canada would pay for their harvest, and subtract this from the fee collection target.

NOAA Response: This is the only substantive change that NOAA is making as a result of the comments received on the proposed rule. Four options were considered: (a) delete the Canadian catch from the calculations; (b) delete the Canadian catch from the foreign harvest and put it in the U.S. harvest; (c) delete the Canadian and U.S. catches on Georges Bank from the calculations; or (d) delete the fees Canada would pay from the fee collection target.

Option (d) was excluded because Canada does not have a Governing International Fisheries Agreement (GIFA) with the United States, and therefore does not come under the provisions of 50 CFR 611. Furthermore, this option would not ensure collection of the target amount.

Option (c) was excluded because not counting the U.S. harvest on Georges Bank might prejudice our claim vis-a-vis Canada regarding the boundary of the FCZ. Option (b) was excluded because there is no statutory basis for treating Canadian harvests as harvests by "domestic fishing vessels." Therefore, option (a) was chosen. The table presented as Table 2 in the proposed rule's preamble is revised to read as follows:

TABLE 2.—ESTIMATE OF RATIO OF FOREIGN CATCH TO TOTAL CATCH, 1980

[Including internal waters]

		Metric tons
Total U.S. reported catch [1]	3,056,228	
Exclusion:		
International waters (exc. Tunas)	14,778	
Tunas	226,816	
Freshwater (inc. Gt. Lakes Alewives)	66,399	
Total	(307,993)	
Adjusted U.S. commercial catch in territorial waters and fishery conservation zone	2,748,235	
Add correction for molluscs [2]	599,252	
Add recreational catch in 1979 [3]	185,068	
Total U.S. catch, territorial waters and fishery conservation zone	3,532,555	
Add total foreign catch fishery conservation zone (less Canadian catch) [4]	1,562,463	
Grand total catch, territorial waters and fishery conservation zone (less Canadian catch)	5,095,018	

TABLE 2.—ESTIMATE OF RATIO OF FOREIGN CATCH TO TOTAL CATCH, 1980—Continued

[Including internal waters]

		Metric tons
Ratio of foreign to total is 30.7 percent		

[1] This figure and all following figures for U.S. commercial catch are from pages 8–11, "Fisheries of the United States, 1980" Calculated in pounds and converted to metric tons; figures may not add exactly.

[2] Addition of mollusc shells. U.S. statistics for internal use include only edible portions of molluscs, but international standard is whole animal. Conversion factor varies for each species; they are available upon request.

[3] From page 14, "Fisheries of the United States, 1980." Includes catch types A and B1, assumes that Pacific catch is 15 percent of total. Only 1979 figures are available.

[4] "Fisheries of the United States, 1980"—pages 26, 29. Conversion factor of 8.65 is used to convert scallops meats into live weight.

The new calculation of the ratio of foreign to total catch is 30.7 percent, instead of 31.6 percent. Thus, the revised fee collection target for 1982 is 30.7% × $112,901,000 or $34,660,607. Of this total, NMFS estimates that the 1982 permit application fees will be $78,000. Thus, foreign fishing vessel owners must pay $34.6 million in 1982 fees in addition to permit application fees.

To achieve this fee collection target, the 1981 fees have been multiplied by 1.65 instead of 1.66. (The factor of 1.65 is the fee collection target divided by the anticipated 1982 catch at the 1981 fees). Because the difference between the old and new factors is one one-hundredth, reductions in the final fees from the proposed fees amounting to one dollar or more appear only in the high priced species or where the proposed fee was rounded up to the nearest dollar by almost 50 cents. Thus, the final fees for expensive sablefish and butterfish are reduced by $1 per metric ton, and fees for the more highly priced Pacific billfish and sharks are reduced $2 or $3 per ton, depending on the geographic area. Snails, "other Pacific fish" and "other Atlantic fish" are rounded down by almost 50 cents to a fee $1 below the proposed fee. All other fees are the same as the proposed fees. (The proposed fee of $59 for Atlantic sharks was an error; it is corrected to $50 per metric ton).

2. *Comment:* Reduced fees should be offered to those countries participating in joint ventures, since they are benefiting U.S. fishermen.

NOAA Response: The concept of a "joint venture discount" has been proposed and is supported by some members of the U.S. fishing industry. The NOAA is now reviewing the policy implications of this proposal as well as the question of whether the Magnuson Act contains adequate legal authority. No conclusions have been reached. These final regulations do not contain a discount.

3. *Comment:* Many commenters agreed with NOAA's interpretation that the phrase "territorial waters of the United States" (the catch from which is included in the denominator of the fraction used to determine the portion of total costs to be recovered by the fee schedule) includes the United States territorial sea and internal waters. One commenter disagreed, however, believing that there was no evidence of specific Congressional intent to distinguish between territorial waters and the territorial sea.

NOAA response: NOAA examined this issue when it was raised in comments on the Advance Notice of Proposed Rulemaking. A careful review of the legislative history (which is not clear) indicates that NOAA's interpretation: (1) comports with an objective analysis of the legislative evolution of the current fee provision; (2) is consistent with the policies underlying the inclusion of harvests landward of the inner boundary of the fishery conservation zone, and (3) is consistent with Congress's prior usage of the phrase in other legislation (fisheries legislation in particular).

4. *Comment:* One commenter believed that the ratio of foreign to total harvest (used to determine the portion of total costs to be recovered by the fee schedule), should be computed on the basis of a "weighted average," in order to take into account the fact that U.S. fishermen tend to harvest high-value species while foreign fishermen tend to harvest low-value species.

NOAA response: NOAA has interpreted the statutory phrase, "aggregate quantity of fish," to mean tons of fish. This is consistent with the legislative history of the current fee provision, which refers to the volume of fish harvested, and which utilizes tonnage caught in an example applying the ratio method. The commenter's suggestion reduces, ultimately, to a ratio based on the value of the catches; that clearly was not Congress's intent. (See House Report No. 96–1138, Part 1, pages 35–36, 47–48).

5. *Comment:* The total cost of carrying out the provisions of the Magnuson Act used in developing the schedule of fees should have been the incremental cost of the Act, or in other words, those costs which would not be incurred but for the Act.

NOAA response: NMFS interprets total cost of the Act to mean the cost of those functions performed under its jurisdiction to fulfill the operative provisions of the Magnuson Act without regard to historical legislative authorization or time-frame of appropriation. Further, it is NOAA policy as documented in the agency's GAO approved financial management system to recover the full costs, both direct and indirect, for performance of services for others (NOAA Budget Handbook, Chapter 2, Section 3).

6. *Comment:* Methodology used to calculate costs should be explained so that future fees can be predicted.

NOAA response: The basic level of financial and programmatic management and planning in NMFS is the task. A task is a grouping of related activities suitable for management as a unit for purposes of accomplishing an objective or objectives. At the beginning of each fiscal year all NMFS units submit documentation of the planned use of their funding allocations at the task level. This documentation is in the form of task plan which includes a narrative description of task activities and a breakout of spending in terms of labor, travel, contracts, etc.

To determine the total cost of carrying out the provisions of the Magnuson Act, MNFS Regions and Centers analysed their activities at the task level using the total cost definition described in the preceding response. To aid NMFS staff in applying this definition of total costs of the Act in the task analyses, the definition was broken down into categories of activities:

Category A—activities that would not be continued if the Magnuson Act were repealed.

Category B—activities budgeted for before the Magnuson Act which are still needed to fulfill the provisions of the Act.

Category C—activities which are necessary to improve the quality of fishery management plans.

Members of the NMFS fees task force reviewed the Region and Center cost analyses on a task-by-task basis and developed an approved aggregation of Magnuson Act total costs. Having established to its satisfaction the total costs of the Act, MNFS regrouped these costs into the programmatic categories specified in the American Fisheries Promotion Act: fishery conservation and management, fisheries research, administration, and enforcement. At this stage, the definitional categories A, B, and C were dropped from the analysis. Documentation of NMFS' determination of Magnuson Act costs is available which indicates, by organization, each task and the amount of each task considered to contribute to the total costs of carrying out the provisions of the Magnuson Act. The MNFS task

plans referenced in this documentation are also available.

The methodology used by the Coast Guard to calculate its Magnuson Act costs is described in the proposed rule.

A major part of the process of calculating the 1982 schedule of fees was the determination of the total cost of the Magnuson Act. The analyses and staff reviews which resulted in establishment of the total costs of the Magnuson Act will not have to be repeated in the development of future fee schedules. The total cost used in future fees can be predicted by applying budget increases, decreases, and reprogramming in Magnuson Act related activities plus an inflation factor to the total cost figure established for the 1982 fees.

7. *Comment:* Calculation of costs should not depend on "subjective discretion."

NOAA response: Since the budget structure within which Congress appropriates funds for NMFS and Coast Guard operations does not separately identify Magnuson Act costs, any determination of Magnuson Act costs must be somewhat a matter of judgment. In consonance with the budget structure, the financial management systems of both agencies are oriented towards management of programmatic activities rather than towards categorization of funding in terms of authorizing legislation. To develop separate financial management systems or to modify existing systems to identify Magnuson Act costs would be expensive, time consuming and wasteful, since such a system would be useful only for the single purpose of identifying Magnuson Act costs.

8. *Comment:* There are programming errors in the automated task summaries provided by NMFS.

NOAA Response: There are some key punch errors; however, they in no way invalidate NMFS' analysis of total costs of the Act since hard copy originals of NMFS task plans were used by NMFS Staff. The automated tasks summaries were produced to aid outside parties in understanding NMFS programs and are not used by NMFS as financial control documents.

9. *Comment:* Variable percentages of U.S. prices should not be used. The fee should be based on the price of whole fish at the fishing grounds. The burden of fees is based on high volume, low value species and cuts into the already slim profit on low value species. More profitable fisheries should not be penalized with higher fees. Fees should be expressed to the nearest penny.

NOAA Response: These comments mistakenly believe that NOAA is still establishing fees in some sort of direct relationship to U.S. exvessel prices. The preamble to the fee notices published at 46 FR 37533 (July 21, 1981), and 45 FR 74948 (November 13, 1980), set out the difficulties encountered in basing foreign fees on U.S. prices that have no relation to foreign values. The fees implemented here are 1.65 times the 1981 fees, which were rounded to the nearest dollar for administrative convenience and which were discussed thoroughly with interested parties before being implemented a year ago. There is no reason to express 1982 fees to the nearest penny. The NOAA believes that the fee schedule shows the proper relative values of fish to the foreigners. "Low value" species may be low value in the United States, but are more highly valued by foreigners, and it is appropriate to charge a higher absolute fee.

Finally, NOAA reiterates that *if* the fees were based on U.S. prices, applying a flat percentage would make some fisheries uneconomic. Traditional fishing practices would be disrupted, and the total allowable level of foreign fishing would not be harvested. The regulatory impact review (RIR), using the best, albeit limited, information available, clearly shows these adverse impacts.

10. *Comment:* The fees are a higher percentage of the U.S. price for species caught by Japan and Korea, and therefore the fee schedule discriminates against these two countries in favor of countries such as Poland, Bulgaria, and Spain.

NOAA Response: The comment that the fee schedule is discriminatory is not substantiated by the commenters or a review of the percentages applied in 1981. Any appearance of "higher fees" is an artifact of the fisheries and allocations made by the Department of State. The 1981 Pacific whiting fee was set at a relatively low percentage of the U.S. price in order to keep the fishery viable. The bycatch in the whiting fishery was assessed a relatively high percentage. Because the whiting fishery is relatively "clean" (i.e., the catch is almost pure whiting), the overall fee per tow may be lower than tows off Alaska, where trawl fisheries are relatively more mixed than the foreign trawl fisheries in other areas.

The same situation occurs in the Atlantic squid fishery, only the percentage applied to squid was the same relative percentage as that applied to Alaskan pollock, Alaskan flounders, and Atka mackerel. Again, the low bycatch in the squid fishery may make the overall fee per tow lower than tows off Alaska.

Japan does have allocations in the clean Atlantic squid fishery as well as in the relatively mixed Alaska fisheries. Korea and Taiwan do not fish elsewhere in the U.S. FCZ than off Alaska; these countries did not, however, submit comments that they perceive the proposed schedule as being discriminatory. Bulgaria has allocations in the clean Pacific coast and Atlantic mackerel fisheries. Poland has allocations in the clean Pacific groundfish as well as the relatively mixed Alaskan fisheries.

The Japan Fisheries Association commented that 81.3 percent of the total fees will be paid by Japan. According to NMFS' estimates based on 1980 catch data, Japan harvested about 77 percent by weight of the total foreign catch harvested by nations expected to operate in the FCZ in 1982. There is a reasonably direct relation between the Japanese portion of the total foreign catch and its anticipated portion of the total 1982 fees. This relation does not discriminate against Japan and no discrimination against any country is intended.

11. *Comment:* The Department of State must be consulted, and its comments addressed by the Department of Commerce.

NOAA response: Section 204(b)(10) of the Magnuson Act requires the Secretary of Commerce to consult the Secretary of State when establishing a fee schedule. The Oceans and Fisheries Affairs office was consulted at all stages of development and reviewed the decision-making documents before they were finalized. The Department of State's comment on the proposed rule says that the "proposed fees appear reasonable". From this statement, NOAA concludes that the Secretary of State has no objections to the fee schedule finalized in this rulemaking and does not feel that the schedule violates any international agreements.

The administrative record shows that the fee schedule and implementation of section 204(b)(10) were discussed with the Department of State on the following dates in 1981: March 12; July 1; August 24; September 2, 8, and 9; November 6 and 18; December 7, 10, and 22.

12. *Comment.* The 1982 fee schedule will make foreign fishing uneconomic in the U.S. FCZ.

NOAA Response: The Magnuson Act, as amended, sets forth a formula for establishing the minimum level of fees needed to collect costs attributed to foreign fishing. NOAA has developed the 1982 schedule in compliance with the Act. The commenters provided no

data to support their statement that the fees are uneconomic.

13. *Comment:* The RIR has not adequately covered all the relevant issues related to the 1982 fee schedule and its effects on foreign and domestic interests.

NOAA Response: The NOAA has addressed these issues using the best available data. The commenters on the RIR did not provide any additional data that NOAA could use to improve the analysis, either during the period for the advanced notice of proposed rulemaking or the proposed rulemaking.

14. *Comment:* The foreign fishing fee schedule is a major regulation under the criteria set forth in Executive Order 12291.

NOAA Response: NOAA did not receive any technical data on the impacts of the 1982 fee schedule from commenters either during the comment period for the advanced notice of proposed rulemaking or the proposed rulemaking. Thus, NOAA has concluded that the Regulatory Impact Review, which is based on available data, supports the finding that the 1982 fee schedule is not a major rule under E.O. 12291.

15. *Comment:* The 1982 foreign fishing fee schedule will have an adverse impact on some joint ventures that compete with heavily subsidized Soviet joint ventures. The U.S. should implement a new foreign allocation policy which allows foreign nations to catch one ton of an underutilized resource when one ton is purchased from American fisherman in a joint venture operation.

NOAA response: The suggested policy change is beyond the scope of this rulemaking.

16. *Comment:* Fees should not be used as a management tool to restrict foreign fishing effort.

NOAA response: This criteria for fees was dropped only after evaluating public comments on all of the fee criteria. Even so, the fee schedule in this notice is based on the quantity of fish caught and does not restrict foreign fishing effort. The fees are set in such a way that the objectives of the fishery management plans are not subverted.

17. *Comment:* It is both unsound economically and also illegal to fashion a fee schedule solely on the basis of whether it recoups the target cost figure.

NOAA response: Section 204(b)(10) of the Magnuson Act requires the Secretary to establish a schedule to recover fees which "shall be at least in an amount sufficient to return to the United States" the portion of Magnuson Act costs attributable to foreign fishing. The Secretary is obligated to comply with this statutory mandate.

18. *Comment:* The 1982 fee schedule is not a programmatic function, and does not qualify as a categorical exclusion from NEPA requirements. That NOAA's reasons supporting its determination are "flatly contradicted by NMFS's own statements in its Regulatory Impact Review (RIR)", and NOAA, therefore, is obligated to comply with NEPA requirements.

NOAA response: The RIR prepared for the 1982 foreign fee schedule clearly states that the schedule which was selected was "expected to be the least disruptive of current fishing practices." The RIR did examine the possibility that higher fees might increase operating costs in certain fisheries, and result in some reduction in foreign fishing in 1982. The examination was made in the context of the impact on the 1983 foreign fishing schedule. Such a reduction in foreign fishing, however, is speculative at this point. Moreover, the RIR indicated that NOAA developed the fee schedule with the expectation that the historical percentage of TALFF would be harvested by foreign fishing vessels in 1982. The foregoing reasons support NOAA's determination that the fee schedule qualifies as a categorical (programmatic function) exclusion. The commenter has not provided factual information that would lead to a contrary conclusion.

19. *Comment:* The provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* have not been complied with, on the basis of non-disclosure of: (a) the basis and method for computing total costs; and (b) the basis and method for computing the fees per metric ton.

NOAA response: (a) The NOAA has made available to interested parties (including the commenter) computer-stored copies of the task plans which were used to calculate Magnuson Act costs, as well as summaries. The NOAA referred to the availability of this information in the Notice of Proposed Rulemaking (NPR) (46 FR at 55730). (b) The NPR indicated that the method used to derive the species fees (that of applying a factor of 1.66 to the 1981 fees) was based on the ratio of target collection amount to anticipated 1982 catch at 1981 species fees. Species fees for 1981 were published in the Federal Register on January 8, 1981 (46 FR 2080); anticipated 1982 catch was set forth in the Regulatory Impact Review (the availability of which was referred to in the NPR).

Other Matters

No comments were received on reducing the poundage fee surcharge for the Fishing Vessel and Gear Damage Compensation Fund from 20 percent to 8 percent. There also was no comment on maintaining permit application fees at $60 per application.

Classification

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291.

The NOAA Administrator has certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This proposed rule has no information collection provisions, for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The 30-day delay in effectiveness required by the Administrative Procedure Act (5 U.S.C. 553) is waived because it would be against the public interest. The NOAA Administrator has found that foreign fishing should not be disrupted and that the foreign nations should have notice as soon as possible that higher fees will be assessed for fish caught on January 1, 1982, and thereafter.

For the same reasons, the Administrator, NOAA, has found good cause for this rulemaking to be exempt from section (3)(c)(3) of E.O. 12991, under section 8(a) of that Order. Transmitting this final rule to the Director of the Office of Management and Budget (OMB) at least 10 days before publication would prevent adequate notice of the higher fees. A copy of this notice is being transmitted to OMB simultaneously with publication in the Federal Register.

Dated: December 31, 1981.

E. Craig Felber,

Acting Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set forth in the preamble, 50 CFR Part 611 is amended to read as follows:

1. The authority citation is:

Authority: 16 U.S.C. 1824.

2. 50 CFR 611.22 is amended by revising paragraphs (a)(1)(i) and (a)(2)(i), by removing paragraph (a)(2)(iv), and by

revising paragraph (b), to read as follows:

§ 611.22 Fee schedule for foreign fishing permits.

(a) * * *

(1) *Permit fees.* (i) Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $60.00 per vessel ($50 costs plus $10 surcharge). At the time the application is submitted to the Department of State, the fees must be sent to: Division Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235. The permit fee payment must be accompained by a list of the vessels for which payment is made.

* * * * *

(2) *Poundage fees.* (i) If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table I, plus the surcharge required by paragraph (b) of this section.

TABLE 1.—SPECIES AND POUNDAGE FEE

[Dollars per metric ton]

Species	Poundage fee
1. Butterfish	117
2. Hake, red	15
3. Hake, silver	18
4. Herring, river	17
5. Mackerel, Atlantic	40
6. Other finfish (Atlantic)	79
7. Sharks (Atlantic)	50
8. Squid, *Illex*	23
9. Squid, *Loligo*	86
10. Shrimp, royal red	(1)
11. Atka mackerel	13
12. Cod, Pacific	45
13. Flatfish, (Alaska)	17
14. Flounders (Pacific)	91
15. Jack mackerel	12
16. Pacific ocean perch	73
17. Other groundfish (Alaska)	15
18. Other fish (Pacific)	36
19. Pollock, Alaska	23
20. Sablefish (Alaska)	109
21. Sablefish (Pacific)	117
22. Rockfish	43
23. Snails	31
24. Squid (Pacific)	17
25. Whiting, Pacific	10
26. Precious coral	(1)
27. Seamount groundfish	23
28. Dolphinfish (mahi mahi) (American Samoa)	86
29. Wahoo (American Samoa)	13
30. Sharks (Pacific) (American Samoa)	7
31. Sharks, Pacific (Hawaii) (Guam, Northern Marianas, U.S. possessions)	13
32. Swordfish (Hawaii)	370
33. Swordfish (American Samoa)	74
34. Swordfish (Guam, Northern Marianas, U.S. possessions)	254
35. Striped marlin (Hawaii)	427
36. Striped marlin (American Samoa)	58
37. Striped marlin (Guam, Northern Marianas, U.S. possessions)	254
38. Other Pacific billfish (Hawaii)	170
39. Other Pacific billfish (American Samoa)	58
40. Other Pacific billfish (Guam, Northern Marianas, U.S. possessions)	231

[1] Reserved.

* * * * *

(b) The owner or operator of each foreign vessel who accepts and pays poundage fees under paragraph (a)(2) of this section must pay a surcharge equal to 8 percent of the poundage fees. The Assistant Administrator may reduce or waive the surcharge if he determines that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently.

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[FR Doc. 81-37482 Filed 12-31-81; 4:40 pm]
BILLING CODE 3510-22-M

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50 CFR Part 662

Northern Anchovy Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues notice that Amendment 2 to the fishery management plan for the northern anchovy fishery is approved, and also issues this final rule to implement the amendment. These regulations allow the Secretary of Commerce to make all or a portion of the reduction harvest quota reserved for reduction fishing in subarea A available to reduction fishing in subarea B. The Secretary may take action if the reduction fishery in subarea A has not harvested, or has not demonstrated an intent to harvest, the full reserve by the end of the fishing season. The intended effect is to increase the probability that the optimum yield for the fishery will be achieved.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Smith (Chief, Fisheries Management Division), 213-548-2518.

SUPPLEMENTARY INFORMATION: A notice of initial approval and availability of Amendment 2 to the fishery management plan for the northern anchovy fishery (FMP) and proposed rules to implement the amendment were published in the **Federal Register** on September 16, 1981 (46 FR 45969). Comments on the proposed rule were invited until November 2, 1981.

As the preamble to the proposed rule explains, the northern anchovy fishery management area is divided by the FMP into two subareas; subarea A is that portion of the fishery conservation zone (FCZ) between Point Buchon and Point Reyes, California, and subarea B is that portion of the FCZ between Point Buchon and the United States-Mexico International Boundary. Currently, 10,000 tons, or ten percent, of the total reduction fishery quota, whichever is less, is reserved for reduction fishing in subarea A. Because the FMP did not provide for an inseason adjustment whereby all, or a portion, of this 10,000 ton reserve could be released to fishing in subarea B if the fishermen in subarea A were not expected to harvest their reserve quota by the end of the fishing year, a potential for not achieving optimum yield (OY) existed. This amendment adds a procedure whereby the Secretary of Commerce, or his designee, will estimate by May 15 of each year, the amount of anchovies that will be harvested by fishermen in subarea A prior to any reallocation determination.

Under the amendment, the Secretary is required to contact the affected parties in subarea A, two reduction plant operators and five fishing vessel operators licensed by the State of California, to determine whether the subarea A reserve will be taken. If the reserve amount will not be taken, the Secretary will specify what amount should be reallocated to reduction fishing vessels of subarea B. Any reallocation of this reserve will be made as soon as practicable after June 1 of each year and only that portion which is not expected to be harvested in Subarea A will be subject to release in this manner.

The amendment is intended to increase the probability that the OY will be achieved and that the economic benefits of the management regime will be realized. It provides flexibility to deal with changes in fishing strategy, practices, and capacity in subarea A on an annual basis without further amendment to the FMP.

No comments were received on the proposed rule; therefore, the proposed regulations are adopted in their entirety as final rules. This final rule is identical to the proposed rule at 46 FR 45969.

Classification

The Assistant Administrator has determined that Amendment 2 to the FMP and the implementing regulations comply with the national standards, other provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq*), and other applicable law.

This amendment to the FMP has no significant environmental or biological impacts because the OY specified in the FMP remains unchanged. That portion of the reserve which might be reallocated in any year will be small in relation to the total biomass and the total reduction harvest quota. Thus, there is no need to supplement the environmental impact

statement currently on file with the Environmental Protection Agency (EPA). An Environmental Assessment was filed with EPA on May 9, 1980.

The Administrator, NOAA, has determined that the regulations implementing this amendment are not major under Exective Order 12291 and do not require the preparation of a regulatory impact analysis. These regulations are designed to ensure maximum flexibility in achieving the OY without significant adverse impacts upon individuals or government agencies. Economic impacts (if any) will be beneficial. If the northern fishery is active, there will be no adjustment of the reserve quota. If the northern fishery is less active, there will be no adverse impact upon northern vessels from an inseason adjustment, but the southern area fishery may benefit and the potential yield of the total fishery is more likely to be realized.

The Administrator also certified that the regulations implementing this amendment will not have a significant economic impact on a substantial number of small entities; therefore, no regulatory flexibility analysis is required by the Regulatory Flexibility Act, under 5 U.S.C. 601 *et seq.*

The regulations implementing this amendment require a determination of whether the subarea A reserve quota will be havested by anchovy vessels in subarea A; that determination is to be made on the basis of information solicited from seven individuals (two reduction plant operators and approximately five anchovy fishing vessel operators). Since information is to be gathered from fewer than ten persons, no "collection of information" is involved for purposes of the Paperwork Reduction Act, 44 U.S.C. 4501 *et seq.*

Dated: December 30, 1981.

William G. Gordon,

Assistant Administrator for Fisheries.

For the reasons stated in the preamble, 50 CFR Part 662 is amended as follows:

PART 662—NORTHERN ANCHOVY FISHERY

1. The authority citation for Part 662 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In Part 662, § 662.3 is revised to read as follows:

§ 662.3 Quota.

(a) *Determination of harvest quota.* The total harvest quota, reduction harvest quota and subarea B harvest quota shall be determined by the following formulas and announced by notice in the Federal Register on or about August 1 of each year.

(1) When spawning biomass is less than 100,000 short tons, there shall be no fishing for anchovies for any purpose.

(2) When spawning biomass is equal to, or greater than 100,000 short tons, but less than 1 million short tons, the total harvest quota for the PAFA shall not exceed 12,600 short tons which will be reserved for nonreduction purposes.

(3) When spawning biomass is equal to, or greater than, 1 million short tons, the total harvest quota in the PAFA shall not exceed 70 percent of one third of the spawning biomass in excess of 1 million short tons, or 12,600 short tons, whichever is greater, of this amount, the first 12,600 short tons will be reserved for nonreduction fishing and the remainder will constitute the reduction harvest quota.

(b) *Special allocation.* Except as provided in paragraph (c) of this section, ten percent of the reduction harvest quota or 10,000 tons, whichever is less, is reserved for reduction fishing in subarea A. The remainder of the reduction harvest quota is the subarea B harvest quota.

(c) *Reallocation of special allocation.* The Secretary may reallocate from subarea A to subarea B that portion of the special allocation reserved under paragraph (b) of this section which he determines will not be harvested in subarea A by the end of the fishing year. The Secretary's determination under this paragraph shall be based on the estimated reduction harvest in subarea A projected to the end of the fishing year, which is the sum of:

(1) The catch in subarea A through May 31; and

(2) The lesser of the following:

(i) the *Processor-based estimate,* which is the total amount of anchovies each reduction plant licensed by California in subarea A is expected to process each day multiplied by the number of days each plant is expected to operate during June; or

(ii) The *harvester-based estimate,* which is the total amount of anchovies each anchovy vessel operator who has filed the declaration of intent specified in § 662.5(d) is expected to harvest in subarea A during June, based on a survey of the registered operators.

(d) *Procedure for reallocation of special allocation.*

(1) The Secretary shall make the estimate under paragraphs (c)(1) and (2) of this section on or about May 15.

(2) As soon as practicable after June 1, the Secretary shall announce to all registered anchovy fishing vessels and licensed anchovy reduction plant operators by certified mail and publish by notice in the **Federal Register:**

(i) The change, if any, in the reduction harvest quota in subareas A and B;

(ii) the reasons for the change, if any, in the reduction harvest quotas in subareas A and B; and

(iii) a summary of, and responses to, any comments submitted under paragraph (d)(4) of this section.

(3) The Regional Director shall compile in aggregate form all data used to make the estimates under paragraphs (c)(1) and (2) of this section and make them available for public inspection during normal business hours at the Southwest Regional Office, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

(4) Comments from the public on the estimates made under paragraphs (c)(1) and (2) may be submitted to the Regional Director until May 31.

(e) Anchovies harvested after August 1 will be counted toward harvest quotas for the fishing year beginning August 1.

[FR Doc. 82-320 Filed 1-5-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 3
Wednesday, January 6, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 102

Warehouse Regulations; Financial Statement Requirements; Notice of Extension of Time for Filing Comments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing comments to proposed rule.

SUMMARY: This notice extends the time for filing comments to proposed rulemaking published December 7, 1981, pages 59930 and 59931 Vol. 46, No. 234, of the **Federal Register**. This rule would require grain warehousemen licensed or applying for license under provisions of the United States Warehouse Act (7 U.S.C. 268) to provide the Secretary with an annual financial statement that has been audited by a certified public accountant in accordance with generally accepted auditing standards and such other interim financial statements or information as the Secretary deems necessary. Interested persons were invited to submit written comments not later than Decembedr 31, 1981. The Department has determined that the time allowed for comments is insufficient to alert interested parties and for such parties to consider the impact of such a requirement and is therefore extending the comment period for all persons.

DATE: Comments now are due on or before January 15, 1982.

ADDRESS: Comments should be filed in triplicate with the Hearing Clerk, U.S. Department of Agriculture, 14th & Independence Avenue, SW, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3616).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the time for filing comments to the above-listed proposed rulemaking is hereby extended to January 15, 1982. This notice is given in accordance with the administrative procedure provisions in 5 U.S.C. 553.

Done at Washington, D.C., December 30, 1981.

William T. Manley,

Duputy Administrator, Marketing Program Operations.

[FR Doc. 82-198 Filed 1-5-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 979

Melons Grown in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed continuing rule.

SUMMARY: This proposed continuing regulation would require fresh market shipments of melons grown in designated counties in South Texas to be inspected and meet minimum grade, quality and container requirements. It would promote orderly marketing of such melons and keep less desirable qualities from being shipped to consumers.

DATE: Comments due March 8, 1982.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 156 and Order No. 979 (7 CFR Part 979) regulate the handling of melons grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

This proposed continuing regulation is based upon unanimous recommendations made by the committee at its public meeting at McAllen, Texas, on December 8, 1981. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1982 spring crop of South Texas melons and of the marketing prospects for this and future shipping seasons.

The proposed regulation would benefit consumers and producers by standardizing and improving the quality of melons shipped from the production area. The proposed grade requirements would prevent melons of poor quality from being shipped to fresh market outlets. Not more than 50 percent of the melons in any lot could fail the requirements for U.S. Commercial grade. A tolerance of 20 percent would be allowed for serious damage of which not more than 10 percent would be for melons affected by soft decay. Black surface discoloration would not be considered a defect. Individual cartons would be required to contain at least 25 percent U.S. Commercial quality melons.

The proposed container requirements would prevent the shipment of bulk loads of packing house culls which adversely affect the reputation and returns of packed South Texas melons. However, the containers required would be those customarily packed for the retail trade.

Exceptions would be provided to certain of these handling requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 120 pounds of melons could be handled, other than for resale, per day by a handler without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of melons.

The requirements with respect to special purpose shipments would allow the shipment of melons for charity, relief, canning and freezing. Shipments of melons for canning or freezing would be exempt under the legislative authority for this part. Shipments for charity or relief would be exempt since no useful purpose would be served by regulating such shipments.

These standardization and marketing efficiency types of regulation would have no measurable effect on the quantity of melons shipped from South Texas, nor will there be discernable effect on U.S. retail melon prices. This regulation should enable the South Texas melon industry to better compete with major melon producing areas in California and Arizona as well as Mexico, by ensuring the use of grades, sizes and containers acceptable to buyers.

It is proposed that requirements contained in this proposed handling regulation, effective May 1, 1982, would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Interested persons are invited to comment through March 8, 1982 with regard to the proposed handling regulation. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. However, the same requirements have been imposed each season since 1979. The proposed change to issue regulations which would continue in effect from marketing season to marketing season reflects the fact that regulations would probably continue to change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, the proposed change could result in a reduction in operational costs to the committee and the government. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season in accordance with § 979.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Hearing Clerk before March 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of South Texas melons would tend to effectuate the declared policy of the act.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this proposed rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

PART 979—MELONS GROWN IN SOUTH TEXAS

It is proposed that § 979.303 (46 FR 22356, April 17, 1981, and 46 FR 29695, June 3, 1981) be removed and a new § 979.304 be added as follows:

§ 979.303 [Removed]

§ 979.304 Handling regulation.

During the period beginning May 1 and ending on June 30 each season no person shall handle cantaloup or honeydew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(4), (d) or (e) and (f) of this section all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅜ nor less than 9¾ inches in depth. All honeydew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each carton shall be marked to indicate the count; the name, address, and zip code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the carton in which the melons are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the carton shall be conspicuously marked with the words "USED BOX" in letters not less than three-fourths (¾) inch high.

(4) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.* (1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a vaild inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (502) 787–4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (512) 723–9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of ¾¢ per carton.

(d) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 120 pounds net weight of melons per day without regard to the provisions of §§ 979.42, 979.52, 979.60, and 979.80, but this exemption shall not apply to any shipment or any portion thereof of over 120 pounds of melons.

(e) *Special purpose shipments.* (1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a

Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" mean the United States Standards for Grades of Cantaloups (7 CFR 2851.475–2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740–2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

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

Dated: December 31, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–298 Filed 1–5–82; 8:45 am]

BILLING CODE 3410–02–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

[IRPS 81–8]

Deregulation of Accounting Manual for Federal Credit Unions; Extension of Comment Period

AGENCY: National Credit Union Administration (NCUA).

ACTION: Extension of the Comment Period.

SUMMARY: Because of delays in distribution of the revised Accounting Manual, the NCUA Board is extending the comment period on the proposed rule.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Send comments to Regulatory Development Coordinator, Robert Monheit, National Credit Union Administration, 1776 G Street NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph Visconti, Surveillance Systems Officer, or Harry Moore, Accounting Officer, Office of Examination and Insurance, Telephone (202) 357–1065.

SUPPLEMENTARY INFORMATION: On October 13, 1981 (46 FR 48940), the National Credit Union Administration published for public comment a proposed rule which will remove the Accounting Manual from the incorporation by reference provisions of 12 CFR 701.2. The proposal also deletes 12 CFR 701.14 in its entirety because it essentially duplicates 12 CFR 701.2.

Because of problems encountered in the distribution of the revised version of the Accounting Manual, some credit unions did not receive the Accounting Manual in time to review that publication and comment on the proposed rule. In a companion action, the NCUA Board issued for public comment a proposed Interpretive Ruling and Policy Statement (IRPS 81–8) (46 FR 50387, October 13, 1981). The IRPS advises that by adhering to the accounting principles and standards in Section 2000, credit unions will be in compliance with the full and fair disclosure provisions of 12 CFR 702. Therefore, the comment periods on the IRPS and on the proposed deregulation are extended for an additional period of time.

Rosemary Brady,

Secretary of the Board.

December 30, 1981.

[FR Doc. 82–296 Filed 1–5–82; 8:45 am]

BILLING CODE 7535–01–M

CIVIL AERONAUTICS BOARD

[EDR–437; Economic Regulations Docket 40320]

14 CFR Parts 296 and 297

Fees to Indirect Carriers

December 18, 1981.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to revise its rules governing U.S. indirect cargo air carriers and foreign air freight forwarders and foreign cooperative shippers associations, to permit direct air carriers to pay fees to these indirect carriers. The CAB is proposing this change in response to a request by Trans World Airlines, in order to remove competitive inequities.

DATES: Comments by March 8, 1982. Comments and other relevant information received after this date will be considered by the Board to the extent practicable. Requests to be put on the Service List by: January 20, 1982. The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list. Persons included in the Service List for EDR–408, Docket 38746, shall be included automatically. (See below.)

ADDRESSES: Twenty copies of comments should be sent to Docket 40320, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Attorney-Advisor, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C.; (202) 673–5205.

SUPPLEMENTARY INFORMATION:

Background

By application filed June 20, 1980, in Docket 38298, Trans World Airlines requested an exemption from the tariff observance requirement of the Federal Aviation Act (section 403(b)) to permit it to pay commissions to cargo sales agents on shipments delivered to it by air freight forwarders. It considered an exemption or similar relief necessary because in certain transactions a commission to an agent could be considered as a rebate to the forwarder. Alternatively, TWA asked for a blanket exemption to allow the direct payment of commissions to forwarders. The exemption was sought in connection

with foreign air transportation only because the elimination of domestic cargo tariffs has made a domestic exemption unnecessary as a practical matter. Noting that § 296.32 (now §296.7) expressly prohibits commissions for indirect cargo aircarriers, TWA asserted that U.S.-origin traffic remains subject to the ban. It argued that the prohibition is being circumvented by a number of practices, resulting in commissions being paid on a substantial amount of forwarder-originated traffic. In some instances, forwarders use agents which are affiliated with them, and in other instances, forwarders who are also agents engage in reciprocal dealings by which one routes shipments through another—on paper only—and is repaid in kind.

According to TWA, viewpoints as to the lawfulness of these practices differ from forwarder to forwarder and direct air carrier to direct air carrier. Because of differing interpretations of an allegedly ambiguous section in the Board's forwarder rules, TWA claims that forwarders and direct air carriers alike are not on an equal competitive footing. TWA expressed its inability to police such borderline practices, and in any event does not object to payment from an economic standpoint. In essence, it asked that we reverse our historic interpretation that commission payments to forwarders constitute rebating, or waive the prohibition. Answers to TWA's petition were filed by the Air Freight Association of America, CF Air Freight, Emery Air Freight, The Flying Tiger Line Inc., Singapore Airlines, China Airlines and the following persons jointly: Fritz Air Freight, K Line Air Service (U.S.A.), Inc., Kintetsu World Express (U.S.A.), Inc. and Traffic International Corp. All persons requested the Board to act in some way to permit the payment of commissions. Summaries of these comments are attached as an appendix to this notice. In addition numerous persons filing comments on EDR–408 (see below) expressly addressed the commission issue. Most, if not all, supported the concept and we refer interested persons to appropriate comments in Docket 38746.

At approximately the same time that TWA filed its petition, several carriers petitioned the Board for relief from section 403(b) of the Act in order to meet other competitive practices that could not ordinarily be matched by adhering to requirements of that section. In response to these various petitions, the Board proposed, in EDR–408, 44 FR 64864, September 30, 1980, Docket 38746, to permit carriers to file tariffs which stated maximum fares or rates only, with carriers free to charge lower prices at their discretion subject to the statutory prohibitions on unjust discrimination and unfair methods of competition (sections 404(b) and 411 of the Act, respectively). As a side effect of that proposed scheme, air carriers using maximum tariffs would have been able to pay commissions to forwarders on shipments tendered by the latter. In conjunction with the NPRM the Board granted a blanket exemption on an interim basis to permit commission payments to forwarders. (Order 80–9–147, September 24, 1980.)

In EDR–408E, issued along with this notice, the Board is terminating the remainder of the rulemaking proceeding begun by EDR–408 without implementing a maximum tariff system. The domestic portion of that proceeding was terminated in EDR–408D, which was supplanted by our domestic tariff flexibility rule, ER–1246, 46 FR 46786, September 22, 1981. Termination of the international portion requires the Board to focus more directly on the issue raised by TWA's exemption request. The proposal which follows represents our view as to the most appropriate resolution.

The Proposal

We propose to amend Parts 296 and 297 to permit U.S. indirect cargo air carriers, foreign air freight forwarders and foreign cooperative shippers associations (generically referred to as indirect cargo carriers hereafter) to receive, and direct air carriers to pay directly, fees to indirect cargo carriers on shipments tendered by the latter. "Direct air carrier" is defined in these parts as including U.S. and foreign direct carriers.

TWA and the other parties which supported its request have pointed out a very real problem caused by existing indirect cargo carrier rules. On the one hand, in amending Part 296 in ER–1094, 44 FR 6634, January 31, 1979, the Board permitted indirect cargo air carriers to use the services of the cargo agents of direct air carriers. On the other hand, we prohibited these indirect carriers from receiving commissions—either directly or indirectly—on shipments which they tender to the direct carriers as indirect carriers, rather than as agents.

These actions have led to competitive inequities. Commissions are routinely paid to indirect cargo carriers on shipments into the United States, but they may not be paid on outbound freight, except to the extent that reciprocal agency arrangements or affiliated agents are used. Thus there is a directional imbalance in opportunities for compensation and marketing flexibility.

The prohibition on direct and indirect payments also has the potential (which has been realized, according to some commenters) to put U.S. carriers on unequal competitive footing with each other. The existing rule leaves the status of reciprocal agency arrangements or the use of affiliated agents in doubt. A direct air carrier or indirect cargo carrier could reasonably interpret the prohibition on indirect commissions to apply to such arrangements. A carrier that reaches such a conclusion is at a competitive disadvantage vis-a-vis a carrier which takes a less cautious view of the restraints of §§ 296.7 and 297.32. The public interest is not served when carriers are forced to engage in arguably unlawful practices to meet competition.

We have tentatively concluded that this ambiguity should be eliminated by expressly permitting the payment of fees to all types of indirect cargo carriers on shipments that they tender to direct carriers in their roles as indirect carriers. We have, since the passage of the air cargo deregulation act, Pub. L. 95–163, been withdrawing more and more from control over the relationships between indirect air cargo carriers and direct air carriers. Our view has been that greater flexibility granted to the parties involved will ultimately redound to the benefit of the public. (*See e.g.*, 44 FR 6634, January 31, 1979.) Our proposal represents one more step in this direction.

In granting this request we propose to modify the relief in some respects. The word "commission" is commonly associated with the concept of an agency relationship between the person paying the commission and the person receiving it. We do not wish to suggest the existence of this relationship between an indirect cargo carrier and direct carrier. While a person might act as an indirect carrier for some shipments and an agent of a direct carrier for others, it is legally meaningless to act as both for the same shipment. The existence of an agency relationship in turn would imply that the direct carrier, rather than an indirect carrier, was doing business with the ultimate shipper. Moreover it would imply that the indirect cargo carrier was bound to sell to shippers at the direct carrier's tariff rate. Having eliminated all tariff filing requirements on indirect cargo carriers, we have no desire to reimpose them even by implication in the process of creating greater flexibility for dealings between direct and indirect carriers. We therefore proposed to

permit simply the payment of fees to indirect carriers, and at this time proposed no restriction on the amount of fees or method of payment.

The existing prohibition on such fees reflected our interpretation of the antirebating provisions of the Act and originated at a time when we closely regulated cargo rates and practices of the direct carriers. In recent years, however, we have removed ourselves from the regulation of cargo pricing practices and have placed greater reliance on competition to regulate the industry. We believe that market forces, represented by negotiation between direct and indirect air carriers, rather than a regulatory agency, can best determine the extent to which direct air carriers benefit from the activities of indirect air carriers. We have therefore previously authorized the use of cargo agents by forwarders and the payment of fees for "ready-for-carriage shipments". (PS–86, 44 FR 45608, August 3, 1979.. *See also* EDR–330, 44 FR 45608, August 3, 1979.) It is now apparent that more flexibility is needed. Neither a ready-for-carriage fee nor a cargo weightbreak may be adequate to permit direct and indirect air carriers to come to satisfactory terms on compensation for services. The fact that carriers have resorted to the use of affiliated agents and reciprocal agency agreements provides evidence that this is the case. The ability to pay fees to indirect cargo carriers will improve the effectiveness of the market mechanism by removing a regulatory restraint on its functioning.

A moderately restrictive approach of banning payments under reciprocal or affiliated agency schemes would have practical problems in implementation, as well as being inconsistent with our permissive policies in this area. It would place direct air carriers in the role of policing the industry and add significantly to the administrative costs of air cargo handling. At this time, we do not believe that the benefits of a restrictive policy justify imposing those enforcement costs on direct air carriers. As a practical matter, a restrictive policy could only be implemented by renewing the prohibition on forwarders' use of cargo agents. Such a ban would reintroduce a recently removed regulatory constraint in the air cargo industry at a time when we are trying to minimize regulatory intervention in general.

We believe that a simple exemption to direct carriers on the one hand and forwarders and cooperatives on the other to permit the payment of fees directly to indirect cargo carriers is the most effective means to grant the relief requested. TWA's more limited request would force indirect cargo carriers to comply with one of five methods of organization in order to qualify for fees. We do not intend to prevent indirect cargo carriers from dealing with separate agents where there are valid economic reasons for doing so. We do not want to force carriers to resort to one of these methods simply to qualify under a government regulation for the payment of fees. As noted above, we intend that there be no restrictions on the form or level of fee payments. Toward this end, we propose also to eliminate the prohibitions in Parts 296 and 297 on the payments of commissions as a means of avoiding confusion. To the extent that the word "commission" implies an agency relationship, the prohibition in §§ 296.7 and 297.32 is already meaningless, because the prohibition by its terms covers only indirect carriers. To the extent that the word means a payment other than to an agent, we propose to allow the payment This action will minimize the limitations on the flexibility of direct and indirect carriers to negotiate additional fee arrangements. It will also eliminate the specific problem of payments of commissions to agents affiliated with indirect cargo carriers raised by TWA.

Although TWA requested the exemption only with respect to air freight forwarders, both U.S. and foreign, we are including domestic and foreign cooperative shippers associations within the scope of our proposal. The Board has for some time now been involved in a program of eliminating unnecessary distinctions between shippers' cooperatives and freight forwarders. For U.S. carriers, this program recently reached its culmination in ER–1261, 46 FR 54726, November 4, 1981, in which we eliminated air freight forwarders and cooperative shippers associations as separate classifications and defined a new single class of indirect cargo air carriers. At the present time, we know of no reasons to deviate from this policy with respect to payment of fees by direct carriers, and the proposal accordingly encompasses all types of indirect cargo air carriers, foreign air freight forwarders and foreign cooperative shippers associations.

Finally, in issuing EDR–408, the Board also granted exemptions to permit direct air carriers to pay commissions to forwarders pending final Board action on EDR–408. (*See* Order 80–9–147.) That proceeding is being terminated, but we believe that the exemption should be continued pending final action on our new proposal. A separate order extends the interim exemption. (Order 81–12–113.)

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96–354, took effect on January 1, 1981. The Act is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a "significant economic impact on a substantial number of small entities." While the significance of this rule's economic impact may be questioned, we have elected to perform an intial regulatory flexibility analysis in this case.

The analysis requires a description of the need, objectives, legal basis for and flexible alternatives to the proposed action. The first three requirements are met by our prior discussion. We have also identified and discussed alternative approaches.

In addition, the analysis must include a description of the small entities to which this proposal would apply, the reporting, recordkeeping and other requirements of this proposed rule, and any other rules which may duplicate, overlap or conflict with it. The modifications proposed in this notice would affect all air freight forwarders and foreign air freight forwarders, most which are small businesses, and all direct air carriers providing cargo service that have dealings with forwarders, including some small direct carriers. The rule change, however, would impose no recordkeeping, reporting or other requirements nor otherwise add to affected persons' compliance burdens. To the contrary, it would eliminate the need of indirect cargo carriers to use reciprocity arrangements or establish affiliates to be paid fees on consolidated shipments.

Accordingly: The Board proposes to amend 14 CFR Part 296, *Indirect Air Transportation of Property* and Part 297, *Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations*, as follows:

PART 296—INDIRECT AIR TRANSPORTATION OF PROPERTY

§ 296.7 [Removed]

1. Section 296.7, *Prohibition against receipt of commissions*, would be removed.

2. Section 296.10 would be amended by revising paragraph (a)(1) and adding a new paragraph (d) to read:

§ 296.10 Relief and exemption from the Act.

(a) Indirect cargo air carriers are hereby exempted from the provisions of Title IV of the Act only if and so long as they comply with the provisions of this part and its conditions, and to the extent necessary to permit them to organize and arrange their air freight shipments to provide indirect air transportation, except for the following sections:

(1) Subsection 403(b)(2) (solicitation of rebates). However indirect cargo air carriers are exempt from section 403(b)(2) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers.

* * * * *

(d) Direct air carriers are exempted from section 403 of the Act to the extent necessary to permit them to pay, directly or indirectly, fees to indirect cargo air carriers.

Part 296 [Amended]

3. The table of contents would be amended accordingly.

PART 297—FOREIGN AIR FREIGHT FORWARDERS AND FOREIGN COOPERATIVE SHIPPERS ASSOCIATIONS PAYMENTS TO INDIRECT CARGO CARRIERS

1. Section 297.10 would be revised to read:

§ 297.10 Exemption from the Act.

(a) Foreign indirect air carriers with an effective registration under this part are exempted from the following provisions of the Act only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to arrange their air freight shipments:

(1) Section 402 (Permits);

(2) Subsections 403(a) and 403(b)(1) (Tariffs);

(3) Subsection 403(b)(2) (Solicitation of rebates) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers.

(4) Subsection 404(a)(2) (Carrier's Duty to establish just and reasonable rates, etc.); and

(b) Direct air carriers are exempted from section 403 of the Act to the extent necessary to permit them to pay, directly or indirectly, fees to foreign air freight forwarders and foreign cooperative shippers associations on consolidated shipments.

§ 297.32 [Removed]

2. Section 297.32, *Prohibition against receipt of commissions,* would be removed.

3. The table of contents would be amended accordingly.

(Secs. 101(3), 102, 204, 403, 404, 416, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 766, 767, 771; 49 U.S.C. 1301, 1302, 1324, 1377, 1378, 1386)

By the Civil Aeronautics Board:

Phillis T. Kaylor,

Secretary.

Appendix A—Pleadings

TWA, Docket 38298

The Board has substantially liberalized its regulations for air freight forwarders and other indirect air cargo carriers, and these changes have significantly altered past practices with a major effect on the international air cargo market. One of the most important changes is the one that permits indirect air carriers to use direct air carrier sales agents, thus permitting direct air carriers to pay commissions on consolidated shipments.[1]

Since the adoption of these new rules, several U.S. air freight forwarders have begun to use carrier agents on their outbound international consolidations. Consequently, this practice could serve to inhibit payment of commissions otherwise consistent with the purport and intent of ER-1094, because of the possibility that a rebate, however indirect, could or might take place.[2] This concern stems from the prohibition that no forwarder, acting in that capacity, may accept, directly or indirectly, any payment of a commission on traffic tendered to a direct carrier or its agent.[3]

TWA has long advocated the payment of commissions on consolidated consignments to assure that U.S. forwarders are on an equal competitive footing with their foreign counterparts. While the prohibition on commissions remains on U.S.-originating shipments, it states that this practice is antithetical to inbound shipments to the

[1] The Board stated in ER-1094: "Permitting indirect cargo carriers to use direct air carrier agents will give them greater flexibility where it is needed, similar to their authority to use other indirect carriers. . . . forwarders may continue to operate as IATA (International Air Transport Association) cargo agents for the direct carrier on a shipment tendered by the shipper. . .". (Page 4)

[2] TWA states it has received a request for payment of commissions from a forwarder who wishes to show himself as agent. With the exception of this request, TWA is of the belief that ER—1094 permits an agent to accept commissions on any other forwarder shipments.

[3] 14 CFR 296.32. In permitting indirect cargo air carriers to use agents of direct air carriers, TWA states that the Board acknowledged that the prohibition against this use in the past was "based on the fear that air freight forwarders would set up dummy agencies to collect commissions . . . or . . . to split commissions, both of which are prohibited as a rebate" (ER-1094, page 3), and that, in PS-86, Docket 30362, the Board, in amending its policy statements to permit payments to forwarders and other shippers for "non-air transportation" services, admonished ". . . we remain of the opinion . . . that commissions are rebates of filed tariffs when paid to the user of the transportation, and to not fall into the category of payments authorized in this statement of policy." (Page 3)

United States. If further states that an exemption is necessary to assure that the flexibility permitted by ER–1094 is fully effectuated without unintentional limitations that could result from overly narrow interpretations concerning rebates.

Since the adoption of ER–1094, TWA's commission payments, as a percent of its international air freight revenues, have risen from approximately 3.4% in the third quarter of 1979 to a full 5.0% in the most recent three-month period, which in the latter accounts for 100% of this traffic.

Some of the practices that have evolved since the issuance of ER–1094 are as follows:

(a) Forwarder A, who is the shipper and consignee, shows in the agency box on the airwaybill the agent of Forwarder B. Conversely, Forwarder B (as shipper and consignee) shows the agency services of Forwarder A.

(b) Forwarder C is a subsidiary of Corporation X. Corporation X also has another subsidiary, Agent A. Forwarder C shows Agent A on the airwaybill.

(c) Forwarder D owns a subsidiary, Company Y, which in turn owns a subsidiary, Agent B. Forwarder D shows Agent B in the agency box on international airwaybills.

(d) Forwarder E owns a subsidiary, Agent C, and shows Agent C as its agent on international airwaybill consolidations.

TWA states that agents in the above-described relationships are not prohibited from accepting commission payments and that forwarders and other carriers hold this view. It states if the prohibition against commissions was given a narrow interpretation it would leave it arm's length and proper *bona fide* commission practices open to question as to whether they are, or are not, a prohibited rebate.

The carrier further contends that is cannot and should not be expected to investigate beyond the representations on the airwaybill and verification of proper agency accreditation to assure that such requests for commissions are proper, and that to require otherwise would disrupt the flow of international air cargo shipments.

TWA as an alternative suggests that an exemption be granted permitting payment of commissions to forwarders on all U.S.–originating international shipments. In support, it states that the Board now permits negotiated payments for services performed by forwarders in making air cargo "ready for carriage" which are not considered rebates and are thus permissible under the Act.[4] It also states there is little difference between requiring the price paid by direct air carriers for such services to be determined by negotiation with respect to each serice provided, and alternatively allowing a commission rate as a basis for compensating all services provided by the forwarder. Thus it concludes that all that remains in whether forwarder commissions on outbound shipments from the U.S. should retain the character of being "rebates".[5]

TWA states that its exemption request is consistent with the *International Air Transportation Competition Act of 1979* (Pub. L. 96–192), and it would be inconsistent for the Board to now impede compensation similar to that already commonplace on inbound shipments to the U.S. in the form of commission payments to U.S. forwarders.

This inconsistency, left over from long outdated historical treatment of forwarders as "purchasers" of air transportation, belies the true nature of the forwarder relationship with direct air carriers as one of joint-venturer in the promotion and development of air cargo transportation.[6]

Because of the increasing number of requests for commissions being received by TWA, it urges the Board to act expeditiously on this application. Therefore TWA requests that the Board grant, on an expedited basis, an exemption, pursuant to section 416(b) of the Act, to the extent necessary to permit the payment by it of commissions to cargo agents identified in the airwaybill, subject to verification of proper agency accreditation, on outbound international shipments under the circumstances set forth above, or, alternatively, that the Board grant a blanket exemption to the extent necessary to permit the direct payment of commissions to air freight forwarders on all U.S. outbound international air cargo shipments.

CF Air Freight (CF), Singapore Airlines Limited (SAL), Emery Air Freight, and the Air Freight Association of America (AFAA), support TWA's application. AFAA also suggests in the alternative that § 296.32 be repealed and that the Board issue a policy statement declaring the payment of commissions on consolidated shipments to be legal. CF also asks that the requested exemption apply to foreign-origin inbound consolidation traffic to the U.S., and SAL asks that the exemption include foreign air carriers. Fritz Air Freight, "K" Line Air Service (U.S.A.), Inc., Kintetsu World Express

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[4] 14 CFR 399.86; PS–86, July 30, 1979.

[5] TWA states that the Board itself has announced unequivocally a relaxed policy on anti-rebate enforcement in numerous instances, reflecting its view that in a deregulated environment, including internationally, strict prohibition of rebates may be anti-competitive; for example, in Order 78–12–49, December 7, 1978, the Board observed that rebating "has diminished as an enforcement problem as the air transportation system has become more competitive" and exempted all U.S. and foregin air carriers from Section 403(b) to permit compensation or monetary adjustments to resolve consumer grievances that might otherwise be precluded by their tariffs; more recently, the Board asked the federal court to dissolve an injunction against fare and rate rebating in Transpacific markets (The Wall Street Journal, May 27, 1980, page 6); a similar injunction against North Atlantic rebating will be permitted to expire on September 28 of this year.

[6] TWA states that forwarders uniquely perform substantial services of material benefit to direct air carriers for which they are entitled to receive fair compensation; these benefits warranting remuneration, which include extensive air cargo sales and promotional efforts typically undertaken by forwarders, extend well beyond the limited "non-air transportation services" for which the Board now considers direct air carrier payments permissible (14 CFR 399.86).

(U.S.A.), Inc., and Traffic International Corp. (Joint Forwarders) state in their comments that they have no problem with TWA's request, but question whether an exemption is needed for the reason that it would be preferable for the Board to declare that the anti-rebate provisions of the Act are not applicable to payments to intermediaries, whether cargo agent or forwarder.[7]

The Flying Tiger Line Inc. (FTL), in support of TWA's application states that the Board should separately consider the underlying question of whether its prohibition on the payment of commissions to forwarders for U.S. originating consolidations serves any meaningful purpose in an environment in which a number of consolidators are apparently circumventing the regulation. Like TWA, FTL states that with the adoption of the new regulations came a sharp change in the practices of the forwarders, and many tenders which previously had been made to a direct air carrier have now shifted through cargo agents. The balance of FTL's comments essentially are the same as those of TWA.

Also, FTL believes that if the Board continues to adhere to the view that commissions to forwarders acting as consolidators constitute illegal rebates, that consideration must be given to enforcing the prohibition, since a regulation which is generally known to be unenforced is routinely ignored, and disadvantages those forwarders who attempt to comply. FTL states that several of their largest customers have voiced just such complaints and stressed the unfavorable economic consequences on their companies of not joining in the type of "sham" agency transactions which they assert to be prevalent.

Northwest, Docket 38284

Northwest states that this exemption is necessary to respond to competition from carriers which are likely to engage in rebating practices if the United States District Court for the Northern District of California dissolves a currently effective consent decree (Decree).[8] Accordingly, Northwest requests that the exemption sought become effective only in the event that the Court dissolves the Decree. Northwest also requests that the Board ask the Court to stay its decision pending the disposition of this application.

Northwest states that it is filing this exemption application with reluctance, but finds that there is no other way it can reasonably protect the economic viability of its transpacific operations. Currently, the Decree protects the integrity of the tariff-filing system in transpacific markets, and enjoins carriers from engaging in unlawful "rebating"—that is, the covert undercutting of posted rates, fares, charges, and practices. It says the Board is supporting legal efforts to bring about the dissolution of the Decree, at least in part, because it does not have sufficient resources to allocate to assisting the Court in enforcing the Decree, and that the same insufficiencies would of necessity severly restrict the Board's ability to enforce the Act's anti-rebating provisions administratively. In the absence of a credible deterrent in the form of vigorous Court or Board enforcement of the tariff-filing system, Northwest believes that market conditions in the Pacific will lead to the return of widespread, covert rebating practices. It also says the Board's actions in supporting the dissolution of the Decree and publicly announcing its enforcement strategy could be interpreted as condoning, or at least tolerating, some rebating practices as long as they lead to price reductions for consumers.

Northwest notes that it is prepared to compete with those carriers that may engage in rebating; however, it needs the legal authority to do so, otherwise it would be a criminal offense and would subject it to other federal laws which may require the disclosure of such illegal practices.

Northwest further notes it is filing its opposition to dissolution of the Decree with the Court. It continues to believe that meaningful enforcement of the anti-rebating provisions of the Act not only best serves the public interest, but is required by law. In the event that the Decree is dissolved, however, it says that the exemption its seeks is necessary to permit it, as a U.S.-flag carrier, to compete fairly while continuing to adhere faithfully to federal legal requirements.

The carrier requests the Board to consider permitting it to file tariffs containing list prices from which reductions or other departures would be permitted on an *ad hoc* basis, thus giving it the flexibility to negotiate reductions or changes in the practices set forth in its tariffs. This approach would establish ceilings and restrictions that Northwest could reduce and change as necessary to meet competition.

FTL filed comments supporting and opposing Northwest's views and request. While agreeing with Northwest as to the situation which will likely prevail in the event the Decree is terminated, it does not favor either the requested exemption to depart from published tariffs, or to revise tariffs to reflect maximum rates only. Instead, it prefers to operate in a free market, without undue government regulation and advocated the total elimination of the current international cargo tariff filing requirement.

Pan American, Docket 38157, et al.

In support of its request, PA states that the Board is aware of the troublesome problems relating to fares in U.S.-Southeast Asia air transportation, not only with respect to rebating, but the wide array of fares, which vary from carrier to carrier and change frequently. All of this has caused confusion to the traveling public. It also states that this is further compounded by the fact that many carriers offer less than daily service to many of these points, and a change in day of travel can subject the passenger to an entirely different tariff; thus, if a person who has purchased a ticket on another airline wishes to utilize PA, he well may have to contend with these complexities and pay a "penalty" to do so. The carrier alleges that grant of the exemption would alleviate the confusion in the U.S.-Southeast Asia fares.

PA believes the requested exemption clearly is "consistent with the public interest" within the meaning of section 416(b)(1) of the Act. Additionally, it states that the exemption should benefit it, because it will allow it to attract some additional passengers.

PA notes this experiment will be limited in extent because an "endorsement" by the carrier whose ticket is used will be required, and the number of passengers which it will carry in this fashion is naturally circumscribed. This experiment, moreover, is proposed in the spirit of the Board's recent encouragement of carrier initiative in fashioning appropriate fares, based on marketplace considerations, for scheduled services. Thus it states it is making every effort to compete vigorously by offering appropriate fares and by increasing its scheduled service utilization where possible.

In addition to supporting Pan American's request, Braniff also requests that it be granted the same authority. While BN's transpacific operations, which serve Seoul and Hong Kong, are not as extensive a PA's, BN states that its legal position is identical in all material respects to PA's and views PA's petition in Docket 38157 as a request that the Board authorize a new form of competition in transpacific markets. Clearly, according to BN, the rules must be the same for all carriers in the marketplace.

For these reasons, BN requests an exemption to permit it to accept, for transportation between points in the United States and Guam, on the one hand, and BN's authorized points in Asia, on the other, airline tickets of other carriers at fares lower than BN's filed fares, without collecting additional sums of money from the passengers affected.

Japan Air Lines Company, Ltd., Philippine Airlines, Inc., and Singapore Airlines Limited, by applications filed June 11, 1980, ask that whatever grant is given to BN and PA should likewise be given to them. By application filed August 4, 1980, Korean Air Lines joins the foregoing.

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BILLING CODE 6320-01-M

[7] The Joint Forwarders also raise a question and seek certain clarification with respect to TWA's example (a) see page 2, *supra*. By our action here, however, their question is moot.

[8] *U.S. v. Air New Zealand, Ltd. et al.*, No. C-76-0320 (N.D. Cal.) (final Judgment and Decree issued March 29, 1976). A copy of the Decree was attached as Appendix A to Northwest's application.

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18 CFR Parts 271, 273, and 274

High-Cost Natural Gas Produced From Intermediate Deep Drilling

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 107 of the Natural Gas Policy Act of 1978 (NGPA) the Federal Energy Regulatory Commission is proposing a rule to establish as a category of high-cost natural gas subject to a special incentive price ceiling, gas produced from depths between 10,000 and 15,000 feet. Inasmuch as little production has occurred at these intermediate depths, the Commission is proposing to permit

an incentive price ceiling in order to encourage gas production from these depths.

DATES: Written comments (an original and 14 copies) must be received by January 30, 1982.

ADDRESS: Comments must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael A. Strosser, Office of General Counsel, 825 North Capitol Street NE, Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Issued December 30, 1981.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing in this rulemaking to establish a new category of high-cost natural gas in accordance with its authority under section 107 of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3317). Specifically, the Commission proposes to amend 18 CFR Parts 271 and 274 to establish special incentive maximum lawful prices for gas produced from depths between 10,000 and 15,000 feet.

II. Background

Five categories of gas are described as high-cost gas in section 107(c).[1] Four of these, described in subsections (c)(1) through (4), were deregulated in accordance with section 121. Included in the categories of deregulated gas is gas produced from depths more than 15,000 feet through wells drilled on or after February 19, 1977.

The final category, described in subsection (c)(5), includes those categories of high-cost gas identified by the Commission. The Commission is authorized pursuant to section 107(b)[2] to prescribe a maximum lawful price necessary to provide reasonable incentives for the production of gas which the Commission determined, in its discretion, pursuant to section 107(c)(5) to be high-cost gas. In the discussion of the Commission's authority under section 107, the NGPA Conference Report specifically mentions deep gas produced from depths less than 15,000 as a possible category which would qualify for an incentive price.

On June 13, 1979, the Commission issued a Notice of Inquiry (Docket No. RM79–44, (44 FR 34969, June 15, 1979)) inviting suggestions regarding possible categories of high-cost gas. The notice specifically requested interested commenters to identify the categories which should be considered and the price which would be necessary to provide a reasonable incentive for the production of that category of gas.

On April 8, 1980, the Commission received a petition for rulemaking from Texas Oil & Gas Corp. (TXO) suggesting that the Commission identify as a category of high-cost gas natural gas produced from completion locations between 10,000 and 15,000 feet. The petition did not propose a specific incentive price, but argued that one is necessary because of the high costs and risks involved in drilling at an intermediate depth. Comments were invited on that petition. (45 FR 45597, July 7, 1980).

Information obtained by the Commission through its own expertise and comments, discussed more fully below, indicate that gas produced from depths between 10,000 to 15,000 feet is high-cost, high-risk gas. Accordingly, we propose to establish an incentive price ceiling for such gas. The following discussion outlines the significant features of the proposed rule and discusses the outstanding issues on which we encourage the public to comment.

III. Summary of the Proposed Rule

The proposed rule identifies gas produced from depths between 10,000 and 15,000 feet as high-cost, high-risk gas and provides an incentive price ceiling of 150 percent of the section 103 price for gas produced from depths greater than 10,000 feet. This rule will provide an incentive for the production of gas from certain new wells drilled to depths between 10,000 and 15,000 and for gas produced from deeper drilling to depths beyond 10,000 feet. The incentive price ceiling would be extended only to gas produced from a well the surface drilling of which or deeper drilling of which begins on or after December 30, 1981.

A. Depths

All the comments, filed in response to TXO's petition, attempted to demonstrate to the Commission that gas between 10,000 and 15,000 feet is high-cost, high-risk gas. Drilling, development and production of gas becomes more costly as the depth of the gas increases. Congress recognized this fact and responded by deregulating gas produced from depths greater than 15,000 feet. As evidenced by the discussion in the Conference Report, quoted above, Congress was also aware that gas produced from shallower depths might be high-cost gas. However, it clearly left to the Commission the discretion to determine whether such gas, in fact, is high-cost or high-risk, and, if so, to determine at what depths the costs and risks become sufficiently extraordinary to merit a special price ceiling.

Several comments submitted in support of TXO's petition outlined the high costs and risks involved in drilling at intermediate depths. Generally, the commenters suggested that the cost of production at a depth of greater than 10,000 feet is anywhere from three to six times greater than the cost of production of shallow gas. The increased cost is caused by the necessity to employ more sophisticated and costlier equipment and techniques.

A survey conducted by the American Petroleum Institute indicates that in 1979 the total onshore gas wells drilled in the United States numbered 13,626. Of these, 966 were drilled to a depth between 10,000 to 12,499 feet, and 423 were drilled to a depth between 12,500 and 14,999 feet. The number of wells drilled between 10,000 to 15,000 feet was approximately 10 percent of the total number of wells. ("1979 Joint Association Survey On Drilling Costs," February, 1981 Edition, published by the American Petroleum Institute.) The amount of recoverable reserves located between 10,000 and 15,000 feet cannot be estimated accurately. However, the Commission believes that the lack of interest in exploring and developing those depths does not reflect the level of the reserves at those depths but reflects

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[1] Section 107(c) (15 U.S.C. 3317) reads as follows:

For purposes of this section, the term "high-cost natural gas" means natural gas determined in accordance with section 503 to be—

(1) produced from any well the surface drilling of which began on or after February 19, 1977, if such production is from a completion location which is located at a depth of more than 15,000 feet;

(2) produced from geopressured brine;

(3) occluded natural gas produced from coal seams;

(4) produced from Devonian shale; and

(5) produced under such other conditions as the Commission determines to present extraordinary risks or costs.

[2] Section 107(b) provides that:

The Commission may, by rule or order, prescribe a maximum lawful price, applicable to any first sale of any high-cost natural gas, which exceeds the otherwise applicable maximum lawful price to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost natural gas.

The conference agreement gives the Commission authority to add other categories of natural gas production to the list which qualifies for special price treatment under this section.

* * * * *

For example, some new wells will produce from depths close to 15,000 feet and some reentries will produce from depths below 15,000 feet, both possibly involving costs greater than normal, but neither qualifying as high cost gas under sec. 107(c). The Commission may determine that such wells should receive special price treatment under this section. (H. Rept. No. 95th Cong., 2d Sess. 88 (1978).)

the fact that the cost of developing the gas reserves are so high that the applicable maximum lawful prices do not provide adequate incentives.

The Commission preliminarily concludes that gas production from 10,000 to 15,000 feet presents extraordinary risks and costs which at presently applicable maximum lawful prices greatly inhibit production. The Commission, therefore, proposes to establish a special, incentive maximum lawful price for such gas if produced from a well the drilling of which commenced after the qualifying date. Similarly, the Commission proposes to provide an incentive price for gas produced through re-entry to a depth below 10,000 feet of a well the surface drilling of which began before February 19, 1977, if the re-entry operation commences on or after the qualifying date. To aid the Commission in reaching its final determination, the Commission requests commenters to submit information regarding drilling costs, especially those incurred at varying depths, drilling activity and type of equipment required. Commenters should also supply information to the Commission detailing productivity and reserves. This information should include the amount of reserves expected to be discovered at various depths and the rate of production anticipated from the deeper wells.

B. Price

The NGPA does not clearly delineate the Commission's responsibilities in establishing an incentive price. Section 107(b) provides that the Commission may establish a price ceiling which exceeds the otherwise applicable maximum lawful price "to the extent necessary to provide reasonable incentives." The Conference Report accompanying the NGPA states that incentive prices established by the Commission need not be "cost-based in nature, and do not require cost justification." (H. Rept. No. 95–1752, 95th Cong., 2d Sess. 88 (1978).) Finally, the United States Court of Appeals of the Fifth Circuit has stated that the NGPA represents a "fundamental change in regulatory outlook" according to which the Commission is not limited by cost-based pricing principles traditionally employed in utility rate-making. (*Pennzoil Company* v. *FERC*, 645 F. 2d 360, 378 (5th Cir. 1981).) Clearly, the Commission has the authority to exceed both a cost-based price and the otherwise applicable maximum lawful price in satisfying the statutory standard for price justification.

The Commission has considered several approaches for establishing incentive prices under section 107(c)(5).[3] Such approaches include comparing relative costs of the various categories of gas, determining the supply response which can be expected at various prices, establishing a fixed premium over the otherwise applicable maximum lawful price, and considering the value to the economy of obtaining more gas production. The Commission requests that comments address what approach the Commission should take in formulating an incentive price ceiling for gas production from between 10,000 and 15,000 feet.

More specifically, the Commission requests that data be submitted regarding the relative costs of producing gas from depths between 10,000 and 15,000 feet. The Commission believes that consideration of costs is relevant in establishing an appropriate price ceiling. The Commission requests that the comments submitted in response detail the costs and risks involved in both exploration and production including equipment costs. Detailed costs should be provided for drilling at various depths. The Commission is particularly interested in cost data that relates to the cost of production per unit volume of gas produced. It must be emphasized that cost data by itself is of minimal value unless accompanied by productivity and reserve data. As the incentive price is a unit price ($/MMBtu) supporting cost data must also be on a unit basis.

Equally important, the Commission requests information on the supply potential for gas subject to this rule. Inasmuch as the overriding purpose of incentive prices under section 107(c)(5) is to provide incentives for increased gas production, we are particularly concerned with the potential supply response at various assumed price levels.

The Commission does not feel entirely confident with the presently available factual basis on the costs, risks, and supply potential of intermediate deep drilling. It is therefore appropriate to proceed with caution. Accordingly, for purposes of this notice, we propose an incentive price equal to 150 percent of the section 103 price. For the month of January, 1982, that price would be $3.85 per MMBtu. This is less, for example, than the incentive price already available for tight formation gas, some of which is produced from depths between 10,000 and 15,000 [4] and which involves the additional cost of fracturing. Absent a more complete record on the risks, costs and supply potential of intermediate deep drilling, we hesitate to conclude that a higher price is required to provide the reasonable incentive for new supply envisaged by Congress.

C. Deeper Drilling

Another issue to be considered is whether the incentive price should be afforded for gas produced through recompletion and deeper drilling techniques below 10,000 feet. The Commission proposes to permit the incentive price for a re-entry involving deeper drilling and completion into a reservoir from which the old wellbore could not have produced, if the deeper drilling commenced on or after the well qualification date and the completion location is below 10,000 feet. This also applies to a re-entry to a depth of greater than 15,000 feet. The Commission does not propose to permit an incentive price for gas produced through recompletion or through a re-entry which does not involve completion into a different reservoir.

D. Other Well Qualifications

The Commission proposes that the initiation of surface or deeper drilling of a qualifying well must begin on or after December 30, 1981, the date the Commission first announces to the public that it is proposing an incentive price for gas produced from intermediate depths. The Commission believes that a producer who initiated surface or deeper drilling prior to that date was not relying upon an incentive. The Commission welcomes comment on this requirement.

Both associated and non-associated gas are eligible for the incentive price proposed in this rule. We encourage comments as to whether the pricing incentive should be extended only to non-associated gas. Comments advocating that the incentive price be limited to non-associated gas should support that position and should indicate what maximum amount of oil production, if any, should be permitted.

E. Negotiated Contract Price.

Unlike some previously issued high-cost natural gas incentive pricing rules, the Commission in this rulemaking does not propose to impose a negotiated price requirement. If imposed, this would have required that in order to qualify for the

[3] *See*, a final rule establishing a ceiling price for "High Cost Natural Gas Produced from Tight Formations" was issued August 15, 1980, Docket No. RM79–76, Order No. 99, 45 FR 56034 (Aug. 22, 1980) FERC Stat. & Regs. ¶ 30, 183; *See also*, July 11, 1980, Docket No. RM80–38, Notice of Proposed Rulemaking, 45 FR 47863 (June 17, 1980), FERC Stat. section Regs. ¶ 32,074.

[4] Our records indicate that thirty-five tight formation recommendations involve formations found at depths between 10,000 and 15,000 feet.

incentive price the contract contain a fixed price, or a fixed price escalator clause or a specific reference to the Commission's authority to set an incentive price under NGPA section 107. This requirement is defined in 18 CFR 271.702. The Commission believes that the surface drilling requirement limiting availability of the incentive price to wells commenced after December 30, 1981, provides adequate assurance that the price prescribed herein will be a reasonable incentive to additional gas supplies. Furthermore, we believe that without this requirement production of gas from intermediate depths would be maximized. Therefore, as a matter of policy, the Commission proposes not to include this requirement. The Commission welcomes comments on this proposal.

F. Interim and Retroactive Collections.

The Commission proposes to apply interim and retroactive collection provisions of Part 273 to intermediate deep gas. The incentive price may be collected retroactively for deliveries on or after December 30, 1981.

G. Filing Requirements.

The proposed rule requires producers to file an application with the appropriate jurisdictional agency. If a dual determination is to be made that gas qualifies both as intermediate deep gas under this rule and as "new natural gas" under section 102, or as gas produced from "new onshore production well" under section 103, the producer must file information to demonstrate both qualifications. In such cases, a new determination will not be necessary in 1985.

H. Environmental Issues.

The Commission's environmental staff has reviewed the proposed rulemaking. Because drilling at intermediate depths does not result in an impact which is unique, unusual, or significantly different than that associated with routine natural gas development at lesser or greater depths, and existing Federal and state permits and approvals must still be obtained, this proposed incentive price rule would not constitute a major Federal action significantly affecting the quality of the human environment. Preparation of an environmental impact statement is, therefore, not required.

Any comments which differ with this conclusion should be fully explained and, if possible, substantiated with data.

V. Initial Regulatory Flexibility Analysis.

This initial regulatory flexibility analysis is prepared pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612 (Pub. L. 96–354)) which requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities." These RFA requirements apply only to generic rules for which a notice of proposed rulemaking is issued on or after January 1, 1981. The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules that may significantly affect small business and small government entities, and to encourage cost-benefit analyses of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on these small entities.

The Commission has presented its reasons for this agency action, its objective and the legal basis for this rulemaking. As discussed, the proposed rule provides an incentive price pursuant to section 107 of the NGPA for gas which the Commission has preliminarily determined to be high-cost gas.

There are approximately 10,000 producers of natural gas in the United States. Of those producers, a significant proportion could be classified as small entities. Therefore, the proposed rule might have a significant economic impact on a substantial number of small entities.

The rule proposes to provide an incentive price ceiling for the production of high-cost gas to an eligible producer. The proposed rule provides that in order to qualify, an application must be filed with the appropriate jurisdictional agency detailing the eligibility of the well to receive the incentive price including location of the well, the depth of the well and a well completion report. These relatively simple reporting requirements, which entail filling out an application form, are not extensive and do not require the collection of information which small producers would not already possess for their own purposes. Furthermore, it is significant to note that the regulation would impose the application requirements only upon the small producer who would seek to qualify for the incentive price.

Section 603(c) of the RFA requires a description of significant alternatives to the proposed rule that may help minimize the proposal's adverse effect on small entities. A possible alternative would be to exempt the small entity from the filing requirements. This alternative is not feasible because the information is the minimum information necessary to determine the eligibility of the producer. This information is not transmitted to this Commission through any other means and, therefore, is not duplicative. Furthermore, the relatively simple filing requirements would not have an economic burden upon the small producer sufficient to warrant the establishment of differing compliance or reporting requirements or timetables.

VI. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 29, 1982. Each person submitting a comment should indicate that the comments are being submitted in Docket No. RM82–8 and should give reasons including any supporting data for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be placed in the commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, on this rulemaking may be announced in the near future.

Those wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 13, 1982.

(Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

In consideration of the foregoing, the commission proposes to amend Parts 271, 273 and 274 Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

(1) Part 271 is amended in the Table of Contents under Subpart G by adding the following:

Subpart G—High Cost Natural Gas

* * * * *

Sec.

271.706 Intermediate deep gas.

(2) Section 271.701 is amended by adding a new paragraph (d) at the end thereof to read as follows:

§ 271.701 Applicability.

* * * * *

(d) Intermediate deep gas.

(3) A new § 271.706 is added to read as follows:

§ 271.706 Intermediate deep gas.

(a) The maximum lawful price per MMBTU, for the first sale of intermediate deep gas is 150 percent of the maximum lawful price specified by Subpart C of Part 271 in Table I of § 271.101(a)

(b) *Definitions.* For purposes of this section:

(1) "Intermediate deep gas" means natural gas that a jurisdictional agency has determinated in accordance with Parts 274 and 275 to be gas produced from:

(i) a completion location:

(A) in any well the surface drilling of which began on or after December 30, 1981, or

(B) in any portion of a well the deeper drilling of which began on or after December 30, 1981, if such gas is produced from a reservoir which was not penetrated by the portion of the wellbore that existed before December 30, 1981, and

(ii) a completion location which is located at a depth of more than 10,000 feet, as measured in accordance with § 272.104.

PART 273—COLLECTION AUTHORITY; REFUNDS

(4) Section 273.204(a)(1) is amended by inserting at the end thereof clause (v) to read as follows:

§ 273.204 Retroactive collection after final determination.

(a) * * *

(1) * * *

* * * * *

(v) in the case of intermediate deep gas (as defined in § 271.706) the amount of such excess may be computed, charged, and collected, for first sales of such gas delivered on or after December 30, 1981.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

(5) Section 274.205 is amended by adding a new paragraph (h) to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(h) *Intermediate deep gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is intermediate deep gas shall file with the jurisdictional agency an application which contains the following items:

(1) If the gas is produced from a well which qualifies as a new, onshore production well, all information required in §§ 274.204 (c), (d), (f) and (g);

(2) If the gas qualifies as new natural gas under section 102(c)(1)(B), the information required in §§ 274.202(c)(1) (iv), (v), and (vi) and 274.202(e);

(3) If the gas qualifies as new natural gas under section 102(c)(1)(C) the information required in §§ 274.202(c)(2) (iii), (iv), (vi), and (vii) and 274.202(e);

(4) FERC Form No. 121;

(5) All well completion reports for the well for which a determination is sought;

(6) A location plat which locates and identifies the well for which a determination is sought;

(7) Directional drilling surveys, if available;

(8) A statement by the applicant under oath, that:

(i) The surface drilling or deeper drilling of the well for which a determination is sought was begun on or after December 30, 1981,

(ii) the gas is produced from depths of 10,000 feet, or more, and

(iii) the applicant has no knowledge of any information not described in the application which is inconsistent with the statements made in accordance with clause (i) and (ii);

(9) If the jurisidictional agency so requires, certified copies of records relied upon by the applicant including copies of the agency's official files.

[FR Doc. 82-299 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations No. 4, 16]

Determination of Certain Impairment-Related Work Expenses for Substantial Gainful Activity Purposes and for Purposes of Determining Countable Earned Income

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rule making.

SUMMARY: These rules implement section 302 of Pub. L. 96-265 which concerns certain impairment-related work expenses incurred on or after December 1, 1980, by disabled persons applying for or receiving benefits under the disability insurance program and the supplemental security income (SSI) program. Under these programs, a person who is able to do substantial gainful activity (SGA) is not considered disabled. In determining whether a person has done SGA we consider that person's services and earnings. In determining the amount of earnings for this purpose, regulations in effect for periods prior to December 1980 provide that we deduct the person's impairment-related expenses only if they are incurred solely because of his or her work. The regulations we propose provide that the cost to the individual of impairment-related items and services which the individual needs in order to work, where the expenses were incurred on or after December 1, 1980, will be deducted from earnings even though the items and services also help that individual carry out normal functions of daily living. For the purpose of determining a person's eligibility and benefit amount for SSI, the statute and regulations provide for the exclusion from income of the first $60 of any income received in a calendar quarter. Also excluded is $195 of earned income and one-half of a person's earned income (not otherwise excluded) in a calendar quarter. To reflect the statutory change, the proposed regulation will provide that we will also exclude from a disabled SSI recipient's earned income the same types of expenses that are deductible under the SGA provision. These impairment-related work expenses will be deducted after excluding $195 of earned income but before excluding one-half of what remains. However, a disabled individual must have countable income within the

Federal SSI limit (currently $264.70 per month or $794.10 per quarter) without benefit of the work expense exclusion before the exclusion can apply. Once an individual qualifies under the basic Federal income limit for any month after November 1980, he or she continues to qualify for exclusion of work expenses for all subsequent consecutive months in which the Federal income limit or the income limit for federally administered optional State supplementation is met. If an individual later fails to meet either of these limits, he or she no longer qualifies for the work expense exclusion until the Federal SSI income limit is again met without benefit of the work expense exclusion.

We have also made minor technical changes in § 416.1112(c) and § 416.1124(c)(11).

DATE: Your comments will be considered if we receive them no later than March 8, 1982.

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

FOR FURTHER INFORMATION CONTACT: Dave Smith, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7336.

SUPPLEMENTARY INFORMATION:

What Expenses may be Deducted

We propose to define the kinds of impairment-related items or services which will be considered under this work incentive provision. We do not, however, present an all-inclusive list of such items and services because such a list would impose unintended limitations.

The regulations include definitions of the items and services for which expenses will be deductible. The expenses for these items and services are considered extraordinary in that the individual, because of his or her impairment(s), must have or use the items or services in order to overcome functional limitations which would otherwise preclude his or her working or getting to and from work.

We will deduct certain transportation costs including the costs of modifications to vehicles, driver assistance, taxicabs and other hired vehicles when other means of transportation are not accessible. We considered deducting both the cost of a vehicle modification and the purchase price of the vehicle if it is needed to get to and from work. We rejected the option of deducting the purchase price because automobiles and vans are widely used by most members of the public and their purchase is a common expense incurred by both disabled and nondisabled individuals. We decided that only the cost of the modification would meet the "extraordinary cost" standard and therefore decided to deduct only those costs. In addition, we have included a mileage allowance for both modified and unmodified vehicles. In the case of an unmodified vehicle, we will deduct the mileage allowance only where a disabled person has no choice, solely because of his or her impairment, but to drive to work. This allowance will be based on the national average costs of operating an automobile based on data provided by the Federal Highway Administration. The current rates range from 15-cents a mile to 26-cents a mile depending on the type of vehicle used.

We are proposing that payment by a disabled person for attendant care services will be deductible only for services performed at work, going to and from work, or in preparing the individual to go to work and assisting the person in returning from work. Where a disabled person pays a member of his or her family for the performance of attendant care services, the payment will be deductible only if the family member suffers economic loss by reducing or terminating his or her own employment or self-employment.

We have provided for a deduction of the cost of residential modifications under certain limited circumstances. Where the individual is employed outside the home, we plan to deduct only the cost of those changes to the exterior of the residence which enable the individual to get to work (e.g., exterior ramp for a wheel-chair confined person or special exterior railings or pathways for someone who requires crutches). Where the individual works at home, we plan to provide for the deduction of modifications that pertain specifically to the working space in the home. Such costs, however, would not be deducted as impairment-related work expenses if they are deducted by a self-employed person as business expenses.

We have provided for deduction of expenses for non-medical appliances and equipment (those which are not ordinarily used for medical purposes) only where it can be established that there is an impairment-related and medically verified need for the item because it is essential for the control of the disabling condition. Determinations regarding these types of expenses will be made on the facts of each case.

We have provided that the costs of drugs and medical services are deductible if they are used by the individual to control his or her impairment in order that the individual may work.

Relationship of Expenses to Period of Work

For the purpose of determining SGA we are proposing that a payment toward the cost of an item can be deducted if payment is made in a month the person is working (including work in a sheltered workshop), regardless of when the actual purchase was made. We are proposing that costs for services can be deducted if payment for the services is made in a month the person is working, provided that the services are received in a month the person is working. Thus, the payment must coincide with the person's earnings as well as his or her receipt of the services. For the purpose of determining the SSI payment amount, we are proposing that a payment toward the cost of an item or service be deducted if payment is made in the month the earned income is received for work performed while the individual utilized the impairment-related item or service. Recognizing that individuals may make purchases in anticipation of work, we provided for the allocation of amounts spent for non-expendable items in the 11 months preceding the first month of work. The payments will be allocated over the 12-consecutive month period beginning with the month of payment. However, only that portion of the payment which is allocated to work months would be deductible. The allocation process is explained in more detail in subsequent paragraphs. In no instance will expenses incurred before December 1, 1980, be deductible, though expenses incurred after November 1980 as a result of a contractual or other arrangement entered into before December 1980, are deductible.

When Expenses may be Deducted

We are proposing that impairment-related work expenses will generally be deductible when paid. If an item or service is paid for in monthly payments, those playments will be deductible in the months in which they are made. We identify these as recurring expenses. If an item or service is paid for at one time, we will deduct the amount of that payment when made or allocate the payment equally over a 12 consecutive

month period beginning with the month of payment, whichever the individual selects. If a downpayment is made, we will deduct it when paid or allocate it equally over a 12 consecutive month period, or over the payment period involved if it is less than 12 months, beginning with the month of payment, whichever the individual selects. We identify these as nonrecurring expenses. We will use a special rule when the purchase involves both a recurring and nonrecurring expense.

We considered deducting each nonrecurring payment in the month paid. Where the expense, which could be large, is deducted entirely in the month paid, the person could be found engaging in SGA the following month (and would, therefore, not be disabled). Since SGA determinations are generally based on average earnings over an extended period of time, it is reasonable to allocate nonrecurring payments whenever it would be more beneficial to the disabled person to do so. Moreover, failure to allocate a large expense could discourage a disabled individual from obtaining an item or service needed for him or her to work. The question of the length of the period over which to allocate nonrecurring payments presented several options. We could allocate a one-time payment or downpayment over the item's useful life, but we did not feel it administratively feasible to determine the useful life of an item on a case-by-case basis. We could also allocate downpayments over the length of the installment contract, but this approach could result in unequal treatment of individuals in situations where they purchased identical items. We decided to allocate non-recurring payments over a period of 12 months because it parallels the period used to measure earnings for other program purposes, e.g., the 12-month period is the length of time an impairment must last for a person to be disabled, the 12-month retirement test period and under the Internal Revenue Code the 12-month tax year. Also, for SSI payment purposes, a relationship to need could not be reasonably established beyond a 12-month period. We did not choose a shorter period (e.g., 3 months or 6 months) because disability evaluation is generally concerned with the inability to work over an extended period rather than a short, isolated period.

What Kinds of Payments may be Deducted

In order for impairment-related work expenses to be deductible, they must be paid for in cash or by check rather than in kind. The law states that deductions will be made only where the individual pays for the item or service. We consider this limitation to mean that the individual must pay an actual dollar amount "out-of-pocket" for the impairment-related item or service. Further, we believe this interpretation makes the best use of scarce dollar resources available to SSA to administer the disability program.

Limitations on Deductions of Expenses

Section 302 of Pub. L. 96–265 states with regard to the expenses that "the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe." In its report (No. 96–408) on H.R. 3236 the Senate Finance Committee stated on page 51:

> The committee intends that any such limits not be based on arbitrary conceptions of what amounts are reasonable but rather reflect actual prevailing costs of various categories of impairment-related expenses.

We propose to relate the amounts paid for certain items and services to the prevailing charges listed for the same items and services in the Medicare guidelines under Part B of title XVIII of the Act (Health Insurance for the Aged and Disabled) where the Medicare information is readily available. That information is regularly used to determine reasonable charges for purposes of reimbursement under the Medicare program. We will consider an amount reasonable if it is no more than the prevailing charge established under that title. We will deduct an amount in excess of that charge where the individual shows that it is consistent with the standard or normal charge for the same or similar item or service in the individual's community. For items and services that are not covered by the Medicare guidelines and for items and services that are listed in the Medicare guidelines but for which those guides cannot be used because the information is not readily available, we will consider as reasonable the actual costs paid, subject to the standard charge in the individual's community for the same or similar items or services.

We considered allocating deductions based on the time spent working and not working where the item or service is needed for both purposes. We decided to limit the deduction for attendant care to the costs of services performed by the attendant while the individual is at work, getting to and from work, and at home preparing the individual to go to work and assisting the individual in returning from work. In the case of medical devices, equipment and medical services, we decided to permit deduction of the full out of pocket costs rather than to allocate the deductions because it is impossible to establish a rational and fair standard for determining the extent to which the costs of an artificial limb, a pacemaker, or hemodialysis, for instance, are work-related.

Regulatory Procedures

This regulation does not meet the criteria for a major rule as that term is defined in Executive Order 12291. Thus, a regulatory impact analysis is not required.

These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance. The reporting forms needed to implement this provision have been approved by OMB already: SSA #820 and #821 (OMB approval #09–60–0059) and SSA #3945 (OMB approval #09–60–0108).

We certify that these regulations do not have an adverse impact on small entities because these rules only affect individuals.

Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not necessary.

The proposed amendments are to be issued under the authority contained in sections 205, 223, 1102, 1612, 1614, and 1631 of the Social Security Act, as amended; Sec. 302 of Pub. L. 96–265; 53 Stat. 1368, as amended; 70 Stat. 815, as amended; 49 Stat. 647, as amended; and 86 Stat. 1468, 1471, 1475, as amended; 94 Stat. 450, 451; 42 U.S.C. 405, 423, 1302, 1382a, 1382c and 1383.

(Catalog of Federal Domestic Assistance Program Nos. 13802 Social Security—Disability Insurance; 13807 Supplemental Security Income)

Dated: October 19, 1981.

John A. Svahn,

Commissioner of Social Security.

Approved: December 21, 1981.

Richard S. Schweiker,

Secretary of Health and Human Services.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

1. In § 404.1574, paragraph (a)(4) is removed and paragraph (b) is revised to read as follows:

§ 404.1574 Evaluation guides if you are an employee.

* * * * *

(b) *Earnings guidelines.* (1) *General.* If you are an employee, we first consider

the criteria in paragraph (a) of this section and § 404.1576, and then the guides in paragraphs (b)(2), (3), (4), (5), and (6) of this section.

* * * * *

2. In § 404.1575, paragraph (c) is revised to read as follows:

§ 404.1575 Evaluation guides if you are self-employed.

* * * * *

(c) *What we mean by substantial income.* After your normal business expenses are deducted from your gross income to determine net income, we will deduct the reasonable value of any unpaid help, any soil bank payments that were included as farm income, and impairment-related work expenses described in § 404.1576 that have not been deducted in determining your net earnings from self-employment. We will consider the resulting amount of income from the business to be substantial if—

(1) It averages more than the amounts described in § 404.1574(b)(2); or

(2) It averages less than the amounts described in § 404.1574(b)(2) but the livelihood which you get from the business is either comparable to what it was before you became severely impaired or is comparable to that of unimpaired self-employed persons in your community who are in the same or similar business as their means of livelihood.

* * * * *

3. A new § 404.1576 is added to read as follows:

§ 404.1576 Impairment-related work expenses.

(a) *General.* When we figure your earnings in deciding if you have done substantial gainful activity, we will subtract the reasonable costs to you of certain items and services which, because of your impairment(s), you need and use to enable you to work. The costs are deductible even though you also need or use the items and services to carry out daily living functions unrelated to your work. Paragraph (b) of this section explains the conditions for deducting work expenses. Paragraph (c) of this section describes the expenses we will deduct. Paragraph (d) of this section explains when expenses may be deducted. Paragraph (e) of this section describes how expenses may be allocated. Paragraph (f) of this section explains the limitations on deducting expenses. Paragraph (g) of this section explains our verification procedures.

(b) *Conditions for deducting impairment-related work expenses.* We will deduct impairment-related work expenses if—

(1) You are otherwise disabled as defined in §§ 404.1505, 404.1577 and 404.1581–404.1583;

(2) The severity of your impairment(s) requires you to purchase (or rent) certain items and services in order to work;

(3) You pay the cost of the item or service. No deduction will be allowed to the extent that payment has been or will be made by another source. No deduction will be allowed to the extent that you have been, could be, or will be reimbursed for such cost by any other source (such as through a private insurance plan, Medicare or Medicaid, or other plan or agency). For example, if you purchase crutches for $80 but you were, could be, or will be reimbursed $64 by some agency, plan, or program, we will deduct only $16;

(4) You pay for the item or service in a month you are working (in accordance with paragraph (d) of this section); and

(5) Your payment is in cash (including checks or other forms of money). Payment in kind is not deductible.

(c) *What expenses may be deducted.*

(1) *Payments for attendant care services.* (i) If because of your impairment(s) you need assistance in traveling to and from work, or while at work you need assistance with personal functions (eating, toileting) or with work-related functions (reading, communicating), the payments you make for those services may be deducted.

(ii) If because of your impairment(s) you need assistance with personal functions at home in preparation for going to and assistance in returning from work, the payments you make for those services may be deducted.

(iii)(A) We will deduct payments you make to a family member for attendant care services only if such person, in order to perform the services, suffers an economic loss by terminating his or her employment or by reducing the number of hours he or she worked.

(B) We consider a family member to be anyone who is related to you by blood, marriage or adoption, whether or not that person lives with you.

(iv) If only part of your payment to a person is for services that come under the provisions of paragraph (c)(1) of this section, we will only deduct that part of the payment which is attributable to those services. For example, an attendant gets you ready for work and helps you in returning from work, which takes about 2 hours a day. The rest of his or her 8 hour day is spent cleaning your house and doing your laundry, etc. We would only deduct one-fourth of the attendant's daily wages as an impairment-related work expense.

(2) *Payments for medical devices.* If your impairment(s) requires that you utilize medical devices in order to work, the payments you make for those devices may be deducted. As used in this subparagraph, medical devices include durable medical equipment which can withstand repeated use, is customarily used for medical purposes, and is generally not useful to a person in the absence of an illness or injury. Examples of durable medical equipment are wheelchairs, hemodialysis equipment, canes, crutches, inhalators and pacemakers.

(3) *Payments for prosthetic devices.* If your impairment(s) requires that you utilize a prosthetic device in order to work, the payments you make for that device may be deducted. A prosthetic device is that which replaces an internal body organ or external body part. Examples of prosthetic devices are artificial replacements of arms, legs and other parts of the body.

(4) *Payments for equipment.* (i) *Work-related equipment.* If your impairment(s) requires that you utilize special equipment in order to do your job, the payments you make for that equipment may be deducted. Examples of work-related equipment are one-hand typewriters, visual aids, telecommunication devices for the deaf and tools specifically designed to accommodate a person's impairment(s).

(ii) *Residential modifications.* If your impairment(s) requires that you make modifications to your residence, the location of your place of work will determine if the cost of these modifications will be deducted. If you are employed away from home, only the cost of changes made outside of your home to permit you to get to your means of transportation (e.g., the installation of an exterior ramp for a wheelchair confined person or special exterior railings or pathways for someone who requires crutches) will be deducted. Costs relating to modifications of the inside of your home will not be deducted. If you work at home, the costs of modifying the inside of your home in order to create a working space to accommodate your impairment(s) will be deducted to the extent that the changes pertain specifically to the space in which you work. Examples of such changes are the enlargement of a doorway leading into the workspace or modification of the workspace to accommodate problems in dexterity. However, if you are self-employed at home, any cost deducted as a business expense cannot be deducted as an impairment-related work expense.

(iii) *Nonmedical appliances and equipment.* Expenses for appliances and equipment which you do not ordinarily use for medical purposes are generally not deductible. Examples of these items are portable room heaters, air conditioners, humidifiers, dehumidifiers, and electric air cleaners. However, expenses for such items may be deductible when unusual circumstances clearly establish an impairment-related and medically verified need for such an item because it is essential for the control of your disabling condition, thus enabling you to work. To be considered essential, the item must be of such a nature that if it were not available to you there would be an immediate adverse impact on your ability to function in your work activity. In this situation, the expense is deductible whether the item is used at home or in the working place. An example would be the need for an electric air cleaner by an individual with severe respiratory disease who cannot function in a non-purified air environment. An item such as an exercycle is not deductible if used for general physical fitness. If it is prescribed and used as necessary treatment of your impairment and necessary to enable you to work, we will deduct payments you make toward its cost.

(5) *Payments for drugs and medical services.* (i) If you must use drugs or medical services (including diagnostic procedures) to control your impairment(s) the payments you make for them may be deducted. The drugs or services must be prescribed (or utilized) to reduce or eliminate symptoms of your impairment(s) or to slow down its progression. The diagnostic procedures must be performed to ascertain how the impairment(s) is progressing or to determine what type of treatment should be provided for the impairment(s).

(ii) Examples of deductible drugs and medical services are anticonvulsant drugs to control epilepsy or anticonvulsant blood level monitoring; antidepressant medication for mental disorders; medication used to allay the side effects of certain treatments; radiation treatment or chemotherapy for cancer patients; corrective surgery for spinal disorders; electroencephalograms and brain scans related to a disabling epileptic condition; and tests to determine the efficacy of medication on a diabetic condition.

(iii) We will only deduct the costs of drugs or services that are directly related to your impairment(s). Examples of non-deductible items are routine annual physical examinations, optician services (unrelated to a disabling visual impairment) and dental examinations.

(6) *Payments for similar items and services.* (i) *General.* If you are required to utilize items and services not specified in paragraphs (c)(1) through (5) of this section but which are directly related to your impairment(s) and which you need to work, their costs are deductible. Examples of such items and services are medical supplies and services not discussed above, the purchase and maintenance of a seeing-eye dog which you need to work and transportation.

(ii) *Medical supplies and services not described above.* We will deduct payments you make for expendable medical supplies, such as incontinence pads, catheters, ace bandages, elastic stockings, face masks, irrigating kits, and disposable sheets and bags. We will also deduct payments you make for physical therapy which you require because of your impairment(s) and which you need in order to work.

(iii) *Payments for transportation costs.* We will deduct transportation costs in these situations:

(A) Your impairment(s) requires that in order to get to work you need a vehicle that has structural or operational modifications. The modifications must be critical to your operation or use of the vehicle and directly related to your impairment(s). We will deduct the costs of the modifications, but not the cost of the vehicle. We will also deduct a mileage allowance for the trip to and from work. The allowance will be based on data compiled by the Federal Highway Administration relating to vehicle operating costs.

(B) Your impairment(s) requires you to use driver assistance, taxicabs or other hired vehicles in order to work. We will deduct amounts paid to the driver and, if your own vehicle is used, we will also deduct a mileage allowance, as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(C) Your impairment(s) prevents your taking available public transportation to and from work and you must drive your (unmodified) vehicle to work. If we can verify through your physician or other sources that the need to drive is caused by your impairment(s) (and not due to the unavailability of public transportation), we will deduct a mileage allowance, as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(d) *When expenses may be deducted.* (1) *Effective date.* To be deductible an expense must be incurred after November 30, 1980. An expense may be considered incurred after that date if it is paid thereafter even though pursuant to a contract or other arrangement entered into before December 1, 1980.

(2) *Payments for services.* A payment you make for services may be deducted if the services are received and the payment is made in the month you are working. We consider you to be working even though you must leave work temporarily to receive the services.

(3) *Payments for items.* A payment you make toward the cost of a deductible item (regardless of when it is acquired) may be deducted if payment is made in the month you are working. See paragraph (e)(4) of this section when purchases are made in anticipation of work.

(e) *How expenses are allocated.* (1) *Recurring expenses.* If you purchase an item on credit and pay for it in regular periodic installments or if you rent an item, each payment you make toward the purchase or rental (including interest) is deductible in the month it is made.

Example. B starts work in October 1981 at which time she purchases a medical device at a cost of $4,800 plus interest charges of $720. The term of the installment contract is 48 months. No downpayment is made. The monthly allowable deduction for the item would be $115 ($5520 divided by 48).

(2) *Nonrecurring expenses.* Part or all of your expenses may not be recurring. For example, you may make a one-time payment in full for an item or service or make a downpayment. If you are working when you make the payment we will either deduct the entire amount in the month you pay it or allocate the amount over a 12 consecutive month period beginning with the month of payment, whichever you select.

Example. A begins working in October 1981 and earns $525 a month. In the same month he purchases a deductible item at a cost of $250. In this situation we could allow a $250 deduction for October 1981, reducing A's earnings below the SGA level for that month.

If A's earnings had been $15 above the SGA earnings amount, A probably would select the option of projecting the $250 payment over the 12-month period, October 1981–September 1982, giving A an allowable deduction of $20.83 a month for each month during that period. This deduction would reduce A's earnings below the SGA level for 12 months.

(3) *Allocating downpayments.* If you make a downpayment we will, if you choose, make a separate calculation for the downpayment in order to provide for uniform monthly deductions. In these situations we will determine the total payment that you will make over a 12 consecutive month period beginning

with the month of the downpayment and allocate that amount over the 12 months. Beginning with the 13th month, the regular monthly payment will be deductible. This allocation process will be for a shorter period if your regular monthly payments will extend over a period of less than 12 months.

Example 1. C starts working in October 1981, at which time he purchases special equipment at a cost of $4,800, paying $1,200 down. The balance of $3,600, plus interest of $540, is to be repaid in 36 installments of $115 a month beginning November 1981. C earns $500 a month. He chooses to have the downpayment allocated. In this situation we would allow a $205.42 deduction beginning in October 1981 and ending in September 1982. After September 1982, the deduction amount would be the regular monthly payment of $115.

Explanation:

Downpayment in 10/81	$1,200	
Monthly payments 11/81 through 09/82	1,265	
	12) 2,465	=$205.42

Example 2. D, while working, buys a deductible item in July 1981, paying $1,450 down. However, the first monthly payment of $125 is not due until September 1981. D chooses to have the downpayment allocated. In this situation we would allow a $255 deduction beginning in July 1981 and ending in June 1982. After June 1982, the deduction amount would be the regular monthly payment of $125.

Explanation:

Downpayment in 07/81	$1,450	
Monthly payments 09/81 through 06/82	1,250	
	12) 2,700	=$225

(4) *Payments made in anticipation of work.* A payment toward the cost of a deductible item that you made in any of the 11 months preceding the month you started working will be taken into account in determining your impairment-related work expenses. When an item is paid for in full during the 11 months preceding the month you started working the payment will be allocated over the 12-consecutive month period beginning with the month of the payment. However, the only portion of the payment which is deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for with a one-time payment of $600, the deductible amount would be $450 ($600 divided by 12, multiplied by 9). Installment payments (including a downpayment) that you made for a particular item during the 11 months preceding the month you started working will be totaled and considered to have been made in the month of your first payment for that item within this 11 month period. The sum of these payments will be allocated over the 12-consecutive month period beginning with the month of your first payment (but never earlier than 11 months before the month work began). However, the only portion of the total which is deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for in 3 monthly installments of $200 each, the total payment of $600 will be considered to have been made in the month of the first payment, that is, 3 months before the month work began. The deductible amount would be $450 ($600 divided by 12, multiplied by 9). The deductible amount, as determined by these formulas, will then be considered to have been paid in the first month of work and will be deductible in accordance with paragraph (e)(2) of this section. To be deductible the payments must be for durable items such as medical devices, prostheses, work-related equipment, residential modifications, nonmedical appliances and vehicle modifications. Payments for services and expendable items such as drugs, oxygen, diagnostic procedures, medical supplies and vehicle operating costs are not deductible for purposes of this subparagraph.

(f) *Limits on deductions.* (1) We will deduct the actual amounts you pay towards your impairment-related work expenses unless the amounts are unreasonable. With respect to durable medical equipment, prosthetic devices, medical services, and similar medically-related items and services, we will apply the prevailing charges under Medicare (Part B of Title XVIII, Health Insurance for the Aged and Disabled) to the extent that this information is readily available. Where the Medicare guides are used, we will consider the amount that you pay to be reasonable if it is no more than the prevailing charge for the same item or service under the Medicare guidelines. If the amount you actually pay is more than the prevailing charge for the same item under the Medicare guidelines, we will deduct from your earnings the amount you paid to the extent you establish that the amount is consistent with the standard or normal charge for the same or similar item or service in your community. For items and services that are not listed in the Medicare guidelines, and for items and services that are listed in the Medicare guidelines but for which such guides cannot be used because the information is not readily available, we will consider the amount you pay to be reasonable if it does not exceed the standard or normal charge for the same or similar item(s) or service(s) in your community.

(2) Impairment-related work expenses are not deducted in computing your earnings for purposes of determining whether you work was "services" as described in § 404.1592(b).

(3) The decision as to whether you performed substantial gainful activity in a case involving impairment-related work expenses for items or services necessary for you to work generally will be based upon your "earnings" and not on the value of "services" you rendered. (See §§ 404.1574(b)(6)(i) and (ii), and 404.1575(a)). This is not necessarily so, however, if you are in a position to control or manipulate your earnings.

(4) The amount of the expenses to be deducted must be determined in a uniform manner in both the disability insurance and SSI programs.

(5) No deduction will be allowed to the extent that any other source has paid or will pay for an item or service. No deduction will be allowed to the extent that you have been, could be, or will be, reimbursed for payments you made. (See paragraph (b)(3) of this section.)

(6) The provisions described in the foregoing paragraphs of this section are effective with respect to expenses incurred on and after December 1, 1980, although expenses incurred after November 1980 as a result of contractual or other arrangements entered into before December 1980, are deductible. For months before December 1980 we will deduct impairment-related work expenses from your earnings only to the extent they exceeded the normal work-related expenses you would have had if you did not have your impairment(s). We will not deduct expenses, however, for those things which you needed even when you were not working.

(g) *Verification.* We will verify your need for items or services for which deductions are claimed, and the amount of the charges for those items or services. You will also be asked to provide proof that you paid for the items or services.

PART 2—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

4. In § 416.974, paragraph (a)(4) is removed and paragraph (b) is revised to read as follows:

§ 416.974 Evaluation guides if you are an employee.

* * * * *

(b) *Earnings guidelines.* (1) *General.* If you are an employee, we first consider the criteria in paragraph (a) of this section, and § 416.976, and then the guides in paragraphs (b)(2), (3), (4), (5), and (6) of this section.

* * * * *

5. In § 416.975, paragraph (c) is revised to read as follows:

§ 416.975 Evaluation guides if you are self-employed.

* * * * *

(c) *What we mean by substantial income.* After your normal business expenses are deducted from your gross income to determine net income, we will deduct the reasonable value of any unpaid help, any soil bank payments that were included as farm income, and impairment-related work expenses described in § 416.976 that have not been deducted in determining your net earnings from self-employment. We will consider the resulting amount of income from the business to be substantial if—

(1) It averages more than the amounts described in § 416.974(b)(2); or

(2) It averages less than the amounts described in § 416. 974(b)(2) but the livelihood which you get from the business is either comparable to what it was before you became severely impaired or is comparable to that of unimpaired self-employed persons in your community who are in the same or similar business as their means of livelihood.

* * * * *

6. A new § 416.976 is added to read as follows:

§ 416.976 Impairment-related work expenses.

(a) *General.* When we figure your earnings in deciding if you have done substantial gainful activity, and in determining your countable earned income (see § 416.1112(c)(5)), we will subtract the reasonable costs to you of certain items and services which, because of your impairment(s), you need and use to enable you to work. The costs are deductible even though you also need or use the items and services to carry out daily living functions unrelated to your work. Paragraph (b) of this section explains the conditions for deducting work expenses. Paragraph (c) of this section describes the expenses we will deduct. Paragraph (d) of this section explains when expenses may be deducted. Paragraph (e) of this section describes how expenses may be allocated. Paragraph (f) of this section explains the limitations on deducting expenses. Paragraph (g) of this section explains our verification procedures.

(b) *Conditions for deducting impairment-related work expenses.* We will deduct impairment-related work expenses if—

(1) You are otherwise disabled as defined in §§ 416.905–416.907;

(2) The severity of your impairment(s) requires you to purchase (or rent) certain items and services in order to work;

(3) You pay the cost of the item or service. No deduction will be allowed to the extent that payment has been or will be made by another source. No deduction will be allowed to the extent that you have been, could be, or will be reimbursed for such cost by any other source (such as through a private insurance plan, Medicare or Medicaid, or other plan or agency). For example, if you purchase crutches for $80 but you were, could be, or will be reimbursed $64 by some agency, plan, or program, we will deduct only $16;

(4) You pay for the item or service in accordance with paragraph (d) of this section; and

(5) Your payment is in cash (including checks or other forms of money). Payment in kind is not deductible.

(c) *What expenses may be deducted.* (1) *Payments for attendant care services.* (i) If because of your impairment(s) you need assistance in traveling to and from work, or while at work you need assistance with personal functions (eating, toileting) or with work-related functions (reading, communicating), the payments you make for those services may be deducted.

(ii) If because of your impairment(s) you need assistance with personal functions at home in preparation for going to and assistance in returning from work, the payments you make for those services may be deducted.

(iii)(A) We will deduct payments you make to a family member for attendant care services only if such person, in order to perform the services, suffers an economic loss by terminating his or her employment or by reducing the number of hours he or she worked.

(B) We consider a family member to be anyone who is related to you by blood, marriage or adoption, whether or not that person lives with you.

(iv) If only part of your payment to a person is for services that come under the provisions of paragraph (c)(1) of this section, we will only deduct that part of the payment which is attributable to those services. For example, an attendant gets you ready for work and helps you in returning from work, which takes about 2 hours a day. The rest of his or her 8 hour day is spent cleaning your house and doing your laundry, etc. We would only deduct one-fourth of the attendant's daily wages as an impairment-related work expense.

(2) *Payments for medical devices.* If your impairment(s) requires that you utilize medical devices in order to work, the payments you make for those devices may be deducted. As used in this subparagraph, medical devices include durable medical equipment which can withstand repeated use, is customarily used for medical purposes, and is generally not useful to a person in the absence of an illness or injury. Examples of durable medical equipment are wheelchairs, hemodialysis equipment, canes, crutches, inhalators and pacemakers.

(3) *Payments for prosthetic devices.* If your impairment(s) requires that you utilize a prosthetic device in order to work, the payments you make for that device may be deducted. A prosthetic device is that which replaces an internal body organ or external body part. Examples of prosthetic devices are artifical replacements of arms, legs and other parts of the body.

(4) *Payments for equipment.* (i) *Work-related equipment.* If your impairment(s) requires that you utilize special equipment in order to do your job, the payments you make for that equipment may be deducted. Examples of work-related equipment are one-hand typewriters, visual aids, telecommunication devices for the deaf and tools specifically designed to accommodate a person's impairment(s).

(ii) *Residential modifications.* If your impairment(s) requires that you make modifications to your residence, the location of your place of work will determine if the cost of these modifications will be deducted. If you are employed away from home, only the cost of changes made outside of your home to permit you to get to your means of transporation (e.g., the installation of an exterior ramp for a wheel-chair confined person or special exterior railings or pathways for someone who requires crutches) will be deducted. Costs relating to modifications of the inside of your home will not be deducted. If you work at home, the costs of modifying the inside of your home in order to create a working space to accommodate your impairment(s) will be deducted to the extent that the changes pertain specifically to the space in which you work. Examples of such changes are the enlargement of a doorway leading into the work space or modification of the work space to accommodate problems in dexterity. However, if you are self-employed at home, any cost deducted as a business

expense cannot be deducted as an impairment-related work expense.

(iii) *Nonmedical appliances and equipment.* Expenses for applicances and equipment which you do not ordinarily use for medical purposes are generally not deductible. Examples of these items are portable room heaters, air conditioners, humidifiers, dehumidifiers, and electric air cleaners. However, expenses for such items may be deductible when unusual circumstances clearly establish an impairment-related and medically verified need for such an item because it is essential for the control of your disabling condition, thus enabling you to work. To be considered essential, the item must be of such a nature that if it were not available to you there would be an immediate adverse impact on your ability to function in your work activity. In this situation, the expense is deductible whether the item is used at home or in the working place. An example would be the need for an electric air cleaner by an individual with severe respiratory disease who cannot function in a non-purified air environment. An item such as an exercycle is not deductible if used for general physical fitness. If it is prescribed and used as necessary treatment of your impairment and necessary to enable you to work, we will deduct payments you make toward its cost.

(5) *Payments for drugs and medical services.* (i) If you must use drugs or medical services (including diagnostic procedures) to control your impairment(s), the payments you make for them may be deducted. The drugs or services must be prescribed (or utilized) to reduce or eliminate symptoms of your impairment(s) or to slow down its progression. The diagnostic procedures must be performed to ascertain how the impairment(s) is progressing or to determine what type of treatment should be provided for the impairment(s).

(ii) Examples of deductible drugs and medical services are anticonvulsant drugs to control epilepsy or anticonvulsant blood level monitoring; antidepressant medication for mental disorders; medication used to allay the side effects of certain treatments; radiation treatment or chemotherapy for cancer patients; corrective surgery for spinal disorders; electroencephalograms and brain scans related to a disabling epileptic condition; and tests to determine the efficacy of medication on a diabetic condition.

(iii) We will only deduct the costs of drugs or services that are directly related to your impairment(s). Examples of non-deductible items are routine annual physical examinations, optician services (unrelated to a disabling visual impairment) and dental examinations.

(6) *Payments for similar items and services.* (i) *General.* If you are required to utilize items and services not specified in paragraph (c)(1) through (5) of this section but which are directly related to your impairment(s) and which you need to work, their costs are deductible. Examples of such items and services are medical supplies and services not discussed above, the purchase and maintenance of a seeing-eye dog which you need to work and transportation.

(ii) *Medical supplies and services not described above.* We will deduct payments you make for expendable medical supplies, such as incontinence pads, catheters, ace bandages, elastic stockings, face masks, irrigating kits, and disposable sheets and bags. We will also deduct payments you make for physical therapy which you require because of your impairment(s) and which you need in order to work.

(iii) *Payments for transportation costs.* We will deduct transportation costs in these situations:

(A) Your impairment(s) requires that in order to get to work you need a vehicle that has structural or operational modifications. The modifications must be critical to your operation or use of the vehicle and directly related to your impairment(s). We will deduct the costs of the modifications, but not the cost of the vehicle. We will also deduct a mileage allowance for the trip to and from work. The allowance will be based on data compiled by the Federal Highway Administration relating to vehicle operating costs.

(B) Your impairment(s) requires you to use driver assistance, taxicabs or other hired vehicles in order to work. We will deduct amounts paid to the driver and, if your own vehicle is used, we will also deduct a mileage allowance, as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(C) Your impairment(s) prevents your taking available public transportation to and from work and you must drive your (unmodified) vehicle to work. If we can verify through your physician or other sources that the need to drive is caused by your impairment(s) (and not due to the unavailability of public transportation), we will deduct a mileage allowance as provided in paragraph (c)(6)(iii)(A) of this section, for the trip to and from work.

(d) *When expenses may be deducted.* (1) *Effective date.* To be deductible an expense must be incurred after November 30, 1980. An expense may be considered incurred after that date if it is paid thereafter even though pursuant to a contract or other arrangement entered into before December 1, 1980.

(2) *Payments for services.* For the purpose of determining SGA, a payment you make for services may be deducted if the services are received and the payment is made in the month you are working. We consider you to be working even though you must leave work temporarily to receive the services. For the purpose of determining your SSI monthly payment amount, a payment you make for services may be deducted if the payment is made in the month your earned income is received and the earned income is for work done in the month you recieved the services.

(3) *Payment for items.* For the purpose of determining SGA, a payment you make toward the cost of a deductible item (regardless of when it is acquired) may be deducted if payment is made in the month you are working. For the purpose of determining your SSI monthly payment amount, a payment you make toward the cost of a deductible item (regardless of when it is acquired) may be deducted if the payment is made in the month your earned income is received and the earned income is for work done in the month you used the item. See paragraph (e)(4) of this section when purchases are made in anticipation of work.

(e) *How expenses are allocated.* (1) *Recurring expenses.* If you purchase an item on credit and pay for it in regular periodic installments or if you rent an item, each payment you make toward the purchase or rental (including interest) is deductible as described in paragraph (d) of this section.

Example. B starts work in October 1981 at which time she purchases a medical device at a cost of $4,800 plus interest charges of $720. The term of the installment contract is 48 months. No downpayment is made. The monthly allowble deduction for the item would be $115 ($5520 divided by 48).

(2) *Nonrecurring expenses.* Part or all of your expenses may not be recurring. For example, you may make a one-time payment in full for an item or service or make a downpayment. For the purpose of determining SGA, if you are working when you make the payment we will either deduct the entire amount in the month you pay it or allocate the amount over a 12 consecutive month period beginning with the month of payment, whichever you select. For the purpose of determining your SSI monthly payment amount, if you are working in the month you make the payment and the payment is made in a month earned income is received, we will either deduct the entire amount in that month, or we will

allocate the amount over a 12 consecutive month period, beginning with that month, whichever you select. If you do not receive earned income in the month you make the payment, we will either deduct or begin allocating the payment amount in the first month you do receive earned income. If you make a payment for services or items after you stopped working, we will deduct the payment if it was made in the month you received earned income for work done in the month you received the services or used the item.

Example. A begins working in October 1981 and earns and receives $525 a month. In the same month he purchases a deductible item at a cost of $250. In this situation we could allow a $250 deduction for October 1981, reducing A's earnings below the SGA level for that month.

If A's earnings had been $15 above the SGA earnings amount, A probably would select the option of projecting the $250 payment over the 12-month period, October 1981–September 1982, giving A an allowable deduction of $20.83 a month for each month during that period. This deduction would reduce A's earnings below the SGA level for 12 months.

(3) *Allocating downpayments.* If you make a downpayment we will, if you choose, make a separate calculation for the downpayment in order to provide for uniform monthly deductions. In these situations we will determine the total payment that you will make over a 12 consecutive month period beginning with the month of the downpayment and allocate that amount over the 12 months. Beginning with the 13th month, the regular monthly payment will be deductible. This allocation process will be for a shorter period if your regular monthly payments will extend over a period of less than 12 months.

Example 1. C starts working in October 1981, at which time he purchases special equipment at a cost of $4,800, paying $1,200 down. The balance of $3,600, plus interest of $540, is to be repaid in 36 installments of $115 a month beginning November 1981. C earns and receives $500 a month. He chooses to have the downpayment allocated. In this situation we would allow a $205.42 deduction beginning in October 1981 and ending in September 1982. After September 1982, the deduction amount would be the regular monthly payment of $115.

Explanation:		
Downpayment in 10/81	$1,200	
Monthly payments 11/81 through 09/82	1,265	
	12) 2,465	= $205.42

Example 2. D, while working, buys a deductible item in July 1981, paying $1,450 down. (D earns and receives $500 a month.) However, the first monthly payment of $125 is not due until September 1981. D chooses to have the downpayment allocated. In this situation we would allow a $225 deduction beginning in July 1981 and ending in June 1982. After June 1982, the deduction amount would be the regular monthly payment of $125.

Explanation:		
Downpayment in 07/81	$1,450	
Monthly payments 09/81 through 06/82	1,250	
	12) 2,700	= 225

(4) *Payments made in anticipation of work.* A payment toward the cost of a deductible item that you made in any of the 11 months preceding the month you started working will be taken into account in determining your impairment-related work expenses. When an item is paid for in full during the 11 months preceding the month you started working the payment will be allocated over the 12-consecutive month period beginning with the month of the payment. However, the only portion of the payment which is deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for with a one-time payment of $600, the deductible amount would be $450 ($600 divided by 12, multiplied by 9). Installment payments (including a downpayment) that you made from a particular item during the 11 months preceding the month you started working will be totaled and considered to have been made in the month of your first payment for that time within this 11 month period. The sum of these payments will be allocated over the 12-consecutive month period beginning with the month of your first payment (but never earlier than 11 months before the month work began). However, the only portion of the total which is deductible is the portion allocated to the month work begins and the following months. For example, if an item is purchased 3 months before the month work began and is paid for in 3 monthly installments of $200 each, the total payment of $600 will be considered to have been made in the month of the first payment, that is, 3 months before the month work began. The deductible amount would be $450 ($600 divided by 12, multiplied by 9). The deductible amount, as determined by these formulas, will then be considered to have been paid in the first month of work for the purpose of determining SGA and in the first month earned income is received for the purpose of determining the SSI monthly payment amount and will be deductible in accordance with paragraph (e)(2) of this section. To be deductible the payments must be for durable items such as medical devices, prostheses, work-related equipment, residential modifications, nonmedical appliances and vehicle modifications. Payments for services and expendable items such as drugs, oxygen, diagnostic procedures, medical supplies and vehicle operating costs are not deductible for purposes of this subparagraph.

(f) *Limits on deductions.* (1) We will deduct the actual amounts you pay towards your impairment-related work expenses unless the amounts are unreasonable. With respect to durable medical equipment, prosthetic devices, medical services, and similar medically-related items and services, we will apply the prevailing charges under Medicare (Part B of Title XVIII, Health Insurance for the Aged and Disabled) to the extent that this information is readily available. Where the Medicare guides are used, we will consider the amount that you pay to be reasonable if it is no more than the prevailing charge for the same item or service under the Medicare guidelines. If the amount you actually pay is more than the prevailing charge for the same item under the Medicare guidelines, we will deduct from your earnings the amount you paid to the extent you establish that the amount is consistent with the standard or normal charge for the same or similar item or service in your community. For items and services that are not listed in the Medicare guidelines, and for items and services that are listed in the Medicare guidelines but for which such guides cannot be used because the information is not readily available, we will consider the amount you pay to be reasonable if it does not exceed the standard or normal charge for the same or similar item(s) or service(s) in your community.

(2) Impairment-related work expenses are not deducted in computing your earnings for purposes of determining whether your work was "services" as described in § 416.992(b).

(3) The decision as to whether you performed substantial gainful activity in a case involving impairment-related work expenses for items or services necessary for you to work generally will be based upon your "earnings" and not on the value of "services" you rendered. (See §§ 416.974(b)(6) (i) and (ii), and 416.975(a)). This is not necessarily so, however, if you are in a position to control or manipulate your earnings.

(4) The amount of the expenses to be deducted must be determined in a uniform manner in both the disability insurance and SSI programs. The amount of deductions must, therefore, be the same for determinations as to substantial gainful activity under both programs. The deductions that apply in determining the SSI payment amounts, though determined in the same manner as for SGA determinations, are applied so that they correspond to the timing of the receipt of the earned income to be excluded.

(5) No deduction will be allowed to the extent that any other source has paid or will pay for an item or service. No deduction will be allowed to the extent that you have been, could be, or will be, reimbursed for payments you made. (See paragraph (b)(3) of this section.)

(6) The provisions described in the foregoing paragraphs of this section are effective with respect to expenses incurred on and after December 1, 1980, although expenses incurred after November 1980 as a result of contractual or other arrangements entered into before December 1980, are deductible. For months before December 1980 we will deduct impairment-related work expenses from your earnings only to the extent they exceeded the normal work-related expenses you would have had if you did not have your impairment(s). We will not deduct expenses, however, for those things which you needed even when you were not working.

(g) *Verification.* We will verify your need for items or services for which deductions are claimed, and the amount of the charges for those items or services. You will also be asked to provide proof that you paid for the items or services.

7. In section 416.1112, paragraph (c)(5) is redesignated (c)(7) and paragraph (c)(6) is redesignated as (c)(8). Paragraph (c)(4) is revised and new paragraphs (c)(5) and (c)(6) are added to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) *Other earned income we do not count.* We do not count as earned income—

* * * * *

(4) $195 of earned income in a calendar quarter;

(5) Earned income you use to pay impairment-related work expenses described in § 416.976, if you are disabled (but not blind) and under age 65 or you are disabled (but not blind) and received SSI as a disabled person for the month before you reached age 65. (However, if your countable income without benefit of the exclusion exceeds the Federal SSI limit when we determine your initial eligibility, we cannot apply this provision until your countable income without benefit of this exclusion is within the Federal SSI limit.) Once you qualify for the exclusion of impairment-related work expenses, you continue to be entitled to the exclusion for all subsequent consecutive months in which your countable income after the exclusion is within the Federal SSI limit or, if applicable, the higher income limit for an optional supplement which we administer for the State where you live. If in a subsequent month your countable income after the exclusion exceeds either of these limits, you no longer qualify for the exclusion until your countable income without benefit of this exclusion is again within the Federal limit);

(6) One-half of remaining earned income in a calendar quarter;

(7) Earned income used to meet any expenses reasonably attributable to the earning of the income if you are blind and under age 65 or if you receive SSI as a blind person for the month before you reach age 65. (We consider that you "reach" a certain age on the day before that particular birthday.); and

(8) Any earned income you receive and use to fulfill an approved plan to achieve self-support if you are blind or disabled and under age 65 or blind or disabled and received SSI as a blind or disabled person for the month before you reached age 65. See §§ 416.1180 through 416.1182 for an explanation of plans to achieve self-support and for the rules on when this exclusion applies.

8. In section 416.1124, paragraph (c)(11) is revised to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) *Other unearned income we do not count.* We do not count as unearned income—

* * * * *

(11) Any unearned income you receive and use to fulfill an approved plan to achieve self-support if you are blind or disabled and under age 65 or blind or disabled and received SSI as a blind or disabled person for the month before you reached age 65. See §§ 416.1180 through 416.1182 for an explanation of plans to achieve self-support and for the rules on when this exclusion applies.

[FR Doc. 82-215 Filed 1-5-82; 8:45 am]

BILLING CODE 4190-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2462/P208; PH-FRL-2021-7]

Bromoxynil; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for negligible residues of the herbicide bromoxynil from application of its octanoic acid ester. This proposed amendment to establish a maximum permissible level for residues of bromoxynil in or on dry bulb onions was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before February 5, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2462 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California and Texas.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) resulting from application of its octanoic acid ester to the raw agricultural commodity onions at 0.1 part per million (ppm). The petitioner subsequently amended the petition by requesting a tolerance on dry bulb onions only.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance for dry bulb onions include a subchronic (13-week) dog feeding study with a no-observable-effect level (NOEL) of 5 mg/kg/day (200 ppm/day) and a subchronic (13-week) rat feeding study with a NOEL of 312 ppm/day. While the toxicity of this

chemical has not been completely characterized, the incremental residue contribution from this use is calculated to be insignificant since it will add less than 1 percent to the theoretical maximum residue contribution (TMRC). A tolerance of 0.1 ppm has previously been established for several raw agricultural commodities from application of the herbicide as its octanoic acid ester.

The acceptable daily intake (ADI), based on the 13-week dog oral feeding study (NOEL of 5 mg/kg/day) and using a 2,000-fold safety factor, is calculated to be 0.0025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI)— for a 60-kg human is calculated to be 0.15 mg/day. The TMRC from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0326 mg/day; the current action will contribute 0.0010 mg/day. Published tolerances utilize 21.71 percent of the ADI; the current action will utilize an additional 0.72 percent of the ADI, bringing the total utilized to 22.43 percent.

The nature of the residues is adequately understood and an adequate analytical method (Pesticide Analytical Method II (PAM–II)) is available for enforcement purposes. Since this commodity is not a feed item, there is no reasonable expectation of finite residues in meat, milk, poultry or eggs from the proposed use. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.324 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request, by February 5, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP1E2462/P208]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

Effective on: January 6, 1982.

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

Dated: December 15, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.324 be amended by adding and alphabetically inserting the raw agricultural commodity "onions (dry bulb)" to read as follows:

§ 180.324 Bromoxynil; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * * *	
Onions (dry bulb)	0.1 (N)
* * * * *	

[FR Doc. 82-314 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 1E2478/P207; PH-FRL-2022-1]

Methyl Eugenol/Malathion Combination; Proposed Exemption From Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposed that an exemption from the requirement of a tolerance be established for residues of the insect attractant methyl eugenol and the insecticide malathion in or on all raw agricultural commodities when used in combination in Oriental fruit fly eradication programs under the authority of the U.S. Department of Agriculture. This proposal was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before February 5, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Donald Stubbs (703–557–7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2478 to EPA on behalf of the IR–4 Technical Committee and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of an exemption from the requirement of a tolerance for residues of the insect attractant methyl eugenol and the insecticide malathion in or on all raw agricultural commodities when used in combination in Oriental fruit fly eradication programs under the authority of the U.S. Department of Agriculture.

The data submitted in the petition and all other relevant material have been evaulated. The attractant-inseciticide combination is considered useful for the purpose for which the exemption is sought. There are presently no actions against the continued registration of these chemicals.

Because of the methods of application and the extremely low application rates involved, it is highly unlikely that detectable residues would result in or on any raw agricultural commodity or in meat or milk.

The acceptable daily intake (ADI) for malathion, which is calculated to be 0.0200 mg/kg of body weight (bw)/day, has been fully utilized; however, the proposed use is not likely to contribute any detectable malathion residues. Therefore, there will be no increase in the theoretical maximum residue contribution (TMRC) nor in the percentage of ADI utilized as a result of the proposed exemption.

Methyl eugenol is a naturally-occurring compound and is cleared for use under 21 CFR 172.515 as a synthetic flavoring agent. As with the malathion,

no detectable residues are likely to result.

Acute toxicity studies with methyl eugenol indicate a relatively low toxicity to mice and rats. Toxicity data for methyl eugenol referenced or submitted with the petition include: An acute oral LD_{50} (Sprague-Dawley rat) of 1179±250 mg/kg (IBT-validated and determined to be a supplementary study); a primary dermal irritation index (rabbit-Draize) of 0.9/8.0 (mildly irritating) (IBT-validated and determined to be a valid study); a primary eye irritation index (rabbit-Draize of 12.0/110.0 (mildly irritating) (IBT-validated and determined to be a valid study); an acute oral LD_{50} (Osborne-Mendel rat) of 1,560 mg/kg (95 percent confidence level=1,170–2,070 mg/kg); and a 90-day feeding study (Sprague-Dawley rat) with no no-observable-effect level (NOEL) determined at 1,000 ppm, lowest dose tested.

Based on the above information considered by the Agency, the exemption established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request, by February 5, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 1E2478/P207]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950). Effective on: Janaury 6, 1982.

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

Dated: December 16, 1981

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR Part 180 be amended by establishing a new § 180.1067 to read as follows:

§ 180.1067 Methyl eugenol and malathion combination; exemption from the requirement of a tolerance.

The insect attractant methyl eugenol and the insecticide malathion are exempt from the requirement of tolerances on all raw agricultural commodities when used in combination in Oriental fruit fly eradication programs under the authority of the U.S. Department of Agriculture, in accordance with the following directions and specifications:

(a) The combination shall be at the ratio of three parts methyl eugenol to one part technical malathion (3:1).

(b) This combination is to be impregnated on a carrier (cigarette filter tips (cellulose acetate); cotton strings; fiberboard squares) or mixed with a jel cleared under 40 CFR 180.1001(d).

(c) The maximum actual dosage per application per acre shall be 28.35 grams (one-third (0.33) ounce avoirdupois) technical malathion.

[FR Doc. 82–316 Filed 1–5–82; 8:45 am]

BILLING CODE 6560–32–M

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40 CFR Part 180

[PP OE2283/P204; PH–FRL–2019–3]

Chlorpyrifos; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide chlorpyrifos and its metabolite 3,5,6,-trichloro-2-pyridinol in or on strawberries. This proposed amendment to establish a maximum permissible level for residues of the insecticide and its metabolite in or on the above commodity was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before February 5, 1982.

ADDRESS: Written comments to: Donald Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–7123) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Porject No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number OE2283 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of New Hampshire, New York, and Michigan.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol (TCP) in or on the raw agricultural commodity strawberries at 0.3 part per million (ppm). The petition was later amended increasing the tolerance to 0.5 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included: a rat acute oral LD_{50} ranging from 118 to 245 milligrams (mg) per kilogram (kg); a 180-day rat feeding study with the red blood cell (RBC) acetylcholinesterase (AChE) no-observable-effect level (NOEL) of 0.15 mg/kg/day and systemic no-effect-level (NEL) of 0.75 mg/kg/day; a 90-day dog feeding study with an RBC AChE NOEL of 0.03 mg/kg/day and a systemic NOEL of 0.5 mg/kg/day; a 3-generation rat reproduction study with a reproductive effects NOEL of 1.0 mg/kg of body weight (bw)/day (highest dose tested); a 2-year rat feeding study with an RBC AChE NOEL of 0.1 mg/kg/day, a systemic NOEL of 3.0 mg/kg/day (highest dose tested), and negative oncogenic potential; a 2-year dog feeding study with an RBC AChE NOEL of 0.1 mg/kg/day and a systemic NOEL of 3.0 mg/kg/day (highest dose tested); an acute delayed neurotoxicity (hen) study negative for neurotoxic potential

at 100 mg/kg; and a mouse teratogenicity study which was negative for teratogenic effects up to 25 mg/kg/day (highest dose tested). The metabolism of the chemical in animals is adequately understood.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (RBC AChE NOEL of 0.1 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.6 mg/kg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.3382 mg/day. The current action will utilize 0.225 percent of the ADI. Published tolerances utilize 56.36 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method (gas chromatography with a flame photometric detector in the phosphorus mode) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.342 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request, on or before February 5, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP OE 2283/P204]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

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

Dated: December 15, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.342 be amended by adding and alphabetically inserting the raw agricultural commodity "strawberries" to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Strawberries	0.5
* * * * *	

[FR Doc. 82-118 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[PP 9E2263/P205; PH-FRL-2019-4]

Thiabendazole; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the fungicide thiabendazole in or on papayas. This proposed amendment to establish a maximum permissible level for residues of thiabendazole in or on the above commodity resulting from postharvest application of the fungicide was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before February 5, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 9E2263 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Hawaii.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) (TBZ) in or on papayas at 5 parts per million (ppm) resulting from postharvest application to the raw agricultural commodity. The petition was later amended to limit pesticide use to spray applications of a TBZ-water mixture only.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were: a rat acute oral study with an LD_{50} of 3.33 grams (g)/kilogram (kg); a mouse acute oral study with an LD_{50} of 3.81 g/kg; a rat subacute feeding study with a no-observable-effect level (NOEL) of 100 mg/kg; a mouse oncogenic feeding study which showed negative oncogenic potential; a 2-year rat feeding study with a NOEL of 10 mg/kg/day and negative oncogenic potential; a 2-year dog feeding study with a NOEL of 50 mg/kg/day; a rat teratology study negative for teratogenic effects at 80 mg/kg and at 80.4 mg/kg; a rabbit teratology study negative for teratogenic effects at 800 mg/kg (highest dose); a mouse reproduction study with a NOEL of 150 mg/kg/day; and a rat reproduction study with a NOEL of 20 mg/kg/day.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 10 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.10 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 6.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 1.3339 mg/day. The current action will utiltize 0.04 percent of the ADI. Published tolerances utilize 22.49 percent of the ADI.

The nature of the residues is adequately understood and adequate analytical methodology (spectrophotometry as described in FDA Pesticide Analytical Manual II (PAM II))

is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.242 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request, on or before February 5, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 9E2263/P205]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

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

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

December 16, 1981.

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

Therefore, it is proposed that 40 CFR 180.242 be amended by adding and alphabetically inserting the raw agricultural commodity "papayas (post-H)" to paragraph (a) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Papayas (post-H)	5
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[FR Doc. 82-117 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[Docket No. 80-54]

Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule extension of comment time.

SUMMARY: Counsel for various ocean shipping conferences have requested an enlargement of time to file comments in this proceeding relating to uniform rules and regulations governing filing of time/volume rates initiated by **Federal Register** notice of November 2, 1981 (46 FR 54390). The Commission originally allowed a period for comment which will expire on January 4, 1982. The requesters cite the intervening holidays and the complexity of the proposal. Good cause has been shown and, accordingly, an extension of time to comment until February 3, 1982 will be granted.

DATE: Comments (original and 15 copies) due February 3, 1982.

ADDRESS COMMENTS AND INQUIRIES TO: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

Francis C. Hurney,

Secretary.

[FR Doc. 82-322 Filed 1-5-82; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 47, No. 3
Wednesday, January 6, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the first calendar quarter of 1982.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4887, dated December 23, 1981, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 1.5032 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing, sampling and International Sugar Agreement fees, is less than the market stabilization price. The market stabilization price for the first calendar quarter of 1982 is 19.08 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect: (1) Exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent the fee then in effect shall be increased by one cent. The fee, in any event, may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .15 times the amount by which the applicable market stabilization price exceeds the 20 day average of the daily spot (world) price quotations for raw sugar as calculated in paragraph c(ii) of Headnote 4.

The average of the daily spot (world) price quotations for raw sugar for the applicable period prior to the first calendar quarter of 1982 has been calculated to be 12.6225 cents per pound. This results in a fee of 2.1418 cents per pound for item 956.15, the amount by which the sum of the 12.6225 cents average spot price + 2.8125 cents duty + 1.5032 cents attributed costs is less than 19.08 cents. Accordingly, the fee for items 956.05 and 957.15 for the first calendar quarter of 1982 is 3.1104 cents per pound [2.1418 + .15(19.08 −12.6225) = 3.1104].

Except with respect to the fees to be announced for the first calendar quarter of 1982, Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the first calendar quarter of 1982 shall be as follows:

Item	Fee
956.05	3.1104 cents per lb.
956.15	2.1418 cents per lb.
957.15	3.1104 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of Headnote 4.

Signed at Washington, D.C. on December 31, 1981.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82–258 Filed 1–5–82; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

International Trade Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals,

components and related test equipment, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place

January 21, 1982, at 9:30 a.m. The meeting will take place at the Federal Building, Room 2007, 450 Golden Gate Avenue, San Francisco, California.

Agenda

General Session:
(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public
(3) A review of subcommittee activities:
a. Memory and Media,
b. Foreign Availability,
c. Display and Terminals, and
d. Export Regulations.
(4) New Business.
Executive Session:
(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:

Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: December 31, 1981.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–285 Filed 1–5–82; 8:45 am]

BILLING CODE 3510–25–M

Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initally established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981, pursuant to the charter of the Committee.

The Fiber Optic Subcommittee was formed to study fiber optic communication equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and Place

January 26, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Conference Room C, 14th Street and Constitution Avenue, NW, Washington, D.C.

Agenda

General Session:

A short open session will be held to provide an opportunity for submissions of industry recommendations for revisions of the following CCL entries: 1526, 1522, 1519, 1548, 1767, 1502, 1544, and 1527 as they relate to fiber optic communication equipment.

Executive Session

Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b (c)(1) and are properly classified under Executive order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:

Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: December 31, 1981.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc 82–284 Filed 1–5–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Intent to Conduct OMB Circular No. A–76 Cost Comparison Study

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given pursuant to the Office of Management and Budget (OMB) Circular No. A–76 and to the Department of Commerce Administrative Order 201–41 that NOAA intends to conduct a comparison study of the cost of the Government operation of distribution services (data entry, data maintenance, warehousing, and order filing of maps, charts, and publications) at Riverdale, Maryland, versus the cost of off-premises operation by contract. A contract may or may not result from the cost comparison study.

Results of the study will be made available to bidders, offers, and all interested parties. This study is being conducted at the direction of the congressional Joint Committee on Printing which also has directed the Government Printing Office to determine its costs to take over the operation.

DATES: Solicitations for bids or proposals are scheduled for after February 1982. The study should end by December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Souders, OA/C4x32, National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20852, (301) 443–8765.

Dated: December 28, 1981.

Francis J. Balint,

Director, Information and Management Services.

[FR Doc. 82–225 Filed 1–5–82; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 2 February 1982; 3 February 1982.

Times: 0830–1600 hours (Closed); 0830–1500 hours (Closed).

Place: BMD Systems Command HQS, Room 2D1100, Huntsville, Alabama.

Proposed Agenda: The Army Science Board Ad Hoc Study Sub-Group conducting a study on Ballistic Missile Defense will meet to present and receive briefings and hold discussions. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Acting Administrative Officer, Maria P. Galvan, may be contacted for further information at (202) 697–9703 or 695–3039.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82–224 Filed 1–5–82; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: January 21, 1982; January 22, 1982.

Times: 0830–1700 hours, January 21 (Closed); 0830–1600 hours, January 22 (Closed).

Place: Pentagon, Room 1A1079, Washington, D.C. 20310.

Proposed Agenda: The Army Science Board Ad Hoc Sub-Group conducting a study on Air Defense Systems will meet to resent and receive briefings and hold discussions. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to precluded opening any portion of the meeting. The ASB Acting Administrative Officer, Maria P. Galvan, may be contacted for further information at (202) 697–9703.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82–241 Filed 1–5–82; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, Office of the Secretary, DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 109. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 109 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: December 30, 1981.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States.

Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 109

To The Heads of Executive Departments and Establishments:

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government civilian officers and employees for offical travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and possessions of the United States.

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense August 17, 1966, "Executive Order 11294, August 4, 1966 Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status," in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 108 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
*Anchorage	89.00
Barrow	169.00
*Bethel	114.00
*College	97.00

Locality	Maximum rate
Cordova	89.00
*Deadhorse	107.00
Dillingham	103.00
Dutch Harbor	82.00
*Eielson AFB	97.00
*Elmendorf	89.00
*Fairbanks	97.00
*Ft. Richardson	89.00
*Ft. Wainwright	97.00
*Juneau	97.00
*Ketchikan	96.00
*Kodiak	103.00
*Kotzebue	109.00
*Murphy Dome	97.00
*Noatak	109.00
*Nome	110.00
*Noorvik	109.00
*Petersburg	96.00
*Prudhoe Bay	107.00
Shemya AFB [1]	11.00
*Shunghak	109.00
*Sitka-Mt. Edgecombe	96.00
*Skagway	96.00
*Spruce Cape	103.00
*Tanana	110.00
*Valdez	93.00
*Wainwright	79.00
*Wrangell	96.00
*All Other Localities	83.00
American Samoa	65.00
Guam M. I.	67.00
Hawaii:	
Oahu	84.00
All Other Localities	65.00
Johnston Atoll [2]	16.75
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	119.00
5-16—12-15	88.00
Carolina:	
12-16—5-15	119.00
5-16—12-15	88.00
Fajardo (Including Luquillio):	
12-16—5-15	119.00
5-16—12-15	88.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	119.00
5-16—12-15	88.00
Ponce (Incl. Ft. Allen NCS)	70.00
Roosevelt Roads:	
12-16—5-15	119.00
5-16—12-15	88.00
Sabana Seca:	
12-16—5-15	119.00
5-16—12-15	88.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	119.00
5-16—12-15	88.00
All Other Localities	77.00
Virgin Islands of U.S.:	
12-1—4-30	102.00
5-1—11-30	82.00
Wake Island [2]	15.00
All Other Localities	20.00

[1] Commercial facilities are not available. This per diem rate covers changes for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Sheila Levine,

Acting OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-287 Filed 1-5-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5572-000]

Cook Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

December 31, 1981.

Take notice that on October 28, 1981, Cook Electric, 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. 5572 would be located on Big Sheep Creek, within Wallowa-Whitman National Forest near Joseph in Wallowa County, Oregon, Little Sheet Creek, and Wallowa Valley Improvement District Canal. Correspondence with the Applicant should be directed to: Mr. Dale Hatch, Cook Electric, Inc., P.O. Box 1071, Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) a 4-foot high intake structure diverting water from the existing Wallowa Valley Improvement District Canal; (2) a 725-foot long, 45-inch diameter steel penstock; (3) a powerhouse with a total installed capacity of 1,100 kW; (4) a 200-foot long, 13.8-kV transmission line to join the powerplant to Applicant's proposed transmission line from the Little Sheep Power Project No. 5573.

The Applicant estimates that the average annual energy output would be 4.075 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 Oregon Department of Fish and Wildlife 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 Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before February 22, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a 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 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 February 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 requried 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. 82-287 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5622-000]

County of Mono, Calif.; Application for Preliminary Permit

December 31, 1981.

Take notice that the County of Mono (Applicant) filed on November 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 USC 791(a)–825(r)] for Project No. 5622 to be known as the Virginia Creek Hydroelectric Project located on Virginia Creek in Mono County, California. The project would lie predominantly on lands of the United States managed by the Bureau of Land Management. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Neil B. Van Winkle, County Counsel, County Courthouse, Bridgeport, California 93517.

Project Description—The proposed project would consist of: (1) a reinforced concrete diversion structure utilizing a low weir with negligible storage; (2) a conveyance structure 9,500 feet long, either pipeline or channel; (3) a steel penstock 700 feet long; (4) a powerhouse containing two turbine generators with 400 kW total capacity and 2.0 GWh annual energy output; (5) transmission line; and (6) appurtenant facilities. A potential market for power generated would be the Southern California Edison Company.

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 term of 36 months, during which time engineering, economic, and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of the feasibility studies is $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before February 11, 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 February 11, 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].

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 April 9, 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 February 11, 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. 82-288 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-27-000]

El Paso Natural Gas Co.; Tariff Filing

December 30, 1981.

Take notice that on December 16, 1981, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, certain revised and original tariff sheets listed below:

Tariff volume	Tariff sheets
Original Volume No. 1	First Revised Sheet Nos. 69, 70 and 71.[1]
Third Revised Volume No. 2	Original Sheet Nos. 1-Z.1 and 1-Z.2.
Original Volume No. 2A	Original Sheet Nos. 21-MM and 22-MM.

[1] First Revised Sheet No. 71 is reserved for future use.

El Paso states that the tendered tariff sheets, when accepted for filing and permitted to become effective, will add a new Section 22, Exchange Arrangements, to El Paso's FERC Gas Tariff, Original Volume No. 1,[1] in order to reflect a methodology to recover costs pertaining to Emergency Exchange Arrangements El Paso has entered into with Southern California Gas Company ("SoCal") and Pacific Gas and Electric Company ("PGandE") and to a Delayed Exchange Arrangement El Paso has entered into with Houston Pipe Line Company ("HPL"), hereinafter collectively referred to as the "Exchange Arrangements."

The subject arrangements, which are being implemented pursuant to Subpart C of Part 157 of the Commission's Regulations Under the Natural Gas Act, in the case of the arrangements with SoCal and PGandE, and Subpart C of Part 284 of the Commission's Regulations Under the Natural Gas

[1] Identical provisions have been added as section 6, Exchange Arrangements, to El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

Policy Act of 1978, in the case of the arrangement with HPL, are designed to assist El Paso in protecting service to Priority 1 and 2 requirements to its Category B and C Customers [2] during the 1981–82 winter season (November 1, 1981 through April 30, 1982).

El Paso respectfully requests that waiver be granted of all applicable rules, orders and regulations of the Commission, as may be deemed necessary, to (i) make the tariff sheets effective thirty (30) days from the date of filing or the date first deliveries commence under the Exchange Arrangements, whichever is earlier; (ii) waive the Purchased Gas Cost Adjustment provisions contained in Section 19 of El Paso's FERC Gas Tariff, Original Volume No. 1, in order to exempt the volumes of natural gas purchased from SoCal and PGandE from the determination of El Paso's Purchased Gas Cost Adjustment; and (iii) allow El Paso to exclude from the sales refund obligation which is set forth in El Paso's Stipulation and Agreement dated July 10, 1981 and approved by Commission order issued August 28, 1981 at Docket Nos. RP79–12 (Further Extension), CP80–367 and CI80–320, the volumes required to payback SoCal and PGandE for the volumes previously diverted from those customers to assist in the protection of service to El Paso's Category B and C Customers' Priority 1 and 2 requirements.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Jan. 8, 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). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–269 Filed 1–5–82; 8:45 am]

BILLING CODE 6717–01–M

[2] By order issued March 26, 1981, at Docket No. RP72–6, *et al.*, the Commission approved El Paso's "Submittal of Stipulation and Agreement Settling Proceeding and Prescribing Permanent Allocation Plan" filed December 29, 1980. Under the operation of El Paso's Permanent Allocation Plan, which was placed into effect on May 1, 1981, Category B customers are defined as all of El Paso's east-of-California ("EOC") customers having total annual purchases exceeding 1,000,000 Mcf. Category C customers are defined as all of El Paso's EOC customers having annual purchases of less than 1,000,000 Mcf annually.

[Project No. 5694–000]

Hydro Resource Co.; Application for Preliminary Permit

December 31, 1981.

Take notice that Hydro Resource Company (Applicant) filed on November 25, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5694 to be known as the Waketickeh Creek Project located on Waketickeh Creek in Mason 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. Jerry L. Johnson, Agent, P.O. Box 485, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) a 50-foot long, 8-foot high diversion structure; (2) a 5,300-foot long, 30-inch diameter diversion conduit; (3) a 4,600-foot long, 30-inch diameter penstock; (4) a powerhouse with a total rated capacity of 1,400 kW; and (5) a 350-foot long, 69-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 123 million kWh. The project is almost entirely located within the boundaries of Department of Natural Resources lands.

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 it would conduct technical, environmental and economic studies and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $150,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before March 15, 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 March 10, 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 May 10, 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 March 10, 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. 82-270 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5700-000]

Albert E. Hodgson; Application for Preliminary Permit

December 31, 1981.

Take notice that Albert E. Hodgson (Applicant) filed on November 30, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5700 to be known as the Mingo Creek Power Project located on Mingo Creek in Humboldt 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. Albert E. Hodgson, P.O. Box 269, Willow Creek, California 95573.

Project Description—The proposed project would consist of: (1) a 20-foot long, 4-foot high diversion structure; (2) a 9,000-foot long, 24-inch diameter diversion conduit; (3) a 2,400-foot long, 18-inch diameter penstock; (4) a powerhouse with a total rated capacity of 500 kW; and (5) a 1-mile long, 12.5–kV transmission line from the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy output would be 4.4 million kWh. The project is located on U.S. Federal lands owned by the Six Rivers National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed to conduct these studies. The Applicant estimates that the cost of undertaking these studies would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before February 8, 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 February 8, 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 § 4.1012 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 April 6, 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 February 8, 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. 82-271 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3203-001]

John M. Jordan; Application for Short-Form License (Minor)

December 31, 1981.

Take notice that John M. Jordan (Applicant) filed on August 31, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of the existing run-of-river water power project to be known as the Mayo Dam Project No. 3203. The project would be located on the Mayo River near the Town of Mayodan, Rockingham County, North Carolina. Correspondence with the Applicant should be directed to: Mr. John M. Jordan, P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description—The proposed project would consist of: (1) an existing reservoir with a surface area of 340 acres and a storage capacity of 2,500 acre-feet; (2) an existing dam with an ogee shaped spillway section approximately 250 feet long and 15 feet high and a non-overflow section approximately 180 feet long and 25 feet high with a 19-foot long abutment near the middle of the dam and on the right side of the spillway; (3) a proposed 500 kW capacity turbine and generator unit to be installed immediately downstream of the abutment with an intake through the abutment section of the dam; (4) a proposed transmission line approximately 1 mile in length; and (5) appurtenant facilities. This application is filed pursuant to a preliminary permit held by Mr. Jordan for the Mayo Dam hydropower project.

The average annual generation is expected to be approximately 2.5 GWh.

Purpose of Project—All project energy produced will be sold to the Duke Power Company by the Applicant.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act. Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 2, 1982, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 3, 1982. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 2, 1982. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-272 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-578 and ER80-259]

Kansas Gas and Electric Co.; Compliance Filing

December 31, 1981.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company [KG&E], on December 23, 1981, submitted for filing certain responses in compliance with Opinion No. 80-B, issued November 24, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 18, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-273 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5407-000]

Richard K. Linville; Application for Preliminary Permit

December 31, 1981.

Take notice that Richard K. Linville (Applicant) filed on September 22, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5407 to be known as the Oakley Dam Waterpower Project located on Lower Goose Creek Reservoir in Cassia County, Idaho, partially on lands of the Unites States. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard V. Linville, 7021 Sand Point Way N.E. #B-305, Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) the existing Oakley Dam and Lower Goose Creek Reservoir; (2) a penstock 1,000 feet long; (3) a powerhouse containing a turbine generator with a capacity of 836 kW and annual energy production of 2,850 MWh; (4) transmission lines; and (5) appurtenant facilities. Generated power would be sold to the Idaho Power Company.

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 term of 36 months, during which time engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of those activities is $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 1, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)].

The Commission will accept application for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice to intent to file an application for license or exemption must be submitted to the Commission on or before March 1, 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 May 3, 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 C.F.R. § 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 March 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 coy 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. 82-274 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-533]

Louisiana Power & Light Co.; Compliance Filing

December 31, 1981.

The filing Company submits the following:

Take notice that on December 23, 1981, Louisiana Power & Light Company submitted for filing a revised compliance report pursuant to the Commission's letter dated December 8, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 18, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-275 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5688-000]

Modesto Irrigation District; Application for Preliminary Permit

December 31, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on November 24, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5688 to be known as the Jose and Mill Creek Project located on Jose and Mill Creeks, near Shaver Lake, in Fresno 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. A. Lee DeLano, Modesto Irrigation District, 1231 11th Street, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of: (1) two 5-foot high natural fill and concrete diversion structures, one on Jose Creek and one on Mill Creek; (2) an 1,125-foot long conduit on Mill Creek; (3) a 2,240-foot long conduit on Jose Creek; (4) a 1,530-foot long, 48-inch diameter steel penstock; (5) a powerhouse containing one generating unit rated at 3,600 kW; and (6) a 1.2-mile long transmission line. The average annual energy generation is estimated to be 9 million 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 24 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 $50,000.

Completing Applications—This application was filed as a competing application to T. Owen, F. Castagna, and R. Bean's application for Project No. 5570 filed on October 26, 1981. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before January 25, 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 February 8, 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 April 6, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy fo 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 C.F.R. § 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 February 8, 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. 20406. 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 82-276 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2310-011]

Pacific Gas and Electric Co.; Application for Amendment of License

December 31, 1981.

Take notice that Pacific Gas and Electric Company (Applicant), Licensee for the Drum-Spaulding Project, FERC No. 2310, filed on August 5, 1981, an application for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the proposed Newcastle Powerhouse Project to be located between Applicant's South Canal and Folsom Lake operated by the U.S. Bureau of Reclamation, in Placer County, California. The application was filed as partial compliance with article 57 of the license for Project No. 2310. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087 A, San Francisco, California 94106, with a copy to: Mr. Louis E. Vincent, Attorney, Pacific Gas and Electric Company, Law

Department, P.O. Box 7442, San Francisco, California 94106.

Project Description—The proposed project would use water that now spills from the end of the South Canal and enters Folsom Lake, and would consist of: (1) an intake structure at the end of the South Canal with trash rack and a 6-foot by 6-foot slide gate; (2) a 6-foot diameter, 5,695-foot long steel penstock leading to; (3) Newcastle Powerhouse to contain a double overhung horizontal shaft Francis-type, turbine-generating unit with a rated capacity of 10.8 MW; (4) a switchyard; (5) a 150-foot long, 115-kV transmission line; and (6) approximately 4,640 feet of access road. The project would be located in a designated public recreation area and no additional recreational facilities are proposed by the Applicant. Total cost of the project is estimated by the Applicant to be about $14.6 million.

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 February 17, 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. 82-277 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1899-001]

Doris E. Rogers; Application

December 30, 1981.

The filing individual submits the following:

Take notice that on December 21, 1981, Doris E. Rogers filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer—Central Vermont Public Service Corporation
Assistant Treasurer—Connecticut Valley Electric Company, Inc.
Assistant Treasurer—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.
Assistant Treasurer—Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, 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 January 22, 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. 82-278 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF80-7-000]

South San Joaquin Irrigation District—Frankenheimer Dam Project; Certification of Qualifying Status of a Small Power Production Facility by Operation of Law

December 30, 1981.

On October 27, 1980, the South San Joaquin Irrigation District of Manteca, California filed an application for Commission certification of qualifying status of a small power production facility pursuant to § 292.207 of the Commission's rules. The facility is located at the Frankenheimer Dam hydroelectric project (FERC Project No. 3113) on the South San Joaquin Main Canal upstream of Woodward Reservoir in Stanislaus County. The project will generate hydroelectric power by utilizing the water flows on the Applicant's main irrigation canal as water is delivered to agricultural users.

The power potential of the new facility is estimated at 4.7 megawatts, with an annual estimated energy generation of approximately 18.7 million kilowatt hours.

The facility will be owned by the South San Joaquin Irrigation District, a public agency of the State of California. No electric utility company, electric utility holding company or any combination thereof has any ownership interest in the facility. No other small power production facilities are located within one mile of the proposed facility which uses the same energy source.

Pursuant to § 292.207(b)(5) of the Commission's rules, the application filed by the South San Joaquin Irrigation District on October 23, 1980 is granted as a matter of law.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-279 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-54-000]

Southern Company Services, Inc.; Order Accepting for Filing and Suspending Revised Interchange Rates, Granting Interventions, Granting Waiver of Filing Requirements, and Establishing Procedures

Issued: December 29, 1981.

On October 29, 1981, Southern Company Services, Inc. (Southern), on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (Operating Companies), tendered for filing a revised Southern Company System Intercompany Interchange Contract.[1] The filing also includes an Allocation Methodology, a Periodic Rate Computation Manual, and informational schedules detailing the charges and derivation of rates to be used during 1982.

Southern requests an effective date of January 1, 1982. In the event that the filing is suspended, Southern requests that the suspension be limited to one day. The company also requests waiver of certain filing requirements (Statements AA–BL) contained in § 35.13 of the Commission's regulations. Finally, Southern seeks a post-filing conference among the Operating Companies, staff, and any intervenors for purposes of discussing and reviewing the filing.

[1] *See* Attachment A for rate schedule designations.

The tendered filing is a coordination and interchange contract among the Operating Companies which provides for various power pooling transactions, including the exchange of interchange energy, The purchase and sale of capacity, and other interchange arrangements between the parties. Under the agreement, charges for capacity and energy will be determined in accordance with amended cost of service formulas.

Notice of the filing was issued on November 6, 1981, with comments due on or before November 27, 1981. Timely petitions to intervene were filed by Oglethorpe Power Corporation (Oglethorpe) and the Municipal Electric Authority of Georgia (MEAG). On November 30, 1981, an untimely petition to intervene was filed by the Consumers' Utility Counsel of Georgia (CUC), an agency of that State.

Oglethorpe requests that the filing be suspended for at least one day and that the matter be set for hearing; none of the petitioners raises any specific substantive issues with respect to the submittal.[2]

Discussion

Initially, we find that participation in this proceeding by each of the petitioners is in the public interest and, in view of the CUC's interest in this proceeding, we further find that good cause exists to permit CUC to intervene out of time. Accordingly, we shall grant the petitions to intervene.

Our analysis indicates that the proposed change in rates has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Southern's submittal for filing and suspend its operation as ordered below.

In a number of suspension orders,[3] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. While certain allocation procedures and formulary components warrant further inquiry, the currently proposed revisions to the intercompany agreement do not represent substantial departures from the interchange agreement already on file for the Operating Companies. In addition, we note that no intervenor objects to Southern's request that any suspension be limited to one day. We shall therefore accommodate the parties and suspend the filing for one day, to become effective on January 2, 1982, subject to refund.

Because certain of the filing requirements have limited applicability to the transactions covered by the interchange agreement, because sufficient information is available for preliminary review of Southern's submittal, and because none of the intervenors objects to Southern's request for waiver, we shall waive the Statement AA–BL requirements of section 35.13 of the regulations. Further, we agree that a post-filing conference may be useful in pursuing settlement or otherwise expediting this proceeding. Accordingly, we shall provide for such a conference to be convened.

Finally, we note that Southern, in tendering this filing, has stated that annual revisions in the charges computed by applying the formulary rates contained in the computation manual will be submitted to the Commission for informational purposes, but will not constitute changes in rates, requiring compliance with the notice and filing requirements of the Federal Power Act. Southern incorrectly perceives its obligation. Until the revised formulas are determined to be just and reasonable, any future changes resulting from operation of the formulas (including changes in the capacity charges and the variable energy charge components other than fuel costs) must be filed as rate schedule changes and accompanied by appropriate cost support data. However, we shall not necessarily require that Southern fully comply with the detailed filing requirements of § 35.13(a)(2)(i)(D).

The Commission orders:

(A) The Intercompany Interchange Contract submitted by Southern is hereby accepted for filing and suspended for one day to become effective on January 2, 1982, subject to refund.

(B) Southern's request for a waiver of portions of section 35.13 of the Commission's regulations is hereby granted.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of Southern's Intercompany Interchange Agreement.

(D) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within thirty (30) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Southern Company Services, Inc.

Docket No. ER82–54–000

Designation	*Description*
Southern Company Services, Inc. (1) Rate Schedule FERC No. 55 (Supersedes FERC No. 48, as supplemented)	Intercompany Interchange Contract

[2] Ogelthorpe and MEAG both state that they were not timely served with copies of Southern's filing; CUC asserts that the designated period for public comments did not provide sufficient time in which to evaluate the filing. Thus, each of the petitioners anticipates the possibility of identifying issues at a later date.

[3] *E.g., Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80–506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–488 (August 22, 1980) (one day suspension).

(2) Supplement No. 1 to FERC No. 55
(3) Supplement No. 2 to FERC No. 55
Alabama Power Company Rate Schedule FERC No. 154 (Supersedes FERC No. 142, as supplemented) (Concurs in (1)–(3) above)
Georgia Power Company Rate Schedule FERC No. 808 (Supersedes FERC No. 800, as supplemented) (Concurs in (1)–(3) above)
Gulf Power Company Rate Schedule FERC No. 72 (Supersedes FERC No. 65, as supplemented) (Concurs in (1)–(3) above)
Mississippi Power Company Rate Schedule FERC No. 130 (Supersedes FERC No. 121, as supplemented) (Concurs in (1)–(3) above)

Allocation Methodology and Periodic Rate Computation Manual.
Informational Schedules.

[FR Doc. 82-280 Filed 1-5-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5683-000]

City of Tacoma, Department of Public Utility; Application for Preliminary Permit

December 31, 1981.

Take notice that City of Tacoma, Department of Public Utility (Applicant) filed on November 24, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5683 to be known as the Twin Falls Project located on South Fork Snoqualmie River, in King County, near North Bend, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Paul J. Nolan, Director, City of Tacoma, Department of Public Utility, P.O. Box 11007, Tacoma, Washington 98411.

Project Description—The proposed project would consist of: 1) a six to eight-foot high concrete diversion weir; 2) an intake structure; 3) a 3,300-foot long pipe; 4) a surge tank; 5) a 600-foot long, 8-foot diameter penstock; 6) a powerhouse with a total installed capacity of 17 MW; and 7) an approximately 2500 feet of transmission line to connect to an existing Bonneville Power Administration transmission line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 36-month permit to study the feasibility of constructing and operating the proposed project. No new road would be required to conduct the studies.

Competing Applications—This application was filed as a competing application to Jay Botkin and Associates' application for Project No. 4885 filed on June 17, 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 February 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 interevene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-266 Filed 1-5-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-1819-000]

Warren L. Stevens; Application

December 30, 1981.

The filing individual submits the following:

Take notice that on December 21, 1981, Warren L. Stevens filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer—Central Vermont Public Service Corporation
Assistant Treasurer—Connecticut Valley Electric Company, Inc.
Assistant Treasurer—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.
Assistant Treasurer—Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, 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 January 22, 1982. Protests will be considered by the Commission in determing 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 82-281 Filed 1-5-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-26-000]

Valero Interstate Transmission Co., Proposed Rate Changes

December 30, 1981.

Take notice that on December 18, 1981, Valero Interstate Transmission Company ("Vitco") tendered for filing a notice of change in rate for the sale of gas under Vitco's FERC Gas Rate Schedule No. 1, Supplement No. 36;

FERC Gas Rate Schedule No. 2, Supplement No. 113; FERC Gas Rate Schedule No. 14, Supplement No. 6; and for the transportation of gas under FERC Gas Rate Schedule T–1. Vitco states that the proposed changes would increase revenues from jurisdictional sales and transportation by $4,103,030 based on the 12 month period ending September 30, 1981, as adjusted. Vitco states that it has revised each rate schedule to include an off-system tracker.

Vitco states that the proposed increase is required to offset declining natural gas production from dedicated reserves and addded costs as shown in supporting data accompanying the notice of change in rate.

In addition, Vitco's filing indicates that the PGA clauses in Rate Schedules Nos. 1, 2 and 14 are calculated based on a total sales methodology rather than a total purchases methodology. Vitco states that this constitutes a change only if the Commission does not accept its December 17, 1981 filing to make this change in Docket No. RP81–60–001.

The proposed effective date is January 18, 1982. Vitco states that copies of the filing have been served on its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 8, 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. 82-282 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-67-000]

Wisconsin Public Service Corp.; Order Accepting for Filing and Suspending Proposed Rates, Granting Summary Disposition in Part, Granting Intervention, and Establishing Procedures

Issued December 31, 1981.

On November 2, 1981, Wisconsin Public Service Corporation (WPS) tendered for filing revised rates for service to eleven full requirements and three partial requirements customers.[1] These rates would increase jurisdictional revenues by approximately $13 million for the twelve-month period (Period II) ending March 31, 1983. WPS requests an effective date of January 1, 1982.[2]

Notice of the filing was issued on November 12, 1981, with responses due on or before November 30, 1981. A timely notice of intervention was filed by the Public Service Commission of Wisconsin. On November 27, 1981, Consolidated Water Power Company (Consolidated) filed a petition to intervene in which it requested that a hearing be convened.

On November 30, 1981, thirteen of WPS's affected wholesale customers[3] the Algoma Group filed a petition to intervene, and request for hearing, summary disposition of certain issues and maximum suspension, or in the alternative, a three month suspension. The Customers raise various cost of service and rate design issues and also object to certain terms and conditions of the proposed service. The Customers further state that, while they do not now know whether a price squeeze hearing will be necessary, they wish to reserve their right to amend their intervention with a price squeeze allegation within 60 days of the company's compliance filing with respect to the just and reasonable rates determined in this proceeding. In addition, the Customers request summary disposition as to three issues. They argue that WPS has (1) improperly included nuclear fuel expense in its cash working capital calculations, (2) improperly sought to recover permanent nuclear fuel disposal and storage costs as part of its cost of service, and (3) filed excessive partial requirements demand charges as a result of an understatement of associated revenues. In the absence of a five month suspension, the Customers seek a suspension until April 1, 1982, the beginning of WPS's test period, in order to enable the partial requirements customers to revise their advance demand nominations as necessary.

On December 16, 1981, WPS filed a response to these petitions, objecting to the request for a five month suspension and to the requests for summary disposition. However, WPS acknowledges that it erroneously normalized during the test year deferred taxes accrued prior to the test year.

A reply to WPS's response was filed by the Algoma Group on December 23, 1981. WPS filed two subsequent pleadings on December 22 and December 28, 1981, regarding the in-service status and capacity availability of its new Weston 3 coal fired unit.

Discussion

Initially, the Commission finds that participation in this proceeding by the petitioners is in the public interest. Therefore, the petitions to intervene will be granted. The timely filed notice of intervention by the Wisconsin Public Service Commission is sufficient to initiate its participation in this proceeding.

We decline to grant the request for summary disposition with respect to WPS's treatment of nuclear fuel disposal costs because the issue presents questions of fact which should be addressed at a hearing. *See Virginia Electric and Power Co.*, Opinion Nos. 118 and 118–A, Docket No. ER78–522 (April 10, 1981 and November 21, 1981); *Virginia Electric and Power Co.*, Docket No. ER81–388–000, orders issued May 28, 1981, and July 27, 1981. We shall also deny the Customer's request for summary disposition with respect to WPS's inclusion of nuclear fuel expense in its calculation of cash working capital. Insufficient information is available at this time to properly assess the Customers' claim and we therefore find that this is an issue appropriately to be explored at hearing. In any event, exclusion of nuclear fuel from the working cash calculations in WPS's filing would have a relatively small revenue impact.

The Algoma Group has alleged that WPS has included in its cost of service deferred income taxes accrued prior to the test year. WPS has acknowledged this error in its response. Accordingly, WPS is directed to refile its cost of service to reflect this correction.

The Algoma Group also argues that the Company's rate base should be reduced by $432,693, based on the assumption that WPS has normalized the debt portion of AFUDC in the past as evidenced by the cost of service filed

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[1] The full requirements customers consist of ten municipalities and one rural electric cooperative; the partial requirements customers consist of two municipalities and one public utility. *See* Attachment A for the applicable rate schedule designations.

[2] The company also has submitted a tariff for full requirements service which contains rates identical to those proposed for service to full requirements customers not served under individual rate schedules; the tariff also contains terms and conditions similar to those contained in the partial requirements tariff. To date, no customers have executed service agreements under the proposed tariff.

[3] The cities and villages of Algoma, Eagle River, Manitowoc, Marshfield, New Holstein, Stratfore, Sturgeon Bay, Two Rivers and Wisconsin Rapids, Wisconsin, the Washington Island Electric Cooperative, the City of Stephenson, Michigan and the Wisconsin Public Power Incorporated SYSTEM.

in its last rate increase filing. Since that case was settled on a dollar amount at a level equal to or below the prior rate and no provision was made in the settlement for deferred accounting, it is not apparent that WPS has normalized the debt portion of AFUDC in the past. Therefore, summary disposition of this issue shall be denied.

The Commission will grant the request to summarily require WPS to refile its partial requirements rate to prevent WPS from collecting revenues in excess of its supported revenue requirements for the partial requirements class. WPS in its response argues that it designed its rates based on the assumtion that its customers will change their demand nominations. The argument is not persuasive. Review of Statement BK of the company's filing shows that WPS has sought to support a revenue requirement for the partial requirements class of $23,490,058. However, applying the proposed partial requirements demand charges to the company's projected billing units results in test year revenues greater than $23,490,058. Therefore, we shall order WPS to refile its partial requirements rate and associated billing data so as to recover only the $23,490,058 revenue level supported by the filed case-in-chief.

The Algoma Group also challenges the lawfulness of section 15 of Article A of the W–1 Schedule. Section 15 states in part, [n]otwithstanding the above, service may be terminated by the company upon 60 day's written notice to the customer for the nonpayment of a bill." We find that under the Commission's regulations and section 205 of the Federal Power Act, appropriate notice of any such change in service (and an opportunity to evaluate any such action) must also be given to the Commission.

Our analysis indicates that WPS's revised rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

In a number of suspension orders,[4] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

Such circumstances have been presented here. While the matters raised by the intervenors warrant further inquiry at hearing, our preliminary review suggests that the proposed rates may not produce substantially excessive revenues. Under these circumstances, we believe that a nominal suspension and a refund obligation will adequately protect the affected customers pending a hearing. Accordingly, we shall suspend the rates for one day to become effective, subject to refund, on January 3, 1982.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by petitioners. As we have noted in prior orders, this procedure will allow a decision first to be reached on the rate of return, cost of service, and other issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) WPS's revised rates are hereby accepted for filing, as modified by summary disposition, and are suspended for one day from 60 days after filing to become effective, subject to refund, on January 3, 1981.

(B) Summary disposition is hereby ordered, as noted in the body of this order, with respect to the partial requirements rate which has been developed by the company. Within thirty (30) days of the issuance of this order, WPS shall file revised partial requirements rates and associated billing data that correspond to its stated revenue requirements for the partial requirements class. In addition, WPS shall revise its rates to eliminate the effect of the error in its deferred income tax calculations.

(C) All other motions for summary disposition are hereby denied.

(D) The 60 day termination provision of Section 15, Article A, of the W–1 Schedule shall not be implemented without appropriate notice to the Commission under Section 205 of the Federal Power Act.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure, and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of WPS's rates and terms and conditions of service.

(F) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That particiation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before January 15, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[4] *E.g., Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Company*, Docket Nos. ER80–506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–488 (August 22, 1980) (one day suspension).

ATTACHMENT A—RATE SCHEDULE DESIGNATIONS; WISCONSIN PUBLIC SERVICE CORPORATION, DOCKET NO. ER82-67-000

Designation	Supersedes	Other party
(1) Supplement No. 12 to Rate Schedule FPC No. 24	Supplement No. 11	City of Eagle River, Wisconsin.
(2) Supplement No. 12 to Rate Schedule FPC No. 25	Supplement No. 11	Village of Daggett, Michigan.
(3) Supplement No. 12 to Rate Schedule FPC No. 27	Supplement No. 11	Village of Stephenson, Michigan.
(4) Supplement No. 5 to Rate Schedule FPC No. 36	Supplement No. 4	Alger-Delta Electric Association.
(5) Supplement No. 3 to Rate Schedule FERC No. 38	Supplement No. 2	City of Wisconsin Rapids, Wisconsin.
(6) Supplement No. 2 to Rate Schedule FERC No. 39	Supplement No. 1	Village of Stratford, Wisconsin.
(7) Supplement No. 2 to Rate Schedule FERC No. 40	Supplement No. 1	Washington Island Electric Cooperative.
(8) Supplement No. 3 to Rate Schedule FERC No. 41	Supplement No. 2	Wisconsin Public Power Incorporated System.
(9) Revision 3 to FPC Electric Tariff, Original Volume No. 1	Revision 2	City of Marshfield, City of Manitowoc, and Consolidated Water Power Company.
(10) [1] FERC Electric Tariff, Original Volume No. 2 (Original Sheets Nos. 1-15)		No one taking service at this time.

[1] Full requirements tariff filed in this proceeding which incorporates the proposed W-1 rate.

[FR Doc. 82-283 Filed 1-5-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-2010-4]

Delegation of Authority to the State of Louisiana for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA Region 6 has delegated the authority for technical and administrative review of the Prevention of Significant Deterioration (PSD) program to the Louisiana Department of Natural Resources (LDNR), Air Quality Division. The LDNR will receive, conduct technical review, and process the PSD applications; however, EPA Region 6 will continue to have responsibility to issue or deny the PSD permits.

EFFECTIVE DATE: September 1, 1981.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Programs Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Programs Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On June 30, 1981, the Louisiana Department of Natural Resources submitted to the EPA Region 6 office a request for EPA to delegate to them the responsibility for technical and administrative review authority of sources regulated under the EPA PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's procedures for PSD review are adequate and effective. Therefore, pursuant to 40 CFR 52.21 (1980), the Regional Administrator delegated the authority for technical and administrative review portions of the Federal PSD program to the State of Louisiana.

Under Executive Order 12291, EPA must also judge whether a publication is "major" and therefore subject to the requirements of a regulatory impact analysis. The delegation of authority is not "major". This action only provides for the implementation of an administrative change in PSD permit processing, and does not change any existing regulatory requirments.

This delegation of authority was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effective immediately, all applications and other information pursuant to 40 CFR 52.21 by sources locating in the State of Louisiana should be submitted to the State agency at the following address: Louisiana Department of Natural Resources, Air Quality Division, P.O. Box 44066, Baton Rouge, Louisiana 70804.

(Secs. 101 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601))

Dated: December 7, 1981.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-288 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-38-M

[WH-FRL-2023-2]

Review of the Implementation of the Safe Drinking Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings on the implementation of the Safe Drinking Water Act.

SUMMARY: The authorization of the Safe Drinking Water Act (SDWA) expires on September 30, 1982. This provides the opportunity for the Congress, the Administration, the regulated community, and the public to review the provisions of the Act and its implementation and to propose changes. In keeping with the Administration's policy to reform and streamline Federal programs, we are seeking comment on implementation of the Act at this time. These comments will assist EPA to develop proposed amendments to the Act or to modify regulations or guidance. A set of issue papers on some of the problems facing the program is available for commenters. Two public meetings are being held to provide for a fuller discussion of the issues.

DATES: Public Meetings will be held in Washington, D.C. on February 4-5, 1982 at the U.S. Department of Agriculture, Thomas Jefferson Auditorium, South Agriculture Building, 14th & Independence Ave. S.W., Washington, D.C. 20250; and in San Francisco, California, on February 8-9, 1982 at the Hawaii Conference Room, 6th Floor, 215 Fremont Street, San Francisco, California 94105. Both meetings will begin at 8:30 a.m. local time. Written public comments should be received on or before February 16, 1982.

FOR FURTHER INFORMATION: To submit public comments or for further information write Ms. Marian

Mlay, Deputy Director, Office of Drinking Water (WH–550), Environmental Protection Agency, Washington, D.C. 20460. Requests for copies of the issue papers and expressions of interest in testifying at the hearing may be telephoned to (202) 426–8847.

SUPPLEMENTAL INFORMATION:

I. Issue Paper

To help in this review, the Office of Drinking Water has compiled a series of papers which describe those issues raised over the past several years which may require statutory change. These papers do not recommend a position, but rather attempt to define the issue and for several implementation problems, offer several possible responses. Additional changes may be proposed and discussed, but these papers are a starting point for discussion.

The papers are divided into three sections: 1) issues raised regarding the implementation of the Act, 2) changes contained in proposed amendments before the Congress, and 3) other issues. The first are issues which we believe would have most profound impact on EPA's implementation of the Act and which constitute major relief to the States in carrying out their responsibilities. The second section outlines the areas addressed in proposed amendments which are currently before the Congress. The final section addresses other substantive issues and technical changes in the legislative language.

Implementation Issues: The implementation issues can be summarized as follows:

Variances and Exemptions—How should EPA and the States deal with economic hardship situations, especially among small systems which find it overly burdensome to comply with national drinking water standards? Options include greater specificity in setting criteria for variances and exemptions and combining variances and exemptions into one process.

Public Notice—Specific public notice procedures are now required by the Act for *all* standards violations, including monitoring requirements. EPA may wish to consider limiting coverage only to serious and persistent violations, rather than to include minor and intermittent ones.

Regulatory Framework—Consideration may be given to separating drinking water standards into three categories: those standards which apply to all systems, those which can be applied flexibly by the States depending upon specified occurrence criteria, and those which are of a nonregulatory nature such as the current health advisories provided by EPA on unregulated contaminants. This latter activity has been helpful to States in dealing with spills and the detection of ground water contamination.

Proposed Amendments before the Congress: There are several issues addressed in HR 4509 and S 1866. Some issues are being debated as a part of the Clean Air Act amendments, while others deal directly with the Administrator's authority over drinking water supplies. These include requirements for administrative procedures not called for in the Administrative Procedures Act, changes in judicial review, changes in the standard under which the Administrator may establish a maximum contaminant level, the elimination of EPA's authority to set treatment standards, extension of the time period for States to adopt Federal regulations in order to retain primacy and Federal grant support, and changes in the membership, composition and operating rules of the National Drinking Water Advisory Council.

Other Issues: The other issues range from clarifying EPA's authority to issue advisory opinions on additives to drinking water to several technical issues such as omitting unused authorities.

II. Scope of the Review

This review does not discuss several areas pertinent to the SDWA:

Underground Injection Control Program (UIC)—Substantive changes to the UIC portion of the SDWA will be considered in the next reauthorization, most likely in 1985. This portion of the Act was substantially amended in 1980. In addition, the Agency promulgated UIC regulations in 1980 and settled litigation on these regulations on July 22, 1981. A mid-course assessment of the UIC program is required by regulation. It will be performed during the first two years of implementation. Findings and recommendations, including proposed statutory changes, will be made at that time.

Regulations—Issues which require regulatory rather than statutory changes, *e.g.*, changes in individual Maximum Contaminant Levels (MCLs) and in State reporting, are not discussed herein but will be addressed separately by EPA. Nevertheless, we encourage commenters to provide comments on needed regulatory changes as input to this upcoming review.

III. Background

The objective of the SDWA is to protect the public health by ensuring the safety of drinking water. It was passed on December 16, 1974 and amended in 1977 and 1980. The Act deals with drinking water problems through the creation of the Public Water System Supervision Program and the Underground Injection Control (UIC) Program.

The Public Water System Supervision Program is designed to manage the Agency's drinking water program. That program is based upon three key elements: (1) standards, (2) implementation regulations, and (3) primary enforcement responsibility. Standards now exist for pollutants of drinking water, such as microbiological contaminants, which pose threats to the public health. The standards have been incorporated into the National Interim Primary Drinking Water Regulations.

In 1980 the Act was amended to modify the exemption requirements in Section 1416. Under Section 1416 the time for compliance was extended three years, until 1984 for individual systems and five years, until 1986, for regionalizing systems. These changes will give systems more time to raise additional revenue, if necessary, or to make operating modifications to comply with the regulations.

States which have adopted and are implementing standards no less stringent than the national standards can obtain primary enforcement responsibility (primacy) in their jurisdiction. By statute EPA implements the programs in those States which do not have primacy. Forty-nine States and Territories currently have primacy for the Public Water Systems Supervision Program.

A major part of EPA's efforts to protect underground sources of drinking water is the UIC program. EPA promulgated the UIC regulations in 1980, and several States are now applying for primacy. In October 1981, EPA proposed amendments to the regulations which would reduce their cost and the reporting burden. The cornerstone of the UIC program is a requirement for ensuring that injection wells and other nearby wells are mechanically secure so that they do not allow injection fluids to migrate beyond the limits of their injection zone.

In the 1980 amendments, Congress added Section 1425, which provides an optional demonstration of the adequacy of State programs to regulate underground injection for oil and natural gas production. Under Section 1425,

States are still required to show that their programs protect underground sources of drinking water. However, this change will make it easier and less burdensome for States to assume primacy for this portion of the program.

IV. Conclusion

The Agency welcomes participation in these public meetings and encourages the public to provide written comments.

Dated: December 29, 1981.

Henry L. Longes,

Acting Assistant Administrator for Water (WH-556).

[FR Doc. 82-252 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-29-M

[PH-FRL-2022-4; OPP-30209]

Certain Companies; Applications To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by February 5, 1982.

ADDRESS: Written comments, identified by the document control number [OPP-30209] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register a pesticide product containing an active ingredient not included in any previously registered pesticide product to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol	352-UNR.
Applicant	E. I. du Pont de Nemours and Co., Wilmington, DE 19898.
Product name	Du Pont Oust Weed Killer.
Active ingredient	(Methyl 2-(((((4,6-dimethyl-2-pyrimidinyl)amino)carbonyl)amino) sulfonyl)benzoate 75%.
Proposed classification.	General use to control weeds on non-cropland areas.
Product manager (PM) 25.	Robert Taylor, (703-557-1800).
2. File Symbol	1471-RER.
Applicant	Elanco Products Co., Division of Eli Lilly Co., 740 South Alabama St., Indianapolis, IN 46285.
Product name	Bromethalin Bait.
Active ingredient	*N*-Methyl-2,4-dinitro-*N*-(2,4,6-tribromophenyl)-6-(trifluoromethyl) benzeneamine 0.005%.
Proposed classification.	General use as a rat and mouse killer in around buildings or other structures.
Product Manager (PM) 16.	William Miller, (703-557-2600).
3. File Symbol	46153-R.
Applicant	Precision Compounding Co., Inc., 1011 W. Lancaster Rd., Orlando, FL 22809.
Product name	Anthrapel.
Active ingredient	Anthraquinone 99.5%.
Proposed classification.	General use as a bird repellent on nursery and direct seeded pine seeds.
Product Manager (PM) 16.	William Miller, (703-557-2600).
4. File Symbol	352-UNU.
Applicant	E. I. du Pont de Nemours and Co., Wilmington, DE 19898.
Product name	Du Pont Glean Weed Killer.
Active ingredient	2-Chloro-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarbonyl]-benzenesulfonamide 75%.
Proposed classification.	General use to control weeds in wheat, barley, oats, and reduced-tillage fallow.
Product Manager (PM) 25.	Robert Taylor, (703-557-1800).
5. File Symbol	46620-R.
Applicant	William G. Roessler, Rock Creek Drive, Frederick, MD 21701.
Product name	Requat Antimicrobial 1977 Liquid.
Active ingredient	Di-*n*-decylmethyl(3-trimethoxyl-propyl) ammonium chloride 45%.
Proposed classification.	General use as a bacteriostatic, fungistatic and deodorizing agent for textiles.
Product Manager (PM) 31.	John Lee, (703-557-7163).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: December 22, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-254 Filed 1-5-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30208A; PH-FRL-2019-2]

Approval of Application to Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Thomson Research Associates Limited to register the pesticide product Ultra Fresh DM-50 containing 25 percent of the active ingredient tributyltin maleate, an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: John Lee, Product Manager (PM) 31, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2 Rm. 301, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7163).

SUPPLEMENTARY INFORMATION: EPA received an application from Thomson Research Associates Limited, 53 Shaw St., Toronto, ON M6J 2W3, to register the pesticide product Ultra Fresh DM-50 containing 25 percent of the active ingredient tributyltin maleate, an active ingredient not included in any previously registered pesticide product. The product, EPA Registration Number 10466-28, was registered on August 24, 1981. Because the notice of application to register the product as required by section 3(c)(4) of FIFRA, as amended, was not published in the **Federal Register**, interested parties may submit comments within 30 days from the date of publication of this notice.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to suport registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7

U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration data. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: December 11, 1981.

Robert V. Brown,

Acting Director, Office Pesticide Programs.

[FR Doc. 82–124 Filed 1–5–82; 8:45 am]

BILLING CODE 6560–32–M

FEDERAL RESERVE SYSTEM

Argyle Financial Services, Inc.; Formation of Bank Holding Company

Argyle Financial Services, Inc., Argyle, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.4 percent or more of the voting shares of Argyle State Bank, Argyle, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 27, 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, December 29, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 82–234 Filed 1–5–82; 8:45 am]

BILLING CODE 6210–0–M

Norris Bancorp, Inc.; Formation of Bank Holding Company

Norris Bancorp, Inc., Saint Charles, 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 per cent or more of the voting shares of State Bank of St. Charles, Saint Charles, 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 January 19, 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, December 30, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 82–230 Filed 1–5–82; 8:45 am]

BILLING CODE 6210–01–M

Spiro Bancshares, Inc.; Formation of Bank Holding Company

Spiro Bancshares, Inc., Spiro, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Spiro State Bank, Spiro, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 19, 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, December 30, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 82–231 Filed 1–5–82; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Notice of 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 section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 26, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

CITICORP, New York, New York (consumer finance and credit related insurance activities; Missouri and Illinois): to expand the activities and service area of an existing office of its indirect subsidiary, Citicorp Person-to-Person Financial Center Inc., located in Manchester, Missouri, and to establish a *de novo* office of its indirect subsidiary, Citicorp Homeowners, Inc. (Delaware) at the same Manchester, Missouri location. The activities to be conducted from this office location include: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other

purposes; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property which will serve as collateral to secure an extension of credit, to the extent permissible under applicable state insurance laws and regulations; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The service area of Citicorp Homeowners, Inc. and Citicorp Person-to-Person Financial Center, Inc., at this location will include the entire states of Missouri and Illinois for all of the aforementioned activities. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

B. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage company activities; Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia): to engage, through its subsidiary Pittsburgh National Commercial Corporation, in making or acquiring, for its own accounts or for the accounts of others, loans and other extensions of credit such as would be made by a mortgage company. Such activities will be conducted at an office at 2200 Century Parkway, N.E., Suite 30, Atlanta, Georgia 30345, serving the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

C. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

NORTHWEST BANCORPORATION, Minneapolis, Minnesota (data processing activities; United States): proposes to engage through its subsidiary, Northwest Computer Services, Inc., in providing data processing services to Applicant, Applicant's affiliates and correspondents and customers of those affiliates, non-affiliated banks, thrift institutions, credit unions and others on a direct contract basis. These activities will be conducted from offices located in Minneapolis, Duluth, Rochester and St. Paul, Minnesota; Bismark and Fargo, North Dakota; Billings and Great Falls, Montana; Cedar Rapids, Des Moines and Mason City, Iowa; Omaha, Nebraska; and Rapid City and Sioux Falls, South Dakota, serving the continental United States.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing and servicing activities; all fifty (50) states and the District of Columbia): to engage, through its indirect subsidiary, BA Commercial Corporation, in the activities of making loans and other extensions of credit and acquiring loans, participations in loans and other extensions of credit such as would be made or acquired by a finance company. Such activities will include, but not be limited to, inventory and accounts receivable financing; equipment financing; insurance premium financing; making loans to non-affiliated finance and leasing companies secured by pledges of accounts receivable of such companies; making loans secured by real or personal property; and purchasing retail installment sales contracts. In addition, BA Commercial Corporation proposes to engage in the activities of servicing loans, participations of loans and other extensions of credit for itself and others in connection with extensions of credit made or acquired by BA Commercial Corporation. These activities will be conducted from an office located in Boston, Massachusetts, serving all fifty (50) states and the District of Columbia.

2. *Rainier Bancorporation*, Seattle, Washington (lending activities; California): proposes to engage, through its subsidiary, Rainier Mortgage Company, in making or acquiring, for its own account or for the account of others, loans or other extensions of credit. These activities will be conducted from an office in Santa Ana, California, and will serve the State of California.

3. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; New Jersey): to engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located in Toms River, New Jersey, serving the State of New Jersey.

E. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, December 29, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 82-214 Filed 1-5-82; 8:45 am]

BILLING CODE 6210-01-M

Privacy Act of 1974; Annual Publication of Systems of Records

This document fulfills the requirements of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) for Federal agencies to publish annual notice of systems of records they maintain. A complete compilation of all systems of records maintained by the Board of Governors of the Federal Reserve System was published on December 14, 1981 (46 FR 60984).

The purpose of this document is to give notice that the systems of records set forth in the compilation published December 14, 1981 (46 FR 60984) continue in effect unchanged.

Board of Governors of the Federal Reserve System, December 29, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-325 Filed 1-5-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

General Services Administration Advisory Board; Meeting

This notice amends the notice of meeting appearing in the **Federal Register** on December 24, 1981, on page 62542. Notice is hereby given that the GSA Advisory Board will meet on January 7, 1982, from 10 a.m. to 12 p.m.

in Room 6120, 18th & F Streets, NW, Washington, DC 20405. This session will be closed to the public to avoid disclosing information of a personal nature where disclosure would constitute clearly unwarranted invasion of personal privacy.

A second session will be held on January 7, 1982, from 1:15 p.m. to 3:30 p.m. in Room 6120, 18th & F Streets, NW, Washington, DC 20405. This meeting will provide a general overview of the General Services Administration. This session will be open to the public.

The shortened notice period for notice of the above meeting is caused by changes in schedules.

For further information, contact Roger C. Dierman, Deputy Associate Administrator (202) 523–1141.

Charles S. Davis, III,

Associate Administrator.

[FR Doc. 82–453 Filed 1–5–82; 1:07 pm]

BILLING CODE 6820–26–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–3674, C–3674–WR]

Colorado; Proposed Continuation of Withdrawal Corrections

In FR Doc. 81–33450, appearing on pages 57137 and 57138 in the issue of Friday, November 20, 1981, please make the following corrections:

On page 57138, (1) on lines 47 and 48, "within 90 days of the publication of this notice," instead of "on or before December 21, 1981." (2) on lines 62 and 63, "within 90 days of the publication of this notice," instead of "on or before December 21, 1981."

Dated: December 28, 1981.

Richard D. Tate,

Acting Chief, Branch of Adjudication.

[FR Doc. 82–223 Filed 1–5–82; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Oklahoma; Availability of Draft Environmental Assessment and Request for Comments on Fair Market Value

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of availability of draft environmental assessment and request for comments on fair market value.

SUMMARY: This notice will serve two purposes: (1) To advise the public that the Albuquerque, New Mexico, District Office of the Bureau of Land Management (BLM) has released a Draft Environmental Assessment (DEA) and opened the 30-day public review and comment period; and (2) To solicit written public comment concerning the fair market value of the coal resources presented in the amendment.

FOR FURTHER INFORMATION CONTACT: Bob Brown, (405) 231–4481, Oklahoma Resource Area Office, Bureau of Land Management, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102.

1. *Availability of Draft Environmental Assessment.* Prepared in response to a competitive lease application by Farrell-Cooper Mining Company, the DEA covers a 1,290 acre area in Latimer County, Oklahoma, 2 miles north of the Town of Red Oak, and is described as:

T. 6 N., R. 21 E., Indian Meridian, Oklahoma

Sec. 13: S/2 SE/4
S/2 SW/4
S/2 N/2 SE/4
S/2 N/2 SW/4
Sec. 14: S/2 SE/4
S/2 SW/4 SW/4
SE/4 SW/4
SE/4 NE/4 SE/4
Sec. 15: S/2 SE/4 SE/4
Sec. 16: S/2 S/2 SE/4
S/2 SW/4 SW/4
NW/4 SW/4 SW/4
Sec. 17: SE/4
Sec. 21: N/2 N/2
Sec. 22: N/2 N/2
Sec. 23: N/2 N/2

T. 6 N., R. 22 E., Indian Meridian, Oklahoma

Sec. 18: SE/4
E/2 SW/4
Lot 4
S/2 Lot 3
S½ S½ SE
SE SE SW

Application of unsuitability criteria (43 CFR, Part 3461), interrelationships with existing land use decisions, coordination with other state and federal agencies, and analysis of those values that could be impacted by coal development have been addressed in the DEA. Comments on the DEA should be addressed to the Oklahoma Resource Area Office (address above) to arrive no later than 30 days from the date of this notice.

2. *Request for Public Comment on Fair Market Value of the Coal Resource.* The public is invited to submit written comments concerning the fair market value of the coal resource in the lease application area to the BLM and to the U.S. Geological Survey. Public comments will be used in establishing fair market value for the coal resources in the area described above. Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource; the price that the mined coal would bring in the market place; the cost of producing the coal; the probable timing and rate of production; the interest rate at which anticipated income streams would be discounted; depreciation and other accounting factors; the expected rate of industry return; the value of the surface estate (if private surface); and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time. These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. If any information submitted is considered proprietary by the person submitting it, the information should be labeled as such and stated in the first page of the submission. Comments on fair market value should be sent to both the State Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico, 87501, and to the Conservation Manager, South Central Region, Conservation Division, U.S. Geological Survey, P.O. Box 26124, Albuquerque, New Mexico, 87125, to arrive no later than 30 days after the date of this notice.

The coal resource to be evaluated consists of all the coal minable by surface methods in the 1,290 acre lease application area. The estimated total strippable reserves are 5,146,000 tons. The quality of the Upper McAlester coal bed is as follows: 12,580 Btu per pound, 5.2 percent sulfur, and 14.9 percent ash (as received). The Upper McAlester coal bed averages 1.8 feet in thickness over 624 strippable acres of the above-described lands. The quality of the Lower McAlester coal bed is as follows: 13,230 Btu per pound, 3.1 percent sulfur, and 10.3 percent ash (as received). The Lower McAlester coal bed averages 2.4 feet in thickness over 876 acres of the above-described lands.

Matthew T. Millenbach,

Acting Albuquerque District Manager.

[FR Doc. 82–221 Filed 1–5–82; 8:45 am]

BILLING CODE 4310–84–M

[Nev–065768]

Washoe County; Notice of Realty Action—Non-Competitive Sale

January 4, 1982.

The following described lands have been identified as suitable for sale under the Mining Claim Occupancy Act of Oct. 23, 1962, as amended (76 Stat. 1127; 30 U.S.C. 701–709):

Mt. Diablo Mer., NV

T. 20 N., R. 20 E.,
Sec. 28, S½NE¼SE¼NE¼SW¼,
N½SE¼SE¼NE¼SW¼.

Containing 2.5 acres.

These public lands will be offered for sale to Feliciano Y. and Margarita R. Jimenez for the appraised fair market value less those equities determined due them as outlined in the above stated Act. Mr. & Mrs. Jimenez are the present occupants of the lands and have been determined to be qualified applicants under the above Act.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1980, 26 Stat. 391; 43 U.S.C. 945.

2. A right-of-way (Nev—044106), 20 feet wide, for telephone and telegraph purposes.

A right-of-way (Nev—058664), 40 feet wide, for electric power transmission purposes.

An easement for legal vehicular access, no greater than 60 feet in width, will be reserved from the subject lands across those public lands described as the S½SE¼SE¼NE¼SW¼, Sec. 28 T. 20 N., R. 20 E., Mt. Diablo Mer., NV.

Detailed information concerning the case is available for review at the Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Carson City District Office, Bureau of Land Management, 1050 E. William Street, Suite 335, Carson City, Nevada 89701. Any adverse comments will be evaluated by the District Manager, and forwarded through the Nevada State Director to the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become a final determination of the Department of the Interior.

Roy Jackson,

Acting District Manager.

[FR Doc. 82-226 Filed 1-5-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Return of Idaho National Energy Laboratory Lands to the Department of Energy; Notice, Transfer of Jurisdiction

Under provisions of the Department of Energy Act of February 25, 1978 (Pub. L. 95-238), approximately 5,635 acres (erroneously listed in the Act as 5,955 acres) of land located in the eastern portion of the Idaho National Energy Laboratory, Idaho (INEL), were transferred from the Department of Energy to the Bureau of Reclamation. This land was to be sold to eligible farmers whose land was irreparably damaged by the flood resulting from the failure of Teton Dam. Regulations were developed to select eligible farmers and to prescribe methods of selling the replacement farm land. Eight eligible farmers were selected, and 2,555 acres were sold. Section 210(e) of Pub. L. 95-238 requires the return of any unneeded land to the Department of Energy. This notice transfers jurisdiction over the following described land (3,080 acres) from the Bureau of Reclamation, Department of the Interior to the Department of Energy.

Boise Meridian

T.6 N., R. 33 E.,
Secs. 14, 23, 25, 36.
T.5 N., R. 34 E.,
Sec. 8, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
Sec. 9, S½N½.

FOR FURTHER INFORMATION CONTACT: Mr. L. David Williamson, Senior Staff Assistant, Land and Resources Management, O&M Policy Staff, Bureau of Reclamation, 18th and C Streets, NW., Washington, D.C. 20240, (202) 343-5204.

SUPPLEMENTARY INFORMATION: The primary author of this document is Mr. Terence G. Cooper, Staff Assistant, Land Resources Management, Bureau of Reclamation, 18th and C Streets, NW., Washington, D.C. 20240. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: December 14, 1981.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 82-220 Filed 1-5-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 29]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 60868, filed August 31, 1981. Applicant: COUNTRY ROAD FREIGHTLINES, INC., 16511 Knott Avenue, La Mirada, CA 90638. Representative: Robert K. Sall, 25231 Paseo de Alicia, Suite 218, Laguna Hills, CA 92653. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, with the usual exceptions, on all routes between all points within the State of California. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the Public Utilities Commission, State of California, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 61123, filed December 11, 1981. Applicant: ODESSY TRUCKING, INC., 13827 S. Carmenita Rd., Bldg. E, Santa Fe Springs, CA 90670. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Between all points and

places in and south of the Counties of San Luis Obispo, Kern, and San Bernardino. Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institutions furniture and fixtures.
2. Automobiles, trucks, and buses, new and used.
3. Ordinary livestock.
4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.
5. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
12. Fresh fruits, nuts, vegetables, logs, and unprocessed agricutlural commodities.
13. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulated the use of highways, roads, or streets.
14. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum type tank truck or trailer.

In performing the service authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of this service.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-235 Filed 1-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commision's Rules of Practice (49 CFR 1100.240). See ex parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that oppposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of non-complying applicant shall stand denied.

Dated: December 30, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-14716, filed December 3, 1981 ARROW COACH LINES, d.b.a. ARROW TRAILWAYS OF TEXAS (ARROW) (P.O. Box 1058, Killean, TX 76541)—PURCHASE (PORTION)—TRAILWAYS BUS SYSTEM, INC. (TBS) (1500 Jackson Street, Dallas, TX 75201) Representative: Thomas F. Sedberry, P.O. Box 2023, Austin, TX 78768. Arrow seeks authority to purchase a portion of the interstate operating rights of TBS. Southwestern Transit Company, Inc., which controls Arrow, and, in turn, H. Gene Autry and Birdie Autry, who control Southwestern Transit, seek to acquire control of said rights through the transaction. Arrow is purchasing the interstate operating rights of TBS which are a part of Certificate No. MC-107586 and authorize the transportation of *passengers and their baggage,* and newspapers, express, and mail, in the same vehicle with passengers, (A) between San Angelo, TX, and Stephenville, TX, serving the intermediate points of Miles, Rowena, Ballinger, Talpa, Valera, Coleman, Santa Anna, Banga, Brownwood, Blanket, Comanche, Hasse, Proctor and Dublin: From San Angelo over U.S. Hwy 67 to junction Hwy 206 (formerly portion of U.S. Hwy 67), thence over TX Hwy 206 to Coleman, TX, thence over U.S. Hwy 84, (formerly portion of U.S. Hwy 67) to junction U.S. Hwy 67, thence over U.S. Hwy 67 to Stephenville and return over the same route and (B) Between Port Lavaca, TX, and San Antonio, TX, serving all intermediate points: over U.S. Hwy 87. Arrow holds authority to operate as a motor common carrier pursuant to certificate issued in MC-85526.

Note.—Application for TA has been filed.

Condition: Although H. Gene Autry has signed the application on behalf of Arrow, the applicant, and on his own behalf, as the party in ultimate control of Arrow, the approval is conditioned upon the joinder of Southwestern Transit Company, Inc., which controls applicant directly and joinder by Birdie Autry, who shares ultimate control of applicant with H. Gene Autry.

MC–F–14750, filed December 7, 1981. INTERSTATE MOTOR FREIGHT SYSTEM (Interstate) (110 Ionia Avenue, N.W., P.O. Box 2389, Grand Rapids, MI)—CONTINUANCE IN CONTROL—CENTRAL MICHIGAN TRUCKING, INC. (Central) (3801 36th Street, S.E., Grand Rapids, MI 49506), SOUTHWEST CONTINENTAL FREIGHT LINES, INC. (Southwest) (P.O. Box 175, Grand Rapids, MI 49501), SOUTHWEST FREIGHT LINES, INC. (Freight) (P.O. Box 2389, Grand Rapids, MI 49503), CROSS COUNTRY CARRIERS, INC. (Cross) (P.O. Box 2389, Grand Rapids, MI 49503), and COAST-TO-COAST TRANSPORTATION, INC. (Coast) (P.O. Box 412, Murraysville, PA 15668). Representative: Leonard R. Kofkin, 29 South La Salle Street, Chicago, IL 60603. Interstate seeks authority to continue in control of Central, Southwest, Freight, Cross, and Coast upon the institution by Central, Southwest, Freight, Cross, and Coast of operations in interstate or foreign commerce as motor carriers. Central was granted authority under MC–148517 (Sub-No. 2) to transport (1) *furniture, furnishing* (except appliances), *fixtures and appliances*, and (2) *material, equipment and supplies* used in the manufacture of the commodities in (1) above, between those points in the United States in and east of MN, IA, and MO, and in and north of KY and VA. Southwest has an application pending in MC–156311 to transport *general commodities* (except classes A and B explosives) between points in the United States. Freight has an application pending in MC–159106 to transport *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the United States in and east of MT, WY, CO and NM. Cross has an application pending in MC–158118 to transport *general commodities* (except classes A and B explosives), between points in CA and those points in the United States in and east of MT, WY, CO, and NM. Coast has an application pending in MC–157564 to transport *general commodities* (except classes A and B explosives), between points in the United States. Interstate now controls IMFS, Inc., a motor common carrier authorized in MC–35628 and sub-numbers thereunder, Direct Winters Transport, a motor common carrier authorized in MC–37918, Winters Transport (Western) Limited, a motor common carrier authorized in MC–117212, and Millar & Brown, Ltd., a motor common carrier authorized in MC–133008.

Note.—Interstate seeks authority to continue in control of Interstate System Steel Division, Inc. (Interstate System). To date, Interstate System has failed to file an application. The acquisition for control in this instance was prematurely filed, therefore we are dismissing this portion of the application.

Condition: So far as can be ascertained from the evidence of record in this proceeding, Interstate is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Interstate will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will, therefore be subject to the applicable provisions of 49 U.S.C. subtitle IV, subchapter III of chapter 111 relating to reporting and accounting and to 49 U.S.C. 11302 to the issuance of securities.

MC–F–14751, filed 12–7–81. GENE BAUGH (Baugh)—Control—SOUTHERN FREIGHTWAYS, INC. (Southern) and SERVICE TRUCKING, INC. (Service). (All of P.O. Box 158, Eustis, FL 32726). Representative: K. Edward Wolcott, 235 Peachtree St., N.E., 1200 Gas Light Tower, Atlanta, GA 30303. Baugh seeks authority to control Southern and Service through ownership of a controlling interest in the issued and outstanding stock of Southern and Service. The interstate operating rights to be controlled by Baugh are contained in: Southern's Certificate No. MCD–144140 and Subs thereto which generally authorize: (1) The transportation of food and related products between points in the US; (2) general commodities between points in the US in and east of MN, IA, MO, KS, OK and TX restricted to traffic originating at or destined to the facilities of Hamilton Beach, Inc.; and (3) numerous specified commodities from, to or between specified points and named states or from, to or between specified points and points in the US; and Service's Permit in MC–151622 authorizing: (1) The transportation of food or kindred products and machinery and supplies used in the production and distribution of such commodities between points in the US under continuing contract(s) with Winter Garden Citrus Products Cooperative; and (2) certificate in Sub 1 authorizing food and related products between Pinellas County, FL on the one hand, and, on the other, points in CA, WA, WI, MN, MI, MO, TX and LA.

No. MC–F–14754 filed December 11, 1981 LEASEWAY TRANSPORTATION CORP., (Leaseway 3700 Park East Dr., Cleveland, OH 44122, seeks authority to acquire control of FLEET TRANSPORT COMPANY, INC., (Fleet) through purchase of stock. Applicant's Attorney: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Operating rights sought to be controlled: Fleet holds Certificate No. MC–103051 and Subs which authorize commodities, in bulk, irregular routes, nationwide Certificate No. MC–114106 and Subs purchased from Maybelle Transport Co. in MC–F–11001; this and a portion of the authority of George A. Rheman Co. purchased in MC–F–14544 authorize commodities, in bulk, to and from points in the Southeastern part of the U.S. Leaseway Transportation Corp. is a publicly held corporation that controls, with Commission approval, the following motor carriers: Anchor Motor Freight, Inc. (MC 808); Gypsum Haulage, Inc. (MC 112113); Signal Delivery Service, Inc. (MC 108393); Sugar Transport, Inc. (MC 115924); Dedicated Freight Systems, Inc. (MC 139583); Custom Deliveries, Inc. (MC 142693); LDF, Inc. (MC 14710); Stam-Win, Inc. (MC 147294 and MC 150185); Pep Lines Trucking Co. (MC 120184 and MC 135280); Mitchell Transport, Inc. (MC 124212 and MC 152085); General Trucking Service, Inc. (MC 143308); Charlton Transport (Quebec) Limited (MC 141250); Vernon Equipment, Inc. (MC 150412); Amac Trucking, Inc. (MC 140619); Beter Home Deliveries, Inc. (MC 150511); Geo. McNeil Teaming Company (MC 153315); Leaseway Trucking, Inc. (MC 153610); United Home Delivery, Inc. (MC 153685); Max Binswanger Trucking (MC 116314); and Refiners Transport & Terminal Corporation (MC 50069). Max Binswanger Trucking controls Balser Truck Co. (MC 96630), and Bulk Freightways (MC 125417). Refiners Transport & Terminal Corporation controls A. R. Gundry, Inc. (MC 25562). Application has not been filed for temporary control under 49 U.S.C. 11349. Condition: Leaseway proposes to issue promissory notes totalling $1,000,000 in part payment for Fleet's stock. Approval of this application is conditioned upon Leaseway either (1) filing a securities application under 49 U.S.C. § 11302 seeking approval for issuance of the rates; or (2) submitting a statement

establishing the issuance to be exempt from section 11302.

[FR Doc. 82-236 Filed 1-5-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79499. By decision of 12/17/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to JAMES W. HALL d.b.a. HALL'S WRECKER SERVICE of Certificate No. MC–147523 (Sub-No. 2F) issued to CAPITAL CITY WRECKER SERVICE, INC. authorizing: operations as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over regular routes, transporting (1) wrecked, disabled and repossessed motor vehicles and cargo trailers, and (2) replacement motor vehicle and cargo trailers, by use of wrecker equipment only, between points in MS, on the one hand, and, on the other, points in AL, AR, LA, TN, and TX. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. TA lease is not sought. Transferee is not a carrier.

MC–FC–79502. By decision of 12/18/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to LARRY GEORGE d.b.a. INVECON COMPANY of Permit No. MC–154227 issued to LARRY GEORGE and IRMA THOMPSON d.b.a. INVECOM COMPANY authorizing: operations as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with United States Welding, Inc., Descret Press; and Sorenson Research Company, all of Salt Lake City, UT. Applicant's representative: Miss Irene Warr, 311 South State Street, Suite 280, Salt Lake City, UT 84111. TA lease is not sought. Transferee is not a carrier.

MC-FC-79504. By decision of 12/18/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Murray A. Pierce and Charles R. Wranosky d.b.a. Eastern Plains Express of Certificate No. MC-150910 (Sub 1X) issued to Ronald R. Payne d.b.a. Eastern Plains Express authorizing: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except classes A and B explosives), between Denver, CO, and Wray, CO, serving all intermediate points, from Denver over U.S. Hwy 6 to Brush, CO, then over U.S. Hwy 34 to Wray, and return over the same route. Applicant's representative: Lee E. Lucero, 445 Capital Life Center, East 16th Avenue, at Grant Street, Denver, CO.

MC-FC-79513. By decision of 12/15/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to LINUS JANKORD d.b.a. JANKORD TRUCKING of Certificate No. MC-128075 (Sub-No. 22) issued to JOHNSRUD TRANSPORT, INC. authorizing the transportation of *cheese*, in mixed loads with milk and whey, and *milk and whey*, in mixed loads with cheese, from the facilities of Associates Milk Products, Inc., at points in IA, MN, SD, and WI, to points in AZ, CA, ID, NV, OR and WA. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102.

Note.—Transferee is a carrier.

MC-FC-79520. By decision of 12/15/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to ADVENTURES 76 OF NEW JERSEY, INC of Certificate No. MC-151955 issued to 76 ADVENTURES OF NEW JERSEY, INC. authorizing the transportation of *passengers and their baggage* in special and charter operations, beginning and ending at points in Fairfield and New Haven Counties, CT, Hartford, CT, New York, NY, and points in Rockland, Westchester, Nassau and Suffolk Counties, NY, and extending to points in Atlantic City, NJ. Applicant's representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123; Robert Gaffney, 714 Main Street, Port Jefferson, NY.

Note.—Transferee is a non-carrier.

MC-FC-79525. By decision of 12/17/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to School Bus Service, Inc., of Louisville, KY, of Certificate No. MC-152769F issued on May 15, 1981, to Joseph M. Tichnor, d.b.a. Cardinal Tours, of Louisville, KY, authorizing the transportation of *passengers and their baggage*, in special or charter operations, between Louisville, KY, on the one hand, and, on the other, points in IN, OH, and TN. Applicant's representative: Marvin L. Coan, ESQ., 601 Legal Arts Building, 200 South Seventh Street, Louisville, KY 40202. (502) 585–3084.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-237 Filed 1-5-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by

Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (excep 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 of 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. OPI–329

Decided: December 29, 1981.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 59120 (Sub-46), filed December 14, 1981. Applicant: EAZOR EXPRESS, INC., Eazor Square, Pittsburgh, PA 15201. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *general commodities* (except Classesk A and B explosives), between points in the U.S., under continuing contract(s) with Mars Forge Company of Mars, PA.

MC 110581 (Sub-9), filed December 14, 1981. 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, (402) 397–9900. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of glass products, between points in MN, IA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by manufacturers and distributors of glass products, lumber and wood products, machinery, and metal products, between points in IA, on the one hand, and, on the other, points in the U.S.

MC 119741 (Sub-310), filed December 15, 1981. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant), (515) 576–6831. Transporting *modulane and bowling alley parts and equipment*, between points in Polk County, FL, on the one hand, and, on the other, points in the U.S.

MC 119741 (Sub-311), filed December 17, 1981. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant), (515) 576–6831. Transporting *pulp, paper, and related products*, between points in Coles County, IL, on the one hand, and, on the other, points in the U.S.

MC 127030 (Sub-9), filed December 15, 1981. Applicant: MATTHEW J. DEPALMA, INC., 1700 Orthodox St., Philadelphia, PA 19124. Representative: Leonard W. Becker (same address as applicant), (215) 535–3737. Transporting (1) *ores and minerals*, between points in DE, MD, NC, NJ, NY, OH, and PA, and (2) *clay, concrete, glass or stone products, insulating materials, coal and coal products, metal products, ores and minerals*, between points in AL, CT, FL, GA, IL, IN, KY, LA, MA, MS, MO, RI, SC, TN, VA, and WV.

MC 133471 (Sub-5), filed December 15, 1981. Applicant: HOWARD TRUCKING CO., INC., P.O. Drawer 1479, New Iberia, LA 70560. Representative: Thomas F. Sedberry, P.O. Box 2023, Austin, TX 78768, (512) 452–8355. Transporting *Mercer commodities*, between points in AL, FL, GA, LA, MS, AR, MO, WI, IA, MN, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, AR, NV, CA, OR and WA.

MC 141870 (Sub-5), filed December 15, 1981. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401, (205) 578–2836. Transporting *such commodities* as are dealt in or used by manufacturers of automotive care products, between points in the U.S., under a continuing contract(s) with Turtle Wax, Inc., of Chicago, IL.

MC 143570 (Sub-23), filed December 11, 1981. Applicant: D & G TRUCKING, INC., 4420 E. Overland Rd., Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701 (208) 336–5955. Transporting *construction materials*, between points in AZ, CA, CO, ID, NV, MT, OR, UT, WA and WY.

MC 146051 (Sub-6), filed December 11, 1981. Applicant: WITTENBURG TRUCK LINE, INC., Box 99, Readlyn, IA 50668. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309 (515) 245–4300. Transporting (1) *lumber and lumber products* between points in IA, IL, WI and MN on the one hand, and, on the other, points in AL, AR, CA, CO, GA, ID, LA, MS, MO, MT, NC, ND, NM, OR, SC, SD, TX, WA and WY and (2) *machinery* between points in Fayette County, IA on the one hand, and, on the other, points in the U.S.

MC 152520 (Sub-1), filed December 16, 1981. Applicant: AUSTIN MOVING & STORAGE CO., INC., 615 Poinsett Hwy., Greenville, SC 29609. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036 (202) 785–0024. Transporting *injectors and pumps for diesel*

automobiles, between points in the U.S., under continuing contract(s) with Lucas Industries, Inc., of Troy, MI.

MC 152950 (Sub-3), filed December 14, 1981. Applicant: CENTURY TRANSPORTATION CORPORATION, P.O. Box 207, Columbus, MS 39701. Representative: Lloyd R. Pate (Same address as applicant) (601) 328–1771. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Columbus Paper & Chemical Inc., Columbus Bottlers, Inc., and Eidson Oil & Chemical Company all of Columbus, MS, Central Mississippi Bottlers, Inc., of Winona, MS, H & W Industries and Prentiss Manufacturing Company, both of Booneville, MS, and Johnston, Morehouse & Dickey of Bethal Park, PA.

MC 153110 (Sub-2), filed December 15, 1981. Applicant: LADNER & DAVIDSON LINES, INC., 1680 West Slauson Ave., Los Angeles, CA 90047. Representative: Howard Ladner, (same address as applicant) (213) 753–1744. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, between points in CA, on the one hand, and, on the other, points in the U.S.

MC 154861 (Sub-5), filed December 14, 1981. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW, Washington, DC 20005 (202) 347–9332. Transporting *home heating units*, between points in the U.S.

MC 155831 (Sub-1), filed December 17, 1981. Applicant: CAL-INLAND, INC., 135 South 13th St., Tekamah, NE 68061. Representative: A. J. Sawnson, P.O. Box 1103, Sioux Falls, SD 57101–1103 (605) 335–1777. Transporting *food and related products*, between points in CA, on the one hand, and, on the other, Chicago, IL and Portland, OR, and points in MN, IA, NE, CO, and WA.

MC 157720 filed December 14, 1981. Applicant: B.E.I. TRANSPORT, INC., 799 Garver Road, Monroe, OH 45050. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030 (703) 691–0900. Transporting *food and related products, rubber and plastic products, pulp, paper and related products, chemicals and related products, and metal products*, between points in OH, on the one hand, and, on the other, points in the U.S.

MC 158940 (Sub-1), filed December 17, 1981. Applicant: B–52 CARTAGE CORPORATION, 1750 West 56th Street, Hialeah, FL 33012. Representative: Tito G. Alamo (same address as applicant), (305) 822–2198. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in Dade, Broward and Monroe Counties, FL.

MC 159600, filed December 7, 1981. Applicant: ROUNDUP POWDER COMPANY, INC., Top of Yellowstone Hill, P.O. Box 428, Miles City, MT 59301. Representative: Robert R. Phair (same address as applicant), (406) 232–1632. Transporting *bulk solvents*, between points in the U.S., under continuing contract(s) with Trojan Division of the International Minerals & Chemicals Corporation, of Des Plaines, IL.

MC 159640, filed December 11, 1981. Applicant: PHIL'S MOVERS, INC., 8455 South 77th Ave., Bridgeview, IL 60455. Representative: Joel H. Steiner, 29 S. LaSalle St., Chicago, IL 60603 (312) 236–9375. Transporting *furniture and fixtures* between Rock Island and Chicago, IL, on the one hand, and, on the other, points in IN, MI and WI.

MC 159670, filed December 14, 1981. Applicant: ALEXANDER'S MOVING AND STORAGE, 15642 Producer Lane, Huntington Beach, CA 92649. Representative: Jim Pitzer, 15 S. Grady Way, Ste. 321, Renton, WA 98055–3273 (206) 235–1111. Transporting *automobiles and pick-up trucks*, between points in the U.S.

MC 159681, filed December 11, 1981. Applicant: TRI-TEL, INCORPORATED, Rt. #1, Box 210, Aurora, WV 26705. Representative: Harold Lavan Kisner, Rt. #1, Box 210, Aurora, WV 26705 (304) 735–3161. Transporting *machinery*, between points in WV, on the one hand, and, on the other, New York City, NY, and points in IL, KY, MD, NJ, OH, PA, VA, Marion County, AL; Alameda, Los Angeles, and Orange Counties, CA; El Paso and Mesa Counties, CO; New Castle County, DE; Dekalb County, GA; Allen, Bartholomew, and Kosciusko Counties, IN; Hamilton and Linn Counties, IA; Macomb, Shiawassee, and Wayne Counties, MI; St. Louis County, MO; Erie County, NY; Mecklenburg County, NC; Greenville and Richland Counties, SC; Knox and Sullivan Counties, TN; Dallas, Harris, and Tarrant Counties, TX; Carbon and Davis Counties, UT; Milwaukee County, WI; and Weymouth, MA.

MC 159700, filed December 14, 1981. Applicant: NORTH STAR TRANSPORT, INC., 25320 38th Ave. S., Kent, WA 98031. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101 (206) 624–7373. Transporting *general commodities* (except Classes A & B explosives and commodities in bulk), between points in WA, OR, CA and AK.

MC 159750, filed December 17, 1981. Applicant: SUN & SKI SPORTS & TRAVEL, INC., 11115 E. 41st St., Tulsa, OK 74145. Representative: Bradley K. Beasley, 320 S. Boston, Suite 1300, Tulsa, OK 74103 (918) 583–1777. As a *broker* at Tulsa, OK, in arranging for the transportation of *passengers and their baggage*, between points in OK, on the one hand, and, on the other, Charleston, SC, and points in AR, CO, KS, LA, MO, NM, and TX.

MC 159751, filed December 16, 1981. Applicant: PROFESSIONAL TRANSPORT, INC., 1413 East Henrietta Road, Rochester, NY 14623. Representative: Michael A. Wargula, 128 Sherburn Drive, Hamburg, NY 14075 (716) 845–6066. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Ragú Foods, Inc., of Greenwich, CT.

Volume No. OPY–4–500

Decided: December 29, 1981.

By the Commission, Review Board No. 2, Members Carleton, Werner, and Williams.

MC 146536 (Sub-13), filed December 15, 1981. Applicant: WALTER SHORT AGENCY, INC., 5000 Wyoming, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167 (313) 349–3980. Transporting *glass and glass products*, between points in Sampson and Scotland Counties, NC, on the one hand, and, on the other, points in IN, MI, and OH.

MC 87536 (Sub-1), filed December 16, 1981. Applicant: SWARTZ MOVING & STORAGE CO., 2236 NE Argyle St., Portland, OR 97211. Representative: Earle V. White, 2400 SW Fourth Ave., Portland, OR 97201 (503) 226–6491. Transporting *household goods*, between points in CA, OR, and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY.

MC 143636 (Sub-17), filed December 17, 1981. Applicant: RON SMITH TRUCKING, INC., R. R. #1, Box 59, Arcola, IL 61910. Representative: Douglas G. Brown, 913 S. Sixth, Springfield, IL 62703, (217) 753–3925. Transporting *fertilizer and fertilizer ingredients*, between points in IL, IN, IA, KY, MO, and WI.

MC 144776 (Sub-17), filed December 16, 1981. Applicant: APACHE TRANSPORT, INC., 833 Warner St., SW., Atlanta, GA 30310. Representative: Virgil H. Smith, 74 Highway N., Box 245, Tyrone, GA 30290, (404) 969–1980. Transporting *such commodities* as are dealt in or used by grocery supply houses, between points in Clay County,

NC, on the one hand, and, on the other, points in AL, LA, FL, OH, KY, SC, VA, PA, WV, GA, and TN.

Volume No. OPY–4–501

Decided: December 28, 1981.

By the Commission, Review Board No. 2, Members Carleton, Werner, and Williams.

MC 147007 (Sub-8), filed December 17, 1981. Applicant: EVERFRESH TRANSPORTATION CO., 6431 East Palmer, Detroit, MI 48211. Representative: John S. Barbour, 2711 East Jefferson, Suite 202, Detroit, MI 48207, (313) 259–6555. Transporting *commodities manufactured or distributed by manufacturer of glass containers* between points in the U.S. (except AK and HI) under continuing contract(s) with Thatcher Glass Mfg. Co., of Elmira, NY.

MC 158987, filed December 17, 1981. Applicant: JIM RITTMAN ENTERPRISES, 13951 Washington Ave., San Leandro, CA 94578. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting (A) *general commodities,* between points in the U.S., restricted to traffic having a prior or subsequent movement by rail, air or water, (B) *commodities* dealt in or used by department stores, between points in AZ, NV, and CA, (C) *trailers and parts,* between points in the U.S., and (D) *insulation materials,* between points in the U.S.

MC 159387, filed December 11, 1981. Applicant: JAMES W. AMBLER, R.R. #1, Mendota, IL 61342. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *general commodities,* (except household goods and classes A and B explosives), between the facilities used by Ralston Purina Company at points in the U.S., on the one hand, and on the other, points in the U.S.

MC 159517, filed December 16, 1981. Applicant: YELLOW CAB CO. OF GREATER BUFFALO, INC., 4430 Bailey Ave., Buffalo, NY 14226. Representative: Anthony L. Dutton, 1800 One M & T Plaza, Buffalo, NY 14203, (716) 856–4000. Transporting *passengers,* between points in NY and PA, under continuing contract(s) with the Veterans Administration Medical Center, of Buffalo, NY.

MC 159717, filed December 14, 1981. Applicant: FLORIO TRUCKING & MAINTENANCE, INC., 137 Haase Ave., Paramus, NJ 07652. Representative: Josheph Florio III (same address as applicant), (201) 261–4089. Transporting *filter systems and machinery,* between points in the U.S., under continuing contract(s) with Ember Products, Inc., of Totowa, NJ and Filterite, A Brunswick Company, of Timonium, MD.

MC 58777 (Sub-6), filed December 15, 1981. Applicant: HAZARD EXPRESS, INC., Box 746, Hazard, KY 41701. Representative: Charles H. White, Jr., Suite 800, 1019 19th St. NW., Washington, DC 20036, (202) 715–3426. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Floyd, Harlan, Montgomery, and Pike Counties, KY.

Note.—Applicant intends to tack the above authority with its existing regular-route authority.

MC 97357 (Sub-57), filed December 17, 1981. Applicant: ALLYN TRANSPORTATION COMPANY, 980 E. Orangethorpe, Suite A, Anaheim, CA 92801. Representative: Charles Carbonaro (same address as applicant), (714) 992–4261. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, and NV.

MC 136357 (Sub-7), filed December 17, 1981. Applicant: BEST TRANSPORTATION CORP., S. Washington Ave. & River St., Scranton, PA 18503. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with RCA Corp., of Cherry Hill, NJ.

Volume No. OPY–4–503

Decided: December 29, 1981.

By the Commission, Review Board No. 2, Members Carleton, Werner, and Williams.

MC 42487 (Sub-1056), filed December 22, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

MC 143776 (Sub-38), filed December 23, 1981. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., SE., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting *food and related products,* between the facilities of Weetabix Company, Incorporated in the U.S., on the one hand, and, on the other, points in the U.S.

MC 143776 (Sub-39), filed December 23, 1981. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., SE., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (Same address as applicant), (800) 253–9727. Transporting *paper and related products,* between the facilities of The Courier-Citizen Company at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 149616 (Sub-5), filed December 21, 1981. Applicant: R.C.R., INC., Box 157, Yutan, NE 68073. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *food and related products,* between Omaha, NE, on the one hand, and, on the other, points in FL.

MC 150756 (Sub-6), filed December 23, 1981. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 206 (30700 Dyer St.), Union City, CA 94587. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *food and related products,* between points in AZ, CA, NV, OR, and WA.

MC 152096 (Sub-2), filed December 23, 1981. Applicant: TERRANCE E. CARLSON and KENNETH O. CARLSON d.b.a. CARLSON BROS., P.O. Box 1401, Lewiston, ID 83501. Representative: Darwin D. Grewe, 708 Old National Bank Bldg., Spokane, WA 99201, (509) 455–9200. Transporting *lumber, wood and forest products, and building materials,* between points in the U.S., under continuing contract(s) with Hodge Forest Industries, Inc., Idaho Timber Corporation, Hodge Lumber Wholesale & Supply, Inc., Idaho Pacific Lumber, Inc., and Intermountain-Orient, Inc., all of Boise, ID.

MC 155796 (Sub-2), filed December 21, 1981. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 N. 72nd St., Omaha, NE 68124. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 159776, filed December 21, 1981. Applicant: JAMES P. FARNHAM, d.b.a. FARNHAM TRUCKING, 7220 Routt St., Fort Worth, TX 76112. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *metal products,* between points in the U.S., under continuing contract(s) with VSL Corporation, of Grand Prairie, TX.

MC 159806, filed December 21, 1981. Applicant: DANIEL BENNETT, d.b.a. BENNETT'S TOWING, Earl Park, IN 47942. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *wrecked and disabled vehicles and replacement vehicles* for wrecked and disabled vehicles, between points in Newton, Jasper, Pulaski, Benton, White, Cass, Carroll, Topeka and Warren Counties, IN, Vermillion, Iroquois, and Kankakee Counties, IL, on the one hand, and, on the other, points in the U.S.

Volume No. OPY–4–504

Decided: December 29, 1981.

By the Commission, Review Board No. 2, Members Carleton, Werner, and Williams.

MC 60066 (Sub-35), filed December 18, 1981. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul St., Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of automotive parts, between Chicago, IL, on the one hand, and, on the other, points in IA, NE, KS, MO, MN, ND, and SD.

MC 78926 (Sub-5), filed December 21, 1981. Applicant: CTC VAN LINES, INC., 134–41 Springfield Blvd., Springfield Gardens, NY 11413. Representative: Alan Schwartz (same address as applicant), (212) 978–1600. Transporting *household goods, and furniture and fixtures,* between points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, UT, WI, WV, and DC.

MC 148766 (Sub-5), filed December 11, 1981. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Villa, Oklahoma City, OK 73159. Representative: Michael H. Lennox, 531 N. Portland Ave., Box 75613, Oklahoma City, OK 73147, (405) 943–2722. Over regular routes, transporting *general commodities* (except classes A and B explosives and commodities in bulk), (1) between Arnett, OK and Guymon, OK, from Arnett over U.S. Hwy. 60 to junction U.S. Hwy. 83 near Canadian, TX, then over U.S. Hwy. 83 to junction OK Hwy. 3, then over OK Hwy. 3 to Guymon, and return over the same route, serving all intermediate points, and the off-route point of Canadian, TX, (2) between Guymon, OK and Turpin, OK, from Guymon over U.S. Hwy. 54 to Hooker, OK, then over U.S. Hwy. 64 to Turpin, and return over the same route, serving all intermediate points, and the off-route point of Baker, OK, and (3) between Hooker, OK and Hardesty, OK, from Hooker, OK over OK Hwy. 94 to junction OK Hwy. 3, then over OK Hwy. 3 to Hardesty, and return over the same route, serving all intermediate points.

MC 149216 (Sub-5), filed December 18, 1981. Applicant: WELLINGTON TRANSPORTATION, INC., 67 Andrew St., Newton Highlands, MA 02161. Representative: James E. Mahoney, 148 State St., Boxgon, MA 02109, (617) 523–2660. Transporting *metal castings,* between points in the U.S., under continuing contract(s) with Ridco Casting Co., Inc., of Pawtucket, RI.

MC 152546, filed December 18, 1981. Applicant: GRIMM TRANSPORT CO., 1801 Morton Ave., Morton, IL 61550. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *alcohol, and petroleum products,* between points in the U.S., under continuing contract(s) with Pekin Energy Company, of Pekin, IL, and Texaco, U.S.A., of Houston, TX.

MC 155426, filed December 21, 1981. Applicant: JOHN H. GARLAND, d.b.a. GARLAND TRANSPORTATION, 612 23rd St., Richmond, CA 94804. Representative: Arden Riess, 4509 Pacific Ave., Suite A, P.O. Box 7965, Stockton, CA 95207, (209) 957–6128. Transporting *hazardous materials* (including, but not necessarily limited to classes A, B, and C explosives, ammunitions, propellants and fireworks), *ordnance and accessories,* and *commodities* designated sensitive by the Department of Defense, between points in AZ, CA, NV, OR, and UT. Condition: This certificate will expire five years from its date of service.

MC 153137 (Sub-1), filed December 14, 1981. Applicant: G & H TRANSPORTATION, INC., 1905 Turning Basin Dr., Suite 446, Houston, TX 77029. Representative: Lillian I. Grindstaff (same address as applicant), (713) 931–0533. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Harris County, TX, on the one hand, and, on the other, Baton Rouge, Lafayette, LA, and New Orleans, LA, and points in Calcasieu County, LA, and Hardin, Jefferson, and Orange Counties, TX.

MC 159816, filed December 21, 1981. Applicant: ANN C. PHILLIPS, 7380 Alan Drive, Denver, CO 80221. Representative: Charles J. Kimball, 665 Capitol Life Center, 1600 Herman St., Denver, CO 80203, (303) 839–5856. To operate as a *broker,* at Denver, CO, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

MC 159827, filed December 22, 1981. Applicant: RICHARD S. POWELL, P.O. Box 433, Everson, WA 98247. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *lumber and wood products* between points in the U.S., under continuing contract(s) with Ruskin Cedar Products, of Bellingham, WA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–238 Filed 1–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major

regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPI-330

Decided: December 29, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 159740, filed December 16, 1981. Applicant: MAX GRUENHUT INTERNATIONAL, INC., 9420 W. Foster Ave., Suite 200, Chicago, IL 60656. Representative: Howard G. Feldman, 1919 Pennsylvania Ave., NW., Suite 800, Washington, DC 20006, (202) 887-1400. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OPY-2-254

Decided: December 29, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 159662F, filed December 8, 1981. Applicant: BEST WAYS BROKERAGE, 129 176th St., South #6, Spanaway, WA 98387. Representative: Jon A. Graciano (same address as applicant), (206) 527-2610. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OPY-3-239

Decided: December 29, 1981.

By the Commission, Review Board No. 2, Members Carleton, Werner, and Williams.

MC 159774, filed December 18, 1981. Applicant: AFFILIATED NORTH AMERICAN, 125 Finn St., Shreveport, LA 71107. Representative: Harold Brown (same address as applicant), (318) 222-0305. Transporting *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Volume No. OPY-4-502

Decided: December 29, 1981.

By the Commission, Review Board No. 2, Members Carleton, Werner, and Williams.

MC 42487 (Sub-1055), filed November 18, 1981, previously noticed in the **Federal Register** issue of December 7, 1981, and republished this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 49025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities*, between Dodge, WA, on the one hand, and, on the other, points in the U.S. The purpose of this application is to substitute motor carrier service for completely abandoned rail carrier service. The purpose of this republication is to correctly state the note.

Note.—Applicant intends to tack this authority with existing regular route authority in Sub 1015X.

MC 150746 (Sub-11), filed December 21, 1981. Applicant: DFC TRANSPORTATION COMPANY, 12007 Smith Dr., P.O. Box 929, Huntley, IL 60142. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603, (312) 236-9375. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 159747, filed December 16, 1981. Applicant: MAGIC VALLEY DELIVERY SERVICE, INC., P.O. Box 841, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPY-5-233

Decided: December 22, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 99498 (Sub-12), filed November 10, 1981. Initially published in the **Federal Register** on December 2, 1981. Applicant: JIMMY STEIN MOTOR LINES, INC., P.O. Box 2286, Mobile, AL 36601. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. Transporting *general commodities* between Columbia, Hawthorne, and Arm, MS, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at all of the involved points. This application is republished to show that applicant intends to tack this authority with its existing regular-route authority in its Subs 9 and 6, in lieu of Subs 9 and 5.

Note.—Applicant holds regular-route authority in its Subs 9 and 6 and applicant intends to tack the authority held in those certificates with the authority sought here. The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service.

MC 150398 (Sub-9), filed December 3, 1981. Applicant: BLUE EXPRESS, INC., P.O. Box 292, Canton, SD 57013. Representative: Rick A. Rude, 1730 Rhode Island Ave., N.W., Suite 611, Washington, D.C. 20036, (202) 223-5900. Transporting *general commodities* between Wayland, Kahoka, Granger, Arbela, Memphis, Downing, and Lancaster, MO, Centerville, Curlew, Ayrshire, Langdon, Terril, Badger, Westgate, Sumner, Fredricksburg, Alta Vista, Elma, Riceville, and McIntire, IA, Elkton, Sargeant, Waltham, Hayfield, West Concord, Nerstrand, Dennison, and Dundas, MN, Tea, Lennox, Davis, Viborg, and Irene, SD, Nelson, Nemaha, and Shubert, NE, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at all of the involved points.

Note.—The sole purpose of this application is to substitute motor carrier service for completely rail service.

MC 159639, filed December 10, 1981. Applicant: FLA-TEX, INC., P.O. Box 631, Pharr, TX 78577. Representative: David Thompson (same address as applicant), 512-787-5951. Transporting *general commodites*, between Primrose, Luthersville, Weston and Parriott, GA; Cardwell, Arbyard, Hornersville, Edena, Lewistown, Hurdland, Ewing,

Alexandria, Kahoka, Wayland, Memphis, Downing and Lancaster, MO; McHenry, ND; Narcisso, Russellville, Roaring Springs, Crandall, Kaufman, Kemp, Mabank, Reklaw, Mobeetie, Brisco, and Allison, TX; Raymond, Oakley, Adams, Myles, Arm, Oakville, Hathorn, Columbia, Michigan City, Lamar, Hudsonville, Waterford, Abbeyville, Oxford, Taylor, Water Valley, Velma and Coffeeville, MS; Snyder and Hamburg, AR; Holly Springs, Stokedale, Dallas, High Shoals and Henrietta, NC; Radcliff, Aurora, Ellsworth, Lawn Hill, Harlan, Irwin, Garwin and Toledo, IA; Henry and Clark, SD; Esmond, Astoria, Teheran, Biggs, Easton, Richmond, Dunkel, Oconee, Hanson, Vera, Shobonier, Vernon, Pataka, Graymont, Flagana, Equality and Shawneetown, IL; Shell Lake, Cumberland, Gillette, Green Valley, Lake Geneva, and Genoa, WI; Elgin, Edgar and Nelson, NE; Benton, Barlow; La Center, Oak Ridge, Philpot, Deanfield, Thompsonville, Masonville, Edgoten, and Lewisburg, KY; Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Malesus, Medon, Toone, Bolivor, Hickory Valley, and Lexington, TN; Reydon, Cheyenne, Strong City, Hammon and Butler, OK; McDonald, Painesville Chardon, Middlefield and Clarksville, OH; Paris Crossing, Malden, Hamilton, Helmer, Wolcottsville and Wakarusa, IN; South Haven, MI; Filbert, Furman, and Edgefield, SC; Monticello and Bell, FL; Clyde, WA; Hosston, LA; Fallbrook and Elsinore, CA; Mottville, NY; Brisbin, Joliet, Boyd, Roberts, and Red Lodge, MT; on the one hand, and, on the other, points in the U.S.

Note.—Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service, at each point to be served, has actually terminated.

Note.—The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service.

MC 159679, filed December 11, 1981. Applicant: DARYL K. and VIKI D. BALLWEBER, d.b.a. BALLWEBER TRUCKING CO., 3140 Brown Rd., NW., P.O. Box 12564, Salem, OR 96305. Representative: Daryl K. Ballweber (same address as applicant), (503) 378–0964. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 159698, filed December 14, 1981. Applicant: LESTER D. FAST, 214 South King, Maize, KS 67101. Representative: Lester D. Fast (same address as applicant), (316) 722–0499. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 159709, filed December 15, 1981. Applicant: ERNEST L. BEHRING, 3820 Pueblo St., Evans, CO 80620. Representative: Ernest L. Behring (same address as applicant), (303) 353–5865. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 159728, filed December 15, 1981. Applicant: FIEBIG TRANSPORT, INC., 3812 Bay Port Road, Sebewaing, MI 48759. Representative: Michael A. Wargula, 128 Sherburn Drive, Hamburg, NY 14075, (716) 845–6066. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-239 Filed 1-4-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–179

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 127264 (Sub-3–2TA), filed December 28, 1981. Applicant: AMERICAN PARCEL SERVICE, INC., 1800 Bessemer Avenue, Greensboro, NC 27405. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30326. *Contract,* irregular, *Commodities used, sold or dealt in by manufacturers or distributors of home care products,* between Greensboro, NC, on the one hand, and, on the other, points in North Carolina, having a prior or subsequent movement in interstate commerce, under continuing contract(s) with Amway Corporation. Supporting Shipper: Amway Corporation, 6450 Jimmy Carter Blvd. Norcross, GA, 30071.

MC 148773 (Sub-3–7TA), filed December 28, 1981. Applicant: A.F.L. TRUCK LINES, INC., 3661 West Blue Heron Boulevard, Riviera Beach, FL 33404. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Machinery, metal and metal products,* between points in FL, on the one hand, and, on the other, points in the U.S. There are seven (7) supporting shipper statements which may be reviewed at the ICC Regional Office in Atlanta.

MC 154103 (Sub-3–24TA), filed December 28, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Contract carrier;* irregular routes; *Edible flour,* between the plant sites and facilities of Golden Dipt Company located in Millstadt, IL; Melrose Park, IL; Hillsdale, MI; City of Industry, CA; and Frederick, MD, on the

one hand, and, on the other, points in the U.S., excluding AK and HI. Supporting shipper: Golden Dipt Company, 100 East Washington, Millstadt, IL 62260.

MC 97394 (Sub-3-6TA), filed December 28, 1981. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 14503, Louisville, KY 40213. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General commodities (except classes A&B explosives),* between points in Allen County, KY, on the one hand, and, on the other, points east of IA, KS, MN, NE, OK and TX. Supporting shipper(s): There are 19 statements in support of this application which may be examined at the ICC Regional Office in Atlanta, GA. Note: Applicant intends to tack with docket number MC 97394 and subs at Scottsville, KY.

MC 159852 (Sub-3-1TA), filed December 28, 1981. Applicant: TODD HAULING, INC., P.O. Box 312, Chapel Hill, TN 37034. Representative: Roland M. Lowell, 5th Floor, 501 Union Street, Nashville, TN 37219. *Food and Related Products, in bulk,* between points in FL, on the one hand, and, on the other, points in Rutherford County, TN. Supporting shipper: Heritage Farms Dairy, 1100 New Salem Highway, Murfreesboro, TN 37130.

MC 154667 (Sub-3-1TA), filed December 28, 1981. Applicant: B. I. TRANSPORTATION, INC., P.O. Box 691, Burlington, NC 27215. Representative: J. Franklin Fricks, Jr., Post Office Box 691, Burlington, NC 27215. *Contract carrier,* irregular, *hosiery, supplies and materials used in the manufacture and sale thereof* between points in the U.S. under contract with Kayser Roth Hosiery, Inc., Greensboro, NC. Supporting shipper: Kayser-Roth Hosiery, Inc., 2303 West Meadowview Rd., Greensboro, NC 27407.

MC 159855 (Sub-3-1TA), filed December 28, 1981. Applicant: DMS CONSTRUCTION COMPANY, 100 Rogers Dr., Rome, GA 30161. Representative: Mark S. Gray, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. *Lumber or wood products,* between Floyd County, GA on the one hand, and, on the other, points in the States of AL, TN, KY, NC, FL and VA. Supporting shipper: Mead Corporation, Courthouse Plaza, N.E., Dayton, OH 45463.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 125535 (Sub-5-18TA), filed December 23, 1981. Applicant: NATIONAL SERVICE LINES INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Helm (same as applicant). *General Commodities (except commodities in bulk in tank vehicles and household goods and class A and B explosives).* Between pts in the U.S. Supporting shippers: 6.

MC 127253 (Sub-5-2TA), filed December 23, 1981. Applicant: Stewco, Inc., P.O. Box 728, Waskom, TX 75692. Representative: Clayte Binion, 623 So. Henderson, 2nd Floor, Fort Worth, TX 76104. *Petroleum products and chemicals, in bulk, in tank vehicles,* between Caddo Parish, LA on the one hand, and, on the other, points in TX, LA, AR, KS, MO, IL, IN, OH, PA, WA, NJ, FL, VA, NC, SC, TN, GA, AL, MS, OK, KY and CO; and from Greenville, MS to AL, LA and AR. Supporting shipper: Atlas Processing Company, P.O. Box 3099, Shreveport, LA 71103.

MC 147368 (Sub-5-1TA), filed December 24, 1981. Applicant: Richard C. Lockhart, an individual, P.O. Box 551, South Sioux City, NE 68776. Representative: Melvin C. Hansen, Hansen & Engles, P.C., 610 Service Life Building, Omaha, NE 68102. Contract—Irregular. *Meat, meat products and articles distributed by meat packing houses as described in Motor Carrier Certificates 61MCC209 and 768 (except hides and commodities in bulk),* between Sioux City, IA on the one hand, and, on the other, Los Angeles, CA and its commercial zone. Supporting shipper: Swift Independent Packing Company, 115 West Jackson Boulevard, Chicago, IL 60609.

MC 153328 (Sub-5-4TA), filed December 23, 1981. Applicant: Red K Transport, Inc., 2545 Peach Tree Street, Cape Girardeau, MO 63701. Representative: Harold Carrico, 400 State Street, Madison, IL 62060. *Such commodities as are dealt in or used by manufacturers and distributors of household laundry equipment* between Williamson County, IL, on the one hand, and, on the other, St. Louis, MO, restricted to traffic having a prior or subsequent transportation by rail. Supporting shipper: Norge Division, Magic Chef, Inc., Herrin, IL 62948.

MC 158419 (Sub-5-2), filed December 23, 1981. Applicant: ON TIME FREIGHT SYSTEMS, INC., 2512 South 163rd Street, Omaha, NE 68130. Representative: James P. Beck, 717 17th St., Ste. 2600, Denver, CO 80202. *Food and related products,* between the Denver, CO commercial zone on the one hand, and, on the other, pts in the U.S. Supporting shippers: Peppertree Beef Company, P.O. Box 16331, Stockyard Station, Denver, CO 80216; McKesson Wine & Spirits Co., P.O. Box 5388, T.A., Denver, CO 80217; Food Products Company, 4303 Brighton Boulevard, Denver, CO 80216.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-244 Filed 1-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29757]

Rail Carriers; Colorado and Southern Railway Company—Merger Into Burlington Northern Railroad Company—Exemption and Request for Determination of Fairness

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission has determined that the merger of the Colorado and Southern Railway Company (C&S) into the Burlington Northern Railroad Company (BN) is exempt from its regulation under 49 CFR 1111.5(c)(3). The Commission has also refused to revoke this exemption in part to determine the fairness of financial terms to minority stockholders. BN's assumption of C&S's obligations and liabilities is also exempted.

DATE: The exemption is effective December 31, 1981 and is subject to standard conditions for the protection of employees.

FOR FURTHER INFORMATION CONTACT: Ernest B. Abbott, (202) 275-3002.

SUPPLEMENTARY INFORMATION: Copies of the Commission's decision can be obtained from the Office of the Secretary, Room 2227, Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20434 or by calling toll free (800) 424-5403. Persons interested in obtaining copies must refer to Finance Docket No. 29757.

Dated: December 28, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-243 Filed 1-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 415]

Rail Carriers; Railroad Cost of Capital—1981; Extension of Time

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time for filing rebuttal comments.

SUMMARY: By notice published in the Federal Register on August 27, 1981 (46 FR 43320), the Commission instituted a limited revenue adequacy proceeding to update our estimate of the railroads' cost of capital rate for 1981. Extensions of time to that notice were published at 46 FR 48799, October 2, 1981 and at 46 FR 56676, November 18, 1981. This notice further extends the time in this proceeding by granting a request by the Association of American Railroads for an extension of time for the filing of rebuttal comments.

DATE: Rebuttal comments are now due on December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: A request was filed December 21, 1981, by the Association of American Railroads (AAR) for an extension of its current date of December 22, 1981, for filing rebuttal comments, until December 31, 1981. This extension is needed because AAR has not been able to complete its rebuttal comments, because of the large number of shipper comments to which it is replying.

Accordingly, good cause has been shown for the requested extension of time.

It is ordered:

The request is granted and the time for filing rebuttal comments is extended to December 31, 1981.

By the Commission, Reese H. Taylor, Jr., Chairman.

Decided: December 30, 1981.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-240 Filed 1-5-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: December 29, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-260 Filed 1-5-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-101]

Certain Hot Air Corn Poppers and Components Thereof; Notice of Settlement Agreement, Recommended Termination, and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of one party as respondent in the investigation on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has issued an order recommending that the Commission grant a joint motion by the complainant and one respondent to terminate the investigation with respect to that respondent on the basis of a settlement agreement. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before February 5, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-101 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States of certain hot air corn poppers and components thereof, or in the sale of such articles, which are alleged to infringe claims 1, 2, 3, and 5 of U.S. Letters Patent 4,178,843 with the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On November 23, 1981, the complainant, Wear-Ever Aluminum, Inc., and respondent Hamilton Beach Division—Scovill Inc. (Scovill) filed a joint motion (Motion No. 101–38) to terminate the investigation with respect to Scovill under the provisions of § 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51).[1] The basis for the proposed termination is a settlement agreement between the complainant and Scovill. The motion was supported by the Commission investigative attorney but opposed by respondents West Bend Co., a Division of Dart Industries, Inc., and Chiap Hua Clocks and Watches Ltd. On December 7, 1981, the presiding officer issued an order recommending that Motion No. 101–28 be granted. The settlement agreement and the proposed termination are now before the Commission for final action.

The substantive provisions of the settlement agreement between Wear-Ever and General Electric are as follows:

1. Scovill agrees and undertakes not to import into the United States—

(a) the heater fan subassembly which was alleged to constitute an unfair method of competition in the investigation, or

(b) the hot air corn poppers that infringe U.S. Letters Patent 4,178,843, or

(c) any component or material part of a hot air corn popper especially made, or especially adapted for use in infringement of the patent and not a staple article of commerce suitable for substantial noninfringing use,

without license from Wear-Ever, so long as the patent is in force for the purposes of enforcement of 19 U.S.C. 1337, i.e., until the expiration date of the patent, unless there is an earlier holding of invalidity of the patent either by the U.S. International Trade Commission or the Federal District Courts, which holding has become final, either by failure to appeal or affirmance on appeal.

2. Wear-Ever will concurrently upon execution of the agreement enter into a joint motion to terminate the investigation with regard to Scovill.

3. This agreement does not constitute an admission of either party with regard to any of the issues raised in this proceeding concerning the validity and/or infringement of the patent. Specifically, the agreement is without prejudice to any future challenge by Scovill to the validity or infringement of the patent by Scovill in any federal court and is without prejudice to Wear-Ever to any future suit by Wear-Ever against Scovill for damages and an injunction for alleged infringement of the patent.

4. Scovill agrees to give Wear-Ever reasonable notice, not less than 4 months, of its intent to import hot air corn poppers, or components thereof, which are not staple articles or commodities of commerce. During the said 4-month period, Wear-Ever and Scovill agree to exert their best efforts to resolve any issues relating to said importation, including any issue of alleged infringement of U.S. Letters

[1] Motion No. 101–28 supplants Scovill's previous unilateral motion to terminate (Motion No. 101–23).

Patent 4,178,843 by the proposed imported products. Further, in any further proceeding before any tribunal, the burden of establishing infringement with respect to any product made, sold, or imported by or on behalf of Scovill shall remain on Wear-Ever or the owner of the subject patent.

5. Scovill agrees to comply with complainant Wear-Ever's outstanding discovery requests or some mutually agreed upon alternative discovery.

The settlement agreement is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

All comments must conform to the requirements of § 201.8 of the Commission's rules (19 CFR 201.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Room 224, Washington, D.C. 20436, telephone 202–523–0350.

By order of the Commission.

Issued: December 28, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–264 Filed 1–5–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–113]

Certain Log Splitting Pivoted Lever Axes; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 27, 1981, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Chopper Industries, Inc., of 81 Stockton Street, Phillipsburg, N.J. 08865. A supplement to the complaint was filed on December 11, 1981. The complaint, as supplemented, (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain log splitting pivoted lever axes into the United States, and in their sale, by reason of the alleged (1) direct infringement of claims 1–6 and 8–14 of U.S. Letters Patent 4,044,808 and (2) contributory infringement of claims 2 and 14 of said patent. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue both a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure.

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on December 22, 1981, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation subsection (a) of section 337 in the unauthorized importation of certain log splitting pivoted lever axes into the United States, or in their sale, by reason of the alleged (1) direct infringement of claims 1–6 and 8–14 of U.S. Letters Patent 4,044,808 and (2) contributory infringement of claims 12 and 14 of said patent, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Chopper Industries, Inc., 81 Stockton St., Phillipsburg, N.J. 08865.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Taiwan Tool Co. a/k/a Taiwan Tools Corp., 177 Wenhwa Rd. Hsi Tun District, Taichung, Taiwan

Alltrade, Inc., 1717 Gage Road, Montebello, Calif. 90640

(c) Samuel Bailey, Jr., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall be the Commission Investigative Attorney, a party to this investigation; and

(3) For this investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Propcedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Samuel Bailey, Jr., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–1273.

By order of the Commission.

Issued: December 31, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–261 Filed 1–5–82; 8:45 am]

BILLING CODE 7020–02–M

[TA–203–13]

Certain Mushrooms; Notice of Investigation and Hearing

AGENCY: International Trade Commission.

ACTION: Following receipt of a request from the U.S. Trade Representative on December 21, 1981, the Commission instituted investigation No. TA–203–13 under section 203(i)(1) and (i)(2) of the Trade Act of 1974 (19 U.S.C. 2253(i)(1) and (i)(2) for the purpose of gathering information in order that it might advise the President (1) on developments in the mushroom industry since import relief became effective, including the progress and specific efforts made by the firms in the industry to adjust to import competition, and (2) of its judgment as to the probable economic effect on the

domestic industry concerned of the reduction or termination of the import relief presently in effect with respect to canned and frozen mushrooms broiled in butter or in butter sauce, provided for in item 144.20 of the Tariff Schedules of the United States (TSUS). Such import relief is in the form of increased rates of duty and is provided for in Presidential Proclamation 4801 of October 29, 1980 (45 FR 72617); the relief is described in item 922.55 of the Appendix to the TSUS.

EFFECTIVE DATE: December 29, 1981.

FOR FURTHER INFORMATION CONTACT: Tim McCarty (202–724–1753).

SUPPLEMENTARY INFORMATION:

Public hearing ordered. A public hearing in connection with this investigation will be held in Washington, D.C., at 10 a.m., Wednesday, March 10, 1982, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. Requests for appearances at the hearing should be received in writing by the Secretary to the Commission at his office in Washington, no later than the close of business Monday, February 8, 1982.

Prehearing procedures. To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and nineteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business Wednesday, March 1, 1982. Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. While submission of prehearing briefs does not prohibit submission of prepared statements in accordance with § 201.12(d) of the Commission's *Rules of Practice and Procedure* (19 CFR 201.12(d)), it would be unnecessary to submit such a statement if a prehearing brief is submitted instead. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Wednesday, February 10, 1982, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant information to present may give testimony without regard to the suggested prehearing procedures outlined above.

By order of the Commission.

Issued: December 29, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-263 Filed 1-5-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-111]

Certain Vacuum Cleaner Brush Rollers; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: December 28, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-262 Filed 1-5-82; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

Publication of Five Year Program Plan

Notice is hereby given that the Bureau of Justice Statistics, Department of Justice, consistent with authority set forth in Part C of the Justice System Improvement Act (42 U.S.C. 3731 et seq.), is publishing those portions of the Bureau of Justice Statistics Five Year Program Plan which describe the goals, objectives and programmatic areas to be supported during the years FY 1982–1986. Publication of the BJS Five Year Program Plan is intended to both advise the public of data resources, documents and other publications which will be issued by the Bureau during this time and to permit maximum public participation in BJS programs. This five year planning effort is intended to ensure that individual programs undertaken during each fiscal year are coordinated and are consistent with previously identified long-term goals and objectives of the Bureau.

The currently proposed Five Year Program Plan represents the second statistical planning document issued by the Department of Justice. The initial document, The Program Plan for Statistics 1977–81, was issued in 1977 and defined the scope of statistical activity to be supported through FY 1981.

Experience over the preceding five years has indicated that the Plan has served to provide continued direction in both the establishment and redefinition of statistical programs and has provided a conceptual framework against which funding priorities could rationally be defined. In light of the potentially increased fiscal constraints over the forthcoming years, it is anticipated that the currently proposed BJS plan, which will govern activity during FY 1982–86, will represent an even more critical document in the overall process of BJS program definition.

The sections of the Plan set forth below describe specific goals, objectives and programs for FY 1982–86 and represent the major substantive components of the Five Year Plan. The complete Plan, which will also address fiscal and administrative issues, will be released in March 1982. In order to maximize the opportunity for public participation in BJS programmatic activity, however, this portion of the Plan is being published in advance of the overall document. Persons interested in participating in the program, or in receiving copies of the overall plan, should contact Benjamin H. Renshaw, Acting Director, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531, 202/724–7765.

Benjamin H. Renshaw III,

Acting Director, Bureau of Justice Statistics.

Program Plan

Goal I

To Maintain and Expand the Collection, Analysis, and Dissemination of National Scope Data Describing (1) the Rates, Incidents and Characteristics of Crime and Criminal Victimization, (2) the Operations of State Courts, Prosecutors, Offices, and Public Defenders, and (3) the Functions, Workload, and Operations of Correctional Institutions and Probation and Parole Authorities.

Objective I.1

Manage the National Crime Survey (NCS) data collection effort, including efforts to (1) maintain quality control and effect economies in Bureau of the Census data collection and processing activities and (2) improve the quality and timeliness of annual and trend (or change) reports.

Program Description

The National Crime Survey Program is one of the major on-going data collection and analysis efforts supported by BJS. The survey provides information on the incidence and characteristics of criminal victimization in the United States. Specifically, the survey provides data on rates of victimization, trends in rates since 1973, demographic

characteristics of victims and offenders, characteristics of criminal incidents, extent of reporting to police, and reasons for reporting or not reporting.

The NCS represents the only resource for crime data based on direct inquiry to individuals selected from a stratified sample of the population. The direct inquiry technique was developed as a means to offset possible statistical inaccurracies which may result where data is drawn from a universe of "reported" crimes. At the present time, under the survey program, approximately 60,000 households are sampled annually. All members of sampled households are interviewed to determine whether they have been victimized by crime and, if so, the characteristics of the event.

A series of periodic and special analytical reports are issued based on data from this series. The reports are intended to provide policy makers and the general public with regularized data reflecting changes in victimization rates. Special analytic reports also address individual issues of particular interest, such as the differential impact of crime on various population groups (such as Hispanics, the elderly, and women), the economic costs of crime, and the impact of particular crimes (such as rape and no-force burglary). The NCS series was initiated in 1972 and the survey has been continued since that date. The continuous series of data has permitted longitudinal trend analysis and multi-year data comparisons. In light of current concern over crime, and the impact of victimization, data from the NCS represents a major indicator and is critical to the formulation of Federal and State policy at the executive and legislative level.

In order to ensure the continued quality of NCS data and to support the development of more cost-effective techniques for the operation of the survey, BJS has undertaken a longterm effort to evaluate and, where appropriate, redesign the survey. This effort is responsive to the recommendations of the 1975 National Academy of Sciences study of the program.

5 Year Program Projection

FY 1982–83

- Publish at least 12 reports from the National Crime Survey program, including reports on annual victimization findings (5/82, 5/83), trends since 1973 (9/82), victimization of Hispanics (11/81), elderly victimizations (12/81), and periodic technical monographs on victimization methodology.
- Complete analysis of crime severity data (12/81).
- Transmit NCS annual data tapes (for previous data years) to Criminal Justice Archive and Information Network (8/82, 8/83).

FY 1984–86

- Continue publication of annual victimization findings, trends in victimization, analyses of special victimization topics and technical monographs on victimization methodology.
- Implement redesigned NCS.
- Implement new NCS sample, incorporating changes recommended by NCS redesign consortium.

Objective I.2

Develop and refine statistical series bearing on court and adjudicatory activities of state and local governments, including state court caseload data, prosecutors' management information, and public defender status information.

Program Description

The adjudication function, that group of activities taking place after an arrest, needs study as one interactive system with inextricable linkages to law enforcement and correctional functions. The Bureau has developed a state court series and has sponsored statistical analysis of the rich prosectors' data base (PROMIS) for an analysis of patterns of case attrition. The judicial series has produced two annual reports of nationwide state court statistics and successive editions of the National Court Organization Survey, the authoritative reference document on court structure, management, and jurisdiction. The Bureau has also helped to encourage improvement and greater comparability of state court statistics. In the coming years, the Bureau will seek further improvements in the court statistics program through ongoing evaluation of the methodology and of the appropriate reporting units.

The prosecutorial series produced a widely cited report, *A Cross-City Comparison of Felony Case Processing.* This study presents comparative statisitcs on the disposition of felony arrests in 13 jurisdictions employing the Prosecutors Management Information System (PROMIS). BJS is continuing efforts to develop the analysis displayed in this report.

Because of the increasingly apparent need for information to plan and manage constitutionally mandated indigent defense services in a cost-effective manner, the Bureau is adding an indigent defense series to its programs of adjudication statistics. In its maturity, this program should also augment the statistical base for drawing conclusions about the overall functioning of the criminal justice system.

5 Year Program Projection

FY 82–83

- Do intensive field work in at least one site to strengthen the link between the model state court statistics previously recommended and the field requirements for producing such statistics; report the results in a monograph (3/82).
- Publish annual report of nationwide court statistics for 1977 in improved format based on suggestions by previously commissioned independent evaluation (9/82).
- Produce at least one analytic report using court series data to demonstrate their usability (1/83).
- In conjunction with preparation of a second state-of-the-art monograph on court statistics, conduct a redesign study of the program of nationwide court statistics (9/83).
- Evaluate feasibility of collecting comparative court statistics for units other than states for intensive analysis of case transactions and system issues such as delay (9/83).
- Expand number of jurisdictions providing data for statistical comparisons of case processing by prosecutors (6/82).
- Design a sample for collection of statistical information, detailed program descriptions, and cost estimates of defender services. Begin to execute statistical collection (3/82).
- Publish report on defense services with national estimates of caseload, program comparisons, and cost data (12/83).
- Refine sample plan for continued collection of defender statistics (12/83).
- Publish third report of statistics on multi-jurisdiction comparisons of felony case processing (10/83).

FY 1984–86

- Act upon results of redesign study to modify program of court statistics as needed.
- Produce diversified reports on court statistics drawing from multiple collection and analytic strategies.
- Publish at least one analytic monograph using data from the defender series.
- Continue expanding sample coverage and statistical scope of defender series.

• Publish a fourth report on comparison of multi-jurisdiction felony case processing.

Objective I.3

Manage the adult and juvenile correctional statistics program including annual collection, analysis, and publication of statistics on prison, jail, probation, and parole populations and the periodic censuses of prisons/jails/juvenile detention facilities and surveys of prisoners/jail inmates/ and juvenile detainees.

Program Description

The correctional statistics program of the Bureau of Justice Statistics has its origins in statistical series that have been established and maintained for over fifty years although it also includes statistical series that have been developed by BJS and its predecessor agency, the National Criminal Justice Information and Statistics Service of the LEAA. The correctional statistics program consists of the National Prisoner Statistics (NPS), the Uniform Parole Reports (UPR), the National Probation Reports (NPR), and the Special Correctional Studies. Under the NPS, three statistical series are collected annually: population confined to state and federal institutions and the turnover in that population; the number and characteristics of persons sentenced to death and executed; the characteristics of persons admitted to and released from state correctional institutions, including their age, sex, race, offense, and length of sentence. The Uniform Parole Reports collects and publishes annual statistics on the parole population, turnover in the parole population, and characteristics of parolees, including age, sex, race, offense, time served, and whether or not parole was completed successfully. The National Probation Reports, the newest annual correctional statistics program, publishes annual statistics on probation populations and turnover in probationers. A program to collect statistics on the characteristics of probationers is in the developmental phase.

The special Correctional Studies comprise those data collection efforts which are conducted less frequently than annually. Included among these are the quinquennial census of local jails and the survey of jail inmates and the quinquennial census of State correctional facilities and the survey of prison inmates. These parallel data collection efforts provide detailed characteristics for the Nation's correctional institutions and their inmate populations obtainable from no other sources. The biennial census of juvenile detention facilities provides statistics on the number and characteristics of public and private juvenile detention facilities and limited statistics on their inmate populations.

In an effort to produce aggregate inmate population statistics on a timely basis, BJS has also developed a program for quarterly prison population statistics and annual jail population statistics.

5 Year Program Projection

FY 1982–84

• Publication of *Capital Punishment 1980,* (2/82).

• Publication of *Parole in the United States, 1980,* (4/82).

• Publication of *Probation in the United States, 1980,* (5/82).

• Publication of *Prisoners in State and Federal Institutions,* (6/82).

• Conduct the first annual survey of jail populations, (6/82).

• Conduct the biennial census of juvenile detention facilities, (6/82).

• Publication of *Characteristics of the Parole Population, 1979,* (7/82).

• Complete the first pilot survey of characteristics of individual probations, (9/82).

• Publication of admissions and releases statistics for 1974–76, (10/82).

• Publication of *Capital Punishment, 1981,* (2/83).

• Publication of *Parole in the United States, 1981,* (4/83).

• Publication of *Probation in the United States, 1981,* (5/83).

• Publication of *Prisoners in State and Federal Institutions, 1981,* (6/83).

• Conduct the quinquinnial census of jail and survey of jail inmates, (6/83).

• Publication of *Characteristics of the Parole Population, 1980,* (7/83).

• Complete the first pilot survey of characteristics of individual probations, (9/82).

• Publication of admissions and releases statistics for 1974–76, (10/82).

FY 1984–86

• Continue to publish annual publications in corrections, probation, and parole.

• Analyze and publish results of 1982 juvenile detention facility survey.

• Analyze and publish results of the 1983 jail census and jail inmate survey.

• Conduct 1984 prison census and prison inmate survey and analyze and publish results.

• Conduct annual surveys of jail populations.

• Develop statistical series on juvenile parole and probation and characteristics of juvenile offenders.

Objective I.4

Establish a comprehensive series describing the organization, resources and financing of State and local justice agencies.

Program Description

In 1970, LEAA assumed responsibility from the Bureau of the Census for the statistical series, begun in 1967, *Expenditure and Employment Data for the Criminal Justice System.* A survey was conducted annually from 1970 through 1979 to determine fiscal year expenditures and employment levels for all States, counties, and municipalities with a population of 10,000 or more persons and for a sample of cities and townships with less than 10,000 persons. These figures were required for "pass-through" and "maintenance of effort" calculations mandated by the Crime Control Act of 1968 as amended and for the formula provisions of the Justice System Improvement Act of 1979. In addition the data provided important information concerning the costs of administering justice systems for criminal justice management and planning at the national and State levels. Data were disseminated through a series of reports, through computer printouts, and through magnetic data tapes.

Budget cuts in 1981 forced the termination of this survey. If funds become available, 1980 and 1981 data will be collected in FY 1982 to provide trend data. Beginning with FY 1982, data will be extracted from the Census Bureau's annual Governmental Finance Survey which is scheduled to undergo modification in that year which will allow the development of data comparable to those collected through the previous expenditure and employment survey.

A second project under this objective produces informatin on the organization, resources, and workload of justice agencies as a by-product of developing sampling frames for justice agency surveys. The Bureau has collected these data since 1970. They offer a useful reference for a number of purposes, and were published in a series of directories listing individual agencies during the early 1970's and in a summary report, "Justice Agencies in the U.S.: 1980."

5 Year Program Projection

FY 1982–83

• Develop and implement a plan to collect and publish FY 1980 and 81 data on criminal justice expenditures and employment (9/83).

• Develop plan to extract FY 1982 and subsequent years' expenditure and employment data from on-going Census Bureau annual governmental finance and employment surveys (9/82).

• Extract, analyze, and publish justice expenditure and employment data from the Census Bureau's annual governmental finance and employment surveys (9/83).

• Develop economic deflators and use to adjust for inflation 1970 through 1982 expenditure data. Publish adjusted data (9/83).

FY 1984–86

• Extract, analyze, and publish justice expenditure and employment data from the Census Bureau's annual governmental finance and employment surveys, including data adjusted for inflation.

• Plan and conduct survey effort to produce 1985 edition of "Justice Agencies in the U.S."; publish "Justice Agencies in the U.S.: 1985."

Goal II

To Assist State and Local Governments in the Collection, Analysis, Utilization and Reporting of Criminal Justice Data, and to Develop Techniques To Facilitate Collection of Data from State-Level Sources.

Objective II.1

Provide fiscal and technical assistance for development and maintenance of a network of State statistical agencies capable of collecting and analyzing data for state utilization, and of providing subsets of data for aggregate analysis at the national level by BJS.

Program Description

To meet the needs of the Federal government and state and local agencies for statistical information in criminal justice, the Bureau of Justice Statistics (and its predecessor agency, the National Criminal Justice Information and Statistics Service of LEAA) has supported the development of Statistical Analysis Centers (SACs) in the states. The SAC is a state-level agency with a professional staff whose functions are to analyze and interpret criminal justice data; to generate and disseminate statistical reports on crime, criminal offenders, and the operation of the criminal justice system; to provide technical assistance in statistics and related areas to state and local agencies; and to provide the Federal government with uniform data on criminal justice processes in the state for inclusion in national statistical reports. In addition, many SACs are involved in the coordination and review of the development of criminal information systems in their states.

At this time there are SACs in 36 states plus Puerto Rico and the District of Columbia. Many have achieved excellent levels of capability and in many cases, financial support has been assumed by the states. Under this Objective, the nationwide network of statistical analysis agencies will be completed by the establishment of new agencies in states that did not participate under the LEAA program. Continuation of these efforts is essential for meeting the mandate of BJS to assist the states in improving their statistical capabilities and in developing competent sources of data for national compilations.

5 Year Program Projection

FY 82–83

• Continue to support existing state: Level Statistical Analysis Centers (SACs); encourage the assumption of costs by states.

• Support establishment of new SACs in states that do not have such a capability (2 new SACs to be established by 3/82; 5 more to be established by 9/83).

• Through support of the Criminal Justice Statistics Association, provide coordination among the SACs, training of SAC personnel, and technical assistance.

FY 84–86

• Continue all FY 82 and FY 83 activities.

• Expand support of new state-level SACs to achieve statistical capabilities in all of the states.

• Initiate program of certification of state and local analysis agencies based primarily upon their ability to provide reliable, timely, and complete criminal justice data to BJS.

Objective II.2

Provide technical and fiscal support for the development and maintenance of a network of state agencies to manage the submission of data for the Uniform Crime Reporting (UCR) program.

Program Description

Since 1972, the Bureau of Justice Statistics (and its predecessor agency, the National Criminal Justice Information and Statistics Service) has supported the development of state-level procedures and systems for Uniform Crime Reporting (UCR). In these states, automated information systems are used to centralize in a single state agency the collection and reporting of UCR data that is gathered by law enforcement agencies throughout the state. The collected data is forwarded to the FBI for inclusion in the national UCR program. There are now 45 states with operational UCR systems. In nearly all cases, funding has been assumed by the states. However, a few states have terminated or may soon abandon their systems because of budgetary problems. Limited support will be given to such states to help them keep their systems in operation so that complete and accurate national data on crime can continue to be obtained.

Future objectives are to support enhancement of existing UCR systems in accordance with a major assessment of the national UCR program which is to begin in 1982, and to support the development of state-level UCR systems in the remaining states. Continued support of this program is critical in order that the UCR series be operated in as cost effective a manner as possible and that the data collected be accurate and complete. In light of the time period during which UCR data has been available and the public reliance on this series, further enhancements to the program will have the effect of maximizing the substantial commitment made by both the FBI and States to this program.

5 Year Program Projection

FY 82–83

• Provide limited support for existing state-level UCR systems whose continuation is threatened by financial problems in the states, and for restoration of systems which have been terminated by the states because of fund shortages. A maximum of five cooperative agreements will be awarded during FY 1982. A maximum of five cooperative agreements will be awarded during FY 1983.

FY 84–86

• Support enhancement of state-level UCR systems consistent with new revised reporting standards and procedures (if any) resulting from UCR Study.

• Initiate development of state-level UCR systems in the few states which do not have a capability.

Objective II.3

Obtain specific types of criminal justice data and policy-relevant analytic products from state and local sources through a program of cooperative agreements.

Program Description

Most statistical information pertaining to criminal justice is generated at the state and local levels, and much of it can be obtained solely or most effectively from the states. With the development of state-level Statistical Analysis Centers (SACs), many states have achieved the ability to analyze problems and issues in criminal justice which are common to other states and which are of national concern. In FY 1981, the Bureau of Justice Statistics instituted programs in which selected states are supported, through cooperative agreements, in presenting and analyzing data on the processing of criminal offenders and in analyzing critical problems in criminal justice. (Examples of the latter are prediction of prison population levels, extrapolation of crime rates, and study of demographic correlates of crime.)

Under this objective, these programs will be continued and expanded. These programs involve the development of standards and formats that facilitate routine, occasional, and periodic state and local submission of data to BJS. Consistent with fund availability, additional programs will be initiated for collecting data on corrections and other criminal justice components from the states for national compilations. Such efforts are necessary in order to insure that the investment of federal resources to assist states and local governments in statistical analysis will yield comprehensive benefits to the overall criminal justice system.

5 Year Program Projection

FY 82–83

- Continue program to obtain displays and analyses of offender processing data, derived from the states' offender based transaction statistics (OBTS) systems.

Develop data specifications—12/81
Receive initial data from states—9/81
Assemble first multi-state compilation—1/83
Receive data for second compilation—9/83

- Initiate program to obtain correctional data from the states.

Design program—2/82
Initial awards to states—6/82
Receive initial data—3/83

- Continue and expand program to support analyses of issues and problems in criminal justice which affect state and Federal policies.

Completion of initial analytic reports by states—8/82

FY 84–86

- Continue and expand FY 82 and FY 83 activities.
- Initiate program for obtaining specific types of criminal justice data from selected local agencies.
- Initiate the phasing in of state-level statistical analysis centers (and possibly other state agencies) as the suppliers of data to BJS for national compilations, to replace the gathering of data through nationwide surveys of individual operating agencies.
- Support modifications to existing offender based transaction statistics systems and other state-level information systems to enhance the usefulness of the data that they produce.

Objective II.4

Develop and implement a strategy for collecting and organizing local criminal justice data bases for the development of national statistical series through a network of urban and local analysis agencies.

Program Description

Since its establishment in 1971, the Bureau of Justice Statistics and its predecessor agency has had the mandate to develop national data bases concerning criminal justice functions and activities. In pursuit of this mandate, BJS has expended considerable sums of money on the development and implementation of various computer based management information systems so as to facilitate the collection of routine information on criminal justice operations. Over the course of the past decade a considerable volume of data have been developed by urban, county and local criminal justice planning and analysis units. A recurring problem with this effort is the underutilization of the data, in part because of lack of access to computer processing capability, and the failure to funnel the data into a national repository that could be the basis of national statistical series and indicators.

The intent of this program is to facilitate the use by urban and local analysis agencies of the national criminal justice data archive, to test the network of agencies and the quality of their data bases and analytic capabilities by actually collecting comparable data from participating jurisdictions, and to utilize the data collected in various BJS reports and studies.

5 Year Program Projection

FY 82–83

- Establish a network of participating urban and local criminal justice agencies (6/82).
- Survey participating jurisdictions to determine existing data bases and data access and interchange capabilities (9/82).
- Collect data from a minimum of ten jurisdictions on criminal justice system operational issues with national policy implications.

FY 84–86

- Based on experience with the generation of national data bases, expand the number of participating agencies and the scope of the analytic tasks.

Goal III

To Collect, Analyze and Disseminate Data Describing Federal Criminal Justice Events, Characteristics of the Federal Offender and the Operation of the Federal Justice System.

Objective III.1

Develop and implement methodologies for the collection, collation and analysis of Federal criminal transaction data in order to describe operation of the Federal criminal justice system and characteristics of the Federal offender.

Program Description

The Bureau of Justice Statistics, in response to provisions of the JSIA, has recently undertaken efforts to collect and analyze data relating to the Federal justice system. Fundamental to this long-term effort is the assumption that such analysis should focus on data generated under existing statistical reporting systems. Such data, when analyzed in a coordinated fashion will provide meaningful statistical presentations regarding the overall treatment of crime by the Federal justice system, as well as for sub-system analyses in recognized areas of concern.

Efforts in this area are confronted by significant methodological, procedural and legal issues. These include comparability of disparate data sources as well as the establishment of appropriate technical and legal procedures to permit inter-agency access to or exchange of raw data. In recognition of such fundamental preliminary concerns, BJS will support short-term efforts designed to (a) identify existing sources of Federal justice data; (b) analyze the compatibility of existing data in order to determine the technical and legal feasibility of developing linkage between statistical systems, and (c) propose appropriate procedural steps for data access/exchange consistent with methodological, legal and policy factors. Long-term efforts will be made to institutionalize inter-agency statistical

relationships in order to provide for regular system-wide data presentations as well as for periodic analyses in specific areas of concern.

The Bureau's efforts in this area are viewed as critical to the development of overall system-wide statistical indicators on Federal criminal activity and the operation of the Federal justice system. Such data are of fundamental importance in developing policy and fiscal guidelines for the operation of the Federal justice system.

5-Year Program Projection

FY 82–83

- Initiate long-term efforts to negotiate data exchange procedures with Federal justice agencies (5/82).
- Prepare detailed graphic defining Federal criminal justice system and data flow (2/82).
- Prepare comprehensive document defining Federal statistics data flow for presentation in BJS bulletin (2/82).
- Identify existing data sources, identify technical and legal impediments to data linkage and develop models for potential data interface of transaction data (7/82).
- Prepare and issue major report describing Federal criminal justice process and alternative strategies for establishment of transaction data series (8/82).
- Develop an initiate procedures for archiving of acquired Federal justice data and for in-house and contractual manipulation and analysis of data (8/83).
- Initiate implementation of transaction data base reflecting comprehensive data for a given time. period (3/83).
- Review and, where necessary, develop alternative procedures for data linkage and coordination; issue report (6/83).
- Establish inter-agency working group to provide statistical legal, technical and policy input in order to maximize the utility of BJS data output (12/82).

FY 84–86

- Continue data exchange, archiving and analysis in support of established BJS reporting services.
- Conduct in-depth analysis of a single year "cohort" of Federal offenders.
- Issue major reports describing results of transactional data analysis.
- Expand data resources to permit longitudinal transaction analysis together with initial data resources.

Objective III.2

Initiate a continuing series of statistical reports providing a general overview of Federal criminal justice statistics and addressing specific issues relating to Federal justice operations.

A major objective of the BJS Federal Statistics Program is the preparation and dissemination of data and accompanying reports describing the incidence of Federal crimes and the operation of the Federal justice system. It is anticipated that publications issued under the BJS Federal Satistics Program will serve as single reference sources for data describing the differing components of the Federal criminal justice system; provide additional statistical resources as a result of transactional data compilations; and provide more indepth analyses of specific Federal statistical data bases pertaining to identified issues. Data resources to be addressed will include both system-wide compilations and analysis of data subsets pertaining directly to identified issues. In light of the importance of comprehensive data to sound fiscal, policy and administrative decisionmaking, the timely and regularized presentation of data descriptive of overall criminal justice transactions is particularly relevant at this time.

Initial efforts under this program will be directed toward preparation of a *Compendium of Federal Criminal Justice Statistics.* This document will provide a compilation and discussion of a broad range of statistical tabulations and graphic presentations relating to crime and justice operations at the Federal level. It is anticipated that the document will be regularly updated to reflect data changes. Subsequent efforts will be directed toward production of an *Annual Statistical Report on the Federal Justice System.* This document, which will be issued annually, will provide a regularized analysis of the occurrence of crime under Federal jurisdiction and the overall operation of the Federal justice system. Additionally, a series of *Analytic Reports* will be initiated to provide more indepth analysis of topical issues relevant to the Federal criminal justice process.

5-Year Program Projection

FY 82–83

- Identify statistical phenomena for indepth analysis (6/82).
- Prepare and disseminate one *Analytic Report* based on indepth statistical analysis of selected topic dealing with Federal justice operations (9/82).
- Prepare and disseminate initial *Compendium of Federal Justice Statistics* which will served as a convenient, single-source reference document for descriptive data (12/82).
- Prepare and disseminate 2 analytic reports addressing topics dealing with Federal justice operations (6/83).
- Prepare and publish report based on analysis of "cohort" group data (9/83).
- Update collection and collation of data series for subsequent Compendiums and analyze trends occurring over time (9/83).

FY 84–86

- Continue yearly enhancement of the *Compendium of Federal Criminal Justice Statistics,* and specific analytic reports dealing with current topics of interest.
- Prepare and publish first *Annual Statistical Report on Federal Justice System.*

Objective III.3

Develop and implement innovative techniques for the collection and analysis of data relating to areas of priority Federal concern such as white-collar crime, public fraud and high technology crime.

Program Description

Certain areas of criminal activity, because of their highly complex and multi-jurisdictional nature, have come under close scrutiny by Federal authorities. For example, crimes which employ high technologies (i.e., computer crime) have posed increasing threats to major businesses and government operations as well as to the general public. Other areas of federal concer have included crimes against government programs and crimes against business. Reliable estimates of the prevalence of such crimes have been difficult to establish, due largely to fundamental weaknesses in identifying, reporting and standardizing data.

The Bureau of Justice Statistics has in recent years supported specific efforts to identify means of overcoming the methodological barriers to establishing reliable estimates of the extent of complex areas of criminal activity. These efforts have been undertaken largely in recognition of the need for statistical information by legislative and executive branch decision-makers charged with targeting public resources and developing and directing policies responsive to the threats posed by such areas of criminal activity. Initial efforts have been directed to the issue of "high technology crime," with a specific emphasis placed on the accessing of

data relating to crimes committed by and against electronic funds transfer and message systems. Based on the findings of the initial project in this area, an appropriate data collection instrument will be developed and tested. In subsequent years, additional methodological analyses relating to data generation in the areas of crimes against business and crimes against government programs will be supported. To the extent that viable recommendations regarding data collection are presented under these efforts, appropriate collection instruments will be designed and tested.

5 Year Program Projection

FY 82–83

- Design and implement initial effort to identify and analyze data collection techniques in the area of crimes against business (7/82).
- Based on recommendation of preliminary electronic funds transfer system project, design and implement project to initiate data collection in that area (6/82).
- Design and implement statistical analysis of government program fraud case transactions (9/82).
- Review statistical report produced under electronic funds transfer system collection project for possible publication (9/83).
- Based on findings of preliminary crimes against business project, design and implement project to initiate data collection in that area (9/83).

FY 84–86

- Review statistical report produced under crimes against business project for possible publication.
- Identify additional areas of priority Federal concern which should be targeted for methodological analysis and subsequent data collection.
- Publish updated statistics from previously identified subject areas.

Objective III.4

Develop and initiate a program related to Federal civil justice activities, concluding working relationships with other Federal agencies concerned with civil justice and establishment of a publication to present and analyze Federal civil statistical data.

Program Description

The Federal justice system devotes a large proportion of its resources to resolution of civil disputes. An integrated compilation of statistics is needed to establish measures of total demand to provide data for the study of civil case flow, and to target resources effectively.

Accordingly, BJS has initiated preliminary efforts to assess the feasibility of compiling and disseminating statistical information relating to Federal civil activity. Initial efforts in FY 82 are to be directed toward an identification and analysis of Federal civil data sources.

5 Year Program Projection

FY 82–83

- Write and circulate options paper regarding civil statistics (11/81).
- Investigate conducting statistical study of selected civil issue areas not requiring integration of data from more than one agency or branch of government (2/82).

FY 84–86

- Circulate details of Federal civil program design to agencies involved (5/85).
- Publish special statistical studies on Federal civil topics (3/86).

Goal IV

To Evaluate, Assess, and Critique Major Criminal Statistical Series of the Bureau of Justice Statistics, including the Continuous Reexamination and Redesign of BJS and Other Federal Agency Series to Identify and Analyze Methodological Issues, Analytic Options, and Policy Utility Concerns of the Department of Justice.

Objective IV.1

Support an in-depth assessment and evaluation of the Uniform Crime Reporting (UCR) Program administered by the Federal Bureau of Investigation and continue efforts to develop alternative crime classifications and reporting systems.

Program Description

The Uniform Crime Report is the nation's oldest continuing statistical series dealing with crime, having been instituted in 1930. Originally intended to provide a national indicator of crime incidence as measured by citizen complaints to the police, the UCR is now used by a diverse group of practitioners for resource allocation, policy planning and criminal justice research.

In light of continuing interest regarding UCR reporting methodology and in order to ensure the continued quality of UCR data; it is necessary at this time to critically examine the current state-of-the-art of crime reporting by the police and to identify techniques, if any, which can be expected to improve the quality, timeliness and/or utility of such data. Accordingly, the Federal Bureau of Investigation and the Bureau of Justice Statistics have jointly agreed to cosponsor a comprehensive assessment of the UCR program at this time. The program will review existing reporting practices, identify areas of possible modification, evaluate alternative data collection methodologies and develop recommendations for improved UCR reporting. To ensure that recommendations are responsive to actual needs and capabilities in the field, maximum input will be obtained from contributing criminal justice agencies participating in UCR.

5 Year Program Projection

FY 82–83

- Initiate public solicitation for a consortium of organizations to analyze the conceptual framework of the FBI UCR program and the current and potential utilization of UCR data (project to be jointly monitored with the FBI) (1/82).
- Continued testing and refinement of crime classification systems to assist state and local law enforcement agencies in prioritizing data for resource allocation purposes (9/82); Final design and marketing strategy to be supported (12/83).
- Review Phase I of UCR study relating to historical overview of program developed and identification of current users (10/82).
- Initiate Phase II of the assessment to identify specific needs of current users and to develop recommendations for alternative program enhancement to better meet such needs (11/82–10/83).
- Distribute interim recommendations for state comment (7/83).

FY 84–86

- Complete analytic portion of UCR assessment and disseminate recommended programmatic changes to States for comment.
- Implement assessment recommendation and support development of corresponding hardware requirements.

Objective IV.2

Continue the ongoing National Crime Survey Redesign program in order to examine the various conceptual, methodological, analytic, and utilization issues concerning the NCS which have been raised since the inception of the program, and to conduct studies aimed at resolving these questions.

Program Description

The National Crime Survey Redesign Program was initiated in reponse to an evaluation of the NCS by the National Academy of Sciences, performed in

1974–1976. Under contract from BJS, a consortium of private and university-based statisticians, survey methodologists, and criminologists is now investigating a wide range of issues related to the conduct of the survey.

The issues being addressed in the study relate to the types of data collected, survey methodology and data utilization. In the area of data classification, specific questions address, for example, the types of crimes the survey can measure, the populations to be covered, and the best design to identify risk populations and crime victimization determinants.

Methodological work is driven by concerns for enhancing the accuracy and reliability of the data and for discovering more efficient and less costly means for collecting and processing NCS data. Efforts are also being made to develop improved strategies for data management, both to expand those uses of the data which are now technically feasible and to develop procedures for new types of data analyses which are not currently possible under the existing structure of the data files.

Finally, the study is addressing data utilization concerns with the objective of identifying additional areas for data application and making existing data more useful for determining crime levels in practical applications e.g., development of techniques for estimation of crime levels in particular types of geographical locales or population concentrations. In this connection the study will analyze and make recommendations to improve the coordination and complementarity of the NCS with the Uniform Crime Reports of the FBI. This would permit a more comprehensive examination of crime trends in the United States than is now possible.

5 Year Program Projection

FY 82–83

- Complete work on development of new explantory variables for NCS (9/82).
- Complete investigations to expand scope of crimes covered (12/82).
- Complete analysis of data from computer-assisted telephone interviewing, comparing to data collected from current telephone interviewing procedures (3/83).
- Complete development of longitudinal matching procedures for NCS data files (12/82).
- Develop error profile for NCS (6/83).
- Complete development of attribute-based type of crime classification scheme, to facilitate comparison with UCR data (9/82).
- Provide suggestions for improvements in documentation for NCS public use files (12/82).
- Convene interagency conference to investigate cooperative collection of crime data (3/83).
- Continue question revision and development for redesigned NCS screener and incident forms.
- Conduct field tests to evaluate new question batteries for NCS screens and incident form.

FY 84–85

- Conduct national field test to refine prototype redesigned NCS instrument.
- Produce sampling recommendations for stratification and use of telephone and face-to-face interviewing procedures.
- Produce recommendations for changes in NCS data processing procedures to improve timeliness of data and to facilitate longitudinal matching.
- Produce recommendations for optimal recall period in NCS interviewing.
- Produce recommendations for bonding procedures for recall, including suggestions for calendrical devices.
- Produce suggestions for changes in BJS publications drawing on NCS.
- Produce recommendations for interagency cooperation in collection of crime data.

Goal V

To analyze Major Statistical Data Bases and Quantitative Research Studies of BJS and other Governmental and Non-Governmental Agencies and Produce and Disseminate Reports, Bulletins, Briefing Materials, and Other Documents that Describe the Data and its Policy Implications, and to promote the Utilization and Secondary Analysis of BJS Data Bases.

Objective V.1

Prepare, design, and disseminate briefing materials dealing with crime and the administration of justice for the National Indicators System (NIS) program which has been developed to inform the President and key White House staff on the extent and impact of crime in the United States.

Program Description

The National Indicator System (NIS) is a program for informing the President, Vice President, and White House Staff of social, demographic, and economic trends in the United States. The Bureau of Justice Statistics was designated by the Director of the White House Office of Planning and Evaluation as the lead agency to prepare a briefing on violent crime in the Nation. Under the NIS program, lead agencies are also to establish ongoing tracking procedures to ensure that accurately updated statistics are available for use in subsequent briefings and in connection with analysis of specific issues or trends, in response to requests from the Executive or legislative branches of government.

The BJS Briefing package on violent crime was completed in the Fall of 1981. Subsequent to the initial formal White House briefing presentation and the submission of the briefing package, the briefing materials, have been utilized in response to specific Congressional inquiries and in connection with relevant Congressional testimony. This activity will continue, utilizing continually updated data to reflect changes and trends in initial findings.

In light of the concern over crime and the potential relationships between crime and related areas, interest by policy makers in both the original briefing and, more relevantly, in future updated data on briefing issues, has been substantial, and indicates that the briefing has served as a significant conduit to make BJS data available for use on specific issues of current Executive and legislative concern.

5 Year Program Projection

FY 1982–83

- Distribute briefing package to key members of Congress, the Department of Justice and other Executive departments (2/82).
- Distribute material and conduct follow-up briefings for key officials in DOJ (11/81).
- Update data set forth in briefing materials to accurately reflect changes in rate of crime, criminal justice activity etc. (10/82).
- Analyze trends reflected by changes in updated (6/82).

FY 1984–86

- Review and continually update briefing data.
- Respond to inquiries regarding changes in data findings.

Objective V.2

Develop an annual report to the nation on crime and the response to crime in order to provide the general public with a comprehensive understanding of crime, its prevention, and the functions of criminal justice administration system.

Project Description

During 1982, the Bureau of Justice Statistics (BJS) will produce the first

report to the nation on crime and the response to crime. Impetus for preparing this report developed out of the preparation, under the National Indicator System, of a White House briefing book on violent crime. The favorable reception of the briefing book demonstrated the informative power of BJS data when presented in a non-technical fashion. The objective of this report is to present a comprehensive picture of crime and criminal justice in the United States including topics concerning crime, victims, offenders, the criminal justice system, criminal justice processes, and the costs of the criminal justice system. Aimed at the general public, the report will attempt to view crime and justice from the citizen's perspective. Relying heavily on graphic presentation, the report will utilize a simple, non-technical format and will emphasize statistical indicators and trends in crime and justice. Statistics for the report will be developed from exisitng BJS data series as well as other sources including series collected by other Federal agencies, State and local data sets, and relevant research.

In order to inform the general public, our dissemination efforts will concentrate on the content of the report. Therefore, we plan to use a variety of techniques, in addition to report distribution, which target the media, educators, and other sources of secondary dissemination. Publicity about and distribution of the report is also planned for Federal, State, and local officials, as well as criminal justice professionals.

5 Year Program Projection

FY 1982–83

- Complete preparation of final draft of the National Report (5/82).
- Release of the National Report (10/82).
- Dissemination of reports (10/82–1/83).
- Analysis user response to report (6/83).
- Based on user response initiate preparation of a revised edition (9/83).

FY 1984–86

- During 1984–86 the second and subsequent editions of the National Report will be published.

Objective V.3

Prepare and disseminate criminal justice Bulletins to provide non-technical information derived from BJS and other data bases for the Congress, the business community, state and local criminal justice policy officials, and other users.

Program Description

Bureau of Justice Statistics *Bulletins* were developed in 1981 as a major component of the Bureau's data analysis and dissemination program. The *Bulletins* serve as the vehicle for the timely release of BJS annual data series as well as a medium for the presentation of statistics focusing on issues and topics of interest in crime and justice. The purpose of the bulletin program is to make available objective information in nontechnical language about the state of the nation with respect to its problems of crime and the administration of justice. Topics to date have included: Prevalence of Crime; Prisoners in 1980, Veterans in Prison, Hispanic Offenders etc.

The audience of the *Bulletins* includes legislators, policy makers, criminal justice researchers practitioners, and the concerned citizen. The bulletins provide timely statistical data input for utilization in connection with policy analysis, decisionmaking and research design.

5 Year Program Projection

FY 1982–83

- BJS *Bulletins* to be published monthly; documents will cover such topics as adult and juvenile institutional populations, probation and parole populations, prisoners under sentence of death, victimizations, violent crime, weapons, stranger-to-stranger crime, sentencing legislation, female offenders, and drug and alcohol histories of offenders.

FY 1984–86

- Expand *Bulletin* program in scope and frequency of publication.
- Develop *Bulletins* focusing BJS statistics on policy questions of current concern in the field of criminal justice.

Goal VI

To Assist States in Implementing and Adapting Operational Information Systems to Facilitate Collection and Analysis of Criminal Justice Statistical Data at the State and Local Level and to Maintain a Data Processing Capability to Enhance BJS Data Analysis and Dissemination.

Objective VI.1

Complete documentation packages and achieve transferability status for major Law Enforcement Information Systems (LEIS) programs including POSSE, CASS, IMIS and FMIS to facilitate the collection and analysis of law enforcement data at the State and local levels.

Program Description

In 1979, the Bureau of Justice Statistics, assisted by the International Association of Chiefs of Police, initiated a program to develop and support the implementation of automated information systems designed to aid small and medium-sized law enforcement agencies. These systems are specifically designed to assist such agencies in meeting their operational and management needs in order that regular and comparable data can be captured to produce statistical reports for analytic and operational use.

The Law Enforcement Information Systems (LEIS) program provides multiple support to these agencies in such areas as police operations, crime analysis, investigative management and fleet management. Under the LEIS program, four major subsystems are nearing completion: (1) Police Operations Support System-Elementary (POSSE); (2) Crime Analysis Support System (CASS); (3) Investigative Management Information System (IMIS); (4) Fleet Management Information System (FMIS).

BJS will complete the computer program documentation and provide limited technical assistance to State and local law enforcement agencies permitting them economical access to operational information systems. As these systems have been designed to capture and maintain standardized data, they should prove beneficial to BJS in the collection and analysis of law enforcement information from multi-jurisdictions.

5 Year Program Projection

FY 82–83

- Complete computer documentation and software for the LEIS programs by 3/82.
- Provide State and local law enforcement agencies with machine readable copies of existing operational systems (POSSE, CASS, IMIS and FMIS) on a continuing basis after 3/82.
- Provide technical assistance to State and local law enforcement agencies in the submission of data to national reporting programs on a continuing basis.

FY 84–86

- continue to provide technical assistance to State and local law enforcement agencies in the submission of data to national reporting programs.
- Continue to disseminate machine readable copies of operational law enforcement information systems.

Objective VI. 2

Develop technical procedures and standards to facilitate the submission of State and local criminal justice statistical data to BJS and support development and implementation of operational information systems to improve statistical data collection and analysis at the State and local level.

Program Description

Both BJS and its predecessor organization, NCJISS have recognized that the long-term regularized collection of statistical data reflecting criminal justice operations is dependent upon the development and implementation of procedures and systems (both manual and automated) which permit systematic input, collection and retrieval of data on a continuing basis. Consistent with this objective and, in recognition of the necessary linkage between operational and statistical data requirements, support has been provided over the past 7 years to assist States in developing and implementing automated systems serving the police, court and correctional components of the criminal justice system. As of this time, almost all States have received fiscal or technical assistance in this area. Costs of system operations have been assumed at the State or local level in a large number of cases.

Under this objective, efforts will be specifically directed toward the identification and development of technical procedures, specifications, data definitions and standards to enhance the statistical output of existing operational systems. Assistance will be provided to the States in organizing, utilizing and evaluating their own data needs and the capability of the existing systems. Additionally, some support will be provided for completion of ongoing development of those systems which have unique potential for statistical data output. It is anticipated that these efforts will make possible the more valid analysis of multi-jurisdictional data.

In light of the extensive commitment to States in this area and the critical interdependence between statistical and operational data collection, continuation of these efforts are necessary at this time to permit the long-term development of statistical data for use in decision making at the State level. Such data is particularly needed at this time to permit optimum allocation of limited fiscal and manpower resources.

5 Year Program Projection

FY 82–83

• Review the technical characteristics of current State and local criminal justice statistical data series being collected pursuant to BJS requirements in the areas of data commonality, potential inter-face and coordination. (Final report by 10/82).

• Provide technical assistance to State and local agencies in the implementation of previously developed operational information systems which support national statistical reporting on a continuing basis.

• Establish a State/national coordinating committee to resolve technical and data reporting problems in the submission of correctional information. (Organizational committee meeting by 5/82.)

• Develop and regularize reporting requirements for the submission of correctional data. (Specifications developed by 1/83.)

• Develop a program strategy to upgrade technical coordination among BJS supported statistical series. (Strategy developed by 8/83.)

FY 84–86

• Implement coordination strategy in a limited number of States.

• Continue to provide technical assistance to State and local agencies in the implementation of automated operational systems which support national reporting of statistical data.

• Continue and expand the automated collection of statistical data.

• Maintain liaison with national/State correctional data reporting development.

Objective VI.3

Develop and maintain a data processing capability to facilitate and enhance collection, analysis and reporting of data by BJS.

Program Description

The Bureau of Justice Statistics performs a wide-range of in-house data management and analysis functions. Statistical analyses and descriptive presentations, frequently requiring fast turnaround response time, are prepared in support of the President, Congressional staff, the Attorney General and other key Department of Justice officials. Analytic and descriptive materials are also prepared in house in response to regular Bureau statistical program activities.

Due to the broad scope of the Bureau's program activities and in view of the limitation of personnel, fiscal, and equipment resources available for in-house data management operations, the Bureau frequently contracts with the Census Bureau and other public and private statistical entities in conducting large-scale data collection and management activities.

As an addition to these continuing arrangements, an effective in-house capability is essential if the Bureau is to fulfill its expanded duties regarding the ad hoc provisioin of responsive and policy-relevant statistical materials to key governmental authorities.

In recognition of this need, steps will be taken to explore a number of enhancements to the existing in-house data management capability including the acquisition of additional computer terminals equipped with CRT screens and printers, micro and mini computers for both analytic and administrative purposes etc. In addition to such hardware improvements, BJS staff will examine the feasibility of accessing additional software packages which may serve to improve existing BJS analytic capabilities, including in-house graphic services.

5 Year Program Projection

FY 1982–83

• Conduct an ADP needs assessment of the data processing support needed by the Bureau and establish a data processing capability consistent with the Bureau's needs. Functional analysis completed by 3/82. (Data processing capability established by 2/83.)

• Determine the technical feasibility of conducting BJS in-depth analysis of selected sub-sets of national and Federal statistical data bases and initiate analysis of selected statistical data to the extent feasible. (Feasibility study completed 6/82. Initiate analysis 12/82.)

• Determine the state-of-the-art in specialized equipment and computer programs designed for statistical processing such as datagraphic terminals, statistical packages and specialized computer input and output devices. (Initiate testing of a graphics capability by 1/82. Recommend other specialized equipment by 10/82.)

FY 84–86

• Enhance the Bureau's data processing capability with specialized equipment and computer programs designed for statistical processing and graphic output display.

• Continue to receive on a regular basis selected statistical data bases for intensive Bureau analysis.

• Respond in an automated form to special "demand" information requests for statistical reports from state, local and other Federal agencies.

• Investigate feasibility of a computer to computer interface with state systems

for obtaining selected data for statistical analysis.

Goal VII

To Ensure Privacy, Security and Confidentiality of Identifiable Information and to Provide Leadership in the Development and Analysis of Information Policies Impacting on the Criminal Justice System.

Objective VII.1

Maintain inhouse legal and technical staff resource to direct development and implementation of BJS policies and procedures consistent with statutory requirements regarding privacy, security and confidentiality of criminal justice data and related relevant regulations, policies and guidelines.

Program Description

As a corollary to its legislative mandate regarding data collection and analysis, the BJS has specific statutory responsibility for ensuring privacy, security and confidentiality of identifiable data collected by and/or through systems supported by the BJS (Section 818 (a) and (b) of Justice System Improvement Act; also 28 CFR Parts 20 and 22). BJS is also responsible for ensuring that data access, transfer and publication policies are consistent with other governmental requirements such as the Privacy Act, Freedom of Information Act, and relevant Office of Management and Budget requirements.

The scope of the statutory confidentiality protections attaching to BJS statistical data is uniquely comprehensive. Specifically, identifiable data may not be revealed, transferred or utilized for non-research or statistical purposes. Additionally, such data is not subject to subpeona and may not be admitted, without individual consent, in any judicial, administrative or legislative proceeding. Violations of these statutory assurances are subject to fines not to exceed $10,000. The BJS confidentiality protections were first enacted in 1973 and historically, have served as landmark models for data disclosure policies both within the Federal government and the private sector.

Since the objective of these assurances is to minimize respondent concern over data utilization and accordingly, to upgrade credibility and validity of BJS data findings, compliance with confidentiality requirements is critical to the long term achievements of BJS goals.

The inhouse privacy and confidentiality resource provides continuing legal and technical guidance to ensure that BJS activities (both inhouse and contract supported) are consistent with the statutory limitations. Efforts have been specifically directed to development of materials explicating BJS policy, at negotiation and drafting or inter-agency agreements establishing BJS authority, and to oversight regarding state/local contractor activity relating to data disclosure and relevant information management.

Additionally, in recognition of BJS' long-standing efforts and statutory responsibility in the area of criminal history information, major efforts are also directed at providing materials and direction to assist states and other governmental entities in establishing and implementing standards to ensure privacy and security of criminal history data consistent with DOJ legislation, individual state legislation and good information management procedures. Standards in this area address, for example, limitations on data access, data security and individual rights of record review. A single BJS contact point has been established to monitor legislative and case-law activity in this area and to respond to inquiries regarding the legal, legislative and operational impact of changing privacy, confidentiality and security factors.

In light of the increasing concern over crime control and the recognition that appropriate access to and utilization of accurate and complete criminal history data may be relevant to law enforcement efforts, continued activity in the area of criminal justice information policy is particularly critical at this time.

5 Year Program Projection

FY 1982–83

- Complete report describing comprehensive legal and operational analyses of multi-agency confidentiality requirements (1/82).
- Complete draft *Memo of Understanding* establishing joint BJS-Census confidentiality procedures (4/82).
- Update and issue *Handbook* defining BJS legal and technical confidentiality requirements and procedures (11/82).
- Release and distribute *Guide to Research/Statistical Confidentiality* (8/82).
- Release and distribute comprehensive document *"Criminal Justice Data Security"* identifying and classifying physical and administrative techniques to ensure data security (6/82).
- Release and distribute *Guide to Data Security Procedures* (9/82).
- Review and, if appropriate, distribute report of findings on study to assess impact of confidentiality restrictions on data utility, validity, accessories (7/82).
- Develop major document *Privacy Audit Techniques* (7/82).
- Conduct training program in privacy audit procedures to enable states to monitor state privacy activity (8/82).
- Review and issue BJS *Bulletin* describing and analyzing trends in State privacy and security legislation (9/82).
- Review Privacy Certification and/or other confidentiality assurances, where appropriate, in connection with BJS data collection, questionaire development (ongoing/continuous).
- Maintain liaison with DOJ, OMB regarding data management, questionnaire clearance, data disclosure policy (ongoing).

FY 84–86

- Review, update, and revise confidentiality agreements between BJS and Census.
- Update and reissue *Handbook* defining Confidentiality standards.
- Establish ongoing Confidentiality panel composed of representatives of academia, criminal justice and the public to identify and analyze issues relevant to data confidentiality management and dissemination.
- Identify and analyze emerging techniques to secure data consistent with state-of-the-art statistical procedures, hardware capabilities, security procedures (10/85).

Objective VII.2

Provide leadership and assistance to the statistical, research and criminal justice communities in the development and implementation of policies and procedures which ensure an appropriate balance between the confidentiality interests of the individual, the informational needs of law enforcement and the data access requirements of the statistical/research community.

Program Description

Since the inception of the privacy, security and confidentiality program, BJS and its predecessor organization, NCJISS, have played a major role in the continuing Federal-State dialogue regarding policies for management of identifiable research/statistical data; disclosure and security of criminal history data, Federal-state exchange of criminal information, protection of intelligence data and inter-state negotiation of information policies. These activities directly correspond to BJS' programmatic mandate to collect

and analyze data and to support the development of those systems which can generate criminal justice statistical information. These efforts are also responsive to specific legislative provisions set forth in Section 818 (a) and (b) of the JSIA. The significance of these activities is heightened at this time by the increasing automation of criminal justice data, the growing recognition that adequate criminal justice data access is necessary to support law enforcement efforts and the fact that budgetary constraints may encourage increased joint utilization of data resources both in the operational and statistical areas.

Activities undertaken under this objective of the privacy and security program are intended to provide Federal and State government decision-makers in both the executive and legislative branches with data relevant to criminal justice information policy issues. Efforts have been directed, for example, to initiation of a comprehensive and continuing process for the review, collation and analysis of state criminal justice privacy legislation. Documents compiling relevant statutes are issued biannually and include comparative analytic graphics which provide a single source input to Federal Executive and legislative deliberations. Data made available under this effort is specifically relevant to the currently ongoing negotiation of procedures for Federal-State exchange of criminal justice data.

Other efforts under this program include the continuing identification of changing legal and operational issues relevant to criminal justice statistics and information management. Specific efforts have been directed to, among others, the legal and legislative implications of confidentiality protections, the Constitutional and common law status of media access to data, the statutory, constitutional and operational factors governing decisions regarding private employer access to data. Further efforts will be made to ensure early identification of new issues arising out of changing legal and technological conditions in order that BJS, as an information agency, can continue to provide data input to critical policy decisions which will arise in the area of criminal justice operations and statistics.

5 Year Program Projection

FY 82–83

- Review and issue *Compendium of State Privacy Legislation* (1980 Update) (4/82).
- Review and issue analytic report *Privacy and the Private Employer*, defining constitutional, legislative, and procedural factors relating to employer data access (3/82).
- Review and release analytic report *Privacy and the Media* defining factors relevant to media access to criminal justice data (1/82).
- Conduct major colloquium to identify, analyze and document critical privacy, security and information policy issues for the 80's (7/82).
- Prepare and issue comprehensive report discussing emerging criminal justice information issues as identified by criminal justice, governmental, private sector, academic community (10/83).
- Prepare and issue document analyzing impact of juvenile record confidentiality limitations on criminal justice statistical analysis (6/82).
- Prepare and issue *Bulletin* discussing impact of legal restrictions on access to juvenile justice data on statistical validity (7/82).
- Update and issue comprehensive *Compendium of State Privacy Legislation* (document to incorporate previously reported statutes in a single source) (9/83).
- Prepare, analyze and publish report on State legislative trends and impact on interstate data exchange (9/83).
- Identity, analyze and issue reports on two additional priority issues regarding privacy, security and criminal justice information policy. (Issues may include for example, indepth empirical analysis of employer access to data; interstate data exchange.) (10/82).

FY 1984–86

- Continue process to follow state legislation; publish biannual reports on legislative enactments; trends, changes.
- Identify and analyze impact of changes in technology on criminal justice information practices, including impact on statistical data access, Federal/State data exchange.
- Continue identification and analysis of priority information policy issues.

Goal VIII

To increase the utilization of Justice statistics by informing potential users of the availability of data, performing other user services, and providing statistical information in a form that is adapted to policy needs and is readily comprehensible to non-statisticians.

Objective VIII.1

Develop and maintain a program, in accord with Office of Management and Budget policy, to determine the data needs of potential justice statistics users and to inform them of the availability and accessibility of such statistics and of the user services available through BJS. In addition, support criminal justice and statistical professional membership organizations that provide BJS with policy recommendations, technical support, and access to networks of officials that support submission of national statistical data.

Program Description

The Office of Management and Budget (OMB) has noted that: "* * * the great volume of statistics produced by the Federal Government is seriously underutilized both inside and outside of the government, and that this condition can be attributed primarily to the lack of adequate information about and access to Federal statistical data bases * * * and * * * that problems of ensuring access to federally collected statistical data and providing adequate services to those who need to use the data are among the most serious pervasive difficulties facing Federal statistics in the 1980's." (Office of Management and Budget, "Implementing a New Federal Data Access Policy" in Statistical Reporter, pp. 475–79, September 1981.)

This objective is designed to be responsive to part of that data access policy, namely, informing those with a need for justice statistics of the availability of such statistics. The activities under this objective include the development of a mailing list for BJS publications based on proactive identification of agencies and individuals who should be using Bureau data. It also includes the development of several publications that are aimed at describing the data and user services available through the Bureau, describing in detail the data bases available from the Bureau, and indexing the actual data elements available through Bureau documents and data bases. Finally, this objective encompasses activities aimed at developing and maintaining liaison with major potential user groups for the purpose of determining their data needs and informing them of the data available to meet those needs and supporting those organizations that provide BJS with policy recommendations, technical support, and access to networks of officials that support submissions of national statistical data.

5 Year Program Projection

FY 1982–83

- Redesign the BJS mailing list by inviting key government agencies and others with a need for justice statistics to place their names on the list (10/81).
- Submit on a monthly basis to the OMB publication *Statistical Reporter*, a

description of recently released BJS reports and machine-readable data files. (monthly)

• Design, publish, and disseminate a brochure describing the data and user services available through BJS (4/82).

• Design, publish, and disseminate the first and second annual editions of a catalog of BJS publications and machine-readable data files, their content, and how to obtain them (6/82 and 6/83).

• Develop, publish, and disseminate an index to data variables available in BJS data bases (8/82).

• Develop and maintain liaison with major statistical, criminal justice, private sector, academic and professional membership organizations, and other potential users of justice statistics to determine their data needs and to inform them of the availability and utility of data for their needs and of the user services program of BJS. (ongoing, *ad hoc*)

FY 1984–86

• Conduct annual update of BJS mailing list.

• Continue monthly submissions to the *Statistical Reporter* of recently released BJS reports and data files.

• Reissue BJS descriptive brochure on approximately a biennial basis as changes in data availability dictate.

• Issue annually a complete updated catalog of BJS publications and machine-readable data files.

• Maintain, update, and periodically reissue the index of BJS data variables.

• Maintain liaison with major user groups and potential user groups.

Objective VIII.2

Maintain a national criminal justice data archive and information network to provide machine-readable data files of BJS, National Institute of Justice, the National Institute of Corrections, the Office of Juvenile and Delinquency Prevention, and other high quality criminal justice data bases and to conduct training and technical assistance in their use.

Program Description

This objective encompasses the National Criminal Justice Archive and Information Network (CJAIN) that has been sponsored by the Bureau since 1977 at the Inter-University Consortium of Political and Social Science at the University of Michigan. The Archive supports those users whose data needs are not satisfied by published statistics. All BJS data bases, plus other data sets relevant to criminal justice, are stored at the archive. Tapes of these filed are disseminated in a form compatible with a user's computing facility, so that the user may produce data analyses of interest. The archive also provides technical assistance in use of archived data and conducts an annual training seminar in their use. Archive holdings are continually updated and expanded.

5 Year Program Projection

FY 1982–83

• Continue acquisition, processing, and dissemination of machine-readable criminal justice data through CJAIN. (ongoing)

• Continue annual training seminar, sponsored by the archive, to facilitate use of archive holdings. (8/82 and 8/83)

• Improve coordination with National Institute of Justice in archiving NIJ data sets particularly useful for secondary analysis. (ongoing)

FY 1984–1986

• Continue acquisition, processing, and dissemination of machine-readable criminal justice data through CJAIN.

• Continue annual training seminar, sponsored by the archive, to facilitate use of archive holdings.

Objective VIII.3

Continue annual publication of the Sourcebook of Criminal Justice Statistics.

Program Description

The Sourcebook of Criminal Justice Statistics has been produced under BJS sponsorship since 1972. It is a single, comprehensive volume containing available statistical information about victims of crime, criminal activity, criminal justice processing, criminal justice expenditures, and related subjects. It provides Department of Justice staff, researchers, and other interested persons and easy-to-use reference work. The Sourcebook puts otherwise unobtainable information in the hands of planners and saves hours of time for researchers.

5 Year Program Projection

FY 1982–83

• Publish the tenth and eleventh annual editions of the *Sourcebook of Criminal Justice Statistics* (7/82 and 7/83).

• Develop a plan to decrease the production and publication times for the *Sourcebook* (1/83).

FY 1984–86

• Continue annual publication of the *Sourcebook*, using the accelerated production schedule developed in FY 1983.

Objective VIII.4

Respond to the information and analytic needs of the Department of Justice, the Administration, the Congress, the media, and the general public.

Program Description

A recent publication from the Office of Management and Budget has noted that: 'Data access' has many meanings and, while to statisticians the term may connote getting one's hands on a data tape, to policymakers data access may mean receiving statistical information in a form that is readily comprehensible to the lay-person and adapted to policy needs.

This objective is designed to do just that. It includes establishing a single contact point in the Bureau for responding to all requests for statistical information, developing and maintaining a "statistical service program" to serve the users of BJS data, and the design, development, and operation of a system to keeping track of these requests to serve as a continuing "feedback" mechanism to inform BJS of the relevancy of its data and the uses to which they are put.

5 Year Program Projection

FY 1982–83

• Establish a single contact point within BJS for responding to all requests for statistical information (1/82).

• Develop and maintain a "statistical service program" for responding to *ad hoc* requests for statistical information including the provision of data and analytic products, assessment of data quality, accessibility, and utility, and advice on appropriate analytic techniques and interpretation (on-going).

• Design, develop, and operate a system for responding to and recording information about *ad hoc* requests (1/82).

• Analyze *ad hoc* requests for information received in the past year to determine refinements needed in the statistical services program and implications for modifications to the overall BJS data collection, analysis, publication, and dissemination program. (4/82 and 4/83).

FY 1984–86

• Continue operation of the statistical services program, including system for recording information about *ad hoc* requests.

• Analyze annually *ad hoc* requests for information to determine refinements needed in the statistical services program and implications for

modifications to the overall BJS data collection, analysis, publication, and dissemination program.

[FR Doc. 82-217 Filed 1-5-82; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 63 and 45 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to increase the maximum allowable enrichment for fuel stored in the fresh fuel storage racks from 4.0 to 4.1 weight percent.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

for further details with respect to this action, see (1) the application for amendment dated October 6, 1981, (2) Amendment Nos. 63 and 45 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of December 1981.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-245 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413, 50-414]

Duke Power Co., et al. (Catawba Nuclear Station, Units 1 and 2); Order Rescheduling Prehearing Conference

December 30, 1981.

The special prehearing conference previously scheduled for January 6, 1982, is being rescheduled for January 12, 1982. The conference will be held at the same time and place, namely, the York County Agricultural Building, 104 Congress Street, York, South Carolina, beginning at 10:00 a.m. The conference may continue on the 13th, if necessary.

Dated at Bethesda, Md., this 30th day of December 1981.

For the Atomic Safety and Licensing Board.

James L. Kelley,

Chairman, Administrative Judge.

[FR Doc. 82-255 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment allows operation of the facility at less than 40% full power during certain switching operations with the reactor coolant pump power monitor trip function bypassed.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 22, 1981, (2) Amendment No. 48 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H. Street, NW, Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of December 1981.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-246 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Modification of January 13, 1981 Order

In the matter of Jersey Central Power & Light Company (Oyster Creek Nuclear Generating Station).

I

The Jersey Central Power & Light Company (the licensee) is the holder of Provisional Operating License No. DPR-16 which authorizes the operation of the Oyster Creek Nuclear Generating Station at steady state reactor power levels not in excess of 1930 megawats thermal rated power. The facility consists of a boiling water reactor located at the licensee's site in Ocean County, New Jersey.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: 1) the licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO–24583–1 and the Acceptance Criteria contained in Appendix A to NUREG–0661; and 2) design and install any plant modifications needed to asure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG–0661. The Order, published in the Federal Register on January 26, 1981 [46 FR 8139] required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG–0661 be completed not later than December 31, 1981, or, if the plant is shutdown on that date, before the resumption of power thereafter. In addition, the Order provided for extending, up to that same date, an exemption from General Design Criteria 50 of Appendix A to 10 CFR Part 50.

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments where necessary and modifications to be undertaken.

Since the development of these acceptance criteria significant progress has been made by the licensee in meeting the Order requirements. However, in a Mark I Owners Group Meeting on May 22, 1981 and by letter dated June 29, 1981 the licensee identified program areas where unforeseen difficulties and delays have been encountered. These are primarily related to torus attached piping analyses, the use of alternate approaches and interpretations of NUREG–0661, slippages in outage schedules, and equipment delivery that has necessitated revision of the Order date.

The major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping, which comprise approximately 75% of the total program effort, either have been completed or will be completed prior to startup following the next refueling outage. Consequently substantial improvements have already been made and will continue to be made in the margins of safety of the containment systems until the program completion.

The staff currently has under review a generic proposal to extend the completion dates for the Mark I long term program containment modifications for all affected licensees. In light of the above, the Director has determined that there is good cause for modifying the Order and granting an extension of 45 days from the date specified in Section V of the January 13, 1981 Order.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, It Is Ordered that the: December 31, 1981 completion date specified in Section V of the January 13, 1981 "Order for Modification of License", is extended to February 14, 1982. The Order of January 13, 1981, except as modified herein remains in effect in accordance with its terms.

Dated at Bethesda, Maryland this 29th day of December, 1981.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-242 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Provisional Operating License No. DPR–16, issued to Jersey Central Power & Light Company (the licensee), which revised the Provisional Operating License and Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility), located in Ocean County, New Jersey. This amendment shall be effective January 1, 1982.

The amendment revises the Provisional Operating License and the Technical Specifications to reflect that GPU Nuclear Corporation is to replace Jersey Central Power & Light Company as the licensee authorized to operate the Oyster Creek Nuclear Generating Station.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 2, 1981, and supplements thereto dated December 4 and 16, 1981, (2) Amendment No. 59 to License No. DPR–16, and (3) the Commission's related Safety Evaluation. All of the items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at 101 Washington Street, Toms River, New Jersey 08753. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December, 1981.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-248 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket 50-260]

Tennessee Valley Authority; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR–52 issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 2 (the facility) located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

This amendment changes the Technical Specifications to extend the exposure range of the Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) versus average planar

exposure from 30,000 MWd/T to 40,000 MWd/T for the 8 × 8 fuel elements in the core.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 9, 1981 as supplemented by letter dated December 11, 1981, (2) Amendment No. 77 to License No. DPR-52, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December 1981.

For the Nuclear Regulatory Commission.

V. L. Rooney,

Acting Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-249 Filed 1-5-82 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance Of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-24, and Amendment No. 61 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments were effective December 3, 1981 for a period of 30 days.

The amendments revise the degraded grid undervoltage relay time delay setpoint of Table 15.3..5-1 Item 9 of the Point Beach Nuclear Plant Units 1 and 2 Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For Further details with respect to this action, see (1) the application for amendments dated December 3, 1981, (2) Amendment Nos. 57 and 61 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of December, 1981.

For The Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief Operating Reactors Branch No. 3 Division of Licensing.

[FR Doc. 82-250 Filed 01-05-82; 8:45 am]

BILLING CODE 7590-01-M

[License No. 21-14161-01G EA 81-79]

Nuclear Diagnostics, Inc., Order Imposing Civil Monetary Penalties

I

Nuclear Diagnostics, Inc., Troy, Michigan (the "licensee") is the holder of Byproduct Material License No. 21-14161-01G (the "license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to manufacture *in vitro* kits and to distribute these kits to persons generally licensed pursuant to 31.11 of 10 CFR Part 31. The license was issued on August 13, 1971, and a timely renewal application has been submitted.

II

A routine inspection was conducted of licensed activities under the license on June 4, 1981. As a result of this inspection it appears that the licensee has not conducted its activities in full compliance with the conditions of the license and with the requirements of the Nuclear Regulatory Commission's "Notices, Instructions and Reports to Workers; Inspections," Part 19 and "Standards for Protection Against Radiation," Part 20, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee by letter dated October 6, 1981, specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205, which incorporates by reference the Notice of Violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letter dated November 5, 1981.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for deferral, compromise, mitigation, or cancellation contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for Items I.A and I.B should be imposed. No penalty was proposed for Items II.A, II.B and II.C.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of One Thousand Dollars within thirty days of the date of this order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of

Inspection and Enforcement, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

a. whether the licensee was in noncompliance with the Commission's regulations and the conditions of the license in the respects set forth in the Notice of Violation and Proposed Imposition of Civil Penalties (Items I.A and I.B) and

b. whether on the basis of such items of noncompliance the Order should be sustained.

Dated at Bethesda, Maryland this 30 day of December, 1981.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

Violations IA, IB, and IIC and associated civil penalties identified in the Notice of Violation (October 6, 1981) are restated, and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response to these items, contained in Nuclear Diagnostics, Incorporated's letter dated November 5, 1981, are presented. Violations IIA and IIB were admitted by the licensee and are not restated or evaluated.

1. *Statement of Noncompliance for Item IA.* 10 CFR 20.201(b) requires that each licensee shall make or cause to be made such surveys as may be necessary for him to comply with the regulations in Part 20. A survey as defined in 20.201(a) is an evaluation of the radiation hazards incident to the use of radioactive material under a specific set of conditions.

Contrary to the above, the licensee failed to make such surveys or evaluations as were necessary to assure that an individual who handled significant quantities of iodine-125 did not receive an uptake exceeding the limits specified in 10 CFR 20.103. Specifically, surveys for contamination conducted as a result of iodinations and other uses of the licensed material were not adequate or commensurate with the substantial increase in the amounts of iodine-125 used in iodinations (as high as 60 millicuries compared to 2–3 millicuries used in the past).

This is a Severity Level III violation (Supplement IV). (Civil Penalty—$650).

Evaluation of Licensee's Response to Item IA and OIE's Conclusion. The licensee admits the violation, but states there is an error in the violation in that NDI has always used quantities that are significantly less than 60 millicuries of iodine-125 per iodination. This information does not alter the significance of the violation inasmuch as the amounts the licensee acknowledges using still represent a substantial increase in the amount of iodine-125 previously handled in the laboratory.

The item, as stated, is a violation. The information presented by the licensee does not provide a basis for modification of the enforcement action.

2. *Statement of Noncompliance for Item IB.* 10 CFR 20.103(a)(1) states no licensee shall possess, use, or transfer licensed material in such a manner as to permit an individual in a restricted area to inhale a quantity of radioactive material which would result from inhalation for 40 hours per week for 13 weeks at uniform concentrations of radioactive material in air specified in Appendix B, Table 1, Column 1.

If the radioactive material is of such form that intake by absorption through the skin is likely, individual exposures to radioactive material shall be controlled so that the uptake of radioactive material by any organ from either inhalation or absorption or both routes of intake in any calendar quarter does not exceed that which would result from inhaling such radioactive material for 40 hours per week for 13 weeks at uniform concentrations specified in Appendix B, Table 1, Column 1.

Significant intake by ingestion or injection must be evaluated and accounted for by techniques and procedures as may be appropriate to the circumstances of the occurrence. Exposures so evaluated shall be included in determining whether the limitation on individual exposures in 10 CFR 20.103(a)(1) has been exceeded.

Contrary to the above, the licensee's bioassay records showed that an individual working in a restricted area during the first quarter of 1981 had an uptake of iodine-125 that resulted from an intake greater than the equivalent of inhaling iodine-125 for 40 hours per week for 13 weeks at the uniform concentration specified in 10 CFR 20, Appendix B, Table 1, Column 1. Specifically, a bioassay conducted on March 16, 1981, showed the individual's uptake of iodine-125 was about three times the 13 week limit.

This is a Severity Level III violation (Supplement IV). (Civil Penalty—$350).

Evaluation of Licensee's Response to Item IB and OIE's Conclusion. The licensee denies the violation on the basis that the thyroid exposure was within ICRP, NCRP, and 10 CFR 20.101 guidelines and that the NRC regulations are vague and subject to interpretation. The licensee states as evidence of the vagueness of the regulations that it took NRC Region III almost a month to conclude there may have been a violation. However, the licensee states they now understand how the NRC determined there was a violation.

Simply because an exposure is within ICRP and NCRP guidelines does not negate the necessity of complying with NRC regulations. The applicable limits for iodine-125 intake are addressed in 10 CFR 20.103. 10 CFR 20.101 defines the exposure limits for whole body, head and trunk, active blood forming organs, et cetera. Although these limits must not be exceeded either, they do not apply to the thyroid burden accrued in this case.

The NRC (Region III) interpretation and use of 10 CFR 20.103 follows ICRP and NCRP guidelines for uptake and retention of iodine-125 by the thyroid and has precedents in previous NRC enforcement actions. The licensee's lack of familiarity with the guidelines and the significance of the actual radiation exposure relative to ICRP and NCRP guidelines were considered when determining the amount of the civil penalty. For the sake of clarity, it should be noted that the licensee was informed that the thyroid uptake was an apparent violation of NRC regulations on the day of the inspection, June 4, 1981.

The item, as stated, is a violation. The information presented by the licensee does not provide a basis for modification of this enforcement action.

3. *Statement of Noncompliance for Item IIC.* 10 CFR 20.203(f) requires that each container of licensed material in excess of 1 microcurie of iodine-125 and 10 microcuries of iron-59 shall bear a durable, clearly visible label identifying the radioactive contents. The label shall bear the radiation caution symbol and the words, "Caution—Radioactive Material."

Contrary to the above, on June 4, 1981, the inspector observed waste storage drums containing millicurie quantities of iodine-125 and 20 millicuries of iron-59 that were not labeled as required.

This is a Severity Level VI violation (Supplement IV).

Evaluation of Licensee's Response to Item IIC and OIE's Conclusion. The licensee denies the violation on the basis that the storage barrels are stored in a restricted area and, therefore, exempt from labeling under 10 CFR 20.203(f)(3)(vi). The licensee also stated during a telephone conversation on November 20, 1981, that a written record of the barrel contents is available to individuals who have access to the barrels. Based on the additional information supplied, we agree this item does not constitute a violation and it will be deleted from our records.

The item is not a violation. The information presented by the licensee provides a basis for deleting the item. No civil penalty was proposed for this item.

[FR Doc. 82-251 Filed 1-5-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

December 30, 1981.

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 AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Agricultural Marketing Service
California-Arizona Valencia Oranges—Marketing Order No. 908
On occasion, annually
Farms/businesses or other institutions
CA./AR. Valencia orange growers, handlers, proces. & export.
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 106,957 responses; 21,608 hours; $610 Federal cost; 18 forms; $113,037 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The valencia orange administrative committee forms are used to obtain information from handlers relating to the quantities of valencia oranges shipped and utillized in various cutlets during specified time periods, and by growers, handlers, processors, and exporters to apply for permission to ship valencia oranges to certain non-regulated outlets.

• Agricultural Marketing Service
California-Arizona Navel Oranges—Marketing Order No. 907
On occasion, annually
Farms/businesses or other institutions
CA./AR. navel orange growers, handlers, proces. & exporters
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 99,622 responses; 20,001 hours; $610 Federal cost; 15 forms; $104,693 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The navel orange administrative committee forms are used to obtain information from handlers relating to the quantities of navel oranges shipped and utilized in various cutlets during specified time periods, and by growers, handlers, processors, and exporters to apply for permission to ship navel oranges to certain non-regulated outlets.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–9770

New

• Federal Energy Regulatory Commission
Incremental Pricing Report
FERC 571
Other-see SF83
Businesses or other institutions
Natural gas pipeline companies & boiler fuel users
SIC: 999
Small businesses or organizations
Energy information, policy, and regulation: 12,245 responses; 17,420 hours; $44,110 Federal cost; 1 form not aplicable under 3504(h)
Anita T. Ducca, 202–395–7340

This application is required to set forth the calculation and billing of incremental surcharges in accordance with title II of the NCPA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Health Care Financing Administration
Medigap Study
HCFA–337
Nonrecurring
Individuals or households
Medicare beneficiaries who reside in the 8 selected states.
Health: 1 response; 2,498 hours; $484,400 Federal cost; 4 forms; $24,870 public cost; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Data will be collected from medicare beneficiaries in 8 States which have

been selected to provide a cross sectional review of State regulations concerning the number and quality of health insurance policies available to supplement medicare coverage.

• Alcohol, Drug Abuse, and Mental Health Administration
Multiple Personality Disorder, Clinical Characteristics, Etiology, and Outcome
Nonrecurring
Businesses or other institutions
Psychiatrists who are members of the American Psych. Assoc.
SSIC: 801
Health: 18,300 responses; 775 hours; $5,400 Federal cost; 2 forms; $7,750 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Purpose—to gather and disseminate information about the clinical characteristics and estimated prevalence of multiple personality disorder. Although it carries high risk for suicidal and/or violent behaviour, this syndrome may frequently go undiagnosed because of current lack of information about it in the medical community.

• National Institutes of Health
Impact Assessment of Nutrition Counseling Workshops
Other-see SF83
Individuals or households
Participants in an NHIBI-sponsored workshop
Health: 375 responses; 206 hours; $5,500 Federal cost; 4 forms; $2,060 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Four instruments will provide feedback to participants and implementors of a workshop on nutrition counseling. The primary purpose is to assess instructional impact. Information will be collected from no more than 150 voluntary trainees between December 1981 and September 1983.

• Social Security Administration
Benefits for Individuals Who Perform Substantial Gainful Activity Despite Severe Medical Impairment
On occasion
Individuals or households
Blind/disabled recipeints of SSI
Other income security: 2,450 responses; 327 hours; $16,292 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Information collected by this regulation is needed from disabled and blind SSI recipients who have income, some which is earnings, which causes ineligibility for SSI payments. This information will determine whether all other factors for SSI eligibility are met and also whether the usage of title XIX will inhibit a person's ability to continue in employment and whether earnings provide a reasonable equivalent of benefits.

• Centers for Disease Control
Surveyor's Questionnaire on Hospital Infection Control
Nonrecurring
State or local governments/businesses or other institutions
State/private association officals
SIC: 943, 864
Health: 55 responses; 28 hours; $33,646 Federal cost; 1 forms; $280 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

CDC will be providing education/training for State and private association officials responsible for hospital infection control. This questionnaire will provide CDC with a profile of its potential audience, a description of their current survey methods and criteria and some indication of the level and type of training needed.

• Social Security Administration
Request for hearing
HA–501–U5 (12–881)
On occasion
Individuals or households
Claimants requesting hearings on social security benefits
General retirement and disability insurance: 300,000 responses; 50,000 hours; $224,869 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The information collected in completing this form is needed and used to afford claimants their statutory right to a hearing and decision under the Social Security Act.

Revisions

• Social Security Administration
Questionnaire About Employment or Self-Employment Outside the United States
SSA–7163
On occasion
Individuals or households
Beneficiaries living and working outside the U.S.
General retirement and disability insurance: 20,000 responses; 4,000 hours; $9,189 Federal cost; 1 form, not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 203 (b) and (c) of the Social Security Act provides that deductions may be made from certain employed or self-employed beneficiaries under age 72. This form is used to determine whether beneficiaries outside the U.S. are subject to deductions.

Extensions (Burden Change)

• Office of Assistant Secretary for Health
Status Assessment of Inactive Reserve Officer Availability
PHS 4736, 6074, 6125, 6126, 6127
On occasion
Individuals or households
Inactive reserve officers of PHS
Health care services: 2,340 responses; 622 hours; $30,000 Federal cost; 5 forms; $6,220 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

The commissioned personnel operations division uses the forms in the following manner, (1) to determine the availability and skills of inactive reserve officers, (2) to provide an opportunity for the officers to terminate their commissions. All these functions pertain directly to emergency mobilization and preparedness functions of the PHS inactive reserve program.

Extensions (No Change)

• Social Security Administration
Report of Individual With Childhood Impairment
SSA–1323
On occasion
Businesses or other institutions
Public and nonpublic schools or agencies
SIC: 801, 806, 804
Small businesses or organizations
General retirement and disability insurance: 75,000 responses; 25,000 hours; $138,912 Federal cost; 1 form, not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The information elicited by this form is needed to determine if a claimant for childhood disability benefits has an impairment that meets the severity and duration requirements of the law.

• Social Security Administration
Reporting Events—SSI
SSA–8150–EV (6–81)
On occasion
Individuals or households
Supplemental security income recipients
General retirement and disability insurance: 100,000 responses; 8,333 hours; $23,466 Federal cost; 1 form, not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 1613(e) of the Social Security Act provides for information regarding changes in a recipient's circumstances which may affect eligibility for Supplemental Security Income (SSI) benefits. This form elicits the information required to establish continuing eligibility.

• Social Security Administration
Overpayment Recovery Questionnaire
SSA-632-F4 (1-79)
On occasion
Individuals or households
Individuals having been overpaid Social Security refund
General retirement and disability insurance: 500,000 responses; 166,666 hours; $781,006 Federal cost; 1 form, not applicable under 3504(h)
Robert Neal, 202-395-6880

This form requests detailed financial information necessary to determine whether the overpaid person has the ability to make repayment or whether waiver of the overpayment may be authorized. The individual's income from all sources, his itemized living expenses, debts, accumulated assets, and any expected inheritances must be evaluated.

Reinstatements

• Departmental Management
Contractor Recordkeeping Requirements-Held Property
OS-22-81
Other—see SF83
Businesses or other institutions
Contractors Doing Business With the Department
SIC: Multiple
Small businesses or organizations
Public assistance and other income supplements: 4,500 responses; $0 Federal cost; 450 hours; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202-395-6880

Action is a recordkeeping requirement imposed by existing regulations (section 202(b)) of the Federal Property and Administrative Services Act of 1949. Action is required by contractors to establish control of property and protect the Government's interest.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202-755-5184

New

• Housing Progams
Procedure for Obtaining Certificates of Insurance for Development and Modernization Projects
On occasion
Businesses or other institutions
Public housing agencies
SIC: 953
Public assistance and other income supplements: 850 responses; $0 Federal cost; 212 hours; 1 form; not applicable under 3504(h)
Richard Sheppard, 202-395-6880

Hud construction documents require that PHAS obtain certificates of insurance from contractors and sub-contractors and maintain a file of these certificates during the course of the project.

Revisions

• Housing Programs
Public Housing Financing
HUD-5402
On occasion
Businesses or other institutions
Public housing agencies (PHAS)
SIC: 953
Public assistance and other income supplements: 3,300 responses; $0 Federal costs; 2,625 hours; 2 forms; not applicable under 3504(h)
Richard Sheppard, 202-395-6880

Form HUD-5402, requisition for funds, was developed in accordance with provisions of the U.S. Housing Act of 1937, as amended, whereby HUD is empowered to make loans to public housing agencies (PHAS) to assist in financing low-income public housing projects. The form identifies the project or projects by number, amount requisitioned, the gen depository and acct number, approving officials and the date the direct advance will be repaid from the proceeds of project note sale.

• Housing Programs
Public Housing—Contract Administration
HUD-51000 A 51000 B
On occasion
Businesses or other institutions
Public housing agencies
SIC: 953
Public assistance and other income supplements: 4,500 responses; $40,000 Federal cost; 10,075 hours; 2 forms; not applicable under 3504(h)
Richard Sheppard, 202-395-6880

Authority for these forms pursuant to U.S. Housing Act of 1937 as amended (PL 93-383, 88 Stat 633). These forms are required submissions of contractors in connection with the construction of low-income public housing projects. Further reinstatement of the public housing program in compliance with the FY 77 Appropriations Act necessitated continued use of these forms.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202-343-6191

New

• Bureau of Indian Affairs
Financial Status and Grant Performance Report
ED 354, 354-1
Annually
State or local governments / businesses or other institutions
Indian tribes, Indian Organ, Indian institutions, etc.
SIC: 999, 892, 941, 822
Elementary, secondary, and vocational education: 1,200 responses; $1,680 Federal cost; $36,000 public cost; 3,600 hours; 2 forms; not applicable under 3504(h)
Federal Education Data Acquisition Council: 202-426-5030

These forms are required from each grantee annually. The grantees report on the amount of funds spent, the amount remaining, the number of students who participated in the project, and the extent to which the project achieved objectives described in the application.

Revisions

• Bureau of Indian Affairs
Nomination for the National Advisory Council on Indian Education
ED 543
Annually
State or Local Governments/Businesses or Other Institutions
Respondents: Indian tribes and Indian organizations, etc.
SIC: 999, 892
Elementary, secondary, and vocational education: 80 responses; 80 hours; $2,800 Federal cost; 1 form; $800 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

The Indian Education Act states: "There is hereby established the National Advisory Council on Indian Education which shall consist of 15 members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country."

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6331

Extensions (Burden Change)

• Pension Benefit Guaranty Corporation
Annual Premium Filing
PEGC-1
Annually
Businesses of other institutions
Plan administrators of defined benefit pension plans
SIC: All
Small businesses or organizations
General retirement and disability insurance: 88,000 responses; 29,333 hours; $139,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

PBGC provides insurance to prevent or minimize the loss of pension benefits incurred by pension plan participants in the event their plan terminates with insufficient assets to cover pension benefits. Form PBGC–1 is the vehicle used to collect the premiums that finance the insurance program.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Federal Highway Administration
1982–83 Nationwide Personal Transportation Study (NPTS)
NPTS–1
Other—See SF83
Individuals or Households
National sample of persons in 8,000 households
Ground transportation: 8,000 responses; 5,332 hours; $103,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

The Department of Transportation and other Government and private agencies throughout the country, will use information from the NPTS to determine the nature and extent of present travel needs, evaluate and manage current programs, and plan for meeting the travel needs of the future.

• Federal Highway Administration
Hazardous Materials Instructions and Documents
On occasion
Individuals or households/businesses or other institutions
Motor Carriers Transporting Class A and B explosives
SIC: 999
Ground transportation: 125,000 responses; 3,645 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–295–7340

Motor Carriers Transporting Class A or Class B Explosives are required to furnish driver written instructions on procedures to follow in case of an accident or delay and a written route plan and copy of applicable driving and parking rules. Driver signs receipt for documents, and receipt is retained for 1 year.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

New

• Bureau of Alcohol, Tobacco and Firearms
Record of Disposition of More Than 60,000 Cigarettes
In a Single Transaction
5210/10
On occasion
Businesses or other institutions
Tobacco product manufacturers, cigarette distributors
SIC: 213
Federal law enforcement activities: 27,000,000 responses; 1,050,000 hours; $2,098 Federal cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

These records are used to trace the movement of contraband cigarettes and helps curtail the illicit traffic of cigarettes between States.

• Bureau of Alcohol, Tobacco and Firearms
Record of Things of Value Furnished to Retailers Under the Federal Alcohol Administration Act
5 190/1
On Occasion
Businesses or other institutions
Wholesale liquor dealers, wholesale beer dealers, etc.
SIC: 518
Small businesses or organizations
Federal law enforcement activities: 9,245,450 Responses; 770,454 hours; $1,098 Federal cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

These records (bills of sale, invoices) are used to show compliance with provisions of the Federal Alcohol Administration Act which prevents wholesalers, producers, or importers from giving things of value to retail liquor dealers. These records are commercial invoices showing the furnishing of goods to retailers.

Extensions (burden change)

• Internal Revenue Service
Quarterly Federal Tax Return, Quarterly Return of Withheld Federal Income Tax, Employer's Monthly Federal Tax Return
941, 941E, 941–M, 941PR, 941SS
Monthly, Quarterly
State or local governments/businesses or other institutions
All employers who pay wages subject to income or FICA taxes.
SIC: all
Small businesses or organizations
Central fiscal operations: 19,506,040 responses; 23,950,993 hours; $37,575,013 Federal cost; 6 forms; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

Form 941 is used by employers to report payments made to employees subject to income and FICA taxes and the amounts of these taxes. Form 941E is used primarily by State and local governments to report withheld income taxes only. Form 941PR is used by employers in Puerto Rico to report FICA taxes only and form 941SS is used by employers in the U.S. possessions to report FICA taxes only. The data is used primarily to verify that the correct taxes have been paid.

Reinstatements

• Bureau of Alcohol, Tobacco and Firearms
Education/Personal History (of bureau applicant)
ATF F 8600.2 5
On occasion
Individuals or Households/businesses or other institutions
Office of admissions/registrars of univ, colleges, etc.
SIC: 822 821
Small businesses or organizations
Federal Law Enforcement Activities: 163 responses; 41 hours; $622 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Form is completed by the sponsoring bureau from data furnished by an applicant on their SF 171 "Application for Employment" and SF 86 "Security Investigation Data for a Sensitive Position." Bureau Investigators contact appropriate institutions (I.F. educational, Federal, State, local agencies) to verify the data furnished by the applicant.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

New

• Revision of Programming Policies and Reporting Requirements Related to Public Broadcast Licensees
On occasion
Businesses or other institutions
Pub broadcast licensees (noncommercial education stations)
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; $0 Federal cost; 0 hours; 1 form; NPRM under 3504(h)
William T. Adams, 202–395–4814

The notice of proposed rulemaking, FCC 81–367, adopted 7/30/81, initiates a review of rules and policies in three major areas, general programming responsibillty, community ascertainment, and program logging requirements.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

New

• Five-year state plan for Voccational Education
Ed 576–2
Other—see SF83
State or local governments
State boards for vocational education
SIC: 941
Elementary, secondary, and vocational education: 57 responses; 22,800 hours; $262,500 Federal cost; 1 form; $228,000 public cost; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

Section 107 of the Vocational Education Act requires state boards for vocational education to submit a five-year state plan in order to receive federal funds for vocational education programs.

• Annual Plan and Accountability Report for Vocational Education
Ed 576–3 576–4
Annually, other—see SF83
State or local governments
State boards for vocational education
Sic: 941
Elementary, secondary, and vocational education: 57 responses; 22,800 hours; $262,000 Federal cost; 2 forms; $228,000 public cost; not applicable under 3504(h)
Federal Education Data acquistion Council, 202–426–5030

Section 108 of the Vocational Education Act requires State boards for vocational education to submit annual plans and accountability reports in order to receive Federal Funds for vocationa education programs.

• Annual Evaluation Report of the State Advisory Councils for Vocational Education
ED 576–5
Annually
State or local governments
State advisory councils for vocational education
SIC: 941
Elementary, sedcondary, and vocational education: 57 responses; 28,500 hours; $175,000 Federal cost; 1 form; $285,000 public cost; not applicable under 3504(h)
Federal Education Data acquistion Council, 202–426–5030

The Vocational Education Act requires the State advisory Council to submit an annual report to the Secretary of Education Evaluating the vocational education programs conducted in its State.

Revisions

• Request for Payment of 1982–83 Award (Alternate disbursement System)
ED 304
On Occasion, annually
Individuals or households
Pell grant recipients (students), etc.
Higher Education: 82,000 responses; 27,700 hours; $300,279 Federal cost; 1 form; $277,000 public cost; not applicable under 3504 (h)
Federal Education Data Acquistion Council, 202–426–5030

Used to obtain benefits by students attending institutions that participate under the ADS system. This instrument is used to verify student enrollment and cost of attendance which is used by the secretary to determine their Pell grant award. The secretary acts as the disbursing agent on behalf of these insitituions.

• ADS Student Report (Request for Additional Payment)
ED 304–1
On occasion, semiannually, annually
Individuals or housholds
Pell grant recipients (students) and finan admin, etc.
Higher Education: 99,560 responses; 33,750 hours; $185,960 Federal cost; 1 form; $337,500 public cost; not applicable under 3504 (h)
Federal Education Data acquistion Council, 202–426–5030

This form is used by students attending institutions that participate in the Pell grant program under the alternate disbusement system to request any additional payments as well as having the financial aid administrator verify tht the student is still attending school, is eligible for his/her next payment, and that the previous information was correct.

• Cooperative Education Program Application Form 1193
Annually
State or local governments/Businesses or other institutions
Colleges and universitities
SIC: 822
Higher education: 600 responses; 6,120 hours; $165,282 Federal cost; 1 form $5,688 public cost; not applicable under 3504 (h)
Federal Education Data Acquistion Council, 202–426–5030

Application is needed by eligible applicants to apply for grant funds authorized under Title VIII, HEA, as amended. Application information is used to evaluate proposals and obligate grant funds.

• Evaluation of Student Financial Assistance Training Program (SFATP) 786–1 thru 786–8
Annually
Individuals or households
Participants in student finanasst training program, etc.
Higher education: 31,150 responses; 7,889 hours; $98,562 Federal cost; 8 forms; $91,875 Public cost; not applicable under 3504 (h)
Federal education data acquisition council, 202–426–5030

This study will determine whether training program participants are learning the curriculum, what participants think of the program, and whether the program is recruiting the people who need training the most.

Extensions (no change)

• State-Administered Vocational Education Program Improvement Contracts: Abstracts
ED 590
On occasion
State or local governments
Research coordinating units of State boards for, etc.
SIC: 941
Elementary, secondary, and vocational education: 912 responses; 228 hours; $47,780 Federal cost; 1 form; $2,280 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Section 171 of the Vocational Education Act mandates that the National Center for Research in Vocational Education act as a clearinghouse for contracts made by the States for research, exemplary and innovative programs, and curriculum development.

• Application for State Advisory Council for Vocational Education
ED 773–1, ED 773–2, ED 773–3, ED 773–4
Annually
State or local governments
State Governors or boards for vocational education, etc.
SIC: 941
Elementary, secondary, and vocational education: 114 responses; 228 hours; $5,472 Federal cost; 4 forms; $2,280 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The membership information will be reviewed to determine whether each State has legally constituted State Advisory Council, which is prerequisite to the issuance of a grant for the State Advisory Council and to the approval of the State's annual plan for vocational education. The budget will be used as

the basis for the issuance of the grant award to the State Advisory Council.

Reinstatements

- Basic Grant Program Student Validation Roster

ED 255–4
Annually
Businesses or other institutions
Post-secondary educational instit participating, etc.
SIC: 823
Higher education: 5,000 responses; 25,000 hours; $750,000 Federal cost; 1 form; $250,000 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The student validation roster is the vehicle which end-of-year adjustments to the authorization of BEOG funds are made, based on the actual and accepted disbursement of funds as reflected by the number of eligible BEOG recipients at the institution.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

- Lag Service Reports

AA–12, G–88A, G–88E
On occasion
Businesses or other institutions
Railroad employers
SIC: 401
Small businesses or organizations
General retirement and disability insurance: 30,800 responses; 3,017 hours; $662,800 Federal cost; 3 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

The reports obtain the current service and compensation of an employee not yet reported to the Board. This lag information is used to determine entitlement to and amount of annuity applied for to furnish SSA with requested earnings for an applicant under the SS Act and to pay benefits due on a deceased employee's earnings record.

Extensions (Burden Change)

- Appeal Under the Railroad Retirement Act

AC–1, AC–2
On occasion
Individuals or households
Claimants for benefits under the Railroad Retirement Act.
General retirement and disability insurance: 800 responses; 267 hours; $466,000 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

Under Section 7(b)(3) of the Railroad Retirement Act, a person aggrieved by decision on his or her application for an annuity or other benefit has the right to appeal to the Agency. The application will provide the means for initiating the appeals action.

- Request to Non-Railroad Employee for Information About Annuitant's Work and Earnings

RL–231–F
On occasion
Businesses or other institutions
Non-railroad employers
SIC: 999
General retirement and disability insurance: 4,000 responses; 500 hours; $200,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Under the Railroad Retirement Act, benefits are not payable if an annuitant works for an employer covered under the act or last non-railroad employer. The request will obtain from a non-railroad employer information on an annuitant's work and earnings. The information will be used for determining if benefits should be withheld.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202–389–2146

Extensions (Burden Change)

- Request for Information Concerning Medical, Legal or Other Expenses

21–8416
On occasion
Individuals or households
Vets in receipt of non-svc-connected pension benefits
Income security for veterans: 56,400 responses; 14,000 hours; $82,451 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

VA form 21–8416 is used to obtain information regarding medical, legal and other expenses incurred in connection with the receipt of civilian disability retirement benefits. Any such expenses, unreimbursed, are deductible from the payments received for the year in which the expenses are paid in computing annual income for Veterans Administration purposes, as authorized by 38 CFR 3.262.

- Application for Automobile or Other Conveyance and Adaptive Equipment

21–4502
On occasion
Individuals or households
Veterans and svc members with service related disability
Income security for veterans: 1,500 responses; 375 hours; $74,135 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

VA form 21–4502 is used to obtain information necessary to determine eligibility for payment by the Veterans Administration towards the purchase of an automobile or conveyance and/or adaptive equipment for a vehicle as authorized by 38 CFR 3.808.

Arnold Strasser,
Acting Chief, Reports Management Branch.

[FR Doc. 82–257 Filed 1–5–82; 8:45 am]
BILLING CODE 3110–01–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: Southland Corporation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Southland Corporation an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974 in connection with Southland's purchase of assets of the Merritt Foods Corporation. A notice of Southland's request for exemption from the requirement was published on September 22, 1981 (46 FR 46858). The effect of this notice is to advise the public of the exemption.

ADDRESS: The request for an exemption, the comment received and the exemption letter are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Suite 7300, 2020 K Street NW., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"). As a result of the Multiemployer Act, and employer that withdraws or

partially withdraws from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. Section 4204(a)(1) of ERISA, 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) if the variance would "more effectively or equitably carry out the purposes of [Title IV]." The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

Section 4204(c) requires the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption. On September 22, 1981 (46 FR 46858), the PBGC published a request from the Southland Corporation ("Southland") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA in connection with a purchase by Southland of the operating assets of Merritt Foods Corporation ("Merritt"). According to Southland's request for an exemption, Southland has assumed Merritt's obligation to contribute to the Central States, Southeast and Southwest Areas Pension Fund (the "Fund"). Southland has obtained a bond for $159,654.00, the amount of contributions required to be paid by Merritt for the 1980 plan year. The bond would be paid to the Fund if Southland withdraws from the plan or fails to make a contribution when due during the first five plan years after the sale. The bond would be cancelled if the exemption request is granted.

According to its audited financial statement for the fiscal year ending on December 31, 1980, Southland had net assets of $554 million. Southland's average net income for 1978, 1979 and 1980 was approximately $72.6 million. According to a subsequent unaudited statement, Southland had net assets of $572.8 million as of June 30, 1981 and net income of $31.7 million for the 6-month period ending June 30, 1981.

In response to the notice of pendency of the exemption, PBGC received only one comment. This comment, from the Fund, objected to the exemption on the ground that "the bond/escrow requirements of the statute [are] a further deterrent against both prospective contribution delinquencies and withdrawals from multiemployer plans. . . . Rather than limit a plan's recourse only to the courts, Congress intended by ERISA section 4204 to provide an alternative self-help remedy in assets sales transactions." The letter from the Fund pointed out that Congress did not distinguish in section 4204 between purchasers based on their relative financial positions.

PBGC finds, however, that the bond/escrow requirement of section 4204(a)(1)(B) is intended to ensure that the purchaser is financially viable at the time of the sale; it is not intended primarily as an alternative collection mechanism. The bond or escrow does not act as a deterrent against contribution delinquencies or withdrawals, since the amount of the bond or escrow, if paid to the plan, merely reduces the amount of contributions or withdrawal liability owed to the plan. *See* section 4204(a)(4). Thus, it does not provide an effective "self-help remedy" for the plan. Instead, the bond or escrow demonstrates the purchaser's financial ability to meet its obligations to the plan. Southland's net assets and annual income are more than sufficient to assure that Southland was capable of meeting its obligations to the Fund at the time of the sale and indicate a likelihood that Southland will be able to meet such obligations in the future.

The Fund also objected that an exemption granted to Southland would encourage other purchasers to request the exemption and would serve as a precedent for granting such requests. In determining whether to grant the exemption to Southland, PBGC considered Southland's financial condition as evidenced by its net worth and net income. Other purchasers who are similarly situated in terms of their contributions to the Fund and the required amount of the bond may or may not have financial resources sufficient to justify an exemption. PBGC will examine each request on an individual basis.

Finally, the Fund suggested that an appropriate standard for granting exemptions or variances for the bond/escrow requirement would be a finding that the requirement would frustrate a sale by a bankrupt employer to a solvent ongoing purchaser who would continue to make contributions to the plan. This guideline is set forth in Multiemployer Bulletin No. 2, issued by PBGC on July 1, 1981, as one example of a situation in which it would be appropriate for the plan sponsor to waive the seller's bond or escrow under section 4204(a)(3) of ERISA. PBGC finds that this standard is inappropriate in the case of the purchaser's bond (escrow) since the two bonds are required in very different circumstances and serve very different purposes. (The seller's bond is required only upon liquidation of substantially all of the seller's assets. The bond is in the amount of the full withdrawal liability the seller would have had but for section 4204, and is realized upon in the event that the seller's secondary liability under the section accrues.)

Based on the material submitted by Southland and after consideration of the objections raised by the Fund, PBGC has determined that exemption from the bond/escrow requirement would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, Southland was granted an exemption from the bond/escrow requirement on December 30, 1981. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Issued at Washington, D.C. on this 30th day of December, 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-228 Filed 1-5-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12132; (811-1544)]

Eaton & Howard Special Fund, Inc.; Filing of an Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

December 30, 1981.

Notice is hereby given that Eaton & Howard Special Fund, Inc. ("Applicant"), 24 Federal Street, Boston, MA 02110, registered under the Investment Company Act of 1940

("Act") as an open-end, diversified, management investment company, filed an application on November 3, 1981, for an order of the Commission pursuant to section 8(f) of the Act declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant, a Massachusetts corporation, registered under the Act on October 4, 1967, and on December 29, 1967, it filed a registration statement (File No. 2–27961) under the Securities Act of 1933 covering 5,000,000 shares of its common stock in connection with a proposed public offering of its shares. The registration statement was declared effective by the Commission on April 22, 1968, and Applicant commenced a public offering of shares of its common stock on April 23, 1968.

On June 19, 1981, at a meeting of Applicant's shareholders, holders of more than two-thirds of the issued and outstanding shares of common stock of Applicant approved an Agreement and Plan of Reorganization ("Plan") dated April 1, 1981, which provided that Applicant would transfer all of its assets, subject to liabilities, to Vance, Sanders Special Fund, Inc. ("Vance Special") in exchange for shares of beneficial interest of Vance Special. The application further states that the transfer of assets became effective on June 19, 1981, and that 1,151,546.943 Vance Special shares having an aggregate net asset value of $18,315,204.70 have been distributed to the accounts of Applicant's shareholders in proportion to their ownership of Applicant's shares. The Vance Special shares distributed to Applicant's shareholders are subject to stop orders preventing redemption and dividend payments until certificates for the corresponding Applicant shares are surrendered. Since June 19, 1981, certificates for approximately 232,000 shares, held by 1716 shareholders, had not been surrendered. Since June 18, 1981, Applicant has had no assets or liabilities.

All assets and liabilities were assumed on that date by Vance Special, pursuant to the Plan. Applicant states that it is not a party to any pending litigation or administrative proceeding and that it has not within the last 18 months transferred any of its assets to a separate trust the beneficiairies of which were or are shareholders of Applicant.

The application finally states that on July 10, 1981, Applicant filed Articles of Dissolution with The Commonwealth of Massachusetts; that under Massachusetts law the existence of the corporation has ceased except for those purposes necessary to close its affairs; and that Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 25, 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.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 82–306 Filed 1–5–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12127; (812–4884)]

Financial Institutions Series Trust; Filing of Application for an Order Granting Exemptions

December 28, 1981.

Notice is hereby given that Financial Institutions Series Trust ("Applicant"), 165 Broadway, New York, NY 10080, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on June 3, 1981, and an amendment thereto on November 16, 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 the assets of its various series 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 an unincorporated business trust organized under the laws of Massachusetts as a money market fund which will be comprised of separate series each of which will be a separate portfolio offering a separate class of shares to selected groups of purchasers. The only existing series is the Overland Express Money Market Fund ("Overland Fund") which offers its shares exclusively to customers, officers, directors and employees of Wells Fargo & Company and any of its affiliates. Applicant states, however that its board of trustees has the authority to create an unlimited number of additional series. Overland Fund's investment objectives, as set forth in the application, are to seek current income, preservation of capital and liquidity available from investing in short-term money market securities consisting of United States Government securities, Government agency securities, bank money instruments (principally certificates of deposit, time deposits and banker's acceptances), corporate debt instruments including commercial paper and variable amount master demand notes, and repurchase and reverse repurchase agreements.

Accordingly to the investment policies described in its prospectus, Overland Fund has authority to invest in variable rate certificates of deposit. Applicant asserts that with respect to variable rate certificates of deposit maturing in 180 days or less from the time of purchase with interest rates adjusted on a

monthly cycle, Applicant may use the period remaining until the next rate adjustment date for purposes of determining the average weighted maturity of the Overland Fund. Applicant agrees that until such time as the Commission has determined otherwise, it will use the remaining period to maturity of all other variable rate instruments for purposes of determining the average weighted portfolio maturity of the Overland Fund.

Overland Fund's investment policies also provide authority to invest in time deposits and repurchase agreement maturing in more than seven days. Applicant represents that Overland Fund will not invest more than 10 percent of its total assets (taken at market value) in illiquid securities including securities for which no readily available market exists such as reverse repurchase agreements maturing in more than seven days and time deposits. In addition, Applicant represents that to the extent the Overland Fund enters into reverse repurchase agreements or other arrangements described in Investment Company Act Release No. 10666 (April 18, 1979), it will do so in compliance with the conditions specified therein and with any subsequent interpretations of the Commission.

According to the application, the Overland Fund will invest, subject to the following limitations, only in United States dollar-denominated debt obligations issued or guaranteed by the Federal government, Federal government agencies, or certain banks, savings and loan associations, and corporations. Bank money instruments must be issued by commercial and savings banks and savings and loan associations with total assets of at least $1 billion, based upon latest published reports, except that the Overland Fund may invest up to 10% of the value of its total assets (taken at market value at the time of such investment) in securities issued by banks and savings and loan associations with assets of less than one billion dollars if the principal amount of such security is fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The savings banks and savings and loan associations must be organized and operating in the United States. The obligations of commercial banks may be issued by United States banks, foreign branches of United States banks ("Eurodollar" obligations) or United States branches of foreign banks ("Yankeedollar" obligations). The Overland Fund's commercial paper investments at the time of purchase will be rated "A–1" or "A–2" by Standard & Poor's Corporation or "Prime–1" or "Prime–2" by Moody's Investors Service, Inc., or, if not rated, will be of comparable quality as determined by its board of trustees. The Overland Fund's investments in corporate bonds and debentures (which must have maturities at the date of purchase of one year or less) must be rated at the time of settlement at least "AA" by Standard & Poor's or "Aa" by Moody's.

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 purchse 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 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).

Applicant states that it is seeking an exemptive order which would be applicable to the Overland Fund and any additional money market fund series that may be established in the future which adhere to the conditions set forth below. Therefore, Applicant agrees that any references hereinafter to Applicant will include the Overland Fund and any additional money market fund series adhering to such conditions and which invests only in the types of securities described in the propectus attached to the application as Exhibit A thereof and to the limitations on investment policies described above.

Applicant represents that it is seeking the exemptive order requested herein to use the amortized cost method to value its portfolio securities because it believes that many of its potential investors will require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income. Applicant further believes that many of such investors will seek other investment alternatives, including other money funds using the amortized cost method, if such investors cannot be reasonably assured that Applicant's shares will be priced at a constant net asset value per share. Applicant asserts that the use of the amortized cost method greatly facilitates the maintenance of a constant net asset value.

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 represents that its board of trustees has determined in good faith that, absent unusual circumstances, the amortized cost method of valuing portfolio securities represents the fair value of money market instruments. Applicant states that it believes the requested relief 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. 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 the net asset value per share of the Overland Fund series and any future series established by Applicant which adopt the same investment

policies and restrictions that have been adopted by the Overland Fund as set forth in the application or in the prospectus attached thereto as Exhibit A.

Applicant agrees that any description or limitation on investment policies described in the application shall, for all its series acting pursuant to any order granting the exemptions requested, have precedence over the descriptions and limitations set forth in Exhibit A to the application. Applicant further agrees that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to the investment adviser of Applicant, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of cared 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, computed for the purpose of distribution and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be 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 from 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 trustees 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, (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) If the board of trustees 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 may include: 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 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. 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 trustees' 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 trustees' 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 its board of trustees 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 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 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 January 18, 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 orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-305 Filed 1-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12128; (812-4993)]

Real Estate Associates Limited IV, National Partnership Investments Corp., and National Partnership Investments Associates; Filing of Application for Exemption From all Provisions of the Act

December 29, 1981.

Notice is hereby given that Real Estate Associates Limited IV ("REAL IV"), a California limited partnership, and its general partners, National Partnership Investments Associates ("General Partner" and, together with REAL IV, collectively referred to hereinafter as "Applicants"), 1901 Avenue of the Stars, Los Angeles, California 90067, filed an application on October 15, 1981, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting

REAL IV from all provisions of the Act and rules thereunder. 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.

Applicants state that REAL IV was formed under the California Limited Partnership Act on August 24, 1981, and is designed to implement the policy of Title IX of the Housing and Urban Development Act of 1968 to provide private investors with a means of acquiring equity interests in government-assisted low and moderate income housing. It is further stated that REAL IV will acquire limited partnership interests in local limited partnerships ("Local Limited Partnerships") which own or lease government-assisted rental housing projects for low and moderate income persons.

Applicants state that REAL IV is organized as a limited partnership because a limited partnership is the only form of organization which provides an investor with both liability limited to his capital investment and the ability to claim on his individual tax return the deductions, losses, credits and other tax items a partnership can pass through to its partners. Therefore, it is stated, REAL IV will operate as a "two tier" partnership; i.e., REAL IV, a limited partnership, will invest primarily in other limited partnerships which, in turn, will be engaged in the development, building, ownership, or leasing of government-assisted housing for low and moderate income persons.

Applicants further represent that one of the primary objectives of REAL IV is to pass through to its partners during the early years of the partnership net losses which may be used to offset other taxable income. It is stated that other primary objectives of REAL IV are to invest in projects which will appreciate in value and to obtain reasonable protection for its capital investments.

Applicants further state that REAL IV has filed a registration statement under the Securities Act of 1933, as amended ("Securities Act"), covering the sale of 240 to 3,300 ("Units") at $5,000 per Unit. It is further stated that each Unit consists of two limited partnership interests and a warrant to purchase two additional limited partnership interests, exercisable by January 22, 1983 ("Warrants"). Applicants state that the Warrants will entitle an investor to purchase the related limited partnership interests for $2,500 each, the equivalent price per limited partnership interest acquired pursuant to the purchase of a Unit. It is also stated that in the event that any Warrant is not exercised, the respective limited partnership interests may be sold by REAL IV to other qualifying offerees.

Offers to sell and sales of Units to the public are proposed to be effected through E. F. Hutton & Company Inc. and other selected members of the National Association of Securities Dealers, Inc., none of which will own or owns any interest in either of the General Partners or will have or has any other material relationship with their directors, officers or partners. Such broker-dealers, it is represented, will use their best efforts as agents for REAL IV and thereafter to sell any limited partnership interests avaiable upon the non-exercise of the Warrants.

In addition, Applicants state that no subscription for Units will be accepted unless the subscribing investor represents (1) that he has a net worth of at least $30,000 and an annual gross income of at least $30,000, or that he has a net worth of at least $200,000, or that he is purchasing in a fiduciary capacity for a person or entity which has such net worth and annual gross income; and (2) that he is aware of the risks involved in investing in REAL IV. Applicants also state that the subscribing investor also must represent that some part of his annual income for 1982 will be taxable at the Federal tax rate of 38% or more, and that he anticipates some part of his income for the next four years will, but for the effect of his investment in Units and limited partnership interests or other tax shelters, be taxable at such 38% rate. In addition, it is stated that, the Certificate and Agreement of Limited Partnership Agreement of REAL IV ("Partnership Agreement") will require that until January 1, 1987 each transferee of Units must represent that he meets the suitability standards set forth above.

Applicants state that the General Partners will be entitled to receive 1% of REAL IV's profits, losses and distributions subject to the conditions that their 1% share of net cash flow will be reduced each year by the amount of annual management fees which are paid or payable to them in that year. In addition to their 1% participation in REAL IV's profits, losses and distributions, it is stated that the General Partners will receive certain fees for overseeing the conduct of REAL IV's affairs and the continuing operation of each project. Applicants represent that those fees are in substantial conformity with the standards established by the Midwest Securities Commissioners (now part of the North American Securities Administrators Association) and the California Corporations Commissioner, and that to the best of their knowledge all such fees are in compliance with the current rules promulgated by such authorities.

During REAL IV's operational period, Applicants state, the General Partners will receive, in consideration for their management services, an annual fee in an amount equal to 0.4% of invested assets to be paid out of REAL IV's general funds. Applicants note that this annual management fee will be applied against the General Partner's 1% share of REAL IV's net cash flow. Finally, when a project is sold, it is stated, the General Partners will receive a liquidation fee based upon the net proceeds only after payment to the limited partners of their invested capital in the project, plus an amount sufficient to pay their federal and state taxes.

Applicants further note that REAL IV's will file with the Commission pursuant to section 15(d) of the Securities Exchange Act of 1934 all required annual reports, quarterly reports, and current reports on Forms 10–K, 10–Q and 8–K, as well as any other reports required by such Act.It is further stated that the General Partners will also send each limited partner a year-end report containing financial statements audited by REAL IV's independent accountants and tax information necessary for the preparation of each limited partner's federal income tax return. In addition, Applicants state that each limited partner will receive a report at least semiannually of REAL IV's activities and the operational status of its investments, as well as interim reports regarding acquisitions.

Applicants state that under the California Limited Partnership Act, and under the terms of the Partnership Agreement, the corporate General Partner, which has registered as an investment adviser under the Investment Advisers Act of 1940, and the non-corporate General Partner, are fiduciaries of REAL IV and its limited partners. In addition, Applicants state under the Partnership Agreement, the officers and directors of the corporate General Partner and the partners of the non-corporate General Partner will be indemnified only when a court finds that such persons's conduct fairly and equitably merits indemnity in the amount claimed.

Without conceding that REAL IV is an investment company as defined in the Act, Applicants request that REAL IV be exempted from the provisions of the Act

pursuant to section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction 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 exemption of REAL IV from all provisions of the Act is both necessary and appropriate in the public interest. Applicants assert that the form of organization of REAL IV, i.e., a limited partnership, which is necessary to limit the liability of private investors investing in subsidzed low and moderate income housing, is incompatible with the regulatory framework of the Act. Applicants contend that to discourage the two-tier limited partnership arrangement by application of the Act would eliminate the primary means of attracting private equity capital into government-assisted housing and would frustrate the national policy declared by Congress "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate income persons."

Notice is further given that any interested person, may not later than January 25, 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 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc 82-308 Filed 1-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18377; File No. SR-NASD-81-23]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 18, 1981, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule is to increase from $50 to $100 per hearing session the honorarium paid to persons who serve on a panel of NASD arbitrators.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*

The present honorarium of $50 per hearing session was approved in 1977. The Association believes that in recognition of the time and effort expended by individuals who determine controversies involving the business of Association members, this figure should be increased to $100 per session. This increase will allow the Association to continue to attract and retain qualified persons to serve on arbitration panels. The retention of qualified arbitrators will ensure the continued effectiveness of the arbitration system, which enables members of the securities industry and the public to resolve their disputes efficiently and economically. Thus, the proposed change is consistent with the Association's mandate, contained in section 15A(b)(6) of the Securities Exchange Act of 1934 (the Act), to promote just and equitable principles of trade and to protect investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.*

The proposed rule change will not place any burden on competition. The Association is not proposing to increase the schedule of fees for arbitration contained in section 43 of Part III of the Code.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.*

Section 7 of the Code provides that it may be amended by the Board without recourse to the membership. Thus, no comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before February 10, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 27, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 29, 1981.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-293 Filed 1-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12130; (812-4887)]

United States & Foreign Securities Corp.; Filing of Application for an Order Exempting Applicant

December 29, 1981.

Notice is hereby given that United States & Foreign Securities Corporation ("Applicant"), 767 Fifth Avenue, New York, New York 10153, a closed-end diversified investment company registered under the Investment Company Act of 1940 ("Act") filed an application on June 5, 1981, with amendments thereto on September 28, 1981 and October 20, 1981, for an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 12(d)(3) of the Act so that Applicant can continue to own all the outstanding capital stock of a subsidiary, which will register under the Investment Advisers Act of 1940 ("Advisers Act"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Maryland corporation, states that it is internally managed by its own directors, officers and employees. Applicant further states that in 1979, its directors determined that it was desirable (1) to try to increase income and (2) to enhance the ability of Applicant to attract and retain highly qualified management and personnel through the extended use of Applicant's research staff and facilities to render investment management services to pension funds, profit sharing funds and others with investment objectives similar to those of Applicant. To this end Applicant states that it has received the approval of its shareholders to provide investment and advisory services to others through a wholly-owned subsidiary, Keswick Associates, Incorporated ("Keswick"). Applicant anticipates that there will be substantial overlap between securities held by it and the securities held in portfolios managed by Keswick. Applicant further states that it will be its policy and that of Keswick to deal fairly with all portfolios not giving priority to its own portfolio or those managed by Keswick. Applicant will accomplish this by fixing in advance the total number of shares of each security to be bought or sold for all accounts and for each account and then allocating in the proportions so determined. Finally, Applicant states that while it registered under the Advisers Act on April 30, 1979, to date neither it nor Keswick has acquired any advisory accounts.

Applicant represents that it has decided to conduct all or part of its advisory business through Keswick rather than directly in order to maintain its tax status as a regulated investment company under the Internal Revenue Code of 1954 ("Code"). Applicant submits that section 851(b)(2) of the Code limits the amount of advisory business which Applicant may conduct and not lose its tax-exempt status. Further, Applicant represents that it would like the flexibility to make a business determination of whether to provide the services itself or to have Keswick provide them. Finally, Applicant represents that the use of a separate entity would facilitate the marketing of its advisory services by demonstrating Applicant's commitment to that business.

Applicant states that Keswick will be adequately capitalized to meet its financial obligations. Applicant represents that expenses incurred in performing investment management services, other than direct expenses, will be allocated between Applicant and Keswick in a manner that will assure no layering of expenses. Applicant states that, with the exception of one individual to market the advisory business and possibly a secretary for this individual, it is not anticipated that Keswick will have any officers, directors or employees other than persons employed by Applicant. These officers, directors and employees will not be compensated solely as a result of serving as officers, directors or employees of Keswick.

Section 12(d)(3) of the Act, in pertinent part, makes it unlawful for any registered investment company to purchase or otherwise acquire any security issued by or any other interest in the business of any person who is either an investment adviser of an investment company or an investment adviser registered under the Advisers Act. Applicant's interest in Keswick would violate the provisions of section 12(d)(3).

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally, exempt any person, securities or transaction, or any class or classes 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. Applicant requests an order of the Commission, pursuant to section 6(c) of the Act, exempting it from the provisions of section 12(d)(3) of the Act so that it can conduct an advisory business through its wholly-owned subsidiary, Keswick.

In support of the requested exemption, Applicant asserts that the procedures and policies that it has adopted with respect to Keswick and the operation of the advisory business ensure that Applicant's interest in Keswick will be appropriate and consistent with the protection of investors and the purposes intended by the policies and provisions of section 12(d)(3) of the Act. Applicant states that its board of directors has considered the possibility of additional risks arising from the advisory business and has extended its indemnification arrangements and fidelity bond to cover its own officers and directors acting in their capacity as officers and directors of Keswick. In addition, Applicant's fidelity bond will cover all employees of Keswick.

In addition, Applicant has consented to the imposition of the following conditions to any order issued herein:

1. Applicant's board of directors expressly recognizes its fiduciary responsibility to oversee on a continuing basis and approve (by at least a vote of a majority of the directors of Applicant who are not "interested persons" of Applicant as defined in the Act) at least annually the compensation of officers of Applicant and of the Subsidiary, Keswick.

2. Applicant's board of directors will review at least annually the investment advisory business of Applicant and Keswick in order to determine whether or not such business should be continued and whether or not the benefits derived by Applicant warrant the continuation of the investment advisory business and the ownership by Applicant of Keswick and, if appropriate, approve (by at least a vote of a majority of the directors of Applicant who are not "interested persons" of Applicant as defined in the Act) at least annually such continuation.

3. Applicant will, consistent with its normal shareholder communications practices, which include the preparation and mailing of annual, semi-annual and quarterly reports, and proxy statements, advise its shareholders of the creation of Keswick, the implementation through Keswick of an expansion of its outside advisory services and an assessment of whatever risks, if any, are associated

therewith promptly after the entry of the requested order.

4. The effectiveness of any order issued herein shall be conditioned upon Applicant's continued tax status as a regulated investment company within the meaning of section 851 of the Code.

5. Applicant undertakes, without prejudice to the right of its board of directors to dispose to unaffiliated persons the equity interest of applicant in Keswick in its entirety, that it will at all times own beneficially and of record all of the issued and outstanding shares of capital stock of Keswick and will cause Keswick not to issue any authorized but unissued shares of its capital stock to any person other than Applicant.

Notice is further given that any interested person may, not later than January 25, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 82–307 Filed 1–5–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective January 1, 1982, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 13.955% per annum.

Dated: December 29, 1981.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–229 Filed 1–5–82; 8:45 am]

BILLING CODE 8025–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Solicitation of Public Views on the Extension, Reduction, or Termination of Import Relief for Certain Clothespins

On February 23, 1979, the President issued Proclamation 4640 implementing import relief in the form of temporary quantitative limitations on the importation of certain clothespins described in item numbers 925.11, .12 and .13 of the Tariff Schedules of the United States. That action was taken pursuant to Section 203(a) of the Trade Act of 1974 (19 U.S.C. 2253) (the Act), in response to a finding by the U.S. International Trade Commission (USITC) that the domestic industry producing like or directly competitive products was suffering from serious injury substantially caused by increased imports of such products. The import relief will expire on February 22, 1982, unless extended by the President. Pursuant to Section 203(h)(3) of the Act, the President may extend the import relief after receiving advice from the USITC and taking into account the considerations in Section 202(c) of the Act.

On December 7, 1981, the USITC reported to the President its advice under Sections 203(i)(2) and (i)(5) of the Act as to the probable economic effects of such expiration, which was summarized as follows: "Based on the information before us, the Commission advises that relief for certain clothespins be extended at present levels for 3 years. The domestic industry needs additional time in which to complete its adjustment process. Termination or reduction in relief at this time is likely to lead to a large increase in imports. This result would seriously undermine the adjustment effort." (See USITC Report Number TA-203-12 of December 1981 for further details.)

The Office of the United States Trade Representative chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take with respect to an extension. Interested persons are invited to submit written briefs to the Trade Policy Staff Committee on the probable effects of any extension of import restrictions currently in effect for certain clothespins, specifically with respect to the factors enumerated in subsections 202(c)(8) through (9) of the Act. Briefs should be submitted in twenty (20) copies to the Secretary, Trade Policy Staff Committee, 600 17th Street, N.W., The Winder Building, Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received by the Secretary no later than the close of business, Friday, January 15, 1982.

For further information, contact Hiram Lawrence, Room 415 (202–395–3475). Legal questions should be directed to Mike Hathaway, Room 221 (202–395–3432).

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82–227 Filed 1–5–82; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 3
Wednesday, January 6, 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

1

CIVIL AERONAUTICS BOARD

[M-340, December 31, 1981]

TIME AND DATE: 10:00 a.m. (closed), 2:00 p.m. (open), January 7, 1982.

PLACE: Room 1012 (closed), Room 1027 (open), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Docket 30938, *Pacific Common Fares Investigation*, final decision by the Board. (Memo 967, OGC)
2. Discussions on Negotiations with ECAC. (BIA)
3. Discussion of upcoming negotiations with Japan. (BIA)
4. Discussion of upcoming negotiations with China. (BIA)
5. Ratification of items adopted by notation.
6. Dockets 20051 and 20700, Petition for Reconsideration of Order 81-10-152 to the extent that it disapproves the Washington National Commuter Airline Association scheduling committee agreement and withdraws antitrust immunity. (BDA, OGC, OEA)
7. Docket 40048, *Petition of Southeast Alaska Airlines, Inc., for a Temporary Mail Rate.* (BDA)
8. Docket 40191, Certificate Application of Harold's Air Service Filed Under Subpart Q. (Memo 1000, BDA)
9. Docket 39677, Air Continental, Inc.—Application for a section 418 All-Cargo Air Service Certificate. (BDA)
10. Commuter carrier fitness determination of Emerald Air, Inc. d.b.a. Emerald Airlines. (Memo 1007, BDA)
11. Commuter carrier fitness determination of Princeton Airways, Inc. (Memo 1008, BDA)
12. Commuter carrier fitness determination of Lawrence Aviation, Inc. (Memo 1010, BDA)
13. Commuter carrier fitness determination of Aero Coach Aviation International, Inc. d.b.a. Aero Coach. (Memo 1001, BDA)
14. Commuter carrier fitness determination of California Air Express. (Memo 1002, BDA)
15. Commuter carrier fitness determination of Jeffery D. Haddock & Ronald A. Watson d.b.a. Valdez Airlines. (Memo 1003, BDA)
16. Docket 38224, Notice of Perkiomen Airways, Ltd. d.b.a. Air Pennsylvania of intent to terminate service at Hazelton, Pennsylvania. (Memo 012G, BDA, OCCR)
17. Docket EAS-389, Essential Air Transportation Determination of Sun Valley/Hailey/Ketchum, Idaho. (Memo 924A, BDA, OCCR, OGC)
18. Dockets 39820 and EAS-656, Proposals for essential air service between Parkersburg, West Virginia and Columbus, Ohio. (Memo 701A, BDA, OCCR)
19. Dockets 40231, EAS-596, 40238—Frontier's notices to suspend all service at Vernal, Utah, and in the Rock Springs, Wyoming-Salt Lake City market. (Memo 1004, BDA, OGC, OCCR)
20. Docket 39632—Final rule changing the notice requirements for terminations, suspensions, and reductions of service by certificated airlines to reflect the change in the Board's statutory authority at the end of the year. (Memo 490A, OGC, BDA)
21. Domestic baggage liability rules. (Memo 1009, OGC, BCCP)
22. Dockets 30699, 30790, 34579, 36004, 36962, and 34485, *Oakland Service Case, U.S.-Benelux Low-Fare Proceeding, Application of Aeroamerica, Inc., for sections 408 and 409 Approval, Application of Aeroamerica, Inc. for Certificate Authority, Application of Aeroamerica, Inc. for an Exemption.* (Memo 143-B, OGC)
23. Docket 32851, IATA Agreements Relating to Traffic Conferences, Agreement CAB 1175. (OGC, BIA)
24. Docket 29977 and 39615—Applications of various foreign air carriers for blanket Statements of Authorization to operate Fifth Freedom charters without prior approval. (Memo 432C, BIA)

STATUS: 1-4 Closed; 5-24 Open.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary;* (202) 673-5068.

[S-6-82 Filed 1-4-82; 3:15 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND PLACE: Commission Meeting, 9:30 a.m., Thursday, January 7, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Baby Walkers*
   The staff will brief the Commission on issues related to the safety of baby walkers and present staff recommendations for action.
2. *High Chairs*
   The staff will brief the Commission on the CPSC staff evaluation of the existing voluntary standard for high chairs (ASTM F404-75).
3. *Strings and Elastics*
   The staff will brief the Commission on CPSC staff activities to date concerning strangulation hazards associated with strings, cords, and elastics on children's products.
4. *Vinyl Products Used with Infants*
   The staff will brief the Commission on CPSC activities to date concerning suffocations related to vinyl or vinyl coated products used with infants.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Washington, D.C. 20207; Telephone: (301) 492-6800.

[S-1-81 Filed 1-4-82; 10:46 am]

BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND PLACE: Commission Meeting, 10 a.m., Wednesday, January 6, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Hazard Data Task Force Report*
   The Commission and staff will continue to discuss the Report of the Hazard Data Task Force, which addresses issues involving the collection and use of hazard data. The staff briefed the Commission on this matter at the December 11, 1981, Commission meeting.
2. *Prednisone Petition, PP81-1*
   The Commission will consider a petition in which Mayrand Pharmaceuticals, Inc. requests exemption from child-resistant packaging for prednisone tablets in packages containing not more than 105 milligrams of the drug.
3. *Briefing on Chemical Identification* (Screening)
   The staff will brief the Commission on the process established by staff to determine chemical use patterns in consumer products and to identify emerging chemical hazards.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

4. *Enforcement Matter, OS #1073*

The Commission and staff will discuss issues related to an enforcement matter under the Consumer Product Safety Act.

5. *Enforcement Matter, OS #1065, 1065–A*
The Commission will consider issues related to an enforcement matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Washington, D.C. 20207; Telephone: (301) 492–6800.

[S–2–82 Filed 1–4–82; 10:46 am]
BILLING CODE 6355–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 11, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–3–82 Filed 1–4–82; 2:53 pm]
BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 11, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–4–81 Filed 1–4–82; 2:56 pm]
BILLING CODE 6714–01–M

6

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, January 7, 1982.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the Public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in International Telephone & Telegraph Corporation et al., Docket 9000.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in International Telephone & Telegraph Corporation et al., Docket 9000.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

[S–5–82 Filed 1–4–82; 2:58 pm]
BILLING CODE 6750–01–M

7

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, January 14, 1982.

PLACE: Room 117, 701 E Street, N.W., 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. Certain multi-purpose power woodworking tools (Docket No. 783).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: KENNETH R. MASON, SECRETARY, (202) 523–0161.

[S–7–82 Filed 1–4–82; 4:09 pm]
BILLING CODE 7020–02–M

federal register

Wednesday
January 6, 1982

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee Meeting; Recombinant DNA Research, Proposed Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the Marriott Hotel, Salon D and E, 5151 Pooks Hill Rd., Bethesda, Maryland 20014, on February 8, 1982, from 9:00 a.m. to recess at approximately 6:00 p.m., and, if necessary, on February 9, 1982, from 8:30 a.m. to 5:00 p.m. This meeting will be open to the public to discuss:

Proposed major revision of Guidelines
Amendment of Guidelines
E. coli K–12 host-vector systems
Host-vector systems other than *E. coli* K–12
Risk-assessment
Review of protocols for required containment levels
Proposed exemptions to Guidelines
Other matters requiring necessary action by the Committee

Attendance by the public will be limited to space available.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

In addition, notice is hereby given of a meeting of the Large Scale Review Working Group sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20205, on February 9, 1982, after adjournment of the meeting of the Recombinant DNA Advisory Committee, from approximately 2:00 p.m. to 5:00 p.m. The meeting will be open to the public. Attendance will be limited to space available.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Large Scale Review Working Group, NIAID, Building 31, Room 4A52, Bethesda, Maryland, telephone (301) 496–6051.

Note.—OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8–(b)–(4) and (5) of that Circular.

Dated: December 22, 1981.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–21 Filed 1–5–82; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its February 8–9, 1982 meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by February 5, 1982.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban or Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

1. Request for Permission to Clone Subgenomic Segments of Foot and Mouth Disease Virus

Molecular Genetics, Inc., of Minnetonka, Minnesota, requests approval to transfer *E. coli* K–12 cDNA clones comprising less than 75% of the entire genome of Foot and Mouth Disease Virus from the Plum Island Animal Disease Center to its research facility at 10320 Bren Road East, Minnetonka, Minnesota, and to conduct experiments with these clones under P1 containment conditions.

2. Request to Clone Plant DNA in the Cyanobacterium Anacystis Nidulans

Dr. Lawrence Bogorad of Harvard University requests permission to initiate, at P1 containment, a program involving the cloning in the cyanobacterium *Anacystis nidulans* (strain R2) of DNA from chloroplasts of various plants (initially primarily from *Zea mays*). Dr. Bogorad would employ the plasmid vector pUC104, a construct of the cyanobacterial plasmid pUC1 and the *E. coli* vector pACYC184.

Note.—OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government

programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8-(b)-(4) and (5) of that Circular.

Dated: December 17, 1981.

Richard M. Krause,

Director, National Institute of Allergy and Infectious Diseases.

[FR Doc. 82-22 Filed 1-5-82; 8:45 am]

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federal register

Wednesday
January 6, 1982

Part III

Department of Education

National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs; Definition of Independent Student; Pell Grant Program; Expected Family Contribution

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 675, 676 and 690

National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs—Definition of Independent Student; Pell Grant Program—Expected Family Contribution

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary is issuing final regulations for the 1982–83 Pell Grant family contribution schedule based upon the continuing resolution for fiscal year 1982, Pub. L. 97–92, enacted on December 15, 1981. These regulations are being issued in place of final regulations that would have resulted from the proposed rules for a common need analysis formula (that was to be used for the three campus based programs—National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG)—as well as the Pell Grant Program) published on October 16, 1981. That proposal was rejected on December 10, 1981, by the Senate in a resolution of disapproval, Senate Resolution 256, pursuant to section 482(a)(2) of the Higher Education Act of 1965.

Further, the Secretary is revising the definition of an independent student in the NDSL, CWS, and SEOG Program regulations, 34 CFR 674.2, 675.2 and 676.2, respectively, in order to conform those definitions to the definition contained in the Pell Grant Program regulations, 34 CFR 690.42.

EFFECTIVE DATE: The family contribution regulations are expected to take effect 15 day after they are submitted to Congress. The regulations will not take effect if either the Senate or House of Representatives disapproves the regulations within the 15 days period. It should be noted, however, that these regulations apply only to Pell Grants to be made for the period of July 1, 1982, through June 30, 1983.

Unless Congress takes certain adjournments, the change in the definition of an independent student in the campus based program regulations will take effect February 22, 1982. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary intends to publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: William L. Moran, Chief, Pell Grant Policy Section, or Brian Kerrigan, Pell Grant Program Specialist, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 4318), Washington, D.C. 20202. Telephone: (202) 472–4300.

SUPPLEMENTARY INFORMATION:

Family Contribution Schedule

On October 16, 1981, the Secretary published in the **Federal Register** a notice of proposed rulemaking setting forth a proposed family contribution schedule for the Pell Grant and campus based programs. The authority for the combined schedule was section 482 of the Higher Education Act of 1965. On December 10, 1981 the Senate rejected the proposed schedule in a resolution of disapproval, Senate Resolution 256. On December 15, 1981 Pub. L. 97–92, the third continuing resolution for fiscal year 1982, was enacted.

Pub. L. 97–92 provides $2.279 billion in Pell Grant funds for the 1982–83 award year. This amount exceeds by $91 million the level of $2.188 billion contained in the President's revised FY 1982 budget request. The Department continues to support the President's revised budget request level. To fully fund awards under these regulations would cost $2.483 billion, which is $204 million more than the amount provided by Pub. L. 97–92 and $295 million more than the President's budget request. Therefore, it will be necessary for the Secretary to propose legislation reducing the maximum award and/or to use the statutory award reduction formula in order to meet either the appropriation level in Pub. L. 97–92 or a lower final appropriation for FY 1982.

Section 124(4) of Pub. L. 97–92 requires the Secretary to use, with certain specific modifications, the 1981–82 award year Pell Grant family contribution schedule as the 1982–83 award year Pell Grant family contribution schedule. The modifications involve the treatment of certain Social Security and Veterans benefits, the establishment of a series of assessment rates on parental discretionary income and other changes to "reflect the most recent and relevant data."

Section 124(3) of Pub. L. 97–92 authorized the Secretary to continue approving need analysis systems for the campus based programs for the 1982–83 award year under the procedures in effect for the 1981–82 award year. These procedures can be found in 34 CFR 674.13 for the NDSL program, 34 CFR 675.13 for the CWS program, and 34 CFR 676.13 for the SEOG program.

Treatment of Social Security and Veterans Benefits

Section 124(4) of Pub. L. 97–92 requires the Secretary to exclude as income social security benefits paid to or on account of the student which would not be paid if he were not a student and veterans educational benefits paid under Chapters 34 and 35 of Title 38 of the United States Code. While those benefits will not be considered in determining the student's expected family contribution, they will still be considered in determining the amount of his or her Pell Grant. The total of the student's Pell Grant, expected family contribution, and above described social security benefits and veterans benefits may not exceed the student's cost of attendance used in the Pell Grant calculation at his or her school. If that total exceeds the cost of attendance. the student's Pell Grant award will be reduced to the extent necessary to prevent the total of those amounts from exceeding his or her Pell Grant cost of attendance.

Assessment Rates

Section 124(4) of Pub. L. 97–92 specifies that the Secretary "establish a series of assessment rates applicable to discretionary income in accordance with Section 482(b)(4) of the Higher Education Act of 1965." Further, the Senate—in its resolution of disapproval of the October 16, 1981 notice of proposed rulemaking (NPRM)—suggested that those assessment rates on discretionary income be as follows:

(1) 11 percent on the first $5,000;

(2) 13 percent on $5,001–$10,000;

(3) 18 percent of $10,001–$15,000; and

(4) 25 percent on $15,001 and above.

The Secretary has adopted these suggested assessment rates in the schedule.

Other Changes "to Reflect the Most Recent and Relevant Data"

The Secretary has made the following changes "to reflect the most recent and relevant data":

• *Asset Reserves.* For a number of years, the financial aid community has expressed considerable concern about the relationship of home value, and farm and business assets to the applicant's ability to pay for his or her education. While not everyone agrees on how these assets should be treated, generally there has been a consensus that more asset protection should be given to (1) home owners (to be applied against their home value), and (2) farmers and businessmen (to be applied against their farm and business assets).

One such suggestion has been proposed in the Senate's resolution of disapproval. The Secretary has incorporated this suggestion into these regulations. Basically it provides up to $25,000 as an asset reserve against a home owner's principal place of residence, $25,000 against other personal assets, and $80,000 against farm and/or business assets. However, the total asset reserve for a family would be limited to $100,000 against all of their assets.

• *Updating of the Family-Size Offsets to Account for the Effects of Inflation.* This year, as in the past, the family-size offsets have been increased to account for the effects of inflation based on a projected rise of 9.4 percent. Thus, the offsets used in 1981–82 were multiplied by 109.4 percent, and the resulting figures were rounded down to the nearest $50.

• *Updating Reporting Years.* The regulations update the calendar years specified in the 1981–82 schedule. Basically this makes the base year 1981 rather than 1980. Further, the years used to determine independent student status are 1981–82 rather than 1980–81, and for married students, the critical year is 1982.

• *Other Changes.* The regulations change the dollar figure for parental support (from $1,000 to $750) in the independent student definition, and allow dependent students only to subtract State and local (as well as Federal) income taxes from their personal incomes before reporting them. Parental income and independent student income will not be offset by State and local taxes, but only by Federal income taxes.

One of the proposed statutory changes included in the preamble of the October 16 notice of proposed rulemaking would have provided that married independent students with no dependents other than a spouse should have the same income and asset treatment that is applied to single independent students. (Independent students with dependent children would have continued, under that proposal, to receive the more liberal treatment applied to the parents of dependent students.) Thus, under the proposed statutory change the family income of a married independent student with no dependents other than a spouse would be assessed at 75 percent. This treatment would have resulted in an unintended inequity in the case where both the married student and his or her spouse were applicants, since their combined income would be assessed at 75 percent for each of them.

The Senate resolution of disapproval expressed agreement with the proposal that married independent students with no dependents other than a spouse should have the more conservative income treatment applied to single independent students. To eliminate the inequity resulting when both were Pell Grant applicants, the resolution also suggested that if both were students each individual should be treated as if he or she were a single independent student. However, because the applications for 1982–83 are already printed and do not collect the necessary data in a way that would make it possible to separate all the income of married independent students, we have not been able to incorporate that suggestion in this regulation. Instead, we have kept the provision from the 1981–82 formula that treats married independent students in the same fashion as independent students with dependents other than a spouse, i.e., discretionary income is assessed at 25 percent.

Change in the Definition of an Independent Student for the Campus Based Programs

In order to keep the definition of an independent student identical in the Pell Grant Program and in the three campus based programs, a change in the definition of an independent student cited above is being made in the respective regulations for each of the three campus based programs (§§ 674.2, 675.2, and 676.2), as well as for the Pell Grant Program (§ 690.42).

Waiver of Rulemaking

As noted above, the Secretary is revising the definition of an independent student in three campus based program regulations to conform it to the Pell Grant Program definition. As a result, the Secretary believes that the publication of a proposed rule in this instance would be unnecessary, impracticable, and contrary to the public interest within the meaning of 5 U.S.C. 553(b) and is publishing these rules as final regulations.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations establish the formula for determining student eligibility for financial assistance under the Pell Grant Program. As such they do not have an impact on small entities.

Burden Reduction

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be opportunities to reduce any regulatory burdens found in these regulations, especially with regard to paperwork and compliance requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provisions of these final regulations.

(Catalog of Federal Domestic Assistance No. 84.063, Pell (Basic) Grant Program)

Dated: December 30, 1981.

T. H. Bell,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations as follows:

PART 690—PELL GRANT PROGRAM

1. Subparts C and D of Part 690 are revised to read as follows:

Subpart C—Expected Family Contribution for a Dependent Student

Subpart D—Expected Family Contribution for an Independent Student

Sec.

Subpart C—Expected Family Contribution for a Dependent Student

§ 690.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for a dependent student:

(a) The effective incomes of (1) the student and his or her spouse, and (2) the student's parent(s).

(b) The number of family members in the household of the student's parent(s).

(c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of (1) the student and his or her spouse, and (2) the student's parent(s).

(e) The marital status of the student.

(f) The unusual medical expenses of the student's parents.

(g) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed.

(h) The tuition paid by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school.

(Section 124 of Pub. L. 97-92)

§ 690.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand, including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment, and business inventory. However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or his family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means:

(a) The student,

(b) Any of the student's dependent children,

(c) Dependent children of the student's parents including those children who have been determined as to be "dependent students" when applying for Title IV student assistance, and

(d) Other persons (except the student's spouse) who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the 1982–83 award year.

"Dependent student" means any student who does not qualify as an independent student as defined in § 690.42(a).

"Dependent student offset" means (a) an offset from the effective income of a dependent student and his or her spouse to meet the basic needs of the student and spouse, plus (b) the portion of negative parental discretionary income that will not be used to offset the normal contribution from parental assets.

"Effective family income" and "effective income of the student and spouse" are described in §§ 690.33 and 690.33a respectively.

"Employment expense offset" means an allowance to meet expenses relating to employment when both parents are employed or when a parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Family size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Local income tax" means the tax on income paid to a town, city, county, or other local municipality.

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code that were paid in 1981, unless the student files an application with the Secretary under the provisions of § 690.39. In that case the expenses reported are those paid in 1982.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

"State income tax" means the tax on income paid to one or more of the 50 states of the United States.

(Section 124 of Pub. L. 97-92)

§ 690.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), and (g) of this section, and § 690.39, the sum received in 1981 by the student's parents from—

(1) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(2) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(3) With the exception of Social Security benefits received by a student's parents on account of the student, other

income upon which no Federal income tax is paid. Examples of income to be reported include child support payments and income from income maintenance programs such as welfare benefits.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.)

(d) For a student whose parents are divorced or separated, the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Report only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12 month period preceding the date of the application.

(2) If the preceding criterion does not apply, report only the income of the parent who provided the greater portion of the student's support for the 12 month period preceding the date of application.

(3) If neither of the preceding criteria apply, report only the income of the parent who provided the greater support for the period commencing January 1, 1981 and ending 12 months prior to the date of application.

(e) If either of the parents have died, the student shall report only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (d)(3) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1981 or 1982, the student—

(1) Has received or will receive financial assistance of more than $750 in either of those years from that spouse, or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(g) The annual adjusted family income does not include any student financial assistance benefits including Veterans benefits received under Chapters 34 and 35 of Title 38, United States Code.

(Section 124 of Pub. L. 97-92)

§ 690.33a Effective student income.

(a) Effective student income is the annual adjusted income of the student (and spouse for a married student) minus the Federal, State, and local income taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant. However, if estimated income is used, as provided by subparagraph (f) of this section, estimated income taxes will not be subtracted in determining the effective student income.

(b) "Annual adjusted income of the student and spouse" means, except as provided in paragraphs (c), (d), (e) and (f) of this section, and § 690.39:

(1) The sum received in 1981 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) With the exception of Social Security benefits paid to the student (or spouse), other income upon which no Federal income tax is paid. Examples of such income include child support payments, and income from income maintenance programs such as welfare benefits.

(c) For a Native American student, the annual adjusted income of the student and spouse does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

(d) If a student is divorced or separated, or if his or her spouse has died, the spouse's income shall not be considered in determining the "annual adjusted gross income of the student and spouse".

(e) The annual adjusted income of the student and spouse does not include any student financial assistance.

(f) If a student estimates that his or her income plus the income of his or her spouse, in the period of June 1, 1982 through May 31, 1983 will not exceed 60 percent of effective student income for 1981, effective student income will be the income estimated for that period. Estimated income includes only the income categories listed in paragraph (b).

(Section 124 of Pub. L. 97-92)

§ 690.34 Computation of the expected family contribution for a dependent student from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parent's discretionary income by deducting the following offsets from the effective family income:

(1) A family size offset in the amount specified in the following table:

FAMILY SIZE OFFSETS

	Amount
Family members:	
2	$5,450
3	6,600
4	8,400
5	9,900
6	11,200

Plus $1,250 for each additional family member over 6. In determining the family size, the following rules apply—

(i) If the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents.

(ii) If the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(iii) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those people referenced in paragraph (a)(1)(ii) of this section, the new spouse and any dependents of the new spouse if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective income of the parents. The expenses that may be reported are those expenses paid by the student's parents during 1981, unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the expenses reported will be those paid in 1982. The expenses of both parents are included only if the incomes of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income was subject to inclusion.

(3) An employment expense offset in the amount specified as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her earned income. The earned income figure to be used in all cases is that figure for 1981 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the figure to be used is the one for 1982.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1981 unless the student files an application with the Secretary under the provisions of §690.39. In that case, the tuition reported will be that paid in 1982.

(b) If the parents' discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the parents' discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550+13% of amount over $5,000.
$10,001 to $15,000	$1,200+18% of amount over $10,000.
$15,001 and above	$2,100+25% of amount over $15,000.

(Section 124 of Pub. L. 97-92 and Senate Resolution 256, 97th Congress, First Session)

§ 690.34a Computation of the expected family contribution for a dependent student from the effective student income.

The expected family contribution for a dependent student from effective student income is calculated as follows:

(a) Determine the student's discretionary income by deducting from the effective student income the relevant dependent student offset.

(1) If the parental discretionary income is positive, the offset is as follows:

DEPENDENT STUDENT OFFSET

Single student	$2,850
Married student	$4,200

(2) If the parental discretionary income is negative, the relevant offset in paragraph (a)(1) of this section is increased by the amount of negative parental discretionary income that remains after subtracting the amount of the negative parental discretionary income that will be used as an offset against the contribution from parental assets in § 690.35(d).

(b) If the student's discretionary income is a positive amount, multiply it by one of the following figures to determine the expected contribution from effective student income:

(1) 75 percent for the single dependent student, or

(2) 25 percent for the married dependent student.

(c) If the student's discretionary income is negative, there is no expected contribution from the effective student income.

(Section 124 of Pub. L. 97-92)

§ 690.35 Computation of the expected contribution from parental assets.

The expected contribution from parental asset is determined in the following manner:

(a) If the parental assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If this subtraction produces a negative number, it shall be changed to zero.

(b) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If this subtraction produces a negative number, it shall be changed to zero.

(c)(1) If the parental assets include farm and/or business assets, deduct $80,000 from the net value of the farm and/or business assets. If this subtraction produces a negative number, it shall be changed to zero.

(2) If the sum of the farm and business deduction and the deductions in paragraphs (a) and (b) of this section exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(d)(1) Normally, the expected contribution from parental assets equals five percent of the total of the results obtained in paragraphs (a), (b), and (c) of this section.

(2) However, if the calculation of discretionary income required by § 690.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (d)(1) of this section, shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, it shall be changed to zero.

(e)(1) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) However, if that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 690.33, the assets of that parent's spouse shall also be included.

(Section 124 of Pub. L. 97-92 and Senate Resolution 256, 97th Congress, First Session)

§ 690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from effective family income as determined in § 690.34(b) is added to the amount expected from parental assets as determined in § 690.35.

(b)(1) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

(2) Family members are those persons referenced in § 690.34(a)(1).

(Section 124 of Pub. L. 97-92)

§ 690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student equals 33 percent of the amount of those assets.

(b) The expected contribution from the net assets of the married dependent student and spouse is determined in the following manner:

(1) Deduct an asset reserve of $25,000 from the net assets. If this subtraction produces a negative number, it shall be changed to zero.

(2) The expected contribution from the net assets of the dependent student and spouse equals five percent of the remainder obtained in paragraph (b)(1) of this section.

(c) If the married dependent student is separated, only his or her assets shall be considered.

(Section 124 of Pub. L. 97-92)

§ 690.38 Computation of the total expected family contribution.

For each grant the total expected family contribution is the sum of—

(a) The expected contribution from the effective family income and parental assets as determined in § 690.36,

(b) The expected contribution from effective student income as determined in § 690.34a, and

(c) The expected contribution from the student's (and spouse's) assets as determined in § 690.37.

(Section 124 of Pub. L. 97-92)

§ 690.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1982 for effective family income, if—

(1) A parent or stepparent whose 1981 income from work must be reported under § 690.33 has lost his or her job for at least 10 weeks during 1982,

(2) A parent or stepparent whose 1981 income from work must be reported under § 690.33 has been unable to pursue normal income-producing acitvities for at least 10 weeks during 1982 because of the occurrence—in 1981 or 1982—of (i) a disability, or (ii) a natural disaster,

(3) A parent or stepparent whose income must be reported under § 690.33 received unemployment compensation or nontaxable income in 1981 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least 10 weeks in 1982 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, court ordered child support, etc.

(4) The parent(s) of the student have become separated or divorced after the student submitted his or her application. If such a separation or divorce is between a parent and a stepparent, the stepparent's income must have been reportable on the previous application under § 690.33 for this condition to apply, or

(5) A parent of stepparent whose 1981 income must be reported under § 690.33 has died after the submission of an earlier application for 1982-83. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to § 690.42, the student must file an application under § 690.48(a)(7) if he or she wishes to use income data from 1982.

(b) For an application submitted under paragraph (a) of this section, the student (and parent) shall include the income already received for 1982 and an estimate of the income to be received for the remainder of that year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her family has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(Section 124 of Pub. L. 97-92)

Subpart D—Expected Family Contribution for an Independent Student

§ 690.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for an independent student;

(a) The effective family income of the independent student and spouse.

(b) The number of family members in the household of the student and spouse.

(c) The number of family members in the household of the student and spouse who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the student and spouse.

(e) The unusual medical expenses of the student and spouse.

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(g) The tuition paid by the student or spouse for dependent children who are enrolled in an elementary or secondary school.

(Section 124 of Pub. L. 97-92)

§ 690.42 Special definitions.

The definitions of "assets", "business assets", "farm assets", "family size offset", "Federal income tax", "legal guardian", "local income tax", "medical expense", "net assets", "parent", and "State income tax" are set forth in § 690.32.

"Dependent" means (a) the student's spouse (unless separated or divorced from the student), (b) any of the student's or spouse's children who qualify as dependent students (with respect to the student or spouse) and are attending an institution of higher education on at least a half-time basis, (c) other dependent children of the student or spouse, and (d) other persons who live with and receive more than one-half of their support from the student or spouse and will continue to receive more than one-half of their support from the student or spouse during the 1982-83 award period.

"Effective family income" is described in § 690.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" means:

(a) A single student who for 1981 and 1982—

(1) Has not lived and will not live for more than six weeks in either year in the home of the parent(s) for whom income must be reported according to § 690.33;

(2) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by the parent(s) for whom income must be reported according to § 690.33; and

(3) Has not received and will not receive financial assistance of more than $750 in either year from the parent(s) for whom income must be reported according to § 690.33; or

(b) A married student who for 1982—

(1) Will not live for more than six weeks in the home of the parent(s) for whom income must be reported according to § 690.33;

(2) Will not be claimed as a dependent for Federal income tax purposes by the parent(s) for whom income must be reported according to § 690.33; and

(3) Will not receive financial assistance of more than $750 from the parent(s) for whom income must be reported according to § 690.33.

(Section 124 of Pub. L. 97-92)

§ 690.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 690.48, the sum received in 1981 by the student and spouse from—

(1) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(2) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(3) Other than Social Security benefits, other income upon which no Federal income tax need be paid. Examples of such income include child support payments, and income from income maintenance programs such as welfare benefits.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indian Claims Settlement Act (25 U.S.C. 1721, et seq.).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance including Veterans benefits received under Chapters 34 and 35 of Title 38, United States Code.

(Section 124 of Pub. L. 97-92)

§ 690.44 Computation of the expected family contribution for an independent student from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1) A family size offset in the amount specified in the following table.

FAMILY SIZE OFFSETS

	Amount
Family members:	
1	$4,200
2	5,450
3	6,600
4	8,400
5	9,900
6	11,200

Plus $1,250 for each additional family member over 6. In determining the family size, the following rules apply—

(i) Family members normally include the student and spouse and their dependents.

(ii) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1981, unless the student files an application with the Secretary under the provisions of § 690.48. In that case, the expenses reported will be those paid in 1982. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset in the amount specified as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the person with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her earned income.

The earned income figure to be used in all cases is that figure for 1981, unless the student files an application with the Secretary under the provisions of § 690.48. In that case the figure to be used is the one for 1982.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1981, unless the student files an application with the Secretary under the provisions of § 690.48. In that case the tuition reported will be that paid in 1982.

(20 U.S.C. 1070a(a)(3)(B))

(b) If the discretionary income is a positive amount, multiply it by one of the following figures to determine the expected family contribution from the effective family income of the student and spouse;

(1) 75 percent for the single independent student with no dependents; or

(2) 25 percent for the independent student with one or more dependents (including a spouse).

If the discretionary income is negative, there is no expected family contribution from effective family income.

(Section 124 of Pub. L. 97-92 and Senate Resolution 256, 97th Congress, First Session).

§ 690.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a)(1) Normally, the expected contribution from the net assets of the single independent student with no dependents equals 33 percent of the amount of those assets.

(2) However, if the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, it shall be changed to zero.

(b) For an independent student with dependents, the expected contribution from the assets of the student (and spouse) is determined in the following manner:

(1) If the assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If this subtraction produces a negative number, it shall be changed to zero.

(2) If the assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If this subtraction produces a negative number, it shall be changed to zero.

(3)(i) If the assets include farm and/or business assets, deduct $80,000 from the net value of the farm and/or business assets. If this subtraction produces a negative number, it shall be changed to zero.

(ii) If the sum of the farm and business deduction and the deductions in paragraphs (b)(1) and (b)(2) of this section exceeds $100,000, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000.

(4)(i) Normally, the expected contribution from the assets of the independent student with dependents equals five percent of the total of the results obtained in paragraphs (b) (1), (2), and (3) of this section.

(ii) However, if the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(4)(i) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a

negative number, it shall be reduced to zero.

(5) If the married independent student with dependents is separated, only his or her assets shall be considered.

(Section 124 of Pub. L. 97-92 and Senate Resolution 256, 97th Congress, First Session)

§ 690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 690.44 is added to the amount expected from assets as determined in § 690.45.

(b) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 690.44(a)(1).

(Section 124 of Pub. L. 97-92)

§ 690.47 [Reserved]

§ 690.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1982 for effective family income if—

(1) The student was employed full-time in 1981 (at least 35 hours per week for a minimum of 30 weeks during 1981) and is no longer employed full-time,

(2) A spouse whose 1981 income from work must be reported under § 690.43 has lost his or her job for at least 10 weeks during 1982,

(3) The student or spouse whose 1981 income from work must be reported under § 690.43 has been unable to pursue normal income-producing activities for at least 10 weeks during 1982 because of the occurrence—in 1981 or 1982—or (i) a disability or (ii) a natural disaster,

(4) The student or spouse whose income must be reported under § 690.43 received unemployment compensation or nontaxable income in 1981 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least 10 weeks in 1982 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include welfare, court ordered child support, etc,

(5) The student has become separated or divorced after he or she submitted his or her application,

(6) A spouse whose 1981 income must be reported under § 690.43 has died after the submission of an earlier application for 1982 or 1983, or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to § 690.42 has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the effective family income to be received for the remainder of that year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(Section 124 of Pub. L. 97-92)

§§ 674.2, 675.2 and 676.2 [Amended]

2. Sections 674.2, 675.2, and 676.2 are each amended by adding, immediately following the definition of "'*independent student (effective July 1, 1981 through June 30, 1982)", the definition of "independent student (effective July 1, 1982)", to read as follows:

* * * * *

*Independent student (effective July 1, 1982):

(a) A single student who for 1981 and 1982—

(1) Has not lived and will not live for more than six weeks in either year in the home of his or her parent(s);

(2) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by his or her parent(s); and

(3) Has not received and will not receive financial assistance of more than $750 in either year from his or her parent(s); or

(b) A married student who for 1982—

(1) Has not lived and will not live for more than six weeks in the home of his or her parent(s);

(2) Has not been claimed and will not be claimed as a dependent for Federal income tax purposes by his or her parent(s); and

(3) Has not received and will not receive financial assistance of more than $750 from his or her parent(s).

(c) If a student's mother and father are divorced or separated, only one parent will be considered to be the parent of the student for purposes of applying the criteria in paragraphs (a) and (b) of this section. To determine that parent—

(1) Choose the parent with whom the student resided for the greater portion of the 12 month period preceding the date of application to have an expected family contribution determined under an approved need analysis system.

(2) If the preceding criterion does not apply, choose the parent who provided the greater portion of the student's support for the 12 month period preceding the date of application to have an expected family contribution determined under an approved need analysis system.

(3) If neither of the preceding criteria apply, choose the parent who provided the greater support for the period commencing January 1 of the calendar year which immediately precedes the first calendar year of the award period and ending 12 months prior to the date of application to have an expected family contribution determined under an approved need analysis system.

(d) If either of the parents have died, the institution shall consider only the surviving parent as the parent for purposes of applying the criteria in paragraphs (a) and (b) of this section. If both parents have died, the institution shall not consider either parent.

* * * * *

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At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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
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DOT/RSPA			DOT/RSPA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing December 30, 1981

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 4894 / Pub. L. 97–112 To authorize the Secretary of the Interior to disburse certain trust funds of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, and for other purposes. (Dec. 29, 1981; 95 Stat. 1518) Price $1.50.

S. 1196 / Pub. L. 97–113 International Security and Development Cooperation Act of 1981. (Dec. 29, 1981; 95 Stat. 1519) Price $3.00.

H.R. 4995 / Pub. L. 97–114 Department of Defense Appropriation Act, 1982. (Dec. 29, 1981; 95 Stat. 1565) Price $2.50.

S. 1086 / Pub. L. 97–115 Older Americans Act Amendments of 1981. (Dec. 29, 1981; 95 Stat. 1595) Price $2.00.

H.R. 4327 / Pub. L. 97–116 Immigration and Nationality Act Amendments of 1981. (Dec. 29, 1981; 95 Stat. 1611) Price $1.75.

H.R. 4503 / Pub. L. 97–117 Municipal Wastewater Treatment Construction Grant Amendments of 1981. (Dec. 29, 1981; 95 Stat. 1623) Price $1.75.

H.R. 4506 / Pub. L. 97–118 To name the lock and dam authorized to replace locks and dam 26, Mississippi River, Alton, Illinois, as "Melvin Price Lock and Dam". (Dec. 29, 1981; 95 Stat. 1634) Price $1.50.

H.R. 5159 / Pub. L. 97–119 To amend the Internal Revenue Code of 1954 to provide a temporary increase in the tax imposed on producers of coal, and for other purposes. (Dec. 29, 1981; 95 Stat. 1635) Price $1.75.

S. 657 / Pub. L. 97–120 To designate the Department of Commerce Building in Washington, the District of Columbia, as the "Herbert Clark Hoover Department of Commerce Building". (Dec. 29, 1981; 95 Stat. 1646) Price $1.50.

H.R. 4559 / Pub. L. 97–121 Foreign Assistance and Related Programs Appropriations Act, 1982. (Dec. 29, 1981; 95 Stat. 1647) Price $1.75.

H.R. 4431 / Pub. L. 97–122 To provide for the designation of the E. Michael Roll Post Office. (Dec. 29, 1981; 95 Stat. 1658) Price $1.50.

H.R. 4331 / Pub. L. 97–123 To amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act. (Dec. 29, 1981; 95 Stat. 1659) Price $1.75.

H.R. 3799 / Pub. L. 97–124 To extend the Federal tort claims provisions of title 28, United States Code, to acts or omissions of members of the National Guard, and to provide that the remedy under those provisions shall be exclusive in medical malpractice actions involving members of the National Guard. (Dec. 29, 1981; 95 Stat. 1666) Price $1.50.

S. 1192 / Pub. L. 97–125 Union Station Redevelopment Act of 1981. (Dec. 29, 1981; 95 Stat. 1667) Price $1.75.

H.R. 2494 / Pub. L. 97–126 To designate the John Archibald Campbell United States Courthouse. (Dec. 29, 1981; 95 Stat. 1674) Price $1.50.

S. 1946 / Pub. L. 97–127 Czechoslovakian Claims Settlement Act of 1981. (Dec. 29, 1981; 95 Stat. 1675) Price $1.75.

S. 1493 / Pub. L. 97–128 To deauthorize several projects within the jurisdiction of the Army Corps of Engineers. (Dec. 29, 1981; 95 Stat. 1681) Price $1.75.

S. 1211 / Pub. L. 97–129 To amend the Toxic Substances Control Act to authorize appropriations for fiscal years 1982 and 1983. (Dec. 29, 1981; 95 Stat. 1686) Price $1.50.

S. 271 / Pub. L. 97–130 Record Carrier Competition Act of 1981. (Dec. 29, 1981; 95 Stat. 1687) Price $1.75.

S.J. Res. 34 / Pub. L. 97–131 To provide for the designation of the week commencing with the third Monday in February 1982 as "National Patriotism Week". (Dec. 29, 1981; 95 Stat. 1692) Price $!.50.

S.J. Res. 100 / Pub. L. 97–132 Multinational Force and Observers Participation Resolution. (Dec. 29, 1981; 95 Stat. 1693) Price $1.75.

H.J. Res. 377 / Pub. L. 97–133 Providing for the convening of the second session of the Ninety-seventh Congress. (Dec. 29, 1981; 95 Stat. 1698) Price $1.50.

H.R. 3210 / Pub. L. 97–134 Federal-Aid Highway Act of 1981. (Dec. 29, 1981; 95 Stat. 1699) Price $1.75.

S.J. Res. 57 / Pub. L. 97–135 To provide for the designation of February 7 through 13, 1982, as "National Scleroderma Week". (Dec. 29, 1981; 95 Stat. 1704) Price $1.50.

S. 831 / Pub. L. 97–136 To authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes. (Dec. 29, 1981; 95 Stat. 1705) Price $1.50.

H.R. 2241 / Pub. L. 97–137 To provide for the establishment of the Bandon Marsh National Wildlife Refuge, Coos County, State

of Oregon, and for other purposes. (Dec. 29, 1981; 95 Stat. 1709) Price $1.50.

S.J. Res. 84 / Pub. L. 97-138 To proclaim March 19, 1982, "National Energy Education Day". (Dec. 29, 1981; 95 Stat. 1713) Price $1.50.

S.J. Res. 121 / Pub. L. 97-139 To provide for the designation of the year 1982 as the "Bicentennial Year of the American Bald Eagle" and the designation of June 20, 1982, as "National Bald Eagle Day". (Dec. 29, 1981; 95 Stat. 1715) Price $1.50.

H.R. 779 / Pub. L. 97-140 To authorize the Secretary of the Army to contract with the Tarrant County Water Control and Improvement District Numbered 1 and the city of Weatherford, Texas, for the use of water supply storage in Benbrook Lake, and for other purposes. (Dec. 29, 1981; 95 Stat. 1717) Price $1.50.

S. 1551 / Pub. L. 97-141 Federal Physicians Comparability Allowance Amendments of 1981. (Dec. 29, 1981; 95 Stat. 1719) Price $1.50.

H.R. 4926 / Pub. L. 97-142 To authorize the Secretary of the Army to acquire, by purchase or condemnation, such interests in oil, gas, coal, and other minerals owned or controlled by the Osage Tribe of Indians as are needed for Skiatook Lake, Oklahoma, and for other purposes. (Dec. 29, 1981; 95 Stat. 1721) Price $1.50.

S. 1976 / Pub. L. 97-143 To amend the Act of July 31, 1946, as amended (40 U.S.C. 193a). (Dec. 29, 1981; 95 Stat. 1723) Price $1.50.

S.J. Res. 117 / Pub. L. 97-144 To authorize and request the President to designate the week of January 17, 1982, through January 23, 1982, as "National Jaycee Week". (Dec. 29, 1981; 95 Stat. 1725) Price $1.50.

H.R. 3567 / Pub. L. 97-145 Export Administration Amendments Act of 1981. (Dec. 29, 1981; 95 Stat. 1727) Price $1.50.

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