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   Environmental Protection Agency

Aviation Safety
   Federal Aviation Administration

Fisheries
   National Oceanic and Atmospheric Administration

Highways and Roads
   Federal Highway Administration

Marketing Agreements
   Agricultural Marketing Service

Medicaid
   Health Care Financing Administration

Milk Marketing Orders
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   Environmental Protection Agency

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   Environmental Protection Agency

Reporting and Recordkeeping Requirements
   Federal Aviation Administration

Tobacco
   Agricultural Stabilization and Conservation Service
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.
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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

[Amtd. 5]


AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the average market price received by producers of certain minor kinds of tobacco for the 1982–1983 marketing year and the penalty rate for excess tobacco for the 1983–1984 marketing year for such kinds of tobacco. As required by section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties are assessed at the rate of 75 percent of the previous year's average market price.

EFFECTIVE DATE: August 31, 1983.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4281. A Regulatory Impact Analysis was not prepared since the effect of this final rule is primarily administrative.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Title: Commodity Loan and Purchases; Number: 10.051 as set forth in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 314 of the Agricultural Act of 1938 provides that marketing quota penalties shall be assessed whenever a kind of tobacco is marketed in excess of the marketing quota established for the farm on which such tobacco is produced. The rate of penalty per pound for a kind of tobacco as prescribed by section 314 of the 1938 Act is 75 percent of the previous year's average market price for such tobacco.

Since the 1982–1983 average market price producers received for tobacco and the rate of penalty reflect only mathematical computations which are required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 724

Marketing quotas, Penalties, Tobacco.

Final Rule

PART 724—[AMENDED]

Accordingly, the regulations at 7 CFR Part 724 are amended by revising § 724.88(c) to read as follows:

§ 724.88 Rate of penalty.

(c) [1] Average market price. The average market prices for the kinds of tobaccos listed below as determined by the Crop Reporting Board for the 1982–83 marketing year are:

<table>
<thead>
<tr>
<th>Kinds of tobacco</th>
<th>Cents per pound</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire-cured (type 21)</td>
<td>117.6</td>
</tr>
<tr>
<td>Fire-cured (types 22, 23, and 24)</td>
<td>156.0</td>
</tr>
<tr>
<td>Dark air-cured</td>
<td>122.9</td>
</tr>
<tr>
<td>Virginia sun-cured</td>
<td>106.4</td>
</tr>
<tr>
<td>Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)</td>
<td>101.6</td>
</tr>
<tr>
<td>Cigar-binder (types 51 and 52)</td>
<td>180.9</td>
</tr>
</tbody>
</table>

(2) Rate of penalty per pound. The penalty rate per pound for marketing excess tobacco subject to marketing quotas for the 1983–84 marketing year is:

<table>
<thead>
<tr>
<th>Kinds of tobacco</th>
<th>Cents per pound</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire-cured (type 21)</td>
<td>88.0</td>
</tr>
<tr>
<td>Fire-cured (types 22, 23, and 24)</td>
<td>117.0</td>
</tr>
<tr>
<td>Dark air-cured</td>
<td>92.0</td>
</tr>
<tr>
<td>Virginia sun-cured</td>
<td>80.0</td>
</tr>
<tr>
<td>Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)</td>
<td>76.0</td>
</tr>
<tr>
<td>Cigar-binder (types 51 and 52)</td>
<td>136.0</td>
</tr>
</tbody>
</table>

[Sec. 314 of the Agricultural Adjustment Act of 1938, as amended, (7 U.S.C. 1314)]


Everett Raskin, Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83–23907 Filed 8–30–83; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 6; Amtd. 24]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action continues the minimum grade requirement of U.S. No. 2 Russet for domestic and export shipments of Florida Valencia oranges, including other late type oranges. This amendment is effective for the period August 25–October 2, 1983. This action recognizes current and prospective demand for such oranges and is...
consistent with the remaining crop in the interest of growers and consumers.

**EFFECTIVE DATE:** August 25, 1983.

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

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida Valencia and other late type orange crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

The regulation with respect to Florida Valencia and other late type oranges, 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 information which was made available to the Department of Agriculture by the Citrus Administrative Committee's manager, and upon other available information.

The minimum grade requirement specified herein reflects the Department's appraisal of the need to continue the grade requirement applicable to Florida Valencia and other late type oranges of U.S. No. 2 Russet in recognition of the diminishing available supplies of such fruit. Without this amendment the grade requirement would be U.S. No. 1. The industry has reported continued market demand for the remaining supplies of such fruit. Such revision is designed to augment the total available supply of marketable fruit. It is hereby found that this regulation will tend to effectuate the declared policy of the Act.

It is impracticable and contrary to the public interest to give this notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the Act to make this regulatory provision effective as specified. This amendment relieves restrictions on domestic and export shipments of Florida Valencia and other late type oranges.

**List of Subjects in 7 CFR Part 905**
Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

**PART 905—[AMENDED]**
Accordingly, the provisions of §905.306 are amended by revising the following entries in Table I, paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

### Table I

<table>
<thead>
<tr>
<th>Variety</th>
<th>Regulation period</th>
<th>Minimum grade</th>
<th>Minimum diameter (in.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td>Oranges:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Valencia and other late type</td>
<td>8/25/83-10/2/83, on and after 10/3/83</td>
<td>U.S. No. 2 Russet, U.S. No. 1</td>
<td>2-8/16, 2-8/16</td>
</tr>
</tbody>
</table>

### Table II

<table>
<thead>
<tr>
<th>Variety</th>
<th>Regulation period</th>
<th>Minimum grade</th>
<th>Minimum diameter (in.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td>Oranges:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Valencia and other late type</td>
<td>8/25/83-10/2/83, on and after 10/3/83</td>
<td>U.S. No. 2 Russet, U.S. No. 1</td>
<td>2-4/16, 2-4/16</td>
</tr>
</tbody>
</table>

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

Dated: August 28, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division.
Agricultural Marketing Service.

[FR Doc. 83-23856 Filed 8-30-83; 8:45 am]

BILLING CODE 3410-02-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 11**

[Docket No. 23738; Amdt. 11-23]

**OMB Control Numbers for 14 CFR Chapter I**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment consolidates and displays the Office of Management and Budget (OMB) control numbers assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control numbers is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

**EFFECTIVE DATE:** September 30, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leonard R. Smith, Executive Secretary, Regulatory Council (AGC–203), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 426-9097.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) sought to minimize the paperwork burden imposed by the Federal Government while maximizing the utility of the information requested. The Act requires that the agency responsible for the
burden balance the practical value of the information against the time and cost to the public in providing that information. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting the procedures contained in Part 1320 of 5 CFR Chapter III. These procedures became effective May 2, 1983. Accordingly to these procedures, once OMB has approved a collection of information, a control number (and, if appropriate, an expiration date) will be assigned. This control number must be displayed by being published in the Federal Register and in the Code of Federal Regulations (CFR's). For existing collection requirements, OMB control numbers must be assigned and displayed by March 1, 1984, or those requirements will become ineffective. By using a table format, the existing collection requirements for the Federal Aviation Administration can be easily inserted into Part 11 of the Federal Aviation Regulations (FAR) and efficiently amended as changes take place. Because the OMB control numbers for only one chapter are included, this amendment limits the consolidation in accordance with OMB procedures and does so with one of the formats suggested by OMB. Additionally, the consolidation promotes public awareness of approved requirements while limiting the burden on this agency in publishing the information and, thus, conforms to the intent of the Paperwork Reduction Act. General This amendment adds a new Subpart F to Part 11 of Title 14 of the Code of Federal Regulations (CFR's), entitled "Agency Information Collection Requirements under the Paperwork Reduction Act." Subpart F consists of § 11.101(a), which outlines the purpose of the new subpart, and § 11.101(b), which provides the display of numbers. Section 11.101(a) states that the purpose of Subpart F is to consolidate and display the OMB control numbers for the information collection requirements of the Federal Aviation Administration (FAA) pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35). Section 11.101(b) provides the display by a table containing the 14 CFR part or section that states the burden alongside the burden's current OMB control number. Comments This amendment consolidates information already approved and concerns intra-agency procedural matters upon which public comment would not be useful or necessary. Because this amendment is editorial in nature, notice and public procedure are unnecessary. List of Subjects in 14 CFR Part 11 Reporting and recordkeeping requirements. Adoption of the Amendment Accordingly, a new Subpart F is added to 14 CFR Part 11, effective September 30, 1983, to read as follows:

PART 11—GENERAL RULEMAKING PROCEDURES

Subpart F—Agency Information Collection Requirements under the Paperwork Reduction Act

Sec. 11.101 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

Authority: Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)); 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983].

Subpart F—Agency Information Collection Requirements under the Paperwork Reduction Act

§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) Purpose. This subpart consolidates and displays the OMB assigned control numbers for the information collection requirements of the Federal Aviation Administration pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) which mandates that every collection requirement have a control number displayed in the Code of Federal Regulations. (b) Display.

Table

<table>
<thead>
<tr>
<th>14 CFR part or section identified and described</th>
<th>Current OMB control No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 21</td>
<td>2120-0018</td>
</tr>
<tr>
<td>Part 30</td>
<td>2120-0056</td>
</tr>
<tr>
<td>Part 43</td>
<td>2120-0033</td>
</tr>
<tr>
<td>§§ 47.7 thru 47.5</td>
<td>2120-0020</td>
</tr>
<tr>
<td>§§ 47.7 thru 47.15</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.8</td>
<td>2120-0020</td>
</tr>
<tr>
<td>§§ 47.9</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.11 thru 47.13</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.15 thru 47.19</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.20 thru 47.24</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.21 thru 47.27</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.22 thru 47.27</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.23 thru 47.27</td>
<td>2120-0024</td>
</tr>
<tr>
<td>§§ 47.24 thru 47.27</td>
<td>2120-0024</td>
</tr>
</tbody>
</table>

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| §§ 47.24 thru 47.27                            | 2120-0005               |

(Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)); 49 U.S.C. 106(g) Revised, Pub. L. 97-449, January 12, 1983)

Note: Because this amendment merely consolidates for display control numbers previously approved by the OMB, the FAA has determined that it is editorial in nature and imposes no new burden on any person. Therefore, it has been determined that this amendment involves a regulation that is not: (1) Major under Executive Order 12291 or (2) significant under the Department of Transportation Policies and Procedures (44 FR 11034, February 26, 1979). In addition, because it involves merely a consolidation for informational purposes, the economic impact of this amendment is considered so minimal or nonexistent as to not require a full regulatory evaluation.

Issued in Washington, D.C., on July 29, 1983.

J. Lynn Helms, Administrator.

[FR Doc. 83-23853 Filed 8-30-83; 8:45 am] BILLING CODE 4910-19-M

14 CFR Part 39

[Docket No. 80-CE-14-AD; Amdt. 39-4715]

Airworthiness Directives; Beech Models E33C and F33C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.
Summary: This amendment adopts a new Airworthiness Directive (AD), which requires modification or removal of the acrobatic category certification of Beech Models E33C and F33C airplanes. Flight testing has demonstrated these airplanes can enter uncontrollable spins. The AD will prevent an operator from entering an intentional spin that may develop an uncontrollable mode and an ensuing fatal accident.

Effective Date: October 1, 1983.

Compliance: As prescribed in the body of the AD.

Addresses: Beechcraft Class I Service Instructions No. 1249 applicable to this AD may be obtained from Beech Aircraft Corporation, 9709 E. Central, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

For Further Information Contact: Charles J. Maple, Flight Test Pilot, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67206; Telephone (316) 269-7012.

Supplemental Information: A Notice of Proposed Rulemaking (NPRM) was published in the Federal Register on April 10, 1980 (45 FR 24493, 24494), which proposed an AD to rescind the acrobatic category certification of Beech Models E33C and F33C airplanes and limit operation of those airplanes to the utility category. The NPRM was issued following Beech spin testing programs in which there were three occurrences of uncontrollable spins, each requiring spin recovery parachute deployment to obtain recovery. Following the third occurrence Beech discontinued its test program and, at that time, contended that further testing requested by FAA was unnecessary. The issuance of the proposal was prompted by (1) determination that the existing test data showed that it may be possible for airplanes in service to enter a spin mode from which recovery is not possible and (2) the manufacturer’s request for correction by means of AD action.

Interested persons were afforded an opportunity to comment on the proposal. More than 35 commenters responded, principally U.S. owners of record of the affected airplanes, organizations representing the views of those owners and the airplane manufacturer. All commenters opposed the proposal, with most contending that the FAA had misinterpreted the relevant provision of Civil Air Regulations (CAR) 3 and that the Beech flight tests described in the Notice may have been conducted to improper standards of test procedure and airplane configuration. Each of these comments was reviewed but, because of the information hereinafter set forth, they must be considered moot. When the FAA proceeded with the steps necessary to issue the AD as originally proposed, and advised Beech of this proposed action, the manufacturer reversed its prior position on further spin testing. As an alternative, it proposed a test program which, if successfully completed, would answer questions raised by the uncontrollable spins that had occurred in earlier testing. Following the FAA’s review and concurrence with the proposed test program, it was agreed that final action on the proposed AD would be delayed until the test program was completed.

On October 23, 1981, Beech resumed spin testing in accordance with instrumentation, configuration and maneuver schedules which were mutually agreed to by FAA and Beech. The testing was monitored by FAA personnel. On October 27, 1981, the test airplane entered a spin that developed into an unrecoverable mode, and the installed spin recovery parachute was deployed to obtain recovery.

Following this test incident, Beech recommended that the FAA issue an AD to rescind the acrobatic category certification of these airplanes but suggested alternatively that the acrobatic category certification remain in effect if restrictions similar to those earlier published by Beech were imposed on the performance of intentional spins, pending the development of appropriate design changes. The restrictions proposed by Beech were considered and found unacceptable, since the range of conditions which might lead to uncontrollable spins had not been defined.

In further testing, it was determined that the Models E33C and F33C airplanes have two spinning modes. In the first mode, most commonly seen, the piloting cues are generally those of a normal spin entry and with slowly increasing airspeed. It is entered by the use of normal spin entry techniques and maintained by the prop- spin control inputs specified in the Pilot’s Operating Handbook and FAA Approved Airplane Flight Manual (AFM). Recovery from this mode is obtained by normal spin recovery control inputs, and characteristically requires less than one-half turn from any point in a six turn maneuver. This mode is not a true spin as envisioned in the CAR, since a complete stall is not maintained over both lifting surfaces. Notwithstanding this, the FAA does not have any information at this time to show that corrective action at this point for the E33C/F33C design is necessary in the interest of safety.

The second spinning mode is a true spin mode, and it is uncontrollable by the use of aerodynamic controls, with or without the use of power. This mode was not seen during the original type certificate program, but the information that is available to the FAA at this time indicates that it was encountered in each of the uncontrollable spins discussed in the Notice. This spinning mode appears only occasionally, after a spin in the recoverable first mode (described above) has been established, and while the prescribed pre-spin controls inputs are maintained. Transition into this mode is marked by a shallowing of the nose-down spinning attitude and a substantial increase in yaw rate, and typically has not occurred prior to completion of the second spin turn.

The ability to obtain uncontrollable spins has been confirmed. Therefore, these airplanes do not meet the applicable regulations for acrobatic category approval or for approval of intentional spinning in utility category. Since sufficient evidence exists to establish that an unsafe condition exists, the NPRM is being adopted with revisions to provide for an additional method of compliance whereby the acrobatic category certification may be retained, and with minor technical and clarifying revisions.

There are approximately twenty-nine airplanes registered in the United States that are affected by the AD. The cost of complying with the AD is estimated to be $257,639 to the private sector.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

**Beech: Applies to Model E33C (Serial Numbers CJ-1 through CJ-20) and Model F33C (Serial Numbers CJ-26 through CJ-155) airplanes certified in acrobatic and utility categories.**

**Compliance:** Required as indicated, unless previously accomplished.

To prevent maneuvers which may develop into an unrecoverable spin, within the next 100 hours time-in-service after the effective date of this AD, accomplish paragraph a) or b) below.
(a) Install Beech Spin Improvement Kit 33-4002-3 (E33C Serial Numbers CJ-1 through CJ-25 airplanes and F33C Serial Numbers CJ-20 through CJ-38 and CJ-40 through CJ-51 airplanes) or 33-4002-1 (F33C Serial Numbers CJ-39 and Serial Numbers CJ-52 through CJ-155 airplanes) in accordance with instructions contained in Beechcraft Class I Service Instruction No. 1249. 

(b) Remove approval for operation of the airplane in acrobatic category in accordance with the following:

1. Place a copy of this AD in the limitations section of the Pilot’s Operating Manual and FAA Approved Flight Manual.

2. Removed the Airplane Flight Manual Supplement (Beech Part Number 33-590006-11, -13, or -17) pertaining to operation in the Acrobatic Category.

3. Cut both electrical leads to the acrobatic category fuel boost pump P/N 4140-00-39 (E33C Serial Numbers CJ-1 through CJ-25 and F33C Serial Numbers CJ-28 through CJ-148 airplanes) or P/N 1287-00-1 (F33C Serial Numbers CJ-15 through CJ-155 airplanes) at a point near the pump motor housing. Cap and stow these leads per AC 43-13.


5. Modify the auxiliary fuel pump operation placard (including switch position placarding) to read as follows:

6. Obliterate the words “Remove door hold open rod prior to operation in Acrobatic Category” from the placard on the cabin door side panel.

7. Remove the following placards on the left hand sidewall:

**DURING ACROBATIC CATEGORY**

**OPERATION OCCUPANCY**

LIMITED TO PILOT’S OR PILOT’S AND COPILOT’S SEAT

AND, if installed, REMOVE THIRD & FOURTH PASSENGER SEATS

PRIOR TO OPERATION

IN ACROBATIC CATEGORY

8. Obliterate from the airplane operation limitations placards on the left side panel the heading “Acrobatic Category Airplane” and all portions of the placard under that heading.

9. Obliterate the word “AEROBATIC” located below the pilot’s and co-pilot’s window on the exterior of the airplane.

10. On Model E33C (Serial Numbers CJ-1 through CJ-25) airplanes, obliterate from P/N 33-590006-17 Acrobatic Bonanza E23C.

11. On Model F33C (Serial Numbers CJ-26 through CJ-128) airplanes:

(i) In P/N 33-590009-9 Pilot’s Operating Manual and FAA Approved Airplane Flight Manual:

(a) Obliterate the following:

(1) On Page 5-6, all information pertaining to F33C Acrobatic Category limits.


(ii) Remove pages 6-12, all information pertaining to F33C Acrobatic Category limits.


(i) Obliterate the following:

(A) On the cover page, the word “Acrobatic” after F33C and the words “See Flight Manual Supplement” after “Acrobatic”.

(B) On page 6-1:

(1) “Sample Weight and Balance Load Form Acrobatic Category”—6-17.

(2) “Weight and Balance Loading Form (Acrobatic Category)—6-18.”

(C) On page 6-12, all information pertaining to F33C Acrobatic Category limits.


(i) Obliterate the following:

(A) On the cover page, the word “Acrobatic” after F33C and the words “See Flight Manual Supplement” after “Acrobatic”.

(B) On page 6-1:

(1) “Sample Weight and Balance Load Form Acrobatic Category”—6-17.

(2) “Weight and Balance Loading Form (Acrobatic Category)—6-18.”

(C) On page 6-12, all information pertaining to F33C Acrobatic Category limits.

14. Remove the existing Utility/Acrobatic Category Airworthiness Certificate and replace it with a new Utility Category Airworthiness Certificate as provided in Paragraph C 15 of this AD.

15. Obtain a new Utility Category Airworthiness Certificate from any FAA General Aviation District Office of Flight Standards District Office by presenting a completed FAA Form 8130-6, Application for Airworthiness Certificate, together with the removed Utility/Acrobatic Category Airworthiness Certificate, citing compliance with this AD as reason for the replacement.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA. Room 238. Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone [316] 269-7000.

**SUMMARY:** This amendment revises Airworthiness Directive (AD) 83-14-07, Amendment 39-4686, applicable to Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) airplanes by allowing normal use of wing flaps when the airplane is operated at an aft CG limit of 163.0 inches. Additional data is now available to the FAA which shows that when this aft CG limit is used, the airplane is controllable during power on stalls with wing flaps extended. This revision makes available an alternate means of compliance with the AD for those operators who do not desire to comply with the restriction required in the original AD.

**EFFECTIVE DATE:** August 31, 1983.

Compliance: Within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

**ADDRESSES:** Information pertaining to this AD is contained in the Rules Docket, FAA, Office of the Regional...
Counsel, Room 1558, 801 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, ACE-120A, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337, Telephone [404] 763-7407.

SUPPLEMENTARY INFORMATION: AD 83–14–07, Amendment 39–4686, (48 FR 32553, 32554) applicable to Piper Models PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P) and PA–60–602P (Aerostar 602P) airplanes prohibits use of wing flaps for extended. Therefore, the FAA is revising the word "or" following the new limitations numbers and making no additional burden on any person and is relieving in nature. Therefore, notice and public procedure hereon are unnecessary and does not warrant preparation of a regulatory evaluation. I certify it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature and because it involves few, if any, small entities.

Issued in Kansas City, Missouri on August 26, 1983.

John E. Shaw, Acting Director, Central Region.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, ACE-120A, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337, Telephone [404] 763-7407.

14 CFR Part 71

[Airspace Docket No. 83-AWA-12]

Alteration of VOR Federal Airways; Albuquerque, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: To enhance the traffic flow within the Albuquerque Air Route Traffic Control Center (ARTCC) area, 11 VOR Federal Airways segments were amended or revoked. Inadvertently, V–83 was revoked between Corona and Otto, NM. This action reestablishes that airway segment.

EFFECTIVE DATE: September 29, 1983.


SUPPLEMENTARY INFORMATION: History

FR Doc. 83–20405 was published on July 28, 1983, (48 FR 34248) that amended or revoked 11 VOR Federal Airways in the Albuquerque ARTCC area. Inadvertently, V–83 was revoked between Corona and Otto, NM. This action reestablishes that airway segment.

List of Subjects in Part 71

VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, FR Doc. 83–20405, as published in the Federal Register on July 28, 1983, (48 FR 34248) is corrected as follows:

§ 71.123 [Corrected]

By deleting the words "or" following the new VOR Federal Airways and an E radial, 85 MSL Corona" (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1346(a) and 1354(a)); [49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69]

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

Issued in Washington, D.C., on August 24, 1983.

John W. Baier, Acting Manager, Airspace—Rules and Aeronautical Information Division.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 82N-0050]

Exemptions and Exclusions From the Pregnancy-Nursing Warning Required for Over-the-Counter Drugs That Are Intended for Systemic Absorption; Availability of Advisory Opinions

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration is announcing the availability of two advisory opinions providing a list of further exemptions and a list of exclusions from the general pregnancy-nursing warning in § 201.63 (21 CFR 201.63) that is required for over-the-counter (OTC) drugs intended for systemic absorption.
SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of December 3, 1982 (47 FR 54750), a final rule requiring a general pregnancy-nursing warning to appear in the labeling of all OTC drug products intended for systemic absorption (§ 201.63). The regulation stated that the labeling of all OTC drugs intended for systemic absorption, unless specifically exempted, would contain the following general warning: "As with any drug, if you are pregnant or nursing a baby, seek the advice of a health professional before using this product." The regulation also established in § 201.63(c) two specific exemptions to the labeling requirement: (1) Drugs that are intended to benefit the fetus or nursing infant during the period of pregnancy or nursing and (2) drugs that are labeled exclusively for pediatric use. Paragraphs 5 and 6 of the preamble to the final rule (47 FR 54751-2) also discussed categories of drug products that are excluded from the labeling requirements (i.e. are beyond the scope of the regulation) because they are not intended for systemic absorption.

The effective date of the regulation was December 3, 1982, the date of publication in the Federal Register; however, manufacturers were given until December 5, 1983, to comply with the labeling requirement.

Since publication of the final rule, FDA has received a number of inquiries regarding application of the rule. In response to these inquiries, the agency has expanded the list of OTC drug products that are exempted from the regulation and has developed a list of drug products that are excluded. Under the provisions of § 10.85(c) (21 CFR 10.85(c)), the Commissioner of Food and Drugs considers the substance of these lists to be advisory opinions that may be relied on by manufacturers and packers of OTC human drug products. Both advisory opinions are publicly available in the Dockets Management Branch.

The advisory opinion containing the list of additional drug products that are exempted from the labeling requirement includes drug products that, although intended for systemic absorption, either would provide benefits that outweigh any possible risks they might pose to pregnant or nursing women or would not be used by pregnant or nursing women (e.g., drug products intended for men only, such as drug products used for treatment of benign prostatic hypertrophy). At a future date the agency will propose to amend the exemptions stated in § 201.63(c) to add exemptions for these drug products. Until this section is amended, the publicly available advisory opinion containing the list of exemptions is intended as the agency's formal position and may be relied on by interested firms.

The advisory opinion containing the list of OTC drug products that are excluded from the regulation is not intended to be exhaustive, but to aid firms in determining whether their products are covered by this rule. The products on this list are applied topically and/or act locally; they are not intended for systemic absorption. The agency recognizes the possibility that an OTC drug that is not intended for systemic absorption might, nevertheless, pose a risk to a fetus or nursing infant. If FDA determines, based on scientific evidence, that an excluded OTC drug poses such a risk or that there is a need for a warning for some other reason, special warnings may be required. The ongoing OTC review will help identify the need for these warnings.

The lists of additional exemptions and exclusions to the OTC pregnancy-nursing warning requirement issued as advisory opinions are available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the Dockets Management Branch. Requests for single copies of the advisory opinions may be submitted to the Dockets Management Branch and should be identified with the docket number found in brackets in the heading of this document.

Interested persons may submit written comments on these advisory opinions to the Dockets Management Branch (address above) preferably in three copies, except that individuals may submit one copy, identified with the docket number above. Such comments will be considered by the agency in determining whether amendments of or revisions to either advisory opinion are warranted. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 1983.

William R. Clark, Acting Associate Commissioner for Regulatory Affairs.

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[T 6E1837, 6E1842/R584; PH-FRL 2424-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities; Benomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodities currants and papayas. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was submitted in petitions by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 31, 1983.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716D, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking, published in the Federal Register of June 29, 1983 (48 FR 28889), which announced that 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 petitions 6E1837 and 6E1842 to the Agency on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington (6E1837) and Florida (6E1842).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the
establishment of tolerances for the combined residues of the fungicide benzimidazole (methyl 1-[butylcarbamoyl]-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benzimidazole) in or on the raw agricultural commodities currants at 7 ppm [6E1837] and papayas at 3 ppm [6E1842].

There were no comments or referral to an advisory committee received in response to the proposed rule.

The data submitted in the petitions and other relevant material have been evaluated in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-383, 94 Stat. 1164, Reg. Flexibility Act (Pub. L. 96-393), the Administrator has determined that the requirements of section 3 of the Regulatory Flexibility Act (Pub. L. 96-393) 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).

List of Subjects in 40 CFR Part 180

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

Dated: August 17, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

PART 180—AMENDED

Therefore, 40 CFR 180.294 is amended by adding, and alphabetically inserting, the raw agricultural commodities currants and papayas to read as follows:

§ 180.294 Benomyt; tolerances for residues.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currants</td>
<td>7.0</td>
</tr>
<tr>
<td>Papayas</td>
<td>3.0</td>
</tr>
</tbody>
</table>

[FR Doc. 83-23758 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[TOP 3F2778/R591; PH-FRL 2423-3]

Tolerances and Exemptions For Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide chlorpyrifos and its metabolite in or on almonds, almond hulls, and walnuts. This regulation to establish maximum permissible levels for residues of chlorpyrifos in or on the commodities was requested, pursuant to a petition submitted, by Dow Chemical Company.

EFFECTIVE DATE: August 31, 1983.

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

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM No. 2, 1221 Jefferson Davis Highway, Arlington, VA 22202; (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of December 22, 1982 (47 FR 57127), which announced that Dow Chemical Company, P.O. Box 1706, Midland, MI 48640, had submitted pesticide petition 3F2778 to EPA proposing to amend 40 CFR 180.342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities almonds at 0.05 part per million (ppm), almond hulls at 12.0 ppm, and walnuts at 0.2 ppm. Dow Chemical Company subsequently amended the petition (48 FR 19062, April 20, 1983) by increasing the proposed tolerance for almonds from 0.05 to 0.2 ppm.

There were no comments received in response to the notices of filing.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerances include a 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on red blood cells (RBC) cholinesterase activity and was negative for oncogenic effects at the levels tested (0.03, 0.1, 1.0 and 3.0 mg/kg); a dog feeding study with a NOEL of 0.1 mg/kg of bw/day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative for oncogenic effects at the levels tested (0.5, 5.0 and 15.0 ppm): a mouse teratology study which was negative at 25 mg/kg; and acute delayed neurotoxicity study which was negative at 100 mg/kg and a 3-generation reproduction study which demonstrated a NOEL of 1.0 mg/kg/day. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximal residue contribution (TMRC) from previously established tolerances for chlorpyrifos utilizes 105.09 percent of the ADI. The resulting increase in the TMRC from the use on almonds and walnuts is 0.015 percent (0.0001 mg/day (1.5 kg)), an increase in the ADI of 0.01 percent. While the establishment of the requested tolerances will add to the already exceeded ADI, these uses are acceptable since the added increment to the TMRC and ADI are minimal.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method, gas chromatography, is available for enforcement purposes. No regulatory actions are pending against the continued registration of chlorpyrifos.

The established tolerances for residues in fat, meat, meat byproducts of livestock and milk are adequate to cover any secondary residues resulting from these uses. Because there are no poultry feed items involved, there will be no secondary residues in poultry tissue and eggs.

Data considered desirable but lacking include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated July 8, 1983, the petitioner indicated that these studies...
will be submitted to the Agency by September, 1983. Dow Chemical Company has also agreed to voluntarily delete the use on almonds and walnuts from the label should the results of the studies be found to exceed the risk criteria for unreasonable adverse effects.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 9 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).

List of Subjects in 40 CFR Part 346(a)(d)(2)])
FR 24950).

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

43 CFR Public Land Order 6418
[OR-21904]

**Oregon; Revocation of an Air Navigation Site Withdrawal**

**Correction**
In FR Doc. 83–19421, beginning on page 32830, in the issue of Tuesday, July 19, 1983, on page 32831, in the first column, in the second indented paragraph, in the third line “land use” should read “land for use”.

BILLING CODE 1505–01–M

43 CFR Public Land Order 6427
[OR-19188]

Oregon; Revocation of Reclamation Withdrawals

**Correction**
In FR Doc. 83–19674, appearing on page 32928, in the issue of Thursday, July 21, 1983, in the second column, in paragraph 4., in the fifth line “2W.” should read “3W.”.

BILLING CODE 1505–01–M

43 CFR Public Land Order 6447
[WASHINGTON–03047, OR–22052 (WASH), OR–22059 (WASH)]

Washington; Revocation of Secretarial Orders of December 22, 1905, September 18, 1916, and April 21, 1920, and Public Land Order No. 2342

**Correction**
In FR Doc. 83–20465, beginning on page 34001, in the issue of Thursday, July 28, 1983, in the first column, under “T. 9 N., R. 27 E.”, in Sec. 28, the second line should read “and N%S%S%S%NW%W.”

BILLING CODE 1505–01–M

**DEPARTMENT OF TRANSPORTATION**

Federal Highway Administration

49 CFR Part 350
[BMCS Docket No. 108; Notice No. 82–15]

**Motor Carrier Safety Assistance Program**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of program implementation; interim final rule; request for comments.

**SUMMARY:** This notice announces that the FHWA, pursuant to Sections 401–404 of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97–424), and as authorized by the Secretary of Transportation, intends to make grants to qualified States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and hazardous materials transportation by highway and compatible State’s rules, regulations, standards, and orders. This program hereinafter is referred to as the “Motor Carrier Safety Assistance Program” (MCSAP).

An interim rule is established herein which prescribes the procedures adopted by the FHWA to administer the grant program until a final rule is promulgated. The FHWA invites comments on this interim rule.

**DATES:** This interim final rule is effective August 31, 1983. Comments must be received by November 29, 1983.

**ADDRESS:** All written comments should refer to the docket number that appears at the top of this document and should be submitted preferably in triplicate, to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590. Those desiring notification of receipt of comments must include a self-addressed, stamped post card.

**FOR FURTHER INFORMATION CONTACT:** Mr. W. R. Fiste, Bureau of Motor Carrier Safety, (202) 426–0701 or Mr. Thomas’ Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:14 p.m. ET, Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:** The STAA was enacted on January 6, 1983. Sections 401–404 created a new categorical Federal assistance program to be financed from the Highway Trust Fund.
Pursuant to funding beginning with $10 million in fiscal year 1984 and increasing by $10 million per year to a maximum of $50 million in fiscal year 1988. The FHWA is adding Part 350 to Title 49 of the Code of Federal Regulations to establish the "Motor Carrier Safety Assistance Program (MCSAP)" and establish the requirements to be met by States in order to qualify for grants to enforce motor carrier safety and highway hazardous materials transportation. To apply for MCSAP grants for fiscal year 1984, States must comply with the provisions of the interim final rule.

Discussion

Federal and State Governments have mutual responsibilities for protecting the public from the risks inherent in the operation of commercial motor vehicles and the transportation of hazardous materials by highway. Federal responsibility is to regulate highway commerce between the States defined in the Motor Carrier Act of 1935 (Part II, Interstate Commerce Act). Federal responsibility for regulating the transportation of hazardous materials is set forth in the Hazardous Materials Transportation Act (Pub. L. 93-833, 88 Stat. 2156, 49 U.S.C. 1801). Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations, pursuant to these laws, have been promulgated and implemented. Commercial motor vehicle and driver inspections are integral parts of the several work activities conducted by FHWA to implement the Federal motor carrier and hazardous materials safety programs.

State responsibilities are contained in various State statutes and rules pertaining to the regulation and control of commercial motor vehicles by various State agencies. State truck and bus safety inspection activities vary widely in technique and quantity. A few States have active programs, some conduct minimal programs, and many have no commercial motor vehicle safety inspection programs at all.

Fragmented Federal and State authority and varying levels of safety enforcement have resulted in: (1) A single Federal commercial motor carrier safety and hazardous materials regulatory program administered throughout the Nation which covers only those motor carriers of property and passengers operating in interstate or foreign commerce, and (2) a variety of State regulations administered by several agencies within a State addressing only certain safety aspects of commercial motor carrier operations. A Motor Carrier Weighing and Inspection Demonstration Program, initiated in 1979, demonstrated the feasibility of increasing public protection from hazards inherent in commercial motor vehicle operation through a joint Federal/State commercial motor vehicle safety inspection program. A principal objective of the Demonstration Program was to identify the benefits of a uniform, comprehensive program covering both interstate and intrastate commerce. The program addressed commercial motor vehicle equipment condition, hazardous materials transportation, minimum driver qualifications, maximum hours of service and proper cargo loading.

A Federal financial assistance program under which State personnel conduct nationally uniform vehicle/driver/cargo safety inspections has proven to be a viable and cost effective means of achieving compliance with safety regulations and reducing highway accidents and hazardous material incidents involving commercial motor vehicles. The Department's State Hazardous Materials Enforcement Development (SHMED) program further illustrates the benefits to be derived from development of a Federal/State partnership for safety regulation and enforcement. Initiated in 1981, the SHMED program was designed to encourage States to assume more responsibility for hazardous materials transportation enforcement within their jurisdictions. States that have provided for adoption of the Federal hazardous materials transportation regulations are furnished technical and financial assistance leading to development of a State enforcement capability. The SHMED program increases total resources devoted to hazardous materials safety enforcement more efficiently than would be required to expand the Federal enforcement staff and provides an incentive for States to adopt the Federal regulations leading to a uniform standard of safety. Individual contracts with State participants are of three years' duration. The program will be phased out by 1987.

Motor Carrier Safety Assistance Program (MCSAP)

The objective of the program is to reduce truck and bus related accidents and hazardous materials incidents on the highways by minimizing the causes related to mechanical failures, driver error, hazardous materials handling and careless safety practices by motor carriers. The method of achieving this objective is to encourage States to apply their resources to enforce substantially similar safety rules, regulations, standards and orders uniformly throughout the Nation. Consequently, what is expected of a carrier or driver in one State, in the way of safety requirements, will be consistent with those required in another State. A uniform coordinated inspection program, which substantially increases the likelihood that safety violations will be detected, will encourage carriers to: (1) Correct safety defects, (2) become more cognizant of safety requirements, and (3) comply voluntarily with uniform regulations. The information obtained through such an enforcement program will also identify repeat and flagrant violators thereby contributing to more concentrated and effective compliance measures.

The MCSAP is to be a cooperative effort between the FHWA and States which is not intended to replace or duplicate existing programs, but rather to enhance ongoing efforts. Uniformity of driver/vehicle/cargo safety inspections, out of service criteria and enforcement is essential to the success of the MCSAP. It shall be the responsibility of the FHWA to coordinate State plans to avoid duplication of effort, ensure the implementation of a uniform commercial motor carrier safety program, and provide technical assistance, training and program guidance. The recommended procedures for roadside inspections and terminal safety audits will be provided to each prospective grantee.

a. Grants. Section 402 of the STAA authorized the Secretary of Transportation to make grants to States for the development or implementation of programs for the enforcement of both Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible States rules, regulations, standards, and orders. Responsibility for the promulgation of procedures concerning the issuance and administration of the grants for the MCSAP has been delegated to the Federal Highway Administrator. The States interested in qualifying for grants must comply with the criteria established in the statute and the administrative requirements adopted by FHWA in this interim rule. Comments received on these requirements will be evaluated as possible grounds for future rulemaking changes.

b. State Plans. Grant approval will be based upon enforcement plans submitted by applicant States. A State plan will be reviewed to ensure that the statutory purpose is being pursued, and
that the enforcement efforts undertaken by the State meet the requirements of uniformity, consistency and effectiveness. The State's plan will describe the safety objectives sought to be achieved through the use of grant funds, specify the quantity and content of State activity required during the program period, relate these activities to costs, and provide a method for evaluating the effectiveness of the activities. The plan must also address the statutory conditions enumerated in Section 402 of the STAA, and the administrative criteria considered by FHWA as necessary to carry out uniform program objectives. An outline of a State Plan is appended to the interim rule. (Appendix B).

c. Certification. The FHWA believes that some of the conditions mandated by Section 402 of the STAA can be met preliminarily through certification by the Governor of the applicant State or an official specifically designated by the Governor for that purpose. The conditions include adoption by the State of Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations or compatible State requirements, adequate legal authority and resources of the motor vehicle safety agency designated to administer the Federally assisted program, and right of entry and inspection by State enforcement personnel. These issues may require referral to the State's Attorney General for determination.

Another condition requires a declaration of knowledge of safety requirements by registrants of commercial motor vehicles while others concern fiscal and recordkeeping matters. If the certifying officer has no direct knowledge of any of the conditions, he or she must consult with the appropriate State officials prior to executing the certification. The form of certification is also appended to the rule. (Appendix A).

d. Program Activities. It is anticipated that the basic program will be primarily targeted at roadside driver/vehicle safety inspections of interstate and intrastate commercial motor vehicle traffic. The program will also include roadside inspection procedures directed toward the safety of highway transportation of hazardous materials. Depending on the current level of State effort, additional activities, such as follow-up investigations of evidence on non-compliance and safety audits of carrier facilities, will be incorporated. Technical advisories concerning these activities are being made available to the States through FHWA division offices located in each State.

e. Types of Grants. The program provides for both development funding in States which need to establish or substantially modify an enforcement program, and implementation funding in States which are ready to initiate or have established enforcement programs. These elements are defined in the rule.

1. Distribution of Funds. Section 403 of the STAA provides for a Federal/State sharing of program costs as proposed by the State and Federally approved. The Federal share shall not exceed 80 per cent of the approved incremental increase over the average base period expenditures for the State commercial motor vehicle safety program.

Section 404 authorizes a sum of $10,000,000, to be appropriated from the Highway Trust Fund, for the fiscal year ending September 30, 1984. It further authorizes additional sums to be appropriated in each subsequent year through September 30, 1988, in progressive incremental increases of $10,000,000 per year reaching a maximum of $50,000,000 per year in 1988. The amount of funds actually available for obligation in any one fiscal year will be subject to annual appropriations and any limitations contained in accompanying legislation.

The commitment of Federal assistance is to be used to induce those States which do not have active programs to become involved in effective enforcement of commercial motor carrier and hazardous materials transportation safety and to encourage those other States to expand existing programs as practicable. Section 403 of the STAA permits the exercise of broad discretion in the allocation of appropriated funds. In order to facilitate Federal/State planning and continuity of the program, FHWA will seek annual authorization to extend the availability of funds for three years beyond the year in which the funds are appropriated. The 1984 Department of Transportation Appropriations Act, enacted on August 17, 1983, contains such a provision.

The FHWA recognizes that not all States will be prepared to take advantage of implementation grants in the first year or two of the programs. The FHWA also recognizes that those States which developed model programs during the Motor Carrier Weighing and Inspection Demonstration Program may be prepared to continue safety enforcement at the level of activity they achieved using Federal funds.

To accommodate these concerns and to assure equitable access by all States to a limited source of funding, the FHWA is proposing several methods of allocating appropriated funds each year and is seeking comment on these methods. In the interim final rule, the method described in subparagraph (1) will be applied.

(1) By Formula. The FHWA will allocate funds each year among the States according to a formula based on the following factors:

- Roadway mileage (all highways in each State)
- Special fuel sales (net after reciprocity adjustment)
- Truck registrations (excluding vehicles less than 10,000 lbs.)
- Vehicle miles traveled (all vehicles)
- Population (1980 census)

A formula incorporating the above factors in equal proportions, will be applied after subtracting an allotment for small (up to $50,000) development grants to each State not prepared for program implementation. The balance will be distributed, after adjusting for minimum and maximum levels, to those other remaining States qualifying for implementation grants. If relatively few States are able to implement a program in the first two years of authorizations, provisions will be made to permit those few to receive a larger amount than would otherwise be available to them by formula. For example, a State will be permitted to receive an amount not to exceed the average sum allocable to it by formula over the 5 years of authorization contained in the STAA. The sums available to such States in later years would also be reduced to a sum not less than such average depending on the rate at which the remaining States use their allocations. Re-allocations of unused funds would be made after the second year's distribution based on the experience gained to that date.

(2) By Request after set-aside for Development. Alternatively, the FHWA could distribute funds each year by establishing maximum monetary set-asides for States that wish to "develop" motor carrier safety programs. Unused funds from this set aside together with the balance of annual appropriated funds would be available for all States that wish to "implement" programs. Unobligated annual funds, if authorized by annual appropriations will remain available for distribution for three succeeding fiscal years. The insufficiency of funds to finance all State plans submitted the first or second years of the program will result in a pro-rata reduction in the amount available to each State with an approved plan.

(3) Combinations or variations of the above methods or such methods as may be developed in response to this
Qualification Criteria. The first set of criteria is provided in Section 402 of the STAA. The FHWA has very little discretion in these requirements, but to facilitate matters, initially a certification will be accepted covering most of the statutory criteria. In the first year, it must be supported by some documentation. The statute requires the following:

(1) Agreement by the State to adopt the Federal rules, regulations, standards, and orders or compatible State rules, regulations, standards or orders, and to assume responsibility for their enforcement (the actual State statutes and regulations complying with this requirement are to be provided with the certification);

(2) Designation of a State motor vehicle safety agency responsible for administering the plan throughout the State (the specific lead agency must be designated as part of the plan submitted by the State. Other agencies may be involved, and their roles should be defined in the plan);

(3) Satisfactory assurances that the designated agency and other agencies named to perform functions under the plan have or will have the legal authority, resources, and qualified personnel necessary for the enforcement of the Federal or compatible State rules, regulations, standards, and orders;

(4) Satisfactory assurances that the State will devote adequate resources to the administration of such a plan and enforcement of such rules, regulations, standards, and orders;

(5) Provision for right of entry and inspection sufficient to carry out the enforcement plan (this includes the authority to break cargo seals to inspect the stability of the load and its hazardous nature. If terminal safety audits are included in a State plan, the agency conducting such activities should have the authority to enter upon the carrier's premises and inspect and copy documents. As in requirement (1), above, the actual statute or other authority is to be cited);

(6) Provision that all reports required in relation to the plan as approved be submitted to the State agency and be made available to the FHWA upon request;

(7) Adoption of such uniform reporting requirements and use of such uniform forms for recordkeeping, inspection, and other enforcement activities as may be established by the FHWA;

(8) Requirement that registrants of commercial motor vehicles declare knowledge of applicable Federal and State motor carrier safety regulations (this declaration is to be made by new and renewing registrants, and should be included on the registration form or attached thereto. A copy of the document to be used by the State is to accompany the certification); and

(9) Provision that State and local expenditures, exclusive of Federal funds, for commercial motor vehicle safety programs, will be maintained at a level not less than the average level of such expenditures for the two (2) fiscal years preceding January 6, 1983 (although certification will be accepted, the FHWA is requiring the States in the first year to submit fiscal or budget confirmation which demonstrates the total expenditures for motor carrier safety enforcement for the two base years).

Additional criteria are established by the FHWA and made conditions of grant eligibility. In the interim final rule, each plan submitted will also demonstrate that the applicant State:

(1) Has authority over all types of carriage (what is contemplated here is the statutory authority of the State to regulate the safety of operations of motor carriers irrespective of whether they are for hire or engaged in private carriage. This is consistent with the definition of "motor carrier");

(2) Has or will have prior to program inception—

(a) Adequate and safe areas for roadside inspection, and

(b) Sufficient space to park "out-of-service" vehicle or safely remove them from the general flow of traffic;

(3) Has determined the aggregate costs of its motor carrier safety enforcement efforts for the two (2) fiscal years prior to January 6, 1983 (this provision supplements item #9 of the statutory criteria by requiring States to compute the actual expenditures for motor carrier safety enforcement during the base years and to identify that which is to be exempted as related to Federal assistance);

(4) Has program evaluative factors to measure program effectiveness (the FHWA believes that a State should describe the objectives of its program and identify those factors it intends to rely on to determine whether the objectives have been met);

(5) Has or will have a core staff of trained individuals in place (the amount of the grant will be dependent, to a large extent, on the State's readiness to use the funds during the fiscal year in which the grant is awarded); and

(6) Will conduct vehicle inspections at such times and locations as will be reasonably certain to cover a broad range of commercial motor vehicles and carriers (the FHWA proposes that the enforcement effort be directed at all types of commercial motor vehicle operations and this can only be accomplished if the time of enforcement is varied).

Disapprovals or Withdrawn Approvals. The authorizing provisions in the STAA include evaluation of the State plans as submitted and evaluation of State performance under the plan as approved. The evaluation, in the first instance, could result in a rejection of the plan, in which case the applicant State is given an opportunity to amend the plan. In the event the State does not perform pursuant to the approved plan, or the plan becomes inadequate, the consequence is withdrawal of Federal assistance. Therefore, the rule provides two processes by which a State may respond to an adverse determination.

Evaluation. In order to allow flexibility in the preparation of plans, the FHWA is providing general guidelines and requiring a mechanism for measuring effectiveness of the plan. Approval of the plan will be conditioned on the State defining objectives compatible with those of the FHWA, adopting consistent standards, and employing uniform practices. Evaluation of the State's performance under the approved plan will be based on the adequacy with which the State is able to demonstrate effectiveness in the accomplishments of its identified objective.

Program Costs. The rule provides examples of the kinds of costs incurred which will be eligible for proportionate reimbursement under the program. It is not intended that Federal funds be used to finance real property acquisitions. The programs envisioned by the FHWA are primarily operational. Administrative expenses and overhead costs will be limited to those that can be directly allocable to the State's enforcement plan.

Additional information concerning the kinds of costs incurred which will be eligible for proportionate reimbursement under the program is attached thereto.
program, as a means of: (1) Achieving compliance with Federal safety regulations, and (2) reducing highway accidents and hazardous materials incidents involving commercial motor vehicles, cannot be overemphasized. It is anticipated that the economic impact of this rulemaking action will be minimal, since such economic impact as will occur is primarily mandated by the cited statutory provisions themselves, and not the rulemaking action. Accordingly, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. The FHWA recognizes that the MCSAP, when implemented, will improve motor carrier safety enforcement by ensuring that statutory purposes at both the Federal and State levels are being pursued in a uniform, consistent and effective manner. The FHWA also recognizes that in order for the MCSAP to be effectively implemented in FY 1984, the States' enforcement plans should be submitted to the FHWA prior to the beginning of FY 1984 (October 1, 1983). For the foregoing reasons and since the regulation imposes no additional burdens on the States, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in effective date. Neither a general notice of proposed rulemaking nor a 30-day delay of the effective date is required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

Accordingly, the regulation is effective upon publication. However, the FHWA gives notice that comments on the procedures promulgated to administer the program will be accepted and evaluated in determining the need for future revisions to the interim final rule.

While the FHWA does not anticipate that there will be any useful public comment on the general issue of the grant program itself, there may be procedural comments on some provisions of the interim final rule. For this reason, publication of this final rule without an opportunity for prior comment, but with a request for comments following publication, is consistent with the Department of Transportation's regulatory policies.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under 44 U.S.C. 3504(h).

In consideration of the foregoing, the FHWA hereby amends Title 49, Code of Federal Regulations, by adding a new part 350 to read as set forth below.

List of Subjects in 49 CFR Part 350

Highways and roads, Motor carriers. Motor vehicle safety. Reporting and recordkeeping requirements.

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

Sec. 350.1 Purpose.

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350.5 Policy.

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Appendix A—Form of State Certification.

Appendix B—Guidelines To Be Used in Preparing State Enforcement Plan.

Appendix C—Table of Allocation formula for Implementation Based on $10 Million Appropriation.


§ 350.1 Purpose.

The purpose of this part is to prescribe requirements for Federal assistance to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards and orders.

§ 350.3 Definitions.

As used in this part:

Administrator means the Federal Highway Administrator.

Commercial motor vehicle means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo:

(a) If such vehicle has a gross vehicle weight rating of ten thousand or more pounds;

(b) If such vehicle is designed to transport more than ten passengers, including the driver; or

(c) If such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.):

Development includes the acts of a State in preparing to qualify for or make application for an implementation grant, which acts include, but are not limited to: (a) Planning the program; (b) initiating any legislative or regulatory actions necessary to comply with the requirements of this part; (c) formulating a budget for a program under this part; (d) designating the State agency responsible for administering the program; and (e) preparing a State Enforcement Plan (SEP).

Implementation includes the acts of a State in carrying out an approved SEP, which acts include, but are not limited to: (a) Recruiting and training of personnel, payment of salaries and fringe benefits, the acquisition and maintenance of equipment, and reasonable overhead costs needed to operate the program; (b) commencement and conduct of new or expanded systems of inspection; (c) establishment of an effective "out-of-service" and compliance enforcement system; and (d) retraining and replacing staff and equipment.

Motor carrier includes a for-hire carrier of passengers or property by motor vehicle and a private carrier of property by motor vehicle.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

§ 350.5 Policy.

The Federal Highway Administration (FHWA) policy is to encourage each State to enforce uniform motor carrier safety and hazardous materials regulations for both interstate and intrastate motor carriers and drivers so that what is required for compliance with safety standards in one part of the country is reasonably consistent with what is required in another part of the country. A coordinated program of inspection and enforcement activities is needed to avoid duplication of effort, to promote compliance with uniform safety requirements by all types of commercial motor carriers, and to provide a basis for sanctioning carriers for poor safety performance.

§ 350.7 Objective.

The objective of the Motor Carrier Safety Assistance Program (MCSAP) is to reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles by substantially increasing the
level of enforcement activity and the likelihood that safety defects, driver deficiencies and unsafe carrier practices will be detected and corrected.

§ 350.9 Conditions for grant approval.
(a) In order to qualify for a grant under this part, a State shall agree to:
(1) Adopt approved plans and other documents for maintaining minimum levels of enforcement activity, inspection, and testing over the aggregate period for which funds are requested;
(2) Designate motor carrier safety agencies and other agencies named to perform functions under the plan to have the authority, power, and jurisdiction necessary to enforce the FMCSR or SMCSR; and
(3) Provide, in the aggregate, funds from all sources for the implementation of the plan for a period of one fiscal year.

§ 350.10 Certification.
(a) The FHWA will accept a certification, executed by the Governor, the State's Attorney General or other State official specifically designated by the Governor, in the form provided in Appendix A to this part. The certification shall accompany the SEP and be made part thereof.
(b) In the first year of the State's program, the certification shall be supplemented by the following documentation:
(1) A copy of the State law or regulation adopting the FMCSR, or a copy of the SMCSR, including current amendments and any State exceptions or exemptions.
(2) A copy of the State law relied upon by the State to provide right of entry and inspection sufficient to enforce the FMCSR or SMCSR.
(3) A copy of the registration form or other document used by the State to secure from commercial motor vehicle registrants a declaration of knowledge of the FMCSR or SMCSR.
(c) In subsequent years, the certification shall be supplemented by a copy of any State law, regulation or forms pertaining to commercial motor carrier safety adopted since the State's last certification (if any) which bear on the items listed in the certification.

§ 350.11 Maintenance of effort.
No SEP shall be approved nor grant awarded in the absence of a commitment by the State to maintain the aggregate expenditure of funds by the State and political subdivisions thereof for commercial motor carrier and highway hazardous materials vehicle safety programs at a level which does not fall below the average of such expenditure during the State's last two full fiscal years preceding January 6, 1983. The aggregate expenditure of funds by the State in those preceding fiscal years shall be exclusive of Federal funds authorized and expended for motor carrier and highway hazardous materials safety purposes and any State funds required as the State's share to match such Federal funds.

§ 350.12 Determination of need.
(a) Each State shall determine the need for such State enforcement programs as are necessary to achieve and maintain minimum levels of enforcement activity, inspection and testing. The determination of need shall be based on the State's experience and past, or present, knowledge of the FMCSR or SMCSR, as applicable.

§ 350.13 Distribution of funds.
(a) The Federal share payable to reimburse States for eligible costs incurred in the development or implementation of a commercial motor carrier safety program shall not exceed 80 percent.
(b) The appropriated funds shall be distributed among the States according to an allocation formula based on the following factors in equal proportion:
(1) Road mileage (all highways);
(2) Vehicle miles travelled (all vehicles);
(3) Number of commercial vehicles over 10,000 lbs.;
(4) Population (1980 census); and
(5) Special fuel consumption (net after reciprocity adjustment).

§ 350.14 Implementation programs.
(a) The estimated dollar amounts for implementation programs based on the first year appropriation allocated to the States under this formula are listed in the Table annexed as Appendix C.
(b) The amount available to any State in any one year for development purposes shall not exceed $50,000 notwithstanding the amount available through application of the allocation formula provided in paragraph (b) of this section.
(c) For implementation purposes, the allocation formula shall be adjusted so that no State shall be allocated less than $75,000 or more than $1,250,000 in any one year; provided that, subject to the availability of funds due to unused allocations, the allocation of any such jurisdiction may be increased by a factor of three in FY 1984 and a factor of 1.5 in FY 1985 up to the maximum of $1,250,000.

§ 350.15 Certification by State.
(a) The FHWA will accept a certification, executed by the Governor, the State's Attorney General or other State official specifically designated by the Governor, in the form provided in Appendix A to this part. The certification shall accompany the SEP and be made part thereof.
(b) In the first year of the State's program, the certification shall be supplemented by the following documentation:
(1) A copy of the State law or regulation adopting the FMCSR, or a copy of the SMCSR, including current amendments and any State exceptions or exemptions.
(2) A copy of the State law relied upon by the State to provide right of entry and inspection sufficient to enforce the FMCSR or SMCSR.
(3) A copy of the registration form or other document used by the State to secure from commercial motor vehicle registrants a declaration of knowledge of the FMCSR or SMCSR.
(c) In subsequent years, the certification shall be supplemented by a copy of any State law, regulation or forms pertaining to commercial motor carrier safety adopted since the State's last certification (if any) which bear on the items listed in the certification.

§ 350.16 State Motor Carrier Safety Plans.
(a) Each State must submit its proposed plan or update thereof to the FHWA division office on or before August 1 of each year.
(b) The State shall:
(1) Provide an assessment of the commercial motor carrier and highway hazardous materials safety problems within the State;
(2) Determine the aggregate costs of the motor carrier safety enforcement efforts incurred by the State and political subdivisions during the two full fiscal years prior to January 6, 1983, exclusive of Federal funds and State participating shares on which such funds were conditioned;
(3) Demonstrate that the State has authority to regulate and plans to enforce its regulations with respect to private as well as for-hire carriage; and
(4) Describe in detail the objectives sought to be achieved, the resources to be employed, the work items to be performed, the unit costs where feasible and the methods to be used to measure effectiveness. Specifically, the SEP shall:
(j) Identify other agencies participating in the plan and describe the roles of each;
(ii) Identify the number and category of personnel employed and the specialized training provided; and
(iii) Include roadside inspection activity at such times and locations as will assure diversified enforcement.
(c) Guidelines for the preparation of the SEP are provided in Appendix B.
(d) A plan submitted as an application for a development grant need not contain the details required by paragraph (b) of this section except that it must include the objectives sought to be achieved and an assessment of costs. A plan for development must also include an estimate as to when the State will be prepared to submit an SEP for implementation.

§ 350.19 Acceptance of SEP.
(a) Each SEP will be reviewed for content; after which the State will be notified of its acceptance or rejection. Failure of a State to submit a plan will preclude consideration of grant approval for that State under this part for the fiscal year for which application is made. The time for submitting a plan may be extended for good cause shown.
(b) The State's operation under the accepted SEP shall be reviewed on a continuing basis and an annual evaluation report shall be prepared. The State will be advised of results of the evaluation, and of any needed changes either in the plan itself or in its implementation.

§ 350.22 Effect of failure to submit a satisfactory SEP.
(a) If it is determined that an SEP is not adequate to ensure effective enforcement of the FMCSR or SMCSR the State will be notified in writing that approval of the SEP is being withheld, along with the reasons for such action.
(b) The State shall have 30 days from the date of the notice within which to modify the SEP and resubmit it for approval.

§ 350.23 Procedure for withdrawal of approval.
(a) If it appears that a State is not performing according to an approved SEP or that the State is not adequately enforcing the FMCSR or SMCSR, the Administrator shall issue a written notice of proposed determination of nonconformity to the Governor of the State or the official designated in the SEP. The notice shall state the reasons for the proposed determination and inform the State that it may comment in writing within 30 days from the date of the notice. The comments should address the deficiencies cited in the notice and provide documentation as necessary.
(b) The Administrator’s decision, after notice and opportunity for comment, will constitute the final decision of the agency. An adverse decision will result in an immediate cessation of the Federal participation in the SEP.
(c) If the State does not respond to a notice of proposed determination of nonconformity as provided in paragraph (a) of this section, the proposed determination shall become the Administrator’s final decision with the same effect as paragraph (b) of this section.
(d) Any State aggrieved by an adverse decision under this part may seek judicial review pursuant to Chapter 7 of Title 5 of the United States Code.

§ 350.25 Eligible costs.
(a) The primary functions to be performed under the MCSAP are uniform roadside inspections, investigations and terminal safety audits with follow-up enforcement actions and compliance measures. Consequently, the major cost will be compensation and expenses of the personnel required to perform these functions. Eligible personnel costs include, but are not limited to:
(1) Recruitment and screening;
(2) Training;
(3) Salaries and fringe benefits; and
(4) Supervision.
(b) Equipment and travel costs directly related to the primary functions are also eligible for proportionate reimbursement. These costs include, but are not limited to:
(1) Vehicles;
(2) Uniforms;
(3) Communications equipment;
(4) Special inspection equipment;
(5) Maintenance;
(6) Motor fuel; and
(7) Travel and per diem expenses.
(c) Indirect expenses related to facilities used to conduct inspections or to house enforcement personnel, support staff and equipment may also be eligible to the extent they are measurable and recurring, such as rent and overhead.
(d) A secondary function of the MCSAP is to develop a database on which to coordinate resources and improve efficiency. Therefore, costs related to data acquisition, storage and analysis that are discretely identifiable as program expenses may be eligible for reimbursement.
(e) Clerical and administrative expenses to the extent they are necessary and directly attributable to the MCSAP are also eligible.
(f) The eligibility of specific costs is subject to review, and such costs must be necessary, reasonable, allocable to the approved SEP, and allowable under this and related Federal regulations.

Appendix A—Form of State Certification

State Certification

I (name) of (title), on behalf of the State of, do hereby certify as follows:
1. The State (has adopted) (will adopt) commercial motor carrier and highway hazardous materials safety rules and regulations, which (are) (will be) substantially similar to and consistent with the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations (a copy of the existing or proposed State rules and regulations to be attached in the first year of the program).
2. The State has designated (name of State commercial motor carrier safety agency) as the lead agency to administer the enforcement plan for which the grant is being awarded, and (name of agencies) to perform functions under the plan. These agencies have (will have) the legal authority, resources and qualified personnel necessary for the enforcement of the State's commercial motor carrier and highway hazardous materials safety rules and regulations.
3. The State will devote such of its own funds as may be necessary to provide its matching share to the Federal assistance provided in the grant to administer the plan it is herewith submitting, and to enforce the State's commercial vehicle safety rules and regulations in a manner to be consistent with the approved plan.
4. The laws of the State provide the State's enforcement officers right of entry and inspection sufficient to carry out the purposes of the enforcement plan as approved (a copy of the applicable State law to be attached in the first year of the program).
5. The State shall require that all reports relating to the program be submitted to the appropriate State agency or agencies; such reports will be made available to the Federal Highway Administration upon request.
6. The State will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspection, and other enforcement activities as may be established by the Federal Highway Administration.
7. The State (has) (will have) in effect a requirement that registrants of commercial motor vehicles declare knowledge of the applicable Federal or State commercial motor carrier safety rules and regulations (a copy of the State form used for such purposes to be attached in the first year of the program).
8. The State will maintain the level of its expenditures for motor carrier safety programs, exclusive of Federal assistance, at least at the level of its expenditures for these programs.
purposes during the last two full fiscal years immediately prior to January 6, 1983.

Date: 
Location: 
(Signature) 

Appendix B—Guidelines To Be Used in Preparing State Enforcement Plan

A. Designate the motor carrier safety agency responsible for administering the plan.

B. Define the problem: In assessing the level of commitment to be made to the enforcement of commercial motor carrier and highway hazardous materials safety regulations, the following factors should be considered:
1. Volume of commercial motor vehicle traffic;
2. Type of commercial motor vehicle traffic;
3. Volume of commercial motor vehicle traffic transporting hazardous materials;
4. Number of frequency (rate) of commercial motor carrier accidents;
5. Severity of accidents involving commercial motor carriers:
   (a) Fatalities;
   (b) Injuries; and
   (c) Property damage.
6. Seasonal commercial motor carrier operational patterns within the State;
7. Projected impact of increased enforcement (economic and operational);
8. Ability to prevent and/or discourage commercial motor vehicle operators from circumventing inspection sites;
9. Costs related to the elements of each State's plan.

(This information may or may not be available to the States at present. To be able to measure program effectiveness, however, States will need to compile this type of data.)

C. Determine current enforcement efforts: The plan should identify the activities currently engaged in by the State to address the commercial motor carrier and hazardous materials safety problems. This should include a description of existing laws, regulations and compliance activities, as well as the agencies within the State with enforcement responsibilities, the resources devoted by these agencies, and the cost to the State or local government of these efforts.

D. Establish the objectives: A key element in each plan is the establishment of the objectives sought to be achieved through the use of Federal funds. The objectives should be stated in terms of quantifiable measurements, where possible, or at least of effort. Ideally, the objectives should include a measurable reduction in highway accidents or hazardous materials incidents involving commercial motor vehicles, but may also refer to quantifiable improvements in legislative or regulatory authorities, problem identification, enforcement strategies and resource allocations. Goals should be identified as:
1. Short term—the year beginning October 1 following submission of a MCSAP enforcement plan.
2. Medium term—two to four years after submission of the enforcement plan.
3. Long term—five years beyond the submission of the enforcement plan.
4. Provision for review and update of the MCSAP enforcement plan.

E. Identify the resources: The plan should detail the resources to be used in accomplishing the objectives, and should include:
1. State agencies involved:
   a. Lead agency; and
   b. Cooperating agencies.
2. Personnel (from each agency involved):
   a. Line functions;
   b. Staff and supervision; and
   c. Administrative, technical and clerical.
3. Facilities:
   a. Inspection sites regularly maintained; and
   b. Building space required.
4. Equipment:
   a. Vehicles;
   b. Communication and ADP; and
   c. Other specialized tools.
5. Itemization of Costs:
   a. Personnel (salaries, benefits, etc.);
   b. Equipment (purchase, rental, fuel, maintenance, depreciation, salvage, etc.); and
   c. Facilities (rent and overhead).

F. Describe the practices: The plan should describe how the resources are to be employed to achieve the objectives, and should discuss:
1. Schedules of operation of inspection sites and units;
2. Tactics for placing vehicles out of service;
3. Projected number of annual:
   a. Roadside vehicle inspections;
   b. Safety management audits;
4. Methods to inspect all types of carriers;
5. Strategy for preventing circumvention or avoidance of inspections;
6. Procedures for handling hazardous materials carriers; and
7. Supervision and recordkeeping.

G. Provide for evaluation: Each plan should include a provision for self-evaluation of its effectiveness. It is not practicable to establish objective minimums, as each State has unique characteristics and varying levels of existing enforcement activity. The FHWA will cooperate with State regulatory and enforcement agencies by gathering useful information and experience on elements of enforcement practices that produce positive results.

The bottom line objective in any safety program is a decrease in the number and severity of accidents. Motor carrier safety regulations should be designed to prescribe methods to eliminate the risks of accidents. Compliance with such regulations should, therefore, reduce accidents. The States are encouraged to design their programs to link their enforcement efforts to causes of accidents, whenever possible, and to develop the data necessary to demonstrate the results.

In assessing State Enforcement Plans, the FHWA will be particularly attentive to the methods by which enforcement is to be evaluated, and will provide whatever assistance is feasible in developing measurement factors.

APPENDIX C—Table of Allocation Formula for Implementation Based on $10 Million Appropriation

<table>
<thead>
<tr>
<th>State</th>
<th>Amount</th>
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<tbody>
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<td>Wyoming</td>
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</tr>
</tbody>
</table>

1 For program implementation, the allocation formula has been adjusted so that no State shall be allocated less than $75,000 nor more than $1,250,000 in any one year. Subject to the availability of funds due to unused allocations, the allocation of any such jurisdiction may be increased by a factor of 1.5 in FY 1984 and a factor of 1.3 in FY 1985 up to the maximum of $1,250,000. (See § 350.13(b)).

The allocation figures above make no provision for States requesting development funds. Those dollar amounts will be modified when the funding needs for program development become established.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: August 26, 1983.

R. A. Barnhart,
Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-24009 Filed 8-30-83; 8:45 am]
BILLING CODE 4910-22-M
Atlantic FMP was prepared by the Fisheries Service, Southeast Region, National Marine
regulatory impact review may be
result in amendment to this final rule.
A proposed rulemaking was published on June 10, 1983, (48 FR 26483), initiating a
was discussed in detail.
In the proposed rulemaking, § 646.5, Gear identification, was reserved. This section is also being reserved in this
pending development of a
The major problems in the fishery (i.e., harvesting of fish at less than the
and its relative importance to the
recreational and commercial sectors. The major problems in the fishery (i.e.,
harvesting of fish at less than the
optimal sizes, user-group conflicts, and
management measures to resolve them were also discussed in detail.
are not size selective and released fish
would not be effective, because traps
expressed concerns that the size limits
by imposing minimum size limits.
A number of species are experiencing
growth overfishing (i.e., harvesting of a
stock to the point that the harvest is less than the maximum possible). These
rules prevent growth overfishing by imposing minimum size limits.
However, several commenters expressed concerns that the size limits
would not be effective, because traps
are not size selective and released fish
would not survive. The procedures in the
FMP for evaluating minimum sizes incorporate consideration of survival
rates of released fish. The analyses of
all size limits imposed indicated that
long-term yield would increase for each
species, despite the mortality of some
released fish. This demonstrates that the
regulations will be effective in
preventing overfishing of most of the
regulated species. The FMP does
acknowledge, however, that size limits
may not be effective for some species with extremely low survival rates. Data
collection and analysis specified in the
FMP will aid in evaluating other
strategies (i.e., time/area closures and
quotas) which could be used to protect
these species. Such measures, if
necessary, would be incorporated by
amending the FMP.
Fish Traps
Numerous commenters, including a
state marine fishery agency, two sport
fishing organizations, two conservation
organizations, a diving club, and several
individuals recommended that the use of
fish traps be prohibited to avoid
overfishing and other adverse impacts
on the fishery. Although fish traps
are an efficient gear, NOAA believes that
the restrictions imposed by this final
rule (e.g., area restrictions, size limits,
degradable panels, minimum mesh size)
are sufficient to prevent overfishing and
to mitigate potential adverse impacts
associated with use of fish traps. Best
available scientific information was not
sufficient to justify a total prohibition,
and a total prohibition would not result
in a fair and equitable allocation of
fishing privileges. A prohibition on the
use of fish traps, therefore, would be
inconsistent with National Standards 2
and 4 and Section 303 (a)(1)(A) of the
Magnuson Act.
Several commenters suggested that if
fish traps were allowed, they should be
allowed only beyond certain geographic
boundaries. Proposals included allowing
traps outside the 200-foot contour,
outside the 50-fathom contour south of
Cape Canaveral, and prohibiting traps
within a 10-nautical mile buffer zone
adjacent to state waters north of Cape
Canaveral. During public hearings on
this FMP, many additional boundaries
were recommended. In preparing the
FMP, the Council recognized the
necessity of mediating the social
conflicts associated with the use of fish
traps, particularly along the narrow
continental shelf area of south Florida.
After carefully considering all proposals
and the associated impacts on all user
groups, the Council concluded that
prohibiting traps inside the 100-foot
contour south of Fowey Rocks Light
(Miami, Florida) would be the most fair
and equitable resolution. NOAA concurs
with this decision.

A representative of a conservation
organization suggested that the
minimum mesh size for traps should be
greater than 2 x 2 inches to be
consistent with the best scientific
evidence and the size limits imposed in
the FMP. Another commenter proposed
a 4-inch trap mesh size. The FMP states
that the trap mesh size is not directly
correlated to the minimum size limits.
The minimum size limits are the primary
management tool for controlling the size
of fish harvested and preventing

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration
50 CFR Part 646
(Docket No. 30810-154)
Snapper-Grouper Fishery of the South
Atlantic
AGENCY: National Oceanic and
Atmospheric Administration (NOAA),
Commerce.
ACTION: Final rule.
SUMMARY: NOAA issues this final rule
to implement the Fishery Management
Plan for the Snapper-Grouper Fishery of
the South Atlantic. Currently, a number
of the major problems in the fishery are
being harvested at less than optimal
sizes, and certain harvest techniques
have resulted in controversy among user
groups. This rule establishes (1)
minimum sizes for certain species and
(2) limitations on the use of certain gear
including poisons, explosives, fish traps,
and trawls for the taking of fish in the
snapper-grouper fishery. The intended
effect of this rule is to prevent
overfishing, restore to the optimum level
those species that are overfished, and
promote orderly utilization of the
resource.
EFFECTIVE DATE: September 28, 1983.
ADDRESSES: A copy of the combined
final regulatory flexibility analysis/
regulatory impact review may be
obtained from Rodney C. Dalton,
Southeast Region, National Marine
Fisheries Service, 9450 Koger Boulevard,
St. Petersburg, Florida 33702.
SUPPLEMENTARY INFORMATION: The
Fishery Management Plan for the
Snapper-Grouper Fishery of the South
Atlantic (FMP) was prepared by the
South Atlantic Fishery Management
Council (Council). The Regional
Director, Southeast Region, National
Marine Fisheries Service (Regional
Director) approved the FMP, with the
exception of the management measure
prohibiting the spearing of jewfish, on
July 28, 1983, under the authority of the
Magnuson Fishery Conservation and
Management Act (Magnuson Act). This
final rule implements the FMP.
The disapproval of the measure
prohibiting the spearing of jewfish was
based on the finding that it was
inconsistent with National Standards 2
and 4 and Section 303(a)(1)(A) of the
Magnuson Act. This action required
reconsideration of the regulation
specifications of optimum yield and expected domestic
annual harvest. The Regional Director
has advised the Council of this partial

Federal Register / Vol. 48, No. 170 / Wednesday, August 31, 1983 / Rules and Regulations 39463
overfishing. The Council has, however, listed studies on the effect of mesh size on species composition as a high research priority and will assess the need to modify the mesh size in the near future.

One commenter suggested that the regulations require that the opening (degradable panel) be located on the sides or top of the trap. Most traps are designed with the funnel on one side and the access panel (which frequently will be attached with degradable hinges) on the opposite side, thus achieving the commenters desired result. NOAA believes further regulation is unnecessary.

One commenter recommended that use of steel cables as trap marker lines be prohibited because of the hazard to navigation. Most steel lines are not constructed of steel cable. However, buoy lines are a necessary component of the trap fishery. The material used for the line (i.e., rope versus cable) would not significantly alter the extent of the hazard to navigation, and therefore, does not warrant additional regulation.

One commenter suggested that the boundary for the restriction of pulling traps at night should be south of 28°30' rather than south of 28°24.5'. To protect fish havens from traps. This measure merely prohibits pulling traps at night in the specified area. Extending the area to 28°30' would have no significant effect on protection of fish; therefore, the recommendation is not adopted.

As is apparent from the substance and intensity of public reaction to the subject, fish traps are a highly controversial fishing gear. In the preparation of the FMP, the Council considered all the arguments pro and con regarding fish traps and concluded that, within the limitations of its authority under the Magnuson Act, the management regime as proposed was proper. However, the Council likewise recognized that further study is desirable on this gear type and its ecological, economic, and social impact. Further study will be undertaken, and if warranted, modification of the management response to fish traps will be considered.

Powerheads

A number of commenters, including representatives of a state marine fishery agency, a sportfishing club, and a scuba club, and two concerned citizens recommended that the use of powerheads be prohibited. Two commenters suggested that the use of powerheads to take any fish (including jewfish) should be allowed. There is no conclusive scientific information to indicate that the use of powerheads in the regulated area has resulted in any adverse impact on any species that would warrant a total prohibition on use of this gear. Further, the management measure prohibiting the spearing of jewfish has been disapproved because (1) there is insufficient scientific information available to support the measure; (2) it does not result in a fair and equitable allocation of fishing privileges (National Standard 4); and (3) it is devoid of scientific rationale demonstrating its necessity and propriety (Magnuson Act § 303(a)(1)(A)). Therefore, the regulation prohibiting the spearing of jewfish has been deleted from this final rule.

Roller Trawls

A representative of a conservation organization objected to the use of roller trawls along Florida’s continental shelf because of potential damage to the fisheries and reef areas. A prohibition on the use of roller trawls was considered but rejected, because less burdensome measures (i.e., minimum mesh size, and size limits) were adopted to mitigate adverse impacts on the fishery, and available evidence of significant habitat damage was inconclusive. Evaluation of the impacts of bottom trawling is identified in the FMP as one of the highest priority research needs. The consideration of prohibiting roller trawls in specific coral reef areas was deferred to the Fishery Management Plan for Coral and Coral Reefs.

Size Limits

Several commenters recommended that minimum size limits be imposed on additional species (i.e., gag grouper and jewfish), and one commenter suggested that the minimum sizes be increased to provide additional protection to the spawning stock. The FMP contains detailed procedures and criteria for evaluating minimum size limits; however, certain basic fishery data such as growth, mortality, and survival rates are essential. Minimum size limits were imposed on all species for which (1) adequate data were available to perform the necessary analysis; and (2) the analysis indicated size limits were warranted based upon the biological, economic, and social criteria in the FMP. The required data were not available to allow evaluation of size limits for jewfish. A minimum size limit for gag grouper was considered but was rejected because the survival rate (after catch and release) was unknown but suspected to be quite low. Survival rates are critical in determining the effectiveness of size limits.

The FMP incorporates a mechanism for timely implementation of additional size limits when data supporting the need for such limits become available. Currently, there is no indication that any species in this fishery is experiencing problems because of insufficient spawning (i.e., recruitment overfishing). The establishment of minimum size limits will control growth overfishing and is expected to ensure adequate spawning.

Enforcement

The United States Coast Guard submitted proposed language to modify paragraphs (a) and (b) of § 646.7. Facilitation of enforcement. The suggested language reflects minor modifications in the procedures the Coast Guard will use in communicating with operators of fishing vessels. This final rule has been revised accordingly. The Coast Guard also noted that since the language in § 646.8 (d), (e), and (f) and § 646.21 prohibits possession or harvesting of undersized fish, any person merely catching an undersized fish would be in technical violation. It was suggested that these sections be revised to prohibit retention of undersized fish. After carefully considering the proposed revisions, NOAA elected to retain the original language and to rely on enforcement agents to distinguish among excusable technical violations and those warranting sanctions under these regulations.

Coastal Zone Consistency

The Florida Department of Natural Resources (FDNR), a sportfishing organization, and a conservation organization questioned the consistency of the regulations with Florida’s Coastal Management Program (CMP) to the extent that they allow the use of fish traps and powerheads, and do not impose size limits on black grouper, gag grouper, or jewfish. State law, incorporated into Florida’s CMP, prohibits the use and possession of fish traps (with certain exceptions) [Florida Statutes § 370.1105]; prohibits the use of explosives or firearms for the taking of foodfish [Florida Statutes section 370.08 (5) and (10)]; and establishes size limits for gag grouper, black grouper, jewfish, red grouper, and Nassau grouper [Florida Statutes section 370.11(2)(a)(8)].

The claim of inconsistency is without legal foundation. Though Federal and State regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). The statutory requirement of consistency is qualified. Consistency is required only
to the "maximum extent practicable" [CZMA section 307(c)(1)]. This qualified requirement of consistency requires that Federal activities be fully consistent with State coastal zone programs "unless compliance is prohibited based on the requirements of existing law applicable to the Federal agency's operations" [15 CFR 930.32(a)]. In this instance, NOAA is constrained by the Magnuson Act. The coastal zone consistency determination for this FMP, which was submitted to Florida's Office of Coastal Zone Management on April 27, 1983, clearly indicated that the prohibition of fish traps and powerheads and the implementation of size limits on gag grouper, black grouper, and jewfish would violate several of the national standards as well as section 305(a)(1)(A) of the Magnuson Act. Therefore, to the maximum extent practicable, this final rule is consistent with Florida's CMP. The Administrator of NOAA has considered and rejected Florida's request to delay implementation of the FMP.

Specific State Concerns

The FDNR noted that this FMP and the Fishery Management Plan for the Gulf of Mexico Reef Fish Fishery manage essentially the same species but contain dissimilar management measures which cannot both be appropriate. The FDNR suggested that this situation would complicate enforcement, particularly in the Florida Keys. NOAA acknowledges the differences in the two plans but believes that both management approaches are proper. It is reasonable to expect some variation in the two plans as a result of geographical (i.e., latitude and physical configuration of continental shelf areas) and socio-economic differences between the two areas. NOAA agrees that the differing management measures may complicate enforcement in the Florida Keys and anticipates the need for additional at sea enforcement in that area.

The FDNR also commented that these proposed rules would authorize the use and possession of fish traps, without limitation on the number of traps per vessel nor the number of vessels employing traps, and that such regulation will supersede the application of Florida's trap law with respect to fishing beyond Florida's seaward boundary. This is correct. The FDNR further asserts that NOAA's perceived effect of the proposed rules is to nullify Florida's ban on the possession of traps within Florida's boundaries. This is incorrect. It is NOAA's position that Florida's ban on possession of fish traps in state waters is nullified only to the extent that it would interfere with the exercise of a fisherman's right to utilize fish traps in the FCZ (i.e., Florida's ban may not be used to prohibit the transport of fish traps through state waters to and from the FCZ).

The FDNR further asserts that the provisions of §646.5(g) and §646.21(c) constitute further restraint on fishing activities occurring within state boundaries. This position is incorrect. The provisions of these regulations establish permissible activities within the FCZ and with regard to fish harvested from the FCZ. The restraints imposed on the landing of fish within state boundaries applies only to those fish harvested from the FCZ. Those fish harvested from the waters within the jurisdiction of Florida will not be affected by the requirements of §§646.5(g) and 646.21(c).

In addition, FDNR contends that allowing fish traps in the FCZ will create the impossibility for Florida within Florida's boundaries and will decimate Florida's prohibition on the possession of fish traps. NOAA agrees that authorizing the use of fish traps in the FCZ will have a substantial impact upon the ability of Florida to enforce its trap prohibition within state waters. NOAA will work with Florida to minimize this impact.

FDNR asserts further that these conflicts (§§ 646.5(g), 646.21(c) and disparate fish trap regulation) between State and Federal law require resolution under section 306 of the Magnuson Act. However, section 306 of the Magnuson Act was not formulated for resolving regulatory conflicts created by Federal supersession. Rather, section 306 addresses the situation where the Federal government concludes that the regulation of fisheries within State waters is not accomplished in such a fashion as to be in furtherance of effective implementation of Federal regulations within the FCZ. In this instance, NOAA does not take issue with the manner in which Florida is regulating its fisheries within state waters. As a result, the preemption provisions of section 306 are not applicable.

FDNR urges that the proposed rules be rejected as inimical to the resources that they were designed to protect. NOAA disagrees. The matters set forth in opposition to implementation of the FMP by FDNR are not persuasive. The Council, with NOAA's agreement, has concluded that the approach proposed in the FMP is the proper approach to management of the subject fishery.

Finally, FDNR requested that an administrative hearing, in accordance with Title 5, U.S.C. 553, be held and that the proposed rules be stayed pending the resolution of the issues raised by FDNR. NOAA declines either to grant such a hearing or to delay the effective date of the proposed rules. To grant a further hearing on these rules would serve no useful purpose and would otherwise delay their implementation. Such delay would result in a violation of the provision of section 304(b)(1) of the Act. Furthermore, the matters brought to issue by FDNR, and its comments on the proposed rules, are more properly resolved in the context of Council deliberation for future modification of the FMP.

General Comments

Several commenters, including two conservation organizations and a state marine fishery agency, have stated that the FMP, or various portions of it, are not based on sufficient scientific information. One of the commenters noted that fundamental fishery data were lacking for all but 17 of the 89 species included in the FMP. This data deficiency is acknowledged in the FMP as a major problem in the fishery. Species for which adequate data were not available are not regulated, except for the purpose of data collection. The data collection procedure specified in the FMP is designed to obtain these essential data and, therefore, provide the basis for more definitive management of the additional species.

One commenter suggested that the proposed data collection system was inadequate to meet the requirements of the Magnuson Act. One advantage of the yield per recruit methodology employed in the FMP is that it requires relatively little fishery data. The collection of basic biological data from a sample of commercial and recreational landings will provide sufficient information. Additional fishery data will be obtained from the traditional voluntary landings data. NOAA concludes that this data system satisfies the requirements of the Magnuson Act.

One commenter stated that the yield per recruit model used in the FMP does not adequately address the effects of an intense localized fishery and should be considered an interim solution. It is acknowledged in the FMP that other management strategies (e.g., time or area closures and quotas) may be required in the future; however, under constraints of existing fishery data, the yield per recruit approach was deemed the most appropriate to resolve overfishing of individual species. Data collection and analysis specified in the FMP will aid in evaluating the feasibility
and necessity of additional management strategies.

One commenter suggested that the fishing year be changed to September 1–August 31 to avoid potential adverse impacts that would result if quotas were reached and the fishery was closed. There are no quotas established for this fishery; therefore, no change in the fishing year is necessary.

One commenter suggested that spearfishing be listed as a major method for harvesting fish if future quotas are imposed. If quotas are established in the future, the spearfishing sector of the fishery will be considered appropriately in any allocation of quotas.

Changes From the Proposed Rule

For the reasons discussed above, the final rule differs from the proposed rule as follows:

Section 646.6

Paragraph (i) was deleted as a result of NOAA's disapproval of the Management measure prohibiting the spearing of jewfish.

The old paragraphs (j) through (p) are redesignated (j) through (p).

Section 646.7

Paragraphs (a) and (b) were revised to reflect recent changes in the Coast Guard's procedures for communication with operators of fishing vessels.

Section 646.22

Paragraph (a)(3) was deleted as a result of NOAA's disapproval of the management measure prohibiting the spearing of jewfish.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and this rule are necessary for the conservation and management of the fishery and that they are consistent with the Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for this FMP; a notice of availability was published on August 19, 1983 (48 FR 37702).

The NOAA Administrator determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The Council prepared a regulatory impact review (RIR) which concludes that this rule will result in benefits to the fishermen and to the economy that are greater than the associated Federal costs to manage the fishery on continuing basis. Benefits that will accrue from implementing the proposed measures come from the minimum sizes on red snapper, vermilion snapper, yellowtail snapper, black sea bass, red grouper, and Nassau grouper. The benefit/cost analysis was performed utilizing a 20-year planning horizon. The benefit/cost ratio is defined as present value benefits divided by present value costs. There are alternative benefit/cost ratios depending on the assumed per pound value of the fish to commercial and recreational fishermen:

<table>
<thead>
<tr>
<th>Assumed per pound value</th>
<th>Benefit/cost ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.75</td>
<td>$15,539,462/$4,085,128 = 3.00</td>
</tr>
<tr>
<td>1.00</td>
<td>20,719,283/$4,085,128 = 5.07</td>
</tr>
<tr>
<td>1.25</td>
<td>25,899,104/$4,085,128 = 6.34</td>
</tr>
<tr>
<td>1.50</td>
<td>31,079,925/$4,085,128 = 7.81</td>
</tr>
</tbody>
</table>

The conclusion is that the return for government investment, in implementing minimum size restrictions for the six fish species, ranges from $3.80 to $7.61 for each dollar invested. Copies of the RIR are available (see ADDRESSES).

The Council prepared a regulatory flexibility analysis (RFA) in conjunction with the RIR, as provided by Section 605(a) of the Regulatory Flexibility Act; this analysis is summarized above. On the basis of this RIR/RFA, the NOAA Administrator determined that this rule will have a significant economic impact on a substantial number of small entities. Copies of the RIR/RFA are available (see ADDRESSES).

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, South Carolina, and North Carolina. (The State of Georgia does not have an approved program.) This determination was submitted for review to the responsible State agencies under § 307 of the Coastal Zone Management Act. North Carolina responded and indicated its agreement with the conclusion of the consistency determination. South Carolina did not respond within 45 days, hence its agreement with the Council's consistency determination is presumed under 15 CFR 930.41(a). Florida requested and received a 15-day extension of its comment period and, subsequently, disagreed with the Council's determination. Florida's comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the applicable coastal zone management programs.

List of Subjects in 50 CFR Part 646

Fish, Fisheries, Fishing.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR is amended by adding a new Part 646 to read as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

646.1 Purpose and scope.

646.2 Definitions.

646.3 Relationship to other laws.

646.4 Catch monitoring.

646.5 Gear identification. [Reserved]

646.6 Prohibitions.

646.7 Facilitation of enforcement.

646.8 Penalties.

Subpart B—Management Measures

646.20 Harvest limitations.

646.21 Size limitations.

646.22 Gear limitations.

646.23 Specifically authorized activities.

Authority: 16 U.S.C. 1801 et seq.

Subpart A—General Provisions

§ 646.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic prepared by the South Atlantic Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for fish in the snapper-grouper fishery by fishing vessels within the South Atlantic portion of the fishery conservation zone (FCZ).

§ 646.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part shall have the following meaning:

Authorized officers means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer of special agent of the National Marine Fisheries Service (NMFS);

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Authorized statistical reporting agent means:
Snapper Lutjanidae

Sea Basses—Serranidae

Scup—Stenotomus chrysops

Grunts—Haemulidae

Black margate—Anisotremus surinamensis
Porkfish—Anisotremus virginicus
Margate—Haemonulon album
Tommate—Haemonulon aurorubens
Smallmouth grunt—Haemonulon chrysargyreum
French grunt—Haemonulon flavolimeatum
Spanish grunt—Haemonulon macrourous
Cottonwick—Haemonulon melanurus
Sailors choice—Haemonulon purpurl
White grunt—Haemonulon plumieri
Blue stripe grunt—Haemonulon sciurus

Tilefishes—Malacanthidae

Bluneline tilefish—Caulolatilus microps
Tilefish (Golden)—Lopholatilus chamaeleoniceps
Sand tilefish—Malacanthus plumieri

Triggerfishes—Balistidae

Gray triggerfish—Balistes capriscus
Queen triggerfish—Balistes vetula
Ocean triggerfish—Canthidermis sufflamen

Wrasses—Labridae

Yellow jack—Caranx bordoholmaei
Blue runner—Caranx cryos
Crevalle jack—Caranx hippos
Bar Jack—Caranx ruber
Greater amber jack—Seriola dumerili
Harma jack—Campus jenkinsi

Fish trap means any trap and the component parts thereof used for or capable of taking fish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster). Fish trap further means those traps used to fish for black sea bass.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;
(b) The attempted catching, taking, or harvesting of fish;
(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing;
(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Magnusson Act means the Magnuson Fishery Conservation and Management Act as amended (16 U.S.C. 1801 et seq.).

NMFS means the National Marine Fisheries Service.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;
(b) Any charterer of the vessel, whether bareboat, time, or voyage; or
(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or
(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Powerhead means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

Regional Director means the Regional Director, or a designee, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813-893-3141.

Secretary means the Secretary of Commerce, or a designee.

South Atlantic means that portion of the FCZ along the Atlantic coastal states south of the Virginia/North Carolina border to the boundary between the Gulf of Mexico and the Atlantic Ocean. The boundary between the Gulf of Mexico and the Atlantic Ocean begins at the intersection of the outer boundary of the FCZ and 83°00' W. longitude, proceeds north to 24°35' N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida Keys to the mainland.
Total length means distance from the tip of the head (snout) to the furthest point of the tail (caudal fin).

U.S. fish processors means facilities located within the United States for, and vessels of the United States, used for or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means:
(a) Any vessel documented under the laws of the United States;
(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and measuring less than five net tons; or

§ 646.3 Relationship to other laws.
(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.
(b) Certain responsibilities relating to data collection, issuance of permits, and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.
(c) These regulations are intended to apply within the FCZ portion of the following National Marine Sanctuaries and National Park unless regulations establishing such Sanctuaries or Park prohibit their application:
(1) Looe Key National Marine Sanctuary (15 CFR Part 937);
(2) Key Largo Coral Reef Marine Sanctuary (15 CFR Part 929);
(3) Biscayne National Park (Title 16 U.S.C. 410g);
(4) Gray's Reef National Marine Sanctuary (15 CFR Part 936); and

§ 646.4 Catch monitoring.
Data will be collected by authorized statistical reporting agents from a sample of commercial and recreational catch for YPR analysis. Those fishermen and dealers selected by the Center Director must make their fish available for inspection by those agents.

§ 646.5 Gear Identification. [Reserved]

§ 646.6 Prohibitions.
It is unlawful for any person to:
(a) Refuse to make fish available for inspection when requested to do so by an authorized statistical reporting agent, as specified in § 646.4;
(b) Pull or tend fish traps except as specified in § 646.20;
(c) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another persons' fish traps except as provided in § 646.20(b);
(d) Possess in or harvest from the FCZ red snapper, yellowtail snapper, red grouper, or Nassau grouper under the minimum size specified in § 646.21(a);
(e) Possess in or harvest from that portion of the FCZ south of 35°15' N. latitude (Cape Hatteras, North Carolina) black sea bass under the minimum size specified in § 646.21(b);
(f) Possess in the FCZ any fish in the snapper-grouper fishery without the heads and fins intact as specified in § 646.21(c);
(g) Land any fish in the snapper-grouper fishery, taken from the FCZ, without the heads and fins intact as specified in § 646.21(c);
(h) Fish for fish in the snapper-grouper fishery with explosives or poisons except as provided in § 646.22(e)(1) and (2);
(i) Fish for fish in the snapper-grouper fishery in the FCZ with trawl nets and fish traps except as specified in §§ 646.20(a) and (b) or 646.22(b);
(j) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, export any fish or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulations or any permit issued to a foreign vessel under the Magnuson Act;
(k) Refuse to permit an authorized officer to board a vessel fishing subject to this part immediately or any means, the apprehension or arrest of another person, knowing that such other person has committed an act prohibited by this part;
(l) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel, while such foreign vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorized the receipt by such vessel of the U.S.-harvested fish of the species concerned; or
(p) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 646.7 Facilitation of enforcement.
(a) General. The operator of any fishing vessel subject to this part must immediately comply with instructions or signals by an authorized officer to stop his vessel and instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing the Magnuson Act and this part.

(b) Communications. (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.
(2) When the sizes of the vessels and the wind, sea, and visibility conditions permit, loudhailer is the preferred method for communicating between vessels. When use of a loudhailer is not practicable and for communications with an aircraft, VHF-FM or high frequency radiotelephone should be employed. Hand signals or placards may be employed by an authorized officer and message blocks may be dropped from an aircraft.
(3) If verbal communications are not practicable, the visual signal "L" meaning "you should stop your vessel instantly," may be transmitted by flashing light directed at the vessel signaled. If the enforcement vessel is equipped with signal flags, the flashing light signal "L" consists of short and long flashes as follows: short-long-short (· · · ·); and the code Flag "L" is a square yellow and black flag shown as follows:

[Diagram of flag signal]

(4) Failure of a vessel's operator to stop his vessel when directed by loudhailer, radiotelephone, or flashing light signal "L" shall constitute prima facie evidence of the offense of refusal to permit an authorized officer to board.

(c) Boarding. The operator of a vessel directed to stop must:
(1) Guard Channel 16, VHF-FM, if so equipped:
(2) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and accompanying party to come aboard.

(3) When necessary, to facilitate the boarding and/or when requested by an authorized officer provide a safe ladder, man rope safety line, and ladder for the authorized officer and the boarding party; and

(4) Take such other actions as necessary to ensure the safety of the authorized officer and accompanying party and facilitate the boarding.

(d) Additional Signals. The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by a vessel of the U.S. Coast Guard when conditions do not permit communications by loudhailer or radiotelephone. Knowledge of these additional signals by vessel operators is not required. However, knowledge of these additional signals and appropriate action by a vessel operator may preclude the necessity of sending the signal “L” and necessity for the vessel to stop instantly. The operator of a vessel who does not understand a signal from a vessel of the U.S. Coast Guard and who is unable to obtain clarification by loudhailer or radiotelephone should consider the signal to be “L.”

(1) “AA AA AA etc.” (----- ----- -----) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel identification required by § 658.6 or other law.

(2) “RY-CY” (----- ----- -----) meaning “you should proceed at slow speed, a boat is coming to you.” This signal is normally employed when conditions permit an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop or, in some cases, without retrieval of fishing gear which may be in the water.

§ 646.8 Penalties.

Any person or vessel believed to have been in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations), 50 CFR Part 621, and 15 CFR Part 904 (Civil Procedures), other applicable Federal law.

Subpart B—Management Measures

§ 646.20 Harvest limitations.

(a) Fish traps may be pulled or tended only during the period beginning one hour before official sunrise to one hour after official sunset in the South Atlantic portion of the FCZ south of 28°24.5' N. Latitude (Cape Canaveral, Florida).

(b) Fish traps may be tended or pulled only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner.

§ 646.21 Size limitations.

(a) The minimum size limit for the harvest or possession in the FCZ of red snapper, yellowtail snapper, red grouper, and Nassau grouper is 12 inches total length.

(b) The minimum size for the harvest or possession in the FCZ of black sea bass south of Cape Hatteras, North Carolina is 8 inches total length.

(c) All fish in the snapper-grouper fishery subject to minimum size limits specified in this section may be possessed in the FCZ or landed, if harvested from the FCZ, only with the head and fins intact.

§ 646.22 Gear limitations.

(a) (1) Explosives (except explosives in powerheads) may not be used to fish for fish in the snapper-grouper fishery.

(2) Poisons may not be used to fish for fish in the snapper-grouper fishery except as authorized by permit under State or Federal law.

(b) Fish traps must have a degradable panel or a door attached with degradable fasteners or material such as jute or sisal twines which normally deteriorate within 42 days. The opening must be at least as large as the entry ports.

(2) Effective [insert date—1 year after effective date of final rule], fish traps must have a minimum mesh size of 1 x 2 inches or 1.5-inch hexagonal (the distance between parallel sides).

(3) Effective September 28, 1984, trawl nets targeting fish in the snapper-grouper fishery (25 percent or more of the fish on board by weight are fish in the snapper-grouper fishery) must have a minimum stretched mesh size of 4 inches. Shrimp trawls, calico scallop trawls, and rock shrimp trawls are specifically exempt from this requirement.

(4) Fish traps may not be placed shoreward of the 100-foot contour in that portion of the South Atlantic FCZ south of 25°35.5' N. latitude (Fowey Rocks Light, Florida). Fish traps so deployed will be considered unclaimed or abandoned property and may be disposed of in any appropriate manner by the Secretary (including an authorized officer).

§ 646.23 Specifically authorized activities.

The Secretary may authorize for the acquisition of information and data, activities which are otherwise prohibited by these regulations.
Proposed Rules

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 process prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

7 CFR Part 1030

Milk in the Chicago Regional Marketing Area; Proposed Temporary Revision of Shipping Requirements and Diversion Allowances

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on whether the shipping requirements for pool supply plants under the Chicago Regional milk order should be decreased and the diversion allowances increased by a corresponding amount for the months of September, October, and November 1983. Such action could help prevent uneconomic shipments of milk to the market and help maintain the pool status of producers who regularly supply the market. Such a revision was suggested in evidence presented at a public hearing held May 24–26, 1983, to consider amendments to the order. The order has since been amended to allow the Director greater discretion to make such changes. Accordingly, the Director now invites comments on whether that authority should be used and the extent of any revisions that should be made for the months indicated.

DATE: Comments are due by September 7, 1983.


SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a “non-major” action.

It has also been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement and diversion allowances for September 1983 would be modified. The order was amended effective August 24, 1983, to provide the Director greater authority to make such revisions.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants and that milk not needed for fluid uses could be disposed of to surplus outlets in an efficient manner.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 801 et seq.), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the months of September, October, and November 1983.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the Federal Register. Please submit two copies of the documents filed. The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include September 1983 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions that are being considered for revision are the supply plant shipping percentages set forth in § 1030.7(b) and the diversion percentage set forth in § 1030.13(d)(3) that are applicable during the month of September, October and November 1983. Consideration will be given to whether the supply plant shipping percentages and diversion allowances should be temporarily revised and, if so, by how much.

Currently, the minimum shipping percentage of total producer receipts for pool supply plants and units of supply plants is 25 percent for September and 30 percent for October and November. During these same months, handlers may divert to nonpool plants up to 70 percent of their producer milk. In partial response to a public hearing held May 24–26, 1983, at Madison, Wisconsin, the Department has just amended the order to increase from 10 percentage points to 15 percentage points the Director’s authority to increase or decrease temporarily the supply plant shipping standards and diversion allowances.

Pursuant to the provisions of § 1030.7(b)(5), the supply plant shipping percentages set forth in § 1030.7(b) and the diversion percentages set forth in § 1030.13(d)(3) may be increased or decreased by up to 15 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

On the basis of evidence contained in the record of the May 24–26, 1983, hearing and other available market information, the Director is considering whether to revise temporarily one or both of the provisions referred to above. Producer milk receipts at supply plants are estimated at about 1,038 million pounds, 1,025 million pounds, and 967 million pounds during September, October, and November 1983, respectively. At the current shipping percentages, supply plants and supply plant units would be required to ship to distributing plants about 260 million pounds of milk in September, 308 million pounds in October, and 290 million pounds in November. It also is estimated that direct deliveries of milk
to distributing plants will approximate 38 million pounds, 33 million pounds, and 31 million pounds for September, October, and November, respectively. Thus, total milk deliveries to distributing plants are estimated to approximate 288 million pounds in September, 341 million pounds in October and 321 million pounds in November.

On the other hand, it is projected that distributing plants will need about 240 to 250 million pounds of milk for Class I uses during each of the three months. This appears to be substantially less than the combined quantities of supply plant and direct-delivery milk that are expected to be shipped under the current order provisions in order to maintain pool status for all the milk regularly associated with the market. For this reason, the Director seeks the views of the industry concerning the need to reduce temporarily the supply plant shipping requirements applicable for the months of September, October and November 1983. Also, comments are sought on whether the allowable diversions to nonpool plants should also be revised temporarily if the supply plant shipping requirements are revised.

List of Subjects in 7 CFR Part 1030
Milk Marketing Orders. Milk, Dairy Products.

Edward T. Coughlin,
Director, Dairy Division.

[FR Doc. 83-24035 Filed 8-30-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF LABOR
Occupational Safety and Health Administration
29 CFR Part 1925
[Docket No. T-2]

Final Approval Determination for the Virgin Islands State Plan; Opportunity To Comment on New Data

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Reopening of Rulemaking Record on 16(e) Determination for the Virgin Islands State Plan to Introduce Additional Monitoring Data on Operations Under the Virgin Islands State Plan.

SUMMARY: The Virgin Islands maintains a federally approved occupational safety and health program or "State plan." On May 6, 1983, public comments were requested on a proposal to grant Federal "final approval" to the plan. The results of Federal monitoring during FY 1982 have already been placed in the rulemaking record. This document reopening the record for the purpose of submitting additional monitoring data on operations under the Virgin Islands State Plan. Written public comment concerning this data is invited.

DATES: Comments on the new data must be received by September 30, 1983.

ADDRESSES: Comments should be sent in quadruplicate to: Docket Officer, Docket No. T-2, Room S-6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the Federal Register May 6, 1983, (48 FR 20434) the Occupational Safety and Health Administration announced the eligibility of the Virgin Islands State plan for a final approval determination under section 16(e) of the Occupational Safety and Health Act. As explained in the May 6 proposal, OSHA seeks public comment and views on whether the criteria in 29 CFR 1902.3, 1902.4, 1902.37, and section 18(c) of the OSH Act are being met in actual operations under the plan. If so, a decision granting "final approval" will be issued and, as provided in section 18(e) of the Act, concurrent Federal standards and enforcement authority over issues covered by the State plan will be terminated.

The May 6 proposal contained an extensive summary of the results of Federal monitoring of operations under the Virgin Islands plan during FY 1982. As noted in the proposal, the plan is generally similar to Federal OSHA, but does not cover the issue of occupational health, except in the public sector, and does not cover safety and health in maritime employment except in the public sector. Complete evaluation reports of monitoring of the plan since its inception were introduced into the record and made available for public inspection. The proposal also invited public participation in an information gathering hearing which was held in St. Thomas, Virgin Islands, on June 29.

The proposed 16(e) determination for the Virgin Islands was based upon the FY 1982 Evaluation Report covering plan operations from October 1981 to September 1982, the last full year for which data are available. Today's notice announces the addition to the record, and the availability for public inspection and comment, of monitoring data covering the period October 1982 through April 1983. The additional information comprises new and additional evidence which was not available prior to the closing of the record of the informal public hearing on August 1, 1983. The data covering the October 1982 through April 1983 period represent the most recent available information of the Virgin Islands' administration of its plan.

Summary of the Newly Submitted Data

The data was entered into the record on August 23, 1983, is identified in the docket as Exhibit No. 10 and is briefly summarized below.

In the area of standards development and adoption, the data show that as of April 1983 the Virgin Islands had taken action on two out of a possible three new standards or standards changes within six months of their promulgation by OSHA. The third standard was acted upon on June 2, 1983. In the area of private sector enforcement, the State conducted 84 safety inspections during the data period, consisting of 46 general schedule inspections, 15 follow-up inspections, two complaint inspections and one accident inspection. Thirty-nine of 46 general schedule inspections were in high-hazard industries (84.8%). Thirty-three general schedule inspections (71.7%) resulted in cited violations; one inspection resulted in a serious citation for violation of the general duty clause and the remainder of the not-in-compliance inspections resulted in 60 other-than-serious violations. Of the thirty-five inspections in which violations were found, 15 resulted in follow-up inspections; no failures-to-correct cited violations were found. The average penalty for serious violations was $240.00; for other-than-serious violations with penalty, $30.00. No hearings or other administrative level review activity occurred during the period covered by the data. However, an appeal by the Virgin Islands Department of Labor from an adverse decision issued during a prior evaluation period was dismissed by the District Court on the grounds that no action had been taken on the appeal.

Of 95 inspections of all kinds conducted by the Department of Labor during the period covered by the data, 31 or 33% were in public sector workplaces; 13 of these inspections (42%) resulted in issuance of citations (two serious, 34 other-than-serious).
Nine consultation visits were performed by the State agency during the data period, including three in the private sector and six in the public sector. The agency also conducted training sessions for 70 public sector supervisors, and 85 private sector supervisors and employees.

Consistent with earlier data derived from the 1980 BLS survey and included in the 16(e) Evaluation Report, the 1981 data show occupations injury and illness rates in the Virgin Islands which compare favorably with data from Federal enforcement States in the manufacturing and all industry categories. Rates for the construction industry and for petroleum refining remain somewhat above those in States where enforcement is conducted federally.

Miscellaneous other documents have also been filed with the docket office in the interest of a more complete rulemaking record. These include copies of Virgin Islands recordkeeping and reporting regulations more current than those placed in the record at the time of the proposal; of the Virgin Islands Occupational Safety and Health Act, as codified at 24 V.I. Code Ann. §§ 31 et. seq. (including amendments not reflected in the version of the Act originally placed in the record); and of notices published in the Virgin Islands to provide information regarding the proposed 16(e) determination and the informal hearing.

Availability of the Documents for Inspection and Copying:
The material described above is available for inspection and copying at the following locations:
Regional Administrator, U.S. Department of Labor, OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.
Area Director, U.S. Department of Labor, OSHA, U.S. Courthouse and Federal Office Building, Carlos Chardon Avenue, Room 555, Hato Rey, Puerto Rico 00918.
Office of the Commissioner, Virgin Islands Department of Labor, Division of Occupational Safety and Health, Hospital Street, Christiansted St. Croix, Virgin Islands 00820.

Comments are invited on the new submissions to the record. All timely submissions will be made a part of the record of this proceeding.

Authority
This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, the record in the rulemaking proceeding on the 16(e) determination for the Virgin Islands State plan is reopened for 30 days for the limited purpose of admitting the above described documents and taking written public comments.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902; Secretary of Labor's Order No. 9-83.
Signed at Washington, D.C. this 26th day of August, 1983.
Thorne G. Auchter, Assistant Secretary of Labor.)

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52
[EPA Action NE 1275; A-7-FRL 2425-8]
Revision to State Implementation Plan; Nebraska
AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On May 23, 1983, the State of Nebraska submitted a revision to the Nebraska State Implementation Plan (SIP) to comply with the new source review and stack height requirements of the Clean Air Act, as amended (Act).

The purpose of today's notice is to advise the public that revisions closely paralleling the federal requirements have been received from the state and to solicit comments on them. The EPA has reviewed these regulations and is proposing to approve them as meeting the requirements of Section 172(b)(6). The permit program must assure reasonable further progress toward attainment of the NAAQS; the permit program must require compliance with all applicable state and federal emission limits; and the applicable implementation plan must be in compliance with all applicable state and federal emission limits; and the applicable implementation plan must be carried out in the nonattainment area in which the source is to be constructed.

Nebraska submitted new source review regulations in a SIP revision submitted to EPA on September 25, 1980. EPA reviewed these regulations and advised Nebraska of deficiencies. Consequently, the state proceeded to make the necessary changes.

New Source Review.

Part D of the Clean Air Act, as amended, requires states to include specific new source review regulations in their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified stationary sources in accordance with the permit requirements of Section 173. Specific requirements are codified at 40 CFR 51.18(j). The permit program must assure that when a new source commences operation, there will be sufficient emissions reductions from existing sources to offset the increase in emissions from the new source and to assure reasonable further progress toward attainment of the NAAQS; the permit program must require compliance with the lowest achievable emission rate; all sources in the state owned or operated by the permit applicant must be in compliance with all applicable state and federal emission limits; and the applicable implementation plan must be carried out in the nonattainment area in which the source is to be constructed.

Nebraska submitted new source review regulations in a SIP revision submitted to EPA on September 25, 1980. EPA reviewed these regulations and advised Nebraska of deficiencies.
new source review in nonattainment areas (45 FR 52676) requiring that states submit SIPs by May 7, 1981, to address these changes. Consequently, Nebraska’s new source review regulation, and Rules 1 and 3 underwent revisions designed to comply with all Part D requirements including the August 7, 1980 regulations for new source review in nonattainment areas. The state indicated that corrections to the deficiencies in its new source review regulations could be made by May 15, 1981. On February 6, 1981, EPA proposed conditional approval of Nebraska’s new source review and permitting regulations provided that the state adopt and submit the changes that were identified. The reader is referred to the February 6, 1981 proposed rulemaking for further details.

The final Nebraska SIP containing Part D new source review rules adopted on March 8, 1981 by the Environmental Control Council was not submitted to EPA until August 9, 1982. Although many deficiencies had been corrected, no action was taken by EPA on these regulations because the Department of Environmental Control indicated the regulations would be revised in the near term to more closely parallel federal requirements published August 7, 1980. These revisions were submitted on May 23, 1983, and are the subject of today’s proposed rulemaking. Final action was taken by EPA on March 28, 1983, to approve certain other portions of the August 9, 1982, submission. See 48 FR 12715 published on March 28, 1983 for further information.

The previous lack of an approved SIP which included new source review regulations for nonattainment areas in Nebraska led to the imposition of the construction moratorium (on July 1, 1979), required by Section 110(a)(2)(I) of the Act, on all primary nonattainment areas in the state. Final approval of these regulations in a separate rulemaking at the close of the present public comment period would have the effect of removing the construction moratorium in the primary nonattainment areas for which a Part D SIP revision has been approved by EPA.

The EPA has reviewed the revisions to Nebraska Rule 4, “New and Complex Sources: Standards of Performance, Application for Permit. When Required” and the supporting definitions in Rule 1 and finds that these rules meet the requirements of Section 172(b)(6) and Section 173 of the Act.

Prevention of Significant Deterioration (PSD)

Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under Section 107 of the Act. Specific requirements are codified at 40 CFR 51.24. In addition, EPA’s regulations promulgated for areas which have no approved SIP are found at 40 CFR 52.21. The new Nebraska Rule 4.01 adopts the federal PSD requirements by reference.

The EPA has reviewed the new Nebraska Rule 4.01, “Prevention of Significant Deterioration of Air Quality” and finds that this rule meets the requirements of 40 CFR 51.24.

Stack Heights

Section 123 prohibits stacks taller than good engineering practice (GEP) height and other dispersion techniques that would affect the emission limitations required for the control of any air pollutant to meet the NAAQS or PSD air quality increments. Specific requirements are found at 40 CFR 51.12(j), (k) and (l).

The SIP must provide [as required by 40 CFR 51.12(j)] that before a State submits to EPA a new or revised emission limitation that is based on a demonstration of good engineering practice stack height, as provided in § 51.12(j)[3], the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it.

The EPA has reviewed Nebraska Rule 3A and finds that the requirements of 40 CFR 51.12(j) are not met by the Rule, as written. However, EPA has discussed the deficiency with the State and has been assured that the State had intended the Rule to comply with the public notice and hearing requirements. The State has submitted a commitment to EPA that the Director will not approve an emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by § 51.12(j) (1) or (2) until he has provided public notice and the opportunity for public hearing on it. Additionally, the State has committed to clarifying the language of the regulation accordingly.

EPA is proposing to approve the new Nebraska Rule 3A, “Stack Height: Good Engineering Practice (GEP)” based on the commitment provided by the State.

The revisions to the Nebraska Rules and new Rules discussed here were heard at state public hearing on March 25, 1983. These revisions were adopted by the Nebraska Environmental Control Council on this date and submitted by the Governor to EPA on May 23, 1983.

Proposed Action

EPA proposes to approve the Nebraska Rules discussed in this notice. EPA is soliciting comments on the State’s submissions and on EPA’s actions proposed in this document. The Administrator will consider comments received in deciding to approve or disapprove these submissions.

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Regional Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 48 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Lead, Particulate matter, Carbon monoxide, hydrocarbons.

Dated: July 11, 1983.

Morris Key,
Regional Administrator.

[FR Doc. 83-23871 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 661794/P308; PH-FRL 2421-3]

**Methamidophos; Proposed Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes that a tolerance be established for residues of the insecticide methamidophos in or on the raw agricultural commodity celery. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Regional Research Project No. 4 (IR-4).

**DATE:** Comment must be received on or before September 15, 1983.

**ADDRESS:** Written comments by mail to: Emergency Response and Minor Use Section, Registration Support and Emergency Response Branch, Registrative Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Emergency Response and Minor Use Section, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.
FOR FURTHER INFORMATION CONTACT: Donald Stubb (703-557-1192).

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 6E1794 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide methamidophos (O,S-dimethyl phosphoramide-thioborate) in or on the raw agricultural commodity celery at 2 parts per million (ppm). The petition was later amended to propose a tolerance of 1 ppm in or on celery. A related food additive petition (78F5162) proposing a level of 100 parts per million (ppm) in dried celery flakes was later withdrawn by the petitioner; celery grown in Florida is not used in celery flake production.

The data submitted in the petition and 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 include an acute oral lethal dose (LD₅₀) rat study; primary dermal LD₅₀ rabbit study; primary dermal rabbit irritation study; primary eye irritation study (rabbit); a 90-day dog-feeding study with a no-observed-effect level (NOEL) of 1.5 ppm (0.0375 milligrams/mg/kilogram (kg) of body weight (bw)) based on cholinesterase inhibition; a 90-day rat-feeding study with a cholinesterase NOEL of 2.0 ppm (0.1 mg/kg of bw): a rabbit teratology study which was negative at the 2.5 mg/kg dosage level; an acute delayed neurotoxicity study (hen) which was negative at the 50.63 mg/kg dosage level; and an interim report of an oncogenic study (mouse).

Desirable data that are currently lacking and the projected dates of completion of these studies are as follows: a chronic feeding/oncogenic study (rat), August 1984; the final report of the oncogenic study (mouse), in draft; a teratology study (rat), November 1983; a reproduction study (rat), June 1984; mutagenic studies (Ames, being run by Chevron and dominant lethal, in draft); and chronic dog-feeding study, March 1984.

Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the proposed tolerance since the proposed use will result in no increase in the current theoretical maximum residue contribution (TMRC) to the human diet because the tolerance for residues of the related pesticide acephate in celery (40 CFR 180.108) is expressed in terms of residues of methamidophos (1 ppm) as well as of acephate. As stated in the Federal Register of May 11, 1979 (44 FR 27592-27594), the "Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less."

The nature of the residues is adequately understood, and an adequate analytical method, thermionic emission gas chromatography, is available for enforcement purposes. Residue data to support the proposed tolerance are from the State of Florida. Tolerances have previously been established for residues of methamidophos in or on a variety of raw agricultural commodities (40 CFR 180.315). There are currently 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 180.315 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 under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains any of the ingredients listed herein may request within 15 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of dipterous leafminers infesting growing celery in Florida. Comments must bear a notation indicating the document control number (PP E61794/P308). All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 9 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (40 FR 24950).

SEC. 408(e), 68 Stat. 514 (21 U.S.C. 546a(e))

List of Subjects in 40 CFR Part 180

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

Dated: August 12, 1983.

Douglas D. Campt,
Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.315 be amended by adding and alphabetically inserting the raw agricultural commodity celery to read as follows:

§ 180.315 Methamidophos; tolerances for residues.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Celery</td>
<td>1</td>
</tr>
</tbody>
</table>

[FR Doc. 83-23312 Filed 8-30-83; 8:45 am]
BILLING CODE 0590-50-M

40 CFR PART 180

[PP 3E2853/P305; PH-FRL 2424-2]

Inorganic Bromides Resulting From Fumigation With Methyl Bromide; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of inorganic bromides, resulting from postharvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity blueberries. The proposed regulation to establish a maximum permissible level for residues of inorganic bromides in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before September 30, 1983.

ADDRESSES: By mail, submit comments to: Program Support Division [TS-757C], Office of Pesticide Programs,
This does not take into account inorganic bromides in milk, eggs, meat, and poultry resulting from ingestion of “background” inorganic bromides which are ubiquitous in nature, especially in milk. The incremental exposure to potential residues of inorganic bromides resulting from the proposed use is considered to be toxicologically insignificant. The calculated amount of methyl bromide per se resulting from the proposed use is extremely small and not considered to be toxicologically significant. Therefore, a separate tolerance for residues of methyl bromide per se will not be necessary.

The nature of the residues is adequately understood. Inorganic bromides comprise the major part of the residue on blueberries; methyl bromide is present as a residue at a level less than 0.01 ppm on blueberries under the proposed conditions of use. Adequate analytical method, gas-liquid chromatography with an electron-capture detector, is available for enforcement purposes. Because there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry, and eggs. 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 180.123 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, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP E2653/P205]. All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-543, 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).

List of Subjects in 40 CFR Part 180

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

Dated: August 22, 1983.

Douglas D. Campt,
Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.123 be amended by adding, and alphabetically inserting, the raw agricultural commodity blueberries to read as follows:

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blueberries</td>
<td>20.0</td>
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</tbody>
</table>

[FR Doc. 83-23757 Filed 8-30-83; 0:45 am]

BILLING CODE 4560-50-M

40 CFR Part 600

[AMS-FRL-2426-2]

Fuel Economy of Motor Vehicles; Revisions to Improve Fuel Economy Labeling and the Fuel Economy Data Base

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.


The Motor Vehicle Manufacturers Association and Ford Motor Company have requested that the comment period
be extended to allow additional time to prepare comments. Based on these requests, EPA is extending the comment period for two weeks.

**DATE:** Comments on the subject NRPM must be submitted on or before September 16, 1983.

**ADDRESS:** Comments should be submitted to the U.S. Environmental Protection Agency, Central Docket Section (A–130), Gallery 1, West Tower Lobby, 401 M Street, SW., Washington, D.C. 20460, Attn: Docket No. A–80–32.


**BILLING CODE 6560-50-M**

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration**

**42 CFR Part 431**

**Medicaid Program; Medicaid Program; Reduction in Error Rate Tolerance Beginning October 1, 1983; Medicaid Quality Control Program**

**AGENCY:** Health Care Financing Administration (HCFA). HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise current Medicaid regulations and establish new regulations concerning the disallowance of Federal financial participation to States whose eligibility payment error rate for Medicaid, as measured by the Medicaid quality control system, exceeds the 3-percent national standard. Specifically, the proposed rule would provide that the current regulations regarding the 3-percent national standard apply only to the period April 1, 1983 through September 30, 1983. The proposed rule would also establish regulations that would apply to periods beginning October 1, 1983. These modifications to the regulations are based on and implement the provisions of section 133 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248).

**DATES:** To assure consideration, comments must be received by September 30, 1983.

**ADDRESS:** Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services. ATTENTION: BQC–20–P. P.O. Box 26978, Baltimore, Maryland 21207.

**If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

**Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

**FOR FURTHER INFORMATION CONTACT:** Randolph Graydon, (301) 597–1308.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Medicaid quality control (MQC) system was designed to reduce erroneous expenditures in medical assistance payments by monitoring eligibility determinations, third-party liability activities, and claims processing. The system uses 6-month sampling periods from April-September, and October-March.

Within each 6-month period, a State must select a sample of cases every month and review them for errors. At the end of each 6-month review period, a State's payment error rate is calculated by HCFA based on the findings submitted by the State. A subsample of the State-selected cases is reviewed by HCFA to verify the State's findings. If a State fails to complete a valid review for any period, HCFA assigns the State an error rate based on either the weighted average of its error rate in the last three review periods, a special Federal sample or audit, or a Federal subsample.

Congress addressed the error rate tolerance level again when considering legislation before the second session of the 97th Congress. Congress decided, as a result of their review of various proposals, to set the payment error rate tolerance level at 3 percent, and to require that rate to be achieved in the third and fourth quarters of FY 1983 and in each succeeding fiscal year. Section 133 (Limitation of Federal financial participation (FFP) in erroneous medical assistance expenditures) of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97–248), enacted on September 3, 1982, includes this tolerance level.

Before this legislation was enacted, all quality control disallowances were computed after final payment error rates were established and the State's request for relief from disallowance assessed. However, in addition to the disallowance calculation, section 133 further requires the Secretary to reduce prospectively each State's quarterly request for FFP for medical assistance by the difference in the 3-percent standard and the State's anticipated payment error rate (section 1903(u)(C) of the Social Security Act). The method for determining this anticipated error rate is left to the discretion of the Secretary.

If a State fails to cooperate in providing information to establish its anticipated or actual error rate the Secretary is authorized to establish that error rate, on the basis of the best data available and "in accordance with such techniques for sampling and estimating as he finds appropriate" (section 1903(u)(3)(A) of the Act). If this authority must be utilized the Secretary may establish the error rate either directly or through contractual or by any other arrangements as he or she may prescribe. In either case, the State is liable for the cost of establishing the error rate and will have its FFP reduced by the full amount of the cost to the Secretary (section 1903(u)(3)(B) of the Act).

Section 1903(u)(1)(C) of the Act excludes payments as a result of "technical errors" from a state's error rate calculation; however, the definition of technical error is not included in the law. The Conference Committee Report on Pub. L. 97–248 defines technical errors as "errors which if corrected would not have made a difference in the amount of medical assistance paid."

(H.R. Rep. No. 97–760, 97th Congress 2d Sess. 439 (1982)). In addition, payments made for services provided to any individual whose eligibility was determined exclusively by the Social Security Administration (SSA) under a section 1634 agreement are excluded, and the Secretary may exclude any other classes of individuals whose eligibility was determined in part under a section 1634 agreement. (Under section 1634 of the Act, a State may enter into an agreement with SSA that allows SSA to determine Medicaid eligibility on behalf of the State for individuals who are eligible for Supplemenary Security Income (SSI) or who are receiving a State supplementary payment that is federally administered, or both.)

On June 24, 1983, HCFA published in the Federal Register (48 FR 29450) interim final regulations with a 60-day
comment period to implement the provisions of section 133 of TEFRA.

Those regulations provide for disallowance of Federal financial participation to States whose eligibility payment error rate for Medicaid, as measured by the Medicaid quality control system, exceeds 3 percent for the period April 1 through September 30, 1983, and for each fiscal year thereafter. The regulations further provide for HCFA to project a payment error rate for each State and to reduce the State's quarterly estimate of expenditures if the anticipated error rate exceeds the 3-percent national standard.

II. Provisions of the Regulations

We are proposing to revise the regulations at 42 CFR 431.803 so that section will not apply to the period April 1, 1983, through September 30, 1983. Currently these regulations provide that the disallowance of FFP for excess erroneous State payments is effective for the period April 1, 1983, through September 30, 1983, and for each fiscal year thereafter.

We are also proposing to establish at 42 CFR 431.804 new regulations concerning the disallowance of FFP for excess erroneous State payments for periods beginning October 1, 1983. These proposed regulations will differ from the current regulations at 42 CFR 431.803 in the method for determining the States anticipated error rate. This change which is discussed in section II.B. is based on comments received on the interim final regulations published in June 1983 (that established § 431.803) and information contained in plaintiffs' briefs from two lawsuits in which the Department is involved.

The provisions of these new regulations follow.

A. Calculation of the Payment Error Rate

As prescribed by the Act a State's payment error rate would be expressed as a ratio of erroneous payments for medical assistance to total medical assistance expenditures under the State plan.

Erroneous payments are defined in the statute and these proposed regulations as medical assistance payments that were made for an individual or family under quality control review who: (a) Was ineligible for the review month or at the time services were received, (b) wasineligible to receive a service that was provided in the review month, or (c) had not properly met beneficiary liability prior to receiving Medicaid services.

Beneficiary liability would be either the amount of excess income that must be offset with incurred medical expenses to gain eligibility ("spenddown") or the amount of payment a beneficiary must make toward the cost of long term care.

As directed by the Act, in determining the amount of erroneous payments for cases determined to be ineligible due to excess resources, the lesser of the amount of excess resources or the amount of assistance payments for the review month would be the amount of the error.

Similarly, in determining the amount of the error for cases in which there is a beneficiary liability error, the amount of the error would be the smaller of the unmet beneficiary liability or the amount of medical assistance payments for the review month.

In addition, regulations would implement the statutory requirement that all payments made on behalf of SSI beneficiaries whose eligibility is determined exclusively by SSA in section 1634 contract States would be excluded from the calculation of the payment error rate. These proposed regulations continue the exclusion of all payments made to SSI beneficiaries in section 1634 contract States in the same manner in which they were excluded in previous disallowance regulations.

These payments are excluded because the conditions of agreement for a section 1634 contract require that the State's Medicaid eligibility criteria be identical to those for SSI eligibility as set forth in 20 CFR 416.2111. Therefore, if Medicaid eligibility is determined under a section 1634 agreement, SSA is exclusively determining eligibility and States should not be held at risk for these determinations. If States impose additional eligibility requirements beyond those for SSI, payments to SSI beneficiaries would then become subject to the provisions of these regulations.

Section 1903(u)(1)(E) of the Act excludes payments made as a result of a technical error from the determination of erroneous payments. As mentioned above, Congress indicated that technical errors were those that, if corrected, would not have made a difference in the amount of medical assistance paid.

Based on inquiries made to Congressional staff, we believe that the intent of the conferees was to ensure that errors caused solely by failure of the beneficiary or agency to complete all paperwork-type eligibility requirements not be included as errors in these regulations.

We would, therefore, define technical errors for MQC purposes as errors in conditions of eligibility that, if corrected, would not result in a difference in the amount of medical assistance paid.

These errors include but are not limited to, Work Incentive Program requirements, the assignment of Social Security numbers, the requirement for a separate Medicaid application and monthly reporting requirements. However, any change in financial circumstances or categorical eligibility would be counted. For example, if a beneficiary fails to make a monthly report that would have revealed additional income no error would be cited for failure to report but the additional income would be treated under MQC rules. These errors are included as technical errors because they meet the definition of a paperwork requirement. In addition, we propose to include in the definition of technical error the assignment of third party benefits as a condition of Medicaid eligibility. The assignment of third party benefits errors would be included because they meet the definition of a paperwork requirement and we want to encourage States to elect this optional eligibility requirement.

B. Determining a State's Anticipated Erroneous Payment Rate

Section 1903(u)(1)(c) of the Act requires the Secretary to project an anticipated erroneous payment rate for each State and to reduce the State's quarterly estimate of FFP for medical assistance expenditures by the percentage that the State's error rate exceeds 3 percent. The method used to calculate the anticipated error rate is not included in the statute but is left to the Secretary to prescribe.

Prior to publication of the interim final rule which implemented section 133 of TEFRA (48 FR 29450), we considered a number of options for projecting anticipated error rates. Among these options were the use of the 6-month sample period most recently completed by States and HCFA, the use of the average of the two 6-month sample periods most recently completed by States and HCFA, and the use of statistical trend lines. After consultation with the State MQC/Corrective Action Technical Advisory Group, projections for the first two quarters subject to TEFRA reductions were based on the average of the two 6-month sample periods most recently completed by States and HCFA. Subsequent to making these projections of anticipated error rates and withholding Federal funds based on these projections, the Department has been involved in two separate law suits. Based on information contained in the plaintiffs' briefs and comments received from States on the interim final rule, we are proposing to
change our methodology for projecting anticipated error rates.

We are proposing to base our projections on the 6-month sample period most recently completed by the States and HCFA. This will enable us to base our projections on only the most currently available data.

We propose that the original State findings and Federal subsample findings for that 6-month period will be reviewed by HCFA regional office staff to identify all individuals found to be ineligible. Cases or individuals which are determined to be ineligible due to a technical error as defined in these proposed regulations would be considered eligible in both State finding and the Federal subsample findings (if the case was selected in the subsample).

Cases or individuals which were found to be ineligible due to excess resources would be reviewed to assure that the amount of error reflects the lesser of the amount of excess resources or the amount of paid claims for services provided during the review month to case members. If necessary, the dollar amount would be adjusted to reflect the correct dollar amount in both the original State finding and the Federal subsample findings (if the case was included in the subsample).

After these adjustments are made the resultant error rate will be the projected anticipated error rate for the next two quarters.

If a State believes that this anticipated error rate does not reasonably represent what it believes will be its actual error rate for the quarter being projected, we propose that the State provide more recent statistical evidence conforming to criteria to be established by the Administrator which demonstrates that the anticipated error rate is significantly unrepresentative of current experience. Historical data which represents a decline in error rate over several periods will not be considered to meet this criterion.

We propose that this evidence be evaluated by HCFA to determine if it meets the proposed criteria. In addition HCFA may validate the accuracy of the evidence. If the evidence is determined to meet the proposed criteria and, at HCFA's discretion, is determined to be valid evidence, the error rate established in this evidence by the State would be accepted by HCFA as the projected anticipated error rate for the quarter. We are soliciting comments on what should be considered as acceptable evidence that the State's error rate would be less than that projected by HCFA. Suggestions should be limited to criteria for statistical data or other objective evidence, rather than information that would entail subjective judgment such as the potential impact of States' corrective actions. For example, possible criteria might require documentation of a statistically valid random sample of at least 100 cases of the entire Medicaid caseload, reviewed in the same manner as required for routine MQC case reviews. If such data demonstrates that the error rate produced from this sample is statistically significantly different, the error rate from this sample could become the projected error rate.

The anticipated erroneous medical assistance expenditures to be withheld from the State's quarterly estimate of medical assistance expenditures would be based on the difference between the State's anticipated error rate and the 3-percent tolerance.

C. Established an Error Rate for States That Fail To Cooperate

Sections 1903(u)(3)(A) and (B) of the Act provide that if a State fails to cooperate in providing information for establishing its error rate or its anticipated error rate, the Secretary must establish those rates in an appropriate manner. This may be done by the Secretary directly or under a contractual or other arrangement. Regardless of the method used by the Secretary, the full costs associated with determining the error rates must also be withheld from the FFP properly claimed by the State.

To implement this provision we decided to follow the language in the current disallowance regulations (42 CFR 431.802(c)(3) and 431.803(c)(5)) for establishing a State's error rate if the State fails to complete a valid review. Therefore, we propose that the State's error rate will be based on: (a) A special sample or audit; (b) the Federal subsample; or (c) other such arrangements as the Administrator may prescribe.

D. Computations for Disallowance of FFP

When States request their quarterly advance of FFP, we propose to reduce the amount of the estimate of FFP medical assistance expenditures by the percentage difference between the 3 percent tolerance level and the anticipated error rate established by HCFA for that quarter. At the close of the quarter, this reduction would be adjusted to reflect the State's actual expenditures for the quarter. These reductions would be noted on the State's grant award and would not be considered disallowances. Therefore, the quarterly reductions would not be appealable.

When the actual error rates for the review period are determined, the final disallowance amount would be computed and adjustments would be made in the FFP to reflect these findings. The final error rates would be either those determined from the State reviews and subsequent Federal re-reviews or, if the State fails to complete a valid sample, those determined by HCFA. The final disallowance amount would be the product of (1) the difference between the 3-percent tolerance level and the State's established adjusted error rate and (2) the amount of the Federal share of medical assistance expenditures for the review period.

Since we will consider and analyze carefully all comments received on this proposed regulation, we may reduce FFP for the October-December 1983 quarter by an adjustment to the initial grant award, at a later time in that quarter.

E. Notice of Disallowance and Waivers of Disallowance Based on “Good Faith”

Section 1903(u)(3)(B) of the Act permits the Secretary to waive, in certain limited cases, all or part of an FFP disallowance if a State is unable to reach the 3-percent tolerance level despite a good faith effort. We propose that HCFA would evaluate requests for waivers at the time of the final disallowance. States would be allowed 30 days from the date of the notice of a potential disallowance to apply for a waiver. We would provide that HCFA will respond within 60 days of receipt of all information needed to reach a decision on the State's request for a waiver.

We propose to adopt the criteria of the current regulation (42 CFR 431.803(e)) for evaluating waivers.

F. Applicability

Guam, Puerto Rico, the Virgin Islands, the Northern Marianas, and American Samoa would be excluded from the provisions of these regulations under section 1903(u)(4) of the Act.

III. Impact Analysis

A. Executive Order

The Secretary has determined that these proposed regulations do not meet the criteria for a major rule that are set forth in section 5(b) of Executive Order No. 12291. That is, these regulations would not have an annual effect on the economy of $100 million or otherwise meet the threshold criteria of the Executive Order.

The provisions of this rule would result in withholdings of FFP in the
Part 431—[Amended]

42 CFR Part 431 would be amended as set forth below:

1. The table of contents for Part 431, Subpart P is amended by revising the title of § 430.803 and adding a new § 431.804 as follows.

Sec.

431.803 Disallowance of Federal financial participation for erroneous State payments (effective April 1, 1983 through September 30, 1983).

431.804 Disallowance of Federal financial participation for erroneous State payments (effective October 1, 1983).

2. Section 431.802 is amended by revising the title to close the parenthesis after “September 30, 1982” and by revising paragraph (a)(2) to read as follows:

§ 431.802 Disallowance of Federal participation for erroneous State payments (effective October 1, 1980 through September 30, 1982).

(a) Purpose and applicability—

(1) Purpose and applicability. This section applies to all States for the 12-month annual assessment periods of October 1980—September 1981 and October 1981—September 1982. For the April—September 1983 assessment period, all States except Puerto Rico, Guam, the Virgin Islands, the Northern Marianas Islands, and American Samoa must follow the rules and procedures specified in § 431.803.

Beginning October 1, 1983, all States except Puerto Rico, Guam, the Virgin Islands, the Northern Marianas Islands, and American Samoa must follow the rules and procedures specified in § 431.804.

(b) Notice to States and showing of good faith.

1. When the actual payment error rate data are finalized for the April—September 1983 assessment period HCFA will establish each State’s error rate and the amount of any potential disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

4. Section 431.804 is added to read as follows:

§ 431.804 Disallowance of Federal financial participation for erroneous State payments (effective October 1, 1983).

(a) Purpose and applicability—

(1) Purpose. This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous medical assistance payments due to eligibility and beneficiary liability errors, as detected through the Medicaid quality control (MQC) system required under § 431.600.

(2) Applicability. This section will apply to all States except Puerto Rico, Guam, the Virgin Islands, and American Samoa for each full fiscal year beginning October 1, 1983.

(b) Definitions. For purposes of this section—“Administrator” means the Administrator, Health Care Financing Administration or his or her designee.

“Annual assessment period” means the 12-month period October 1 through September 30 and includes two 6-month sample periods (October—March and April—September).

“Beneficiary liability” means:

(1) The amount of excess income that must be offset with incurred medical expenses to gain eligibility; or

(2) The amount of payment a recipient must make toward the cost of long term care.
"Erroneous payments" means the Medicaid payment that was made for an individual or family under review who:
1. Was ineligible for the review month or at the time services were received;
2. Was ineligible to receive a service provided during the review month; or
3. Had not properly met beneficiary liability prior to receiving Medicaid services.

"National standard" means a 3-percent eligibility payment error rate.

"State payment error rate" means the ratio of erroneous payments for medical assistance detected under the MQC system for each annual assessment period to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for the same period.

If a State fails to cooperate in completing a valid MQC sample or individual reviews in a timely and appropriate fashion as required, HCFA will establish the State's payment error rate based on either:
1. A special sample or audit;
2. The Federal subsample; or
3. Other arrangements as the Administrator may prescribe.

When it is necessary for HCFA to exercise the authority in paragraph (c)(5) of this section, the amount that would otherwise be payable to the State under title XIX of the Act is reduced by the full costs incurred by HCFA in making those determinations. HCFA may make these determinations either directly or under contractual or other arrangements:

When a State fails to properly meet beneficiary liability, the amount of error is the lesser of:
(A) The amount of payments made on behalf of the family or individual for the review month;
(B) The difference between the correct amount of beneficiary liability and the amount of beneficiary liability met by the individual or family for the review month.

The amount of the payments made for services provided during the review month for which the individual or family was not eligible.

In determining the amount of erroneous payments, errors caused by technical errors are not included.

When it is necessary for HCFA to exercise the authority in paragraph (c)(5) of this section, the amount that would otherwise be payable to the State under title XIX of the Act is reduced by the full costs incurred by HCFA in making those determinations. HCFA may make these determinations either directly or under contractual or other arrangements.

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Example: Assume that the State has an anticipated payment error rate of 8 percent for the October-December 1983 quarter. The State submits an estimate for medical assistance expenditures of $100,000 in FFP for that quarter. The State’s actual expenditures for the October-December 1983 quarter justify only $90,000 in FFP. The actual payment error rate for the quarter is determined to be 8 percent.

(i) The State has a payment error rate in excess of the tolerance level equal to 3 percent (8 percent – 3 percent).
(ii) The State’s initial grant award for the October-December 1983 quarter is reduced by $5,000 ($100,000 × 0.05).
(iii) After the quarter ends, and the State’s actual expenditures are known, HCFA determines that the actual reduction should have been $2,700 ($90,000 × 0.03).
(iv) When the grant award for the October-December 1983 quarter is finalized, an increasing adjustment of $300 ($3,000 – $2,700) is made.
(v) When the actual payment error rate for the October 1983–September 1984 annual assessment period is determined to be 8 percent, the State is 5 percent above the tolerance level. HCFA notifies the State of a final disallowance of $4,500 ($90,000 × 0.05). Since $2,700 has already been withheld from the State, HCFA would offset a future grant award by an additional $1,800 ($4,500 – $2,700).

(e) Notice of States and showing of good faith. (1) When the actual payment error rate data are finalized for each annual assessment period beginning October 1, 1983, HCFA will establish each State’s error rate and the amount of any potential disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

(i) The State has 30 days from the date of receipt of this notification to show that this disallowance should not be made because it made a good faith effort to meet the national standard.

(ii) If the Administrator finds that the State did not meet its target error rate despite a good faith effort, HCFA will reduce the disallowance in whole, or in part, as the Administrator finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(iv) The decision of the Administrator will be communicated to the State by letter no later than 60 days from the date of receipt of all information needed to make a determination based on the State’s request for a good faith waiver.

Some examples of circumstances under which the Administrator may find that a State did not meet the target error rate despite a good faith effort are:

(i) Disasters such as fire, flood, or civil disorders that:

(A) Require the diversion of significant personnel normally assigned to Medicaid eligibility administration; or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes that result in the disruption of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes.

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide that interpretation; and

(v) The State timely developed and implemented a corrective action plan which the Administrator finds to be reasonably designed to meet the target error rate, but the target error rate was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Administrator will consider the following factors:

(A) Submittal of annual corrective action plans to the HCFA Regional Office by July 31 of each year with revisions to the plan made within 60 days of identification of additional error prone areas, other significant changes in the error rate, or changes in planned corrective action.

(B) The State must have operated an MQC eligibility program in accordance with the provisions of §431.800.

(C) Demonstrated commitment by senior management to the error reduction program; for example, priorities and goals clearly enunciated to staff, accountability for performance, availability of resources.

(D) Sufficiency and quality of systems designed to reduce errors that are operational in the State; for example, BENDEX, SDX, monthly reporting, error prone profiles, local agency monitoring systems, computer clearances.

(E) Use of effective systems and procedures for the statistical and program analysis of QC and related data; for example, statistical tests, tabulations and cross tabulations, error prone profiles, corrective action committees, special studies.

(F) Effective management and execution of the corrective action process; for example, assignment of responsibilities, milestones for completing tasks, substantial completion of tasks, monitoring of progress.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(4) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: August 19, 1983.


Carolyne K. Davis,
Administrator, Health Care Financing Administration.
Margaret M. Heckler,
Secretary.

[FED Doc. 83-23949 Filed 8-25-83; 4:50 pm]
BILLING CODE 4120-03-M
DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 28, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 350(h) or Pub. L. 95–551 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revised

• Animal and Plant Health Inspection Service.
  Prohibited and Restricted Importations of Meats, Animals, Animal Byproducts, Poultry, Organisms and Vectors into the U.S.
  On occasion, quarterly.
  State and local governments, businesses: 3,033 responses; 4,897 hours; not applicable under 3504(h).
  Dr. R. Costigan (301) 436–8499.
• Animal and Plant Health Inspection Service.
  Report of Violation.
  PPQ–518.
  On occasion.
  Farms, businesses: 750 responses; 128 hours; not applicable under 3504(h).
  L. M. Sedgwick, Jr. (301) 436–8584.

Reinstatement

• Farmers Home Administration.
  Environmental Program.
  FmHA 1940–20.
  On occasion.
  Individuals an households, farms, businesses: 8,485 responses; 75,935 hours; not applicable under 3504(h).
  John Hansel (202) 382–9626.
• Food and Nutrition Service.
  On occasion.
  State or local governments, non-profit institutions: 3,555 responses; 10,980 hours; not applicable under 3504(h).
  Diane Marcantonio (703) 756–3600.

Marshall L. Dantzler,
Acting Department Clearance Officer.
[FR Doc. 83–23807 Filed 8–30–83; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Extension of Certain Timber Sale Contracts

Correction

In FR Doc. 83–23435, beginning on page 38862, in the issue of Friday, August 25, 1983, on page 38864, in the second column, in the first complete paragraph, in the third line “November 25, 1983” should read “October 25, 1983”.

BILLING CODE 1505–01–M

Rural Electrification Administration

Dairyland Power Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: REA has made a Finding of No Significant Impact concerning the proposed reconstruction and upgrading of 28.6 kilometers (17.4 miles) of existing 34.5 kV transmission line to 69 kV in Trempealeau County, Wisconsin, by Dairyland Power Cooperative (DPC) of La Crosse, Wisconsin. DPC plans to request financing assistance from REA for the proposed project.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and the Borrower's Environmental Report (BER) may be obtained at the office of the Director, North Central Area—Electric, Room 0220, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1400, or the Dairyland Power Cooperative, P.O. Box 817, 2815 East Avenue South, La Crosse, Wisconsin 54601, telephone (608) 788–4000.

SUPPLEMENTARY INFORMATION: REA has prepared an EA concerning the proposed project which incorporates the BER. REA's independent evaluation of the project concludes that approval of the project would not represent a major Federal action that would significantly affect the quality of the human environment.

Alternatives discussed in the EA are no action, alternative routes and new generation facilities. The no action alternative would do nothing to alleviate the problems of future power supply and the limitations of existing long radial lines which supply the area with power, so this alternative was not considered feasible. DPC considered a variety of transmission routing alternatives in Trempealeau County. These alternative routes are located close to the proposed routing, but do not utilize existing rights-of-way. The proposed routing was chosen because it minimizes environmental impacts and construction costs by occupying existing electric transmission and railroad rights-of-way. New electric generation facilities in Trempealeau County were not
Arms Control and Disarmament Agency dated August 10, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act as amended.

John E. Grassle,
Committee Management Officer.
[FR Doc. 83-23077 Filed 8-30-83; 8:45 am]
BILLING CODE 6280-32-M

CIVIL AERONAUTICS BOARD


Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922.

Extension

Title of the Collection of Information: Essential Air Service Survey.

Agency Form Number: None.

How often the Collection of Information must be filed: Triennially.

Who is asked or required to report: State and Local Aviation Officials.

Estimate of number of annual responses: 378.

Estimate of number of annual hours needed to complete the collection of information: 752.

Robin A. Caldwell,
Chief, Information Management Division,
Office of Comptroller.
August 24, 1983.
[FR Doc. 83-23897 Filed 8-30-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

California Coastal Commission Objection; Federal Consistency Appeal by Exxon Co., U.S.A.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public hearing and extension of comment period.

SUMMARY: This notice sets forth the date and address of a public hearing to be held on the appeal filed by Exxon Company, U.S.A. (Exxon) with the Secretary of Commerce to override an objection by the California Coastal Commission to Exxon's certification that Option A (Offshore Oil Treatment) of its Outer Continental Shelf Oil and Gas Development and Production Plan for the Santa Ynez Unit in the Santa Barbara Channel is consistent with the California Coastal Management Program. This notice also extends the close of the public comment period.

The appeal was filed on July 22, 1983 pursuant to Section 307(c)(3) (A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR 930, Subpart H. Notice of the appeal was published in

[FR Doc. 83-23898 Filed 8-30-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41453]
the Federal Register on August 5, 1983 (48 FR 35692).

This public hearing is authorized by 15 CFR 930.129 and will be conducted by the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management (OCRM), for the purpose of receiving comments from interested persons and organizations on whether Exxon’s Option A (Offshore Oil Treating) complies with the regulatory criteria, as set forth in 15 CFR 930.121 and 930.122, to be considered by the Secretary in deciding whether to override the consistency objection of the California Coastal Commission under Sections 307(c)(3) (A) and (B) of the CZMA. The Secretary shall override the state’s objection if he finds that one of two tests have been met. To meet the first test, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 and 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the state management program. To meet the second test, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

The hearing will be held on Tuesday, October 4, 1983, at the Lobero Theater, 33 East Canon Perdido, Santa Barbara, California. Interested persons may testify at either the afternoon session which will begin at 1:00 p.m. or the evening session which will begin at 7:00 p.m. OCRM will provide an opportunity at the beginning of both sessions for Exxon and the California Coastal Commission to present a brief summary of their positions.

Persons wishing to testify at the hearing may make their requests at the hearing or in advance by mail to: Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. Requests will be honored in the order in which they are received. Advance requests should indicate at which session the presenter wishes to testify. Presentations will be limited to a maximum of 5 minutes. This time allotment, however, may be extended before the hearing when the number of speakers can be determined. Additional written testimony may be submitted until the close of the public comment period.

The public comment period is extended to October 11, 1983 in order to accommodate the public hearing schedule and to provide an opportunity for persons to respond to comments received at the public hearing. Written comments must be submitted to Peter L. Tweedt at the above address and copies provided to:

1. Shelby Moore, Exxon Company, U.S.A., 225 West Hillcrest Drive, Thousand Oaks, CA 91360;
2. Tim Eichenberg, California Coastal Commission, 631 Howard Street, San Francisco, CA 94105; and

Written comments and oral testimony will receive equal consideration. Access to Exxon’s Notice of Appeal and accompanying public information are available to the public at the following locations during normal working hours:

1. California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, CA 94105.
4. Santa Barbara Public Library, 40 E. Anapamu, Santa Barbara, CA 93101.

The California Coastal Commission was granted a 30-day extension in which to submit detailed comments in response to Exxon’s appeal, pursuant to 15 CFR 930.125 and 930.126. The public information contained in the detailed comments to be submitted by California Coastal Commission and the Minerals Management Service will be available for public inspection at the above addresses no later than September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resource Management (202-634-4249); or David Drake, Attorney Advisor, Office of General Counsel for Ocean Services (202-254-7512).

SUPPLEMENTARY INFORMATION: For a more detailed description of Exxon’s appeal, see Supplementary Information published in the Federal Register, August 5, 1983 (48 FR 35692).

Dated: August 26, 1983.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

K. E. Taggart, Assistant Administrator, National Ocean Service.

[FR Doc. 83-23932 Filed 8-30-83; 8:45 am]

BILLING CODE 3510-08-M

California Coastal Commission Objection; Federal Consistency Appeal by Exxon Co., U.S.A.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal; correction.

SUMMARY: This document corrects a statement that appeared in Supplemental Information in the Federal Register of Friday, August 5, 1983 (48 FR 35692) which described the proposed resubmission to the California Coastal commission of a consistency certification by Exxon Company, U.S.A. for the onshore portion of Option B of its Santa Ynez Unit Development and Production Plan.


The following correction is made to the Federal Register of Friday, August 5, 1983 by striking the sentence immediately preceding the first full paragraph in the first column at page 35693 and inserting in place thereof the following two sentences: "Exxon will resubmit a consistency certification for the onshore portion of Option B after it resolves the pipeline feasibility or transportation issue in the local permitting process with Santa Barbara County. The County has scheduled hearings on the matter for September and October."

Dated: August 26, 1983.

K. E. Taggart, Assistant Administrator, National Ocean Service.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limit for Certain Cotton Apparel From Indonesia

August 26, 1983.

ACTION: On July 26, 1983 a notice was published in the Federal Register (48 FR 33928) requesting public comment on bilateral textile consultations between the Governments of the United States and the Republic of Indonesia concerning women's, girls', and infants' cotton coats in Category 335, produced or manufactured in Indonesia.

The purpose of this notice is to announce that consultations concerning this category were held August 11–12, 1983. Inasmuch as a mutually satisfactory level was not agreed during these consultations, the United States Government has decided to control imports of apparel products in Category 335, produced or manufactured in Indonesia at a level of 32,814 dozen during the twelve-month period which began on July 1, 1983. In the event a different solution is agreed in further consultations with the Government of Indonesia, which are anticipated but are not yet scheduled, further notice will be published in the Federal Register.

EFFECTIVE DATE: August 31, 1983.


SUPPLEMENTARY INFORMATION: On June 30, 1983 a letter dated June 24, 1983 was published in the Federal Register (48 FR 30181) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain cotton textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1983. Effective on August 31, 1983, the directive of June 24, 1983 is amended to include a level of restraint of 32,814 dozen for cotton textile products in Category 335.

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of cotton textile products from Indonesia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-23232 Filed 8-30-83; 8:45 am]
BILLING CODE 3510-25-M

Anouncing an Adjusted Limit for Certain Cotton Textile Products From Hong Kong

Correction

In FR Doc. 83-23232, appearing on page 38530, in the issue of Wednesday, August 24, 1983, in the first column, in the second to last line of the "ACTION" paragraph, "51,516,694" should read "50,516,694".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.


The purpose of this survey is to obtain information about the frequency and characteristics of unreported residential fires. The Commission will use the information obtained from this survey to compare trends in unreported fires since 1974, when a similar survey was conducted; to establish the role of smoke detectors and other factors which may permit occupants to extinguish fires without calling a fire department; and to augment statistics concerning reported fires to determine the extent of fire hazards in the United States.

The survey will be conducted by a contractor. Respondents will be selected at random. Telephone interviews will be conducted with 42,000 respondents during a twelve month period. The weighted average of the time required for each interview is .034 hours (approximately two minutes) for a total of 1,429 hours to complete all interviews.

All respondents will be asked screening questions, which will require 1.5 minutes per interview. About 2,000 respondents will be asked additional demographic questions, which will bring the total time to 5 minutes per interview. Approximately 1,500 respondents who indicate that they have experienced a residential fire in the past three months will be asked about the fire, in addition to screening and demographic questions. This third category of interview is expected to require 12 minutes.

Additional Information about the Proposed Collection of Information:


Title of information collection: Unreported residential fire survey.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Individuals.

Estimated average number of hours per response: .034 (approximately two minutes), weighted average.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone (202) 395-3713. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Program Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3503(h) is applicable.
Proposed Collection of Information  
**AGENCY:** Consumer Product Safety Commission.  
**ACTION:** Notice.  

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a Compliance Program for the Architectural Glazing Standard, with a requested expiration date of September 30, 1984.

The purpose of this program is to determine compliance with the requirements of the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) by manufacturers and fabricators of the architectural products which are subject to that standard.

The standard is intended to reduce or eliminate unreasonable risks of injury associated with accidental human-impact breakage of glazing materials used in doors, storm doors, bathtub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors. The standard prescribes performance requirements for glazing materials used in those products to assure that the glazing materials either will not break if impacted with a specified energy, or will break with characteristics which are less likely to present an unreasonable risk of injury. The compliance program will be conducted by investigators from the Commission’s field staff, who will inspect firms which manufacture or fabricate the five products subject to the architectural glazing standard by on-site installation of new or replacement glazing. The investigators will inspect manufacturing establishments, examine records, question employees of the firms, and observe manufacturing operations.

Information about the Proposed Collection of Information:  
**Agency address:** Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.  
**Title of Information Collection:** Compliance Program—Architectural Glazing Materials.  
**Type of request:** Approval of new plan.

**Frequency of collection:** Once a year.  
**General description of respondents:** Firms which manufacture or fabricate doors, storm doors, bathtub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors on-site by installation of new or replacement glazing.  
**Estimated number of respondents:** 60  
**Estimated average number of hours per response:** 6  
**Comments:** Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-7313, not later than September 15, 1983. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Planning and Program Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6529. This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 28, 1983.  
Sadye E. Dunn,  
Secretary, Consumer Product Safety Commission.

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**Toxicological Advisory Board; Meeting**  
**AGENCY:** Consumer Product Safety Commission.  
**ACTION:** Notice of meeting: Toxicological Advisory Board.

**SUMMARY:** This notice announces a meeting of the Toxicological Advisory Board on Wednesday, September 28, 1983 from 9:00 am to 4:30 pm and Thursday, September 29, 1983, from 9:00 am to 2:00 pm. The meeting, which is open to the public, will be held in Room 456 at 5401 Westbard Avenue, Bethesda, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Ann L. Hamann, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492-6957.

**SUPPLEMENTARY INFORMATION:** The Toxicological Advisory Board is an established nine-member advisory committee which advises the Commission on precautionary labeling for acutely toxic household substances and on instructions for first aid treatment labeling. In addition, the Board reviews labeling requirements that have been issued under the Federal Hazardous Substances Act and recommends revisions it considers appropriate. The Toxicological Advisory Board was established on May 9, 1979, under the authority of 15 U.S.C. 1275 (Pub. L. 95-631, section 10).

The following items will be discussed on September 28, 1983:

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**Frequency of collection:** Once a year.  
**General description of respondents:** Firms which manufacture or fabricate doors, storm doors, bathtub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors on-site by installation of new or replacement glazing.  
**Estimated number of respondents:** 60  
**Estimated average number of hours per response:** 6  
**Comments:** Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-7313, not later than September 15, 1983. Copies of the proposed collection of information are available from Francine Shacter, Office of Budget, Planning and Program Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6529. This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 28, 1983.  
Sadye E. Dunn,  
Secretary, Consumer Product Safety Commission.
Board members will review previous glycol labels in view of new information; they will also discuss prototype labels for (1) chromate, (2) pure chlorofluorocarbons, and (3) mixtures of methanol and petroleum distillates. On September 29, 1983 the Board will discuss:

Inadvisability of administering oil as part of a first aid procedure and labeling of common mixtures of hazardous household substances. The Ventilation Subcommittee will present a discussion concerning the means by which the concept of “adequate ventilation” may be more meaningfully conveyed on a product label. This agenda topic was originally scheduled for presentation at the April 27, 1983 meeting.

The two-day meeting is open to the public; however, space is limited. Interested persons who wish to make oral or written presentations to the board on the subjects described above should notify Dr. Fred Marozzi, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C., telephone (301) 492-6477 by September 19, 1983. The notification should state: the name, address, and phone number of the individual who will make an oral presentation or submit a written presentation; the person, company, group, or industry on whose behalf the presentation will be made; the subject matter; and the approximate time requested for an oral presentation or the number of pages required for written presentation. Time permitting, the presentations, and possibly other oral statements from the audience to members of the board, may be allowed by the presiding officer. Persons who submit the requests by September 19, 1983, as described above, will be notified of the presiding officer’s decision before the meeting.

Dated: August 26, 1983.

Sadie Dunn,
Secretary, Consumer Product Safety Commission.

DOD Advisory Group on Electron Devices; Meeting


The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices. The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended (5 U.S.C. App. 1 section 10(d) [1976]), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) [1976], and that accordingly, this meeting will be closed to the public.

Dated: August 26, 1983.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

DEPARTMENT OF ENERGY

National Petroleum Council, Miscible Task Group of the Committee on Enhanced Oil Recovery; Changed Dates and Room for Meeting

The dates and room of the eighth meeting of the Miscible Task Group of the Committee on Enhanced Oil Recovery, which was noticed on August 2, 1983, (48 FR 35006), have been changed. The new dates are August 31 and September 1, 1983, in Brookhollow Three Room, Brookhollow Holiday Inn, 7050 North Stemmons Freeway, Dallas, Texas, starting at 9:00 a.m. each day.

Issued at Washington, D.C., on August 18, 1983.

Donald L. Bauer,
Principal Deputy Assistant Secretary for Fossil Energy.

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 8 October 1983 at the AGED Secretariat, 1925 N. Lynn Street, Suite 1000, Arlington, Virginia 22209. The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices. The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, [5 U.S.C. App. 1 section 10(d) [1976]], it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) [1976], and that accordingly, this meeting will be closed to the public.

Dated: August 26, 1983.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

Federal Energy Regulatory Commission

[Docket No. ID–2060–000]

Donald L. Aswell; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 16, 1983, Donald L. Aswell filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Sr. Vice President—New Orleans Public Service Inc
Sr. Vice President—Louisiana Power & Light Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR
J. D. Lynch; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, J. D. Lynch filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Secretary—Conowingo Power Company
Assistant Secretary—Philadelphia Electric Company
Assistant Secretary—The Susquehanna Power Company
Assistant Secretary—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, D.C. 20426, in accordance with the Rules 385.211, 385.214. All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 83-23867 Filed 8-30-83; 8:45 am]
BILLING CODE 6717-01-M

[DOCKET NO. ID-2066-000]

J. Robert Causon; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, J. Robert Causon filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Treasurer—Conowingo Power Company
Assistant Treasurer—Philadelphia Electric Company
Assistant Treasurer—The Susquehanna Power Company
Assistant Treasurer—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 83-23869 Filed 8-30-83; 8:45 am]
BILLING CODE 6717-01-M

[DOCKET NO. ID-2065-000]

Jon A. Katherine; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, Jon A. Katherine filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer—Philadelphia Electric Company
Assistant Treasurer—The Susquehanna Power Company
Assistant Treasurer—The Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 83-23868 Filed 8-30-83; 8:45 am]
BILLING CODE 6717-01-M
Michigan Consolidated Gas Co., Interstate Storage Division; Amendment


Take notice that on August 5, 1983, Michigan Consolidated Gas Company (MichCon), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP82-502-001 an amendment to its pending application filed in Docket No. CP82-502-001 pursuant to Section 7(c) of the Natural Gas Act, so as to reflect certain changes resulting from an amendment to its transportation agreement with ANR Storage Company (ANR), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

MichCon indicates that, insofar as here pertinent, said application requested authority for MichCon to transport up to 147,675 Mcf of gas per day for, and receive a quantity of gas for transportation up to 147,675 Mcf, rather than 146,910 Mcf, as ANR would request on behalf of Transco, at such daily rates and times and at such charge as ANR and MichCon would then mutually agree upon.

MichCon states that the amendment also includes revisions to Exhibits A, C, D and G to reflect changes since MichCon's application was filed.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell, Acting Secretary.

[FTC Doc. 83-23692 Filed 8-30-83: 8:45 am]

BILLING CODE 8717-01-M

Oil Pipelines, Interstate; Tentative Basic Valuation; Enterprise Pipeline Co.

August 26, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative basic valuation is under consideration for the common carrier by pipeline listed below:

1980 Basic Report

Valuation Docket No. PV-1496-000—Enterprise Pipeline Company, P.O. Box 4324, Houston, Texas 77210

On or before October 3, 1983, persons other than those specifically designated in Section 19a(b) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.
If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,
Administrative Officer, Oil Pipeline Board.

Oil Pipeline, Interstate; Tentative Basic Valuation; Western Oil Transportation Co., Inc.

August 28, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative annual valuation is under consideration for the common carrier by pipeline listed below:

1979 Report
Valuation Docket No. PV-1483-000—
Western Oil Transportation Company, Inc., P.O. Box 1183, Houston, Texas 77001

On or before October 3, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 365.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,
Administrative Officer, Oil Pipeline Board.
<table>
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<th>Docket No. and date filed</th>
<th>Applicant</th>
<th>Purchaser and location</th>
<th>Price per 1,000 ft³</th>
<th>Pressure base</th>
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<td>G-3740-000, D, Aug. 8, 1983</td>
<td>Getty Oil Co., P.O. Box 1404, Houston, Texas 77251</td>
<td>Tennessee Gas Pipeline Co., East Bay City Field, Matagorda County, Texas</td>
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ENVIRONMENTAL PROTECTION AGENCY

[OPP 180624; PH-FRL 2421-4]

Pesticides; Emergency Exemptions Granted; Metalaxyl; etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the U.S. Department of the Interior, Department of the Army Corps of Engineers, and the States listed below for the control of various pests. Also listed are crisis exemptions initiated by the States.

DATES: See each specific, crisis, and quarantine exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific, crisis, and quarantine exemption for the name of the contact person.

FOR ADDITIONAL INFORMATION: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office Location and Telephone Number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7400).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture and Commerce for the use of metalaxyl on avocado to control downy mildew; June 1, 1983 to May 25, 1984. (Jack E. Housenger)

2. Arizona Department of Agriculture and Commerce for the use of metalaxyl on head lettuce to control downy mildew; June 1, 1983 to September 15, 1983. (Jim Tompkins)

3. Arkansas State Plant Board for the use of triphenyltin hydroxide on rice to control sheath blight; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

4. California Department of Food and Agriculture for the use of metalaxyl on head lettuce to control downy mildew; June 1, 1983 to May 25, 1984. California had initiated a crisis exemption for this use. (Jack E. Housenger)

5. California Department of Food and Agriculture for the use of permethrin on tomatoes (fresh market only) to control leafminers; June 1, 1983 to June 15, 1984. Florida had initiated a crisis exemption for this use. (Jack E. Housenger)

6. California Department of Food and Agriculture for the use of metalaxyl on asparagus to control Phytophthora megasperma; May 24, 1983 to March 23, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

7. California Department of Food and Agriculture for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

8. California Department of Food and Agriculture for the use of iprodione on grapes to control bunch rot; June 14, 1983 to June 1, 1984. (Gene Asbury)

9. California Department of Food and Agriculture for the use of bayleton on tomatoes to control flies; June 14, 1983 to September 30, 1983. (Jim Tompkins)

10. California Department of Food and Agriculture for the use of metalaxyl on apricots to control leafspot; June 14, 1983 to September 30, 1983. (Jim Tompkins)

11. California Department of Food and Agriculture for the use of cyromazine in layer poultry houses to control flies; June 14, 1983 to December 31, 1983. (Jim Tompkins)

12. California Department of Food and Agriculture for the use of metalaxyl on almonds and cherry trees to control Phytophthora; June 20, 1983 to August 31, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

13. California Department of Food and Agriculture for the use of metalaxyl on asparagus to control Phytophthora megasperma; May 24, 1983 to March 23, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

14. Florida Department of Agriculture and Consumer Services for the use of cyromazine on tomatoes (fresh market only) to control leafminers; June 28, 1983 to June 15, 1984. Florida had initiated a crisis exemption for this use. (Jack E. Housenger)

15. Illinois Department of Agriculture for the use of permethrin on pumpkins to control squash bugs; June 30, 1983 to November 1, 1983. (Gene Asbury)

16. Indiana State Chemist and Seed Commissioner for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

17. Iowa Department of Agriculture for the use of oxyfluorfen on dry bulb onions to control broadleaf weeds; June 14, 1983 to September 30, 1983. (Jim Tompkins)

18. Kansas State Board of Agriculture for the use of dimethoate on tobacco to control flies; June 21, 1983 to December 31, 1983. Kansas had initiated a crisis exemption for its effective dates.

19. Louisiana Department of Agriculture for the use of triphenyltin hydroxide on rice to control sheath blight and stem rot; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

20. Massachusetts Department of Food and Agriculture for the use of acephate on cranberries to control brown spanworms; June 22, 1983 to August 1, 1983. (Libby Welch)

21. Massachusetts Department of Food and Agriculture for the use of cyromazine in poultry houses to control flies; June 21, 1983 to December 31, 1983. (Jim Tompkins)

22. Mississippi Department of Agriculture and Commerce for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

23. Mississippi Department of Agriculture and Commerce for the use of triphenyltin hydroxide on rice to control sheath blight, sheath spot, and/or stem rot; June 3, 1983 to September 30, 1983. (Jim Tompkins)

24. Montana Department of Agriculture for the use of dimethoate on lentils to control aphids; June 15, 1983 to August 31, 1983. (Gene Asbury)

25. New Hampshire Department of Agriculture for the use of cyromazine in layer poultry houses to control flies; June 14, 1983 to December 31, 1983. (Jim Tompkins)

26. New Jersey Department of Environmental Protection for the use of cyromazine in layer poultry houses to control flies; June 14, 1983 to December 31, 1983. New Jersey had initiated a crisis exemption for this use. (Jim Tompkins)

27. New Jersey Department of Environmental Protection for the use of methyl bromide on blueberries to control blueberry maggots, plum
curculios, Japanese beetles, redbanded leafrollers, obliquebanded leafrollers, blueberry leafminers, and budmoughs: June 29, 1983 to September 1, 1983. (Libby Welch)

28. New Jersey Department of Environmental Protection for the use of ethephon on wheat and barley to control lodging; June 30, 1983 to July 15, 1983. (Libby Welch)

29. New Jersey Department of Environmental Protection for use of metalaxyl on apples to control collar rot; June 1, 1983 to December 31, 1983. (Jack E. Housenger)

30. New Jersey Department of Environmental Protection for the use of methomyl on cranberries to control Sparganothis fruitworms; June 20, 1983 to August 31, 1983. New Jersey had initiated a crisis exemption for this use. (Libby Welch)

31. New Jersey Department of Environmental Protection for the use of triadimefon on asparagus to control asparagus rust that appears before August 1, 1983 and cannot be controlled by registered alternatives; June 15, 1983 to October 1, 1983. (Jim Tompkins)

32. New Jersey Department of Environmental Protection for the use of cyhexatin on eggplants to control twospotted spider mites; June 16, 1983 to October 1, 1983. (Jack E. Housenger)

33. New York Department of Environmental Conservation for the use of metalaxyl on head lettuce to control downy mildew in Oswego County; July 8, 1983 to October 15, 1983. (Jack E. Housenger)

34. New York State Department of Environmental Conservation for the use of vinclozolin on grapes to control Botrytis bunch rot; June 18, 1983 to October 31, 1983. (Libby Welch)

35. North Carolina Department of Agriculture for the use of disulfoton on asparagus to control asparagus aphids; June 21, 1983 to October 20, 1983. (Gene Asbury)

36. North Carolina Department of Agriculture for the use of acephate on non-bell peppers to control European corn borers; June 22, 1983 to October 31, 1983. (Gene Asbury)

37. Ohio Department of Agriculture for the use of acephate on leafy-type lettuce to control green peach aphids; June 30, 1983 to October 31, 1983. (Libby Welch)

38. Ohio Department of Agriculture for the use of vinclozolin on grapes to control Botrytis bunch rot; June 16, 1983 to October 31, 1983. (Libby Welch)

39. Oregon Department of Agriculture for the use of vinclozolin on grapes to control Botrytis bunch rot; June 16, 1983 to October 31, 1983. (Libby Welch)

40. Tennessee Department of Agriculture for the use of cyromazine in layer poultry houses to control flies; June 30, 1983 to December 31, 1983. (Jim Tompkins)

41. Texas Department of Agriculture for the use of monocrotophos on field corn to control Banks grass mites; July 6, 1983 to November 30, 1983. Texas had initiated a crisis exemption for this use. (Gene Asbury)

42. Texas Department of Agriculture for the use of triphenyltin hydroxide on rice to control sheath blight and sheath spot; June 3, 1983 to September 30, 1983. (Jack E. Housenger)

43. Washington Department of Agriculture for the use of iprodione on grapes to control bunch rot: June 14, 1983 to October 31, 1983. (Libby Welch)

44. Wisconsin Department of Agriculture for the use of thiobencarb on lettuce (iceberg, romaine, Boston, bibb and leaf) to control barnyardgrass and purslane; June 24, 1983 to March 1, 1984. (Gene Asbury)

45. Wyoming Department of Environmental Protection for the use of ethephon on wheat and barley to control lodging; June 30, 1983 to August 15, 1983. (Libby Welch)

46. Department of the Army, Corps of Engineers, for the use of butoxyethanol ester of 2, 4-dichlorophenoxyacetic acid for aquatic use to control Eurasian watermilfoil in Washington; June 15, 1983 to November 15, 1983. (Gene Asbury)

47. United States Department of the Interior for the use of strychine on seed orchards to control porcupines: EPA initiated a rebuttable presumption against registration (RPAR) on this chemical; the final determination has not yet been made. June 8, 1983 to June 8, 1984. (Libby Welch)

Crisis exemptions were initiated by the:

1. Arkansas State Plant Board on June 3, 1983, for the use of sodium chlorate on wheat as a desiccant. Since it was anticipated that this program would not be needed for more than 15 days, Arkansas did not request a specific exemption to continue it. (Gene Asbury)

2. Louisiana Department of Agriculture on May 31, 1983, for the use of triadimefon on seed corn to control rusts. Since it was anticipated that this program would not be needed for more than 15 days, Louisiana did not request a specific exemption to continue it. (Jim Tompkins)

3. Michigan Department of Agriculture on June 7, 1983, for the use of cyromazine in layer poultry houses to control houseflies. Since it was anticipated that this program would be needed for more than 15 days, Michigan has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1983. (Jim Tompkins)

4. Mississippi Department of Agriculture and Commerce on June 24, 1983, for the use of sodium chloride on wheat as a desiccant. Since it was anticipated that this program would not be needed for more than 15 days, Mississippi did not request a specific exemption to continue it. (Gene Asbury)

5. New Jersey Department of Environmental Protection on June 3, 1983, for the use of methomyl on cranberries to control the Sparganothis fruitworms. Since it was anticipated that this program would be needed for more than 15 days, New Jersey has requested a specific exemption to continue it. The need for this program is expected to last until July 31, 1983. (Libby Welch)

6. New Jersey Department of Environmental Protection on June 7, 1983, for the use of cyromazine in poultry houses to control flies. Since it was anticipated that this program would be needed for more than 14 days, New Jersey has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1983. (Jim Tompkins)

7. Texas Department of Agriculture on May 5, 1983, for the use of monocrotophos on field corn to control Banks grass mites. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until November 30, 1983. (Gene Asbury)

8. Texas Department of Agriculture on June 15, 1983, for the use of cyromazine on laying hens producing eggs for hatching purposes to control flies. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested an amendment to a specific exemption to continue it. The program will end on December 31, 1983. (Jim Tompkins)

9. Wisconsin Department of Agriculture, Trade, and Consumer Protection on June 1, 1983, for the use of iprodione on lettuce to control lettuce drop and bottom rot. Since it was anticipated that this program would be needed for more than 15 days, Wisconsin has requested a specific exemption to continue it. The need for this program is expected to last until November 1, 1983. (Gene Asbury)

10. Wyoming Department of Agriculture on June 28, 1983, for the use of carbaryl in ground squirrel boroughs to control fleas carrying bubonic/ pneumonic plague. The program ended on July 4, 1983. (Libby Welch)
The following quarantine exemptions were granted to the United States Department of Agriculture for use around the country on June 14, 1983 and will be in effect until June 14, 1984. (Jack Housenger and Libby Welch):

1. Ethylene oxide-carbon-dioxide mixture to control snails and slugs on miscellaneous cargo.
2. Hydrogen cyanide to control cotton insects, khapra beetles, and slugs in ship holds or temporary enclosures.
3. Methyl bromide to control khapra beetles and slugs in ship holds or temporary enclosures.
4. Methyl bromide to control golden nematodes, witchweed, cotton insects, and gypsy moths found under tarpaulins or on machinery and nonplant materials.
5. Methyl bromide to control wilt fungus on logs.
6. Aluminum phosphide to fumigate stored nonfood products in ship holds, under tarpaulins, or in temporary enclosures.
7. Formaldehyde to fumigate rice straw and bulk in small lots at ports of entry.
8. Formaldehyde as a spot treatment for nematode cyst-infested material moving from an infested area or port of entry.
9. G-1707—Pyrethrum extract to control fruit flies and other soft-bodied insects in aircraft and cargo containers.
10. d-Phenothrin to control fruit flies and other soft-bodied insects in aircraft and cargo containers.
11. Malathion to control quarantined insects when applied to metal and wood-surfaced areas associated with the infestation.
12. Malathion to control insects when applied to asphalt surfaces (asphalt base paint) associated with the infestation.
13. Malathion-carbaryl-dicofol dip to control insects or mites on orchids and other plants or plant parts before propagation.
14. Malathion-carbaryl dip to treat plants (not orchids) not tolerant to methyl bromide at inspection stations.
15. Formaldehyde to treat seeds at inspection stations.
16. Bordeaux mixture as a foliar spray to control surface disease on plants at inspection stations.
17. Carbon disulfide-carbon tetrachloride mixture to treat seeds for propagation at inspection stations.
18. Sodium hydroxide applied as a disinfectant in semen containers.
19. Copper carbonate to treat seeds, which can be completely coated, at inspection stations.
20. Copper sulfate to treat some seeds and dead plant material at designated inspection stations.
21. Copper carbonate to treat seeds that are not covered by any other treatment at designated inspection stations.
22. Zineb to treat certain plants infested with diseases at designated inspection stations.
24. Dichlorvos for use in gypsy moth and khapra beetle traps.
27. Trifluralin to control witchweed on established lawns and turf.
28. Methyl bromide to kill witchweed seeds in soil on fallow fields and small plots of land to be released from quarantine.
29. Sodium carbonate as a surface disinfectant in semen containers and potentially exposed to certain animal diseases.
30. Sodium carbonate-sodium silicate mixture applied to aircraft surfaces potentially exposed to certain animal diseases.
31. Sodium hypochlorite applied to surfaces potentially exposed to certain animal diseases.
32. Sodium hydroxide applied as a sterilant to exposed surfaces, animal product containers, and hay and straw.
33. Sodium salt of ortho-phenylphenol applied to surfaces exposed to certain animal diseases.
34. Resmethrin aerosol to control fruit flies and other soft-bodied insects in aircraft and cargo containers when people or animals are present.
35. Resmethrin micronized dust to control fruit flies and other soft-bodied insects in aircraft and cargo containers when people or animals are present.
36. 6-Hydroxyquinoline sulfate to treat plant diseases in citrus and other rutaceous seeds at inspection stations.
37. Sodium hypochlorite to control propagative plant parts and plant materials at inspection stations.
38. Sodium carbonate as a surface disinfectant in semen containers and potentially exposed to certain animal diseases.
39. Nicotine sulfate to control aphids on propagative plants in quarantine.
40. d-Phenothrin to control mealy bugs and aphids on propagative plants in quarantine.
41. Cyhexatin to control spider mites on propagative plants in quarantine.
42. Dinocap to control spider mites on propagative plants in quarantine.

(Discs. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: August 11, 1983.
Edwin L. Johnson, Director, Office of Pesticide Programs.

[PR Doc. 83-22328 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30000/33B; PH-FRL No. 2425-1]

Pesticides; Intent To Cancel or Restrict Registrations of Products Containing EPN; Denial of Applications for Registration of Products Containing EPN; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel or restrict registrations and notice of denial of applications for registration.

SUMMARY: EPN-containing products are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. In September, 1979, EPA initiated a process to consider whether the registrations for EPN products should be cancelled or modified. This notice concludes that process and announces the Administrator's intent to cancel the registration of EPN for one use, to continue the registration of the food uses subject to certain standardized label requirements and use practice prohibitions, and to deny applications for registration of EPN products not in accordance with the terms of this Notice.

DATE: Requests for a hearing must be received on or before September 30, 1983, or (for registrants) within 30 days from receipt of this Notice, whichever occurs later.


Copies of the Decision Document are available upon request from: By mail: Harvey L. Warnich, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Office location and telephone number: Room 219, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

FOR ADDITIONAL INFORMATION CONTACT: Harvey L. Warnich (703-557–2200).
I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered [FIFRA sections 3(a) and 12(a)(1)]. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" [FIFRA section 3(c)(5)], that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide" [FIFRA section 2(bb)]. (A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions). For a pesticide product to be registrable, the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the criteria for registration is on the proponents of initial or continued registration.

Under FIFRA section 6, the Administrator may cancel the registration of a pesticide product or modify the terms and conditions of its registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the environment. The agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide products (or uses thereof) which may not satisfy the statutory standard for registration, and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these products and uses. The regulations governing the RPAR process are set forth in 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by issuing a notice for publication in the Federal Register and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence concerning the economic, social and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a notice in which the Agency states and explains its decision as to whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination contains an evaluation of the information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each individual use pattern. In determining whether each use of such a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk and the impacts of such modifications on the benefits of the use. The final notice of determination is supported by a Decision Document (or final Position Document).

B. Background

In the Federal Register of September 19, 1979 (44 FR 54384), EPA issued a Notice of Rebuttable Presumption Against Registration of Pesticide Products Containing EPN. The Agency based the presumption against registration upon studies showing that EPN causes delayed neurotoxic effects in test animals, and is acutely toxic to aquatic organisms. The Agency also identified five other possible adverse effects of EPN for which insufficient information existed to issue a rebuttable presumption. These effects were: (1) Teratogenic effects; (2) cholinergic effects; (3) disorders of the eye; (4) possible mutagenic effects; and (5) reductions in populations of nontarget organisms (honeybees). The existence of a data gap for oncogenic effects was also noted. In addition, the Agency noted EPN's ability, when used in combination with another insecticide, to potentiate the effect, i.e., cause the total effect of the two chemicals to be greater than the sum of the two effects taken independently. The Agency invited rebuttal or other comment on these risks and the other issues raised by the presumption against EPN registration.

Since publication of the RPAR, the Agency has evaluated the comments received from registrants and others regarding the risks and benefits of EPN. The Agency has reassessed EPN's chemistry, environmental activity and movement, toxicity, effects upon wildlife populations, and the exposure of humans and animals to EPN, and has evaluated the benefits of EPN use and the effects of cancellation upon the agricultural economy.

These evaluations and analyses confirm that EPN produces delayed neurotoxicity in chickens; is acutely toxic to honeybees, causing reductions in local/regional populations of these nontarget organisms; and is acutely toxic to aquatic organisms (mosquito larvicide use only). Examination of the current patterns of use and the potential for exposure indicates that an ample margin of safety exists for human dietary exposure to the crops on which EPN is used. Likewise, ample margins of safety exist for applicators, with the exception of human flaggers. With regard to honeybees, EPN was found to be acutely toxic to honeybees, and sufficient residues remain two to three days after application to present an acute hazard to bees. However, appropriate labeling requirements were found to mitigate this acute toxicity sufficiently. Overall, the economic and agricultural benefits associated with most major uses of EPN are found to be minor; however, these benefits are substantial for individual growers of certain crops in specific regions of the country. The economic and social benefits of the mosquito larvicide use of EPN are found to be negligible.

C. Content of This Notice

This Notice announces the Agency's intent to cancel the registrations of EPN-containing products for one pesticide use and to modify the terms and conditions of registration for all other uses, and provides notice of the availability of the Decision Document concluding the RPAR for EPN. The Agency has determined that for the mosquito larvicide use of EPN remedial measures short of cancellation would not suffice to avoid unreasonable adverse effects on the environment because, when used according to label directions at recommended dosage rates, one half the LC50 for aquatic organisms is exceeded, regardless of any restrictions on applicator practices. Therefore, the Agency has determined that the registrations for this use should be cancelled.

The EPN Decision Document summarizes earlier actions taken by the Agency concerning EPN, and sets forth the Agency's rationale for the cancellation of EPN registration for the mosquito larvicide use and other elements of the regulatory decision. A
summary of the Agency’s final regulatory decision on EPN follows; details of the decision are set forth in Unit III of this Notice.

Table 1—Summary of Final Regulatory Decision on EPN

<table>
<thead>
<tr>
<th>Use site</th>
<th>Final decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mosquito Larvicide use</td>
<td>Cancel, effective as of the end of the statutory prescribed 30-day period.</td>
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</tbody>
</table>
| Cancel, unless the following modifications are made to the terms and conditions of registration: Human flagger prohibited unless in totally enclosed vehicles. Standardize label requirements for protective clothing, goggles, and respirators, the phrase “protective clothing required” to appear prominently in bold-faced type, as follows: Protective Clothing Required. Wear clean protective clothing, goggles, and respirator approved by the EPA or the American National Standards Institute when applying or handling, or when reentering facilities within 8 hours. The following protective clothing must be worn: lightweight, unlined natural rubber gloves at least mid forearm in length; a white brimmed work hat or rainproof hood, a protective suit or coveralls of a non-permeable, non-cloth material covering the body from ankles to wrists, lightweight, unlined natural rubber boots at least mid-calf in length; full-face respirators are recommended; half-face respirators and goggles are required. Aerial applicators in positive pressure cockpits and other applicators in comparable ground equipment with appropriate filters at all air intakes need not comply with these protective clothing requirements. The following statement must appear in the “Use Directions” section of the label: “Do not apply this product when weather conditions favor drift from treated areas.” The following statement must appear in the “Environmental Hazards” section of the label for WP and EC EC formulations: “This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.”
| All other uses                | Cancel, effective as of the end of the statutory prescribed 30-day period. |

Table 1—Summary of Final Regulatory Decision on EPN—Continued

<table>
<thead>
<tr>
<th>Final decision</th>
<th>Areas for further consideration.</th>
<th>Teratogenic effect; Ordnogonic effect; Delayed neurotoxic effect; Reptivity.</th>
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</thead>
</table>
| Unit II of this Notice provides a summary of the risk and benefits of the pesticidal uses of EPN. Unit III presents the Agency’s regulatory decision. Unit IV sets out the comments submitted to the Agency by the Secretary of Agriculture and former members of the Scientific Advisory Panel. Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registrations to conform to the requirements of this Notice in order to continue their registrations for those uses of EPN retained under this Notice. II. Summary of Risks and Benefits of the Pesticidal Use of EPN

In reaching the decisions set out in the EPN Decision Document, the Agency has considered information on potential health risks, environmental effects and the economic and social benefits associated with the pesticidal uses of EPN. The detailed assessments of risks and benefits and the conclusions regarding its use are set forth in the EPN Decision Document. This section of the Notice summarizes those determinations.

A. Determination of Risks

Based on studies in laboratory animals, the Moeller and Rider human study, and ecological reports, the Agency has concluded that the use of EPN as a pesticide poses risks of: (1) Delayed neurotoxicity; (2) reduction in local/regional populations of nontarget organisms (honeybees); and (3) acute toxicity to aquatic organisms (mosquito larvicide use only). Much of the information supporting this conclusion was set forth in the EPN Position Document 1. As developed fully in Chapters III and IV of the Decision Document, the Agency has determined that the information submitted to overcome the risk concerns cited above was insufficient to overcome the presumption against EPN for these effects. Moreover, additional information has become available to the Agency since the issuance of the RPAR which substantially reinforces the Agency’s conclusion.

A quantitative assessment has been conducted of the delayed neurotoxic risk posed: (1) To the general public as a result of EPN residues on food commodities derived from cotton, corn, and soybeans, and (2) to workers subject to dermal and respiratory exposure via involvement in EPN application procedures. It should be noted that estimates of risk can be taken only as an indication of the possible relative magnitude of risk and therefore should not be considered as absolute levels of risk. Given current use patterns, the Agency has determined that an ample margin of safety exists for dietary exposure to the crops on which EPN is used. Likewise, ample margins of safety exist to the following applicator groups, provided that protective clothing is worn: pilots, mixer/loaders, and ground applicators. An ample margin of safety does not hold for human flaggers.

With regard to the risk of reduction in populations of nontarget organisms (honeybees), the Agency has determined that EPN is acutely toxic to honeybees, and that sufficient residues remain for two to three days after application to present an acute hazard to bees. However, because cancellation of EPN would have a negative economic impact on growers who use EPN, the Agency has determined that EPN will be retained since this hazard can be sufficiently mitigated through standardized labeling requirements.

With regard to the acute risk to aquatic organisms, the Agency has concluded that the risks of EPN use as a mosquito larvicide outweigh the benefits and that therefore this use should be cancelled. This conclusion is based on: (1) The inherent acute risk to aquatic organisms from this use when EPN is used as directed on the label, (2) the negligible economic impact of cancellation, (3) the availability of several less toxic and economical alternatives, and (4) the inability of other less rigorous regulatory options to reduce the risk to an acceptable level.

B. Determination of Benefits

EPN is registered for use as a broad spectrum insecticide and acaricide on a large number of agricultural crops and for ground and aerial application as a mosquito larvicide. Although registered for use on numerous agricultural crops, EPN is used primarily on cotton, field corn, sweet corn, and soybean. EPN’s use on other food crops is negligible. EPN was not used as a cotton insecticide to any significant degree until the mid-1970’s. Usage peaked in 1977 at 11.1 million pounds of active ingredient, but dropped sharply in 1978.
to 3.8 million pounds active ingredient and has continued to decline to approximately between 1.5 to 2.7 million pounds active ingredient to the introduction of the synthetic pyrethroids, fenvalerate and permethrin. to the cotton insecticide market.

In terms of comparative efficacy with other insecticides, the Agency has assumed, in the absence of data, that the several alternative insecticides registered to control the target pests on cotton are at least as effective as EPN. Laboratory testing, however, has raised the possibility of eventual resistance to the synthetic pyrethroids. Although no documentation exists to substantiate resistance problems outside the laboratory, this factor is of concern to the agricultural economy. EPN appears to be slightly more costly on a per acre treatment per day than the fenvalerate and permethrin at the minimum and maximum application rates. In isolated cases, growers may experience benefits of $2.00 per acre.

A major limitation of this economic analysis is that the agency relied on estimated treatment intervals which were developed in Mississippi and, therefore, may not reflect pest management practices in other areas of the cotton belt where EPN is primarily applied. Thus, it should be recognized that the benefits of EPN to the cotton market could be greater if the estimates for the synthetic pyrethroids do not reflect practices elsewhere.

Data did not exist on EPN's use on soybeans. Based on estimates supplied by local extension experts, EPN's use on soybeans ranges between approximately two to seven hundred thousand pounds. In the absence of data to the contrary, the agency assumed that alternative pesticides (at least two) for this use were as effective as EPN. EPN, however, is the least costly insecticide. Thus, cancellation of EPN for this use would result in increased treatment costs of from $0.4 to $1.4 million annually to producers. A negligible increase in cost also could result for processors and consumers.

For field corn, EPN is used on 184,000 acres. Several alternatives to EPN are available which, for analytical purposes, were assumed to be of equal efficacy. These alternatives range from much more costly than EPN to less costly than EPN. Because of the wide range of alternatives available for treatment of the target pests on corn, the overall impact of a cancellation on producers and consumers is estimated to be slight.

With respect to pecans, EPN is registered to control a variety of pests although it is commonly used to control the pecan weevil, pecan nut casebearer, hickory shuckworm, aphids, and stinkbugs. Limited test-plot data revealed the availability of alternative pesticides which are as effective as EPN, some of which are more costly and some of which are less costly. Overall, the impact to growers could range from $3.26 to $11.79 per acre treatment or an aggregate cost of from $164 to $173 thousand. Although the aggregate impact is estimated to be negligible nationwide, it could be substantial for some individual growers, depending upon climatic conditions, local pest problems and the alternative which is selected.

EPN is estimated to be used on from 4 to 20 percent of total acre-treatment of sweet corn for the European corn borer. EPN was found to be equal or superior in effectiveness to methomyl and encapsulated methyl parathion. In the absence of data, major alternatives other than methomyl and methyl parathion are assumed to be equally as effective as EPN. For growers in the North Central region, treatment costs could decrease with a potential cancellation. In the Northeast, however, cost would increase. Although small, the net cost for the two regions combined would increase from $10 to $58 thousand per year.

In summary, the overall impact of an EPN cancellation is estimated to be slight; however, substantial cost increases could accrue to individual growers of certain crops in specific regions of the country.

III. Initiation of Regulatory Action

Based upon the determination summarized above and discussed in detail in Position Document I and the EPN Decision Document, the Agency has determined that the risks arising from the use of EPN as a mosquito larvicide are greater than the social, economic, and environmental benefits of such use. Accordingly, the Agency has determined that the mosquito larvicide use can be cancelled without placing an unreasonable burden on the pest control community. EPN has been used as a mosquito larvicide in recent years only in California where an annual average of 68 pounds active ingredient were used during the period 1974-1979. Records show no current use of EPN for that purpose in that State. Because this product exceeds one half the LC50 for aquatic organisms when used according to label directions at the recommended dosage rates, the Agency has concluded that further label changes or any other remedial measures short of cancellation would not mitigate the adverse effects from use of this product as a mosquito larvicide.

The Agency has determined that the risks of all remaining EPN uses are greater than the social, economic, and environmental benefits of such uses. Unless risk reductions are accomplished through modifications in the terms and conditions of registration. Modifications in the terms and conditions of registration will accomplish significant risk reductions without significant impacts on the benefits of use. Accordingly, the Agency has determined that EPN products for use on all other crops may continue to be registered subject to changes in the terms and conditions of their registrations. The determination that these uses can be continued is based on the Agency’s conclusion that: (1) ample margins of safety exists for all applicator groups except for human flaggers. Human flaggers will be adequately protected, however, through implementation of the Agency’s decision which requires that flagging be by fully automated mechanical means or by humans working in totally enclosed vehicles; (2) reductions in applicator exposure will be achieved through the standardized protective clothing and other label requirements; (3) most existing registered EPN formulations are restricted use pesticides; (4) users in localized regions of the country could encounter substantial economic impacts if all uses of EPN were cancelled; and (5) possible pest resistance to alternative insecticides which would likely replace EPN if all uses were cancelled is a continuing concern to the agricultural community. The Agency hereby initiates the following regulatory actions:

A. Mosquito Larvicide Use

EPN-containing products which are registered as a mosquito larvicide are cancelled effective as of the end of the statutorily prescribed 30-day period.

B. Cotton

Registrations will be cancelled and applications for registration of EPN products for use on cotton will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase “protective clothing required” to appear prominently in bold face type, as follows:
Protective Clothing Required: Wear clean protective clothing, goggles, and respirator approved by NIOSH or the American National Standards Institute when applying or handling, or when reentering fields within [at least 24] hours of treatment. The following protective clothing must be worn: lightweight, unlined, natural rubber gloves at least midforearm in length; a wide brimmed waterproof hat or waterproof hood; a protective suit or coveralls of a nonpermeable, non-cloth material covering the body from ankles to wrists; lightweight, unlined, natural rubber boots at least mid-calf in length; full-face respirators are recommended; half-face respirators and goggles are required. Aerial applicators in positive pressure cockpits and other applicators in comparable ground equipment with appropriate filters at all air in-takes need not comply with these protective clothing requirements.

The following statements must appear in the "Use Directions" section of the label:

1. Do not apply this product when weather conditions favor drift from treated area.
2. [applies only to WP and EC formulations] Do not apply to crops or weeds if bees are visiting the treatment area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

C. Soybeans

Registrations will be cancelled and applications for registration of EPN products for use on soybeans will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold type on the label. [Label statement given in full in Unit B. above.]

The following statement must appear in the "Use Directions" section of the label:

1. Do not apply this product when weather conditions favor drift from treated area.
2. [applies only to WP and EC formulations] Do not apply to corn during the pollenshed period if bees are visiting the treatment area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

D. Field Corn

Registrations will be cancelled and applications for registration of EPN products for use on field corn will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold face type. [Label statement given in full in Unit B. above.]

The following statements must appear in the "Use Directions" section of the label:

1. Do not apply this product when weather conditions favor drift from treated area.
2. [applies only to WP and EC formulations] Do not apply to corn during the pollenshed period if bees are visiting the treatment area.

E. Sweet Corn

Registrations will be cancelled and applications for registration of EPN products for use on sweet corn will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "Protective clothing required" to appear prominently in bold face type on the label. [Label statement given in full in Unit B. above.]

The following statements must appear in the "Use Directions" section of the label:

1. Do not apply this product when weather conditions favor drift from treated area.
2. [applies only to WP and EC formulations] Do not apply to corn during the pollenshed period if bees are visiting the treatment area.

F. Pecans

Registrations will be cancelled and applications for registration of EPN products for use on pecans will be denied unless registrations or applications modify the terms and conditions of registration as described below:

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold face type on the label. [Label statement given in full in Unit B. above.]

The following statement must appear in the "Use Directions" section of the label:

Do not apply this product when weather conditions favor drift from treated area.

The following statement must appear in the "Environmental Hazards" section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

G. Other Food Uses

Registrations will be cancelled and applications for registration of EPN products for use on other food crops will be denied unless registrants or applicants modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

Label requirements for protective clothing, goggles, and respirators must be standardized, the phrase "protective clothing required" to appear prominently in bold face type on the label. [Label statement given in full in Unit B. above.]

The following statements must appear in the "Use Directions" section of the label:

1. Do not apply this product when weather conditions favor drift from treated area.
2. [applies only to WP and EC formulations] Do not apply to stone fruits, pome fruits, and citrus during the pollenshed period if bees are visiting the treatment area.

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

Registerations will be cancelled and applications for registration of EPN products for use on other food crops will be denied unless registrations or applications modify the terms and conditions of registration as described below:

For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.
The following statement must appear in the “Environmental Hazards” section of the label for WP and EC formulations:

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops and weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting the treatment area.

H. Other Recommendations—All Food Uses

Pursuant to Section 408 of the Federal Food, Drugs, and Cosmetic Act, the Administrator may establish tolerances for residues of a pesticide on raw agricultural commodities. Compliance with the tolerances is monitored by the Food and Drug Administration and the Department of Agriculture. The Agency has determined that EPN tolerances require reassessment. Data necessary to reassess EPN tolerances is required.

1. Areas for Further Consideration

The Agency has identified areas in which data are required. The Agency will require these gaps to be filled. The areas in which data are needed are:

(1) Teratogenic effects. Teratogenic studies in rats and rabbits are needed.
(2) Oncogenic effects. Studies on the oncogenic potential of EPN in rats and mice are needed.
(3) Delayed neurotoxic effects. The Agency will require a study to explore the mechanism of “recovery” from a mild case of EPN-induced delayed neurotoxicity in an experimental animal species. The study should be designed to distinguish between regrowth and/or repair of damaged axons or compensation by learning to use the remaining functional system. Use of a combination of electrophysiological and histopathological methodology will be considered. The possibility of using a species other than the chicken will also be considered based on the recent Abou-Donia et al. (1983) demonstration of EPN-delayed neurotoxicity in the cat.
(4) Reentry time reassessment. Data necessary to reassess the 24-hour reentry time for EPN is required.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. Comments of Former Members of the Scientific Advisory Panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel “for comment as to the impact of the proposed action on health and the environment.” At the time the Agency completed its review of EPN, the statutory authorization for the Scientific Advisory Panel (SAP) had expired. However, in order to obtain peer review of its scientific evaluations and conclusions, the Agency submitted several scientific issues concerning the delayed neurotoxicity trigger to the former members of the SAP for review and comment. The Agency specifically requested the scientists to review the neurotoxicity studies and the human study which served as the basis for the Agency’s preliminary risk assessment in the draft Decision Document and its evaluation of those studies. In addition, the Agency requested that the scientists review and evaluate a new neurotoxicity study submitted by the registrants. Of particular concern to the Agency were recommendations from the former SAP members for determining a no effect level for delayed neurotoxicity and an appropriate safety factor to be used for delayed neurotoxicity. The comments received from the former SAP members are excerpted and quoted below. These comments do not require direct response by the Agency, as they are consistent with the regulatory actions set forth in this Notice.

1. No Effect Level for Delayed Neurotoxicity. Of the eight documents reviewed, the most significant is the human data provided by Moeller Rider. Although the end point measured was cholinesterase depression, this should be related in man to an ultimate risk of delayed neurotoxicity. [John E. Davies, M.D., Ph.D., Professor and Chairman, Department of Epidemiology and Public Health, University of Miami School of Medicine—hereinafter Dr. Davies]

The threshold for incipient toxicity for EPN observed in this human volunteer study was a daily dose of 9 mg. This dose produced a 20 percent inhibition of red cell and plasma cholinesterase two weeks after the daily administration of this dose. No neurologic deficits were noted even after a period of treatment and observation of 56 days. No cholinesterase depressions were noted when 8 mg of EPN were administered. This then is the no effect level which, for a 70 kilogram man would mean that no depression was observed when an approximate dose of 1 mg per kg was administered. This then seems to be the most logical no effect level to accept. It happens to be a level which closely approximates the two most acceptable toxicity studies, vis-a-vis the chronic chicken feeding study of the Huntington Laboratory Study (.5 mg per kg) and the Abou Donia Study (.1 mg per kg). Thus, these animal toxicology studies gave levels of the same order of magnitude as the human study. [Dr. Davies]

The major concern about the continuing use of EPN as an insecticide is its status as a delayed neurotoxin. EPN has been confirmed as producing organophosphorus ester induced delayed neurotoxicity (OPIDN) in the white leghorn hen in at least 14 independent studies as compiled in Table IV-1 in the Position Document. The earliest of these was the study of Durham et al. (1956). The majority of the studies demonstrated ataxia in the hen following single oral doses of 50-60 mg per kg; paralysis ensued in many of the experiments and histopathology showed characteristic lesions in spinal cord and sciatic nerve. EPN is highly toxic to the hen with an estimated oral LD₅₀ of about 5 mg per kg and acute cholinergic symptoms of poisoning greatly complicate survival of the hen for the 10- to 18-day period necessary to evaluate the induction of delayed neurotoxicity. A number of investigators have administered large doses of atrope to EPN-poisoned hens to decrease acute cholinergic effects. This, however, affects the pattern of absorption of EPN from the body and consequent elimination thus further complicating demonstration of OPIDN (Charzanowski and Jellinek 1981). [Dr. Robert Metcalf, Department of Entomology, University of Illinois—hereinafter Dr. Metcalf]

Administered in daily oral or dermal dosages to the hen, the delayed neurotoxic effects of EPN are discernable at very low rates of exposure. Abou Donia and Graham (1978) showed development of ataxia at 0.1 mg per kg per day over a 21-day period. Other studies tabulated in the Position Document produced ataxia at daily oral dosages of 2 to 6.7 mg per kg in feed. Francis et al (1982) showed ataxia in hens fed EPN in daily capsules at dosages ranging from 1.0 to 10 mg per kg with complete paralysis and death after 30 days at the 5.0 and 10 mg per kg dosages. [Dr. Metcalf] EPN also produces OPIDN when applied dermally to the hen at daily dosages ranging from 1.3 to 10 mg per kg (Francis et al 1982) over periods of 44-90 days. It can be concluded that the production of OPIDN in the hen has been studied more thoroughly than for any other pesticide and that there is absolutely no doubt of EPN’s capability to produce OPIDN at very low dosages following acute or chronic and oral and dermal exposure. [Dr. Metcalf]

There is evidence that EPN can produce OPIDN in the human. Petty (1956) records a case of an agricultural worker heavily exposed to EPN who suffered severe depression of red cell and plasma acetylcholinesterase following exposure. Several months later he experienced lack of sensation in hands and feet and difficulty in moving...
these extremities. Lack of coordination and general disability was present 2 years after exposure. Xintaras and Burg (1980) found evidence of neurological damage in workers producing EPN in a Chicago, Illinois factory. [Dr. Metcalf]

It is concluded that EPN is a highly hazardous delayed neurotoxin. It also has a relative high octanol/H₂O partition value, leading to substantial bioaccumulation. [Dr. Metcalf]

Since the study by Moeller and Rider was conducted in man, it is a very important study since it provides the only data in the target species. The conclusions of the study that 6 mg of EPN could be ingested daily for at least 47 days without toxicity (depression of erythrocyte and/or plasma cholinesterase activity). When the daily dose of EPN was increased to 9 mg, there was a moderate depression of blood esterase activity but no symptoms. Since adult male prisoners were used for these studies, the EPN dose required to produce effects was about 0.1 mg/kg/day. On the basis of this study, a NOEL of 0.1 mg/kg/day of EPN is reasonable. It is important to note that there was no evidence of neuromuscular effects in any of these subjects. The Abou-Donia paper demonstrated progressive, irreversible neurotoxic effects with EPN doses of .5 mg/kg/day (and greater), reversible effects with 0.1 mg/kg/day, and no effects with 0.01 mg/kg/day. [John Doull, M.D., Ph.D., Professor of Pharmacology and Toxicology, the University of Kansas—hereinafter Dr. Doull]

The Huntington study detected ataxia in birds given the two highest dosage levels of EPN (2.5 and 5 mg/kg/day) but not in the controls or lower dosage levels (0.01, 0.1, 0.5 and 1.0 mg/kg/day). The positive control (TOCP) for these studies produced ataxia at dosage levels of 5 and 10 mg/kg/day but not at 1.0 mg/kg/day. The one bird that clearly showed ataxia at the 2.5 mg/kg/day level was near death when the symptoms were noted. Histologic examination of the nervous system of these birds demonstrated treatment-related lesions in the groups given EPN dosage levels of 1.0 mg/kg/day and higher. Although the lesions in the birds exposed to the 1 mg/kg/day of EPN were “mild and only marginally greater than the level of spontaneous change found in the control birds”, the authors of this report concluded that the NOEL for delayed neurotoxicity from EPN in white leghorn chickens was 0.5 mg/kg/day. I found this study to be well carried out and much more useful than the two previous IBT studies in assessing the EPN effect. [Dr. Doull]

The EPN document cites two risk criteria which EPN meets or exceeds: . . . neurotoxic effects in chickens and acute aquatic toxicity. The issue . . . is not whether EPN can produce these effects, but whether a threshold or NOEL can be established and what that level should be. The Zendzian letter to Warnick (4/20/83) presents an excellent review of the Huntington study and his subsequent letter to Miller is a good comprehensive review of the problem of neurotoxicity test assays in chickens and other species. In his first letter on page 6 of the data evaluation report, it is stated that, “four birds on EPN 2.5 mg/kg/day showed ataxia. . . . In the table on this page, the authors of the report indicate that only one bird showed ataxia although in the bird health section of their report there is mention of weakness in other birds. There is a clinical difference between weakness and ataxia and the two should not be confused. After rereading the pathologist’s description of his grading scale for the histological examination of the slides, . . . there is no real difference between Grades I and II. Thus, my interpretation of data would be to agree with the conclusion of the authors of this report that a NOEL for delayed neurotoxicity of EPN has been established histologically at 0.5 mg/kg/day. Clinically, the NOEL would, of course, be much higher and the issue of whether one uses the clinical or the histologic findings to set the NOEL is discussed in the second letter of [Zendzian] has clearly identified the inability of non-chicken test assays to demonstrate the delayed neurotoxic type injury (Wallcrarian degeneration with dying-back phenomenon) and some of the problems associated with the chicken assay. The main problem with this assay, however, is that it may be a poor predictor for the target species. Gaines produced “neurotoxic effects” with over two dozen OPs in chickens, but we have not seen similar findings in man even in individuals who have been massively overexposed to the agents which he tested. The studies [performed] at the University of Chicago Toxicity Lab many years ago and the results of many subsequent investigations have clearly demonstrated the need for caution in using the results of neurotoxicity assays in chickens to make predictions of human exposure effects. [Dr. Doull]

. . . The best date that we have regarding the potential toxic effects of EPN are the human date generated by Moeller and Rider. Their findings are supported by the Epidemiologic studies described in the EPN position document, although I would agree with the document that the quality of these studies is inadequate for establishing a NOEL for man. If the agency uses the human data, then the criterion becomes depression of blood esterase, since there were no neurologic findings and the NOEL could be set at 0.1 mg/kg/day of EPN. If one accepts the argument that a cholinesterase depression of less than 50 percent is clinically nonsignificant in that cholinergic symptoms do not usually occur at this level, then the human-based NOEL would be 0.15 mg/kg/day of EPN. . . . The two major inputs would be the Huntington study, which supports a NOEL of 0.5 mg/kg/day for EPN, and the Abou-Donia study, which indicates that the EPN NOEL is closer to 0.1 mg/kg/day (one bird in each of the 0.1 and 0.5 mg/kg/day groups developed T₂ ataxia). It would appear, therefore, that the EPN NOEL should be set between 0.2 and 0.3 mg/kg/day on the basis of the leghorn assay. In the Abou-Donia study, the birds exhibited esterase inhibition (45 percent at 0.1 mg/kg), and these results are consistent with the human data from the Moeller and Rider study. [Dr. Doull]

The results for various mammals are trivial but the results for chickens are extensive. A serious flaw in all studies except Abou-Donia is that the hens were caged in groups. This procedure sets the stage for development of social rank with 2 consequences: (1) the low-ranking birds suffer stress with attendant effects on the adrenal including medullary tissue. The ramifications are complex; (2) the standard deviations are larger when animals are caged in groups than when caged individually. Thus precision is lowered. Therefore, I have more confidence in the Abou-Donia results (the capsule vs. feed problem is not related to the above points) . . . I have carefully reviewed the new neurotoxicity study. . . . The birds were caged in groups with about 8 ft²/bird, which is rather crowded and could set up adrenal processes. The irregularity of results (e.g. table 1 page 9, right hand column) may arise from variables associated with rank. The calculations of NOEL would have low precision. [Dr. David E. Davis, former Head,
Department of Agriculture
B. Comments of the United States
glaggers seems reasonable since
necessary corrections, if possible, or (ii)
either (i) the registrant makes the
occurs later, unless within that time
issued under paragraph (1), whichever
registrant, or publication, of a notice
shall become final and effective at the
federal Register section 6(b), the cancellations
requirements of this Notice.

applications for registrations for
cancel registrations and deny
for the mosquito larvicide use, and to
registration of products containing'EPN
the statutorily prescribed comment
made no additional comments during
earlier consultations, the Secretary
notice of determination. As a result of
comments be published with the final
Administrator's response to those
received from the Secretary and the


[Dr. Davies]
B. Comments of the United States
Department of Agriculture
Throughout the RPAR review of EPN,
the Agency periodically consulted with
the U.S. Department of Agriculture
(USDA) on matters relating to EPN uses.
During the course of those consultations,
the USDA expressed concerns about the
economic impact of an EPN cancellation
on individual growers of certain crops in specific regions of the country, and the
possibility of eventual pest resistance to
the synthetic pyrethroids, the major
alternative to EPN. The Agency carefully
considered these concerns and included a
discussion of them in the Benefits
Analysis Chapter of the Decision
Document.

Section 6(b) of FIFRA specifically
requires that all 6(b) notices be sent
with an analysis of the impact of the
proposed action on the agricultural
economy, to the Secretary of Agriculture
for comments, and that any comments
received from the Secretary and the
Administrator’s response to those
comments be published with the final
notice of determination. As a result of
earlier consultations, the Secretary
made no additional comments during
the statutorily prescribed comment
period.

V. Procedural Matters
This Notice announces the
Administrator’s intent to cancel the
registration of products containing EPN
for the mosquito larvicide use, and to
cancel registrations and deny
applications for registrations for EPN
products for the remaining uses unless
the terms and conditions of registration
are modified to comply with the
requirements of this Notice. As provided
in FIFRA section 6(b), the cancellations
and denials proposed in this Notice shall
become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice
issued under paragraph (1), whichever
occurs later, unless within that time
either (i) the registrant makes the
necessary corrections, if possible, or (ii)
a request for a hearing is made by a
person adversely affected by the notice.

Unless the necessary steps to make
these changes are taken within 30 days,
or unless a hearing is properly requested
to contest the cancellation or denial of
the registrations for EPN products, the
cancellation or denial actions will
become final at the end of 30 days. The
30-day time period in which to request a
hearing is applicable to all the
regulatory actions proposed in this
Notice. This unit of the Notice explains
how registrants may seek to make any
necessary corrections to modify the
terms and conditions of registration and
how registrants and other adversely
affected parties may request a hearing
on the cancellation action set forth in
this Notice.

A. Procedures for Amending the Term
and Conditions of Registration
To make the changes required to
avoid cancellation, registrants, within 30
days of receipt of this Notice, must
submit amended label(s) and
application(s) for amended
registration(s) making the necessary
corrections. Five copies of the amended
labeling and an application for amended
registration(s) must be submitted to: By
mail:
Jay Ellenberger, Product Manager,
Registration Division (TS-767C), Office
of Pesticide Programs, Environmental
Protection Agency, 401 M St., SW.,
Washington, D.C. 20460. Office location
and telephone number: Rm. 202, CM No.
2, 1921 Jefferson Davis Highway,
Arlington, VA (703-557-2386).

B. Procedure for Requesting a Hearing
Registrants adversely affected by the
actions described above may request a
hearing on such actions within 30 days
of receipt of this Notice, or within 30
days of publication of this Notice in the
Federal Register. Whichever occurs
later. Any other person adversely
affected by the actions described above
may request a hearing within 30 days of
publication of this Notice in the Federal
Register.
Applicants for registration affected by
the actions described above may
request a hearing on such actions within
30 days of receipt of this notice, or
within 30 days of publication of this
Notice in the Federal Register, which
ever occurs later. Other interested
persons may, with the concurrence of
the applicant, request a hearing during
the time period available to the
applicant.

All registrants, applicants, and other
interested affected parties, who request
a hearing must file the request in
accordance with the procedures
established by FIFRA and the Agency’s
Rules of Practice Governing Hearings
(40 CFR 164). These procedures require
among other things that (1) all requests
must identify the specific registration(s)
by registration number(s) and the
specific use(s) for which a hearing is
requested, (2) all requests must be
accompanied by objections that are
specific for each use of the identified
pesticide product for which a hearing is
requested, and (3) all requests must be
received by the Hearing Clerk within the
applicable 30-day period. Failure to
comply with these requirements will
result in denial of the request for a
hearing.

Request for a hearing must be
submitted to: Hearing Clerk [A-110],
Environmental Protection Agency, 401 M
Street, SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing To
File a Hearing Request
1. Consequence of filing a timely and
effective hearing request. If a hearing on
any action initiated by this Notice is
requested in a timely and effective
manner, the hearing will be governed by
the Agency’s rules of practice for
hearings under FIFRA section 6 (40 CFR
164). The hearing will be limited to those
uses and registrations (or applications)
for which a hearing has been requested.

2. Consequences of Failure to File in a
Timely and Effective Manner. If a
hearing concerning the cancellation or
denial of registration of a specific use of
a specific pesticide product containing
EPN has not been requested by the end of
the applicable 30-day period, registration of that EPN product will be
cancelled, or the application for
registration denied, unless the registrant
or applicant amends the terms and
conditions of his registration as
described in this document.

Dated: June 30, 1983.
Don R. Clay,
Acting Assistant Administrator for Pesticides
and Toxic Substances.
[FR Doc. 83-23862 Filed 8-30-83; 8:45 am]
BILLING CODE 4560-50-M

[OPP-31063; PH-FRL 2423-8]
Pesticides; Applications To Register
Products Involving Changed Use
Pattern; Kimberly Clark Corp. et al.
AGENCY: Environmental Protection
Agency (EPA).
ACTION: Notice.
SUMMARY: This notice announces receipt of applications to register or amend
registration of pesticide products
involving changed use pattern pursuant

to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by September 30, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-31060] and the file or registration number, should be submitted by mail to: Arturo Castillo, Product Manager (PM) 32. Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Arturo Castillo, PM-32, CM #2 Rm. 244, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Arturo Castillo, (703-557-3965).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received


2. File Symbol: 50096-G. Applicant: Wipex Laboratories Corp., c/o U.S. Corporation Co., 306 South St., Dover Kent, DE 19901. Product name: Wipex. Disinfectant. Active ingredients: Polyhexamethylene biguanide hydrochloride, (P.H.M.B.) 3.6% and Alkyl dimethyl benzyl ammonium chloride, Ca – 9.8%. Proposed classification/Use: General. For in its presently registered use in swimming pools a new use as a disinfectant impregnated cloth. 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. Written comments filed pursuant to this notice, will be available in the product manager's office from 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: August 5, 1982.

Douglas D. Campi, Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23754 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-31060; PH-FRL 2424-1]

Pesticides; Applications To Register Products Involving Changed Use Pattern; Mole and Gopher Get Manufacturing Co., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register or amend registration of pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by September 30, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-31060] and the file or registration number, should be submitted to the manager (PM) cited at the address below: Product Manager (PM), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 10403-E. Applicant: Mole and Gopher Get Manufacturing Co., PO Box 496, Petaluma, CA 94952. Product name: Mole and Gopher Get. Fumigant. Active ingredients: Trichloroethylene 51.1%, methylene chloride 46.4%, paradichlorobenzene 1.24%, and naphthalene 1.24%. Proposed classification/Use: General. To include in its presently registered use the use in underground burrows. Type registration: Conditional. (Product Manager (PM) 16—William Miller (703-557-2600)).

2. File Symbol: 12455-UU. Applicant: Bell Laboratories, Inc., Madison, WI 53704. Product name: Rodent Cake AG. Rodenticide. Active ingredient: Diphacinone 2-(diphenylacetyl)-1.3-indandione .005%. Proposed classification/Use: General. To include in its presently registered use in and around buildings the new use to control meadow mice and pine mice, voles, ground squirrels, and prairie dogs in orchards, noncrop areas, and rangeland. Type registration: Conditional. (PM 16—William Miller (703-557-2600)).

3. File Symbol: 3240-EL. Applicant: Motomco Ltd., Clearwater, FL 33518. Product name: Contrax-P-AG. Rodenticide. Active ingredient: 2-Pivalyl-1,3-indandione .025%. Proposed classification/Use: General. To include in its presently registered use in and around buildings the new use to control meadow mice and ground squirrels in orchards and noncrop areas. Type registration: Conditional. (PM 16—William Miller (703-557-2600)).

4. EPA Registration No.: 3125-318. Applicant: Moby Chemical Corp., PO Box 4913, Kansas City, MO 64120. Product name: Bayleton 25% Wettable Powder. Fungicide. Active ingredient: 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone 25%. Proposed classification/Use: General. To include in its presently registered use the new indoor use in greenhouses for control of certain diseases on flowers and foliage plants. Type registration: Conditional. (PM 21—Henry Jacoby (703-557-1900)).

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.

Written comments filed pursuant to this notice, will be available in the product manager's office from 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: August 16, 1983.

Robert V. Brown, Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23756 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M
Pesticides; Use of Integrated Pest Management (IPM) as Basis for Issuance of Emergency Exemptions; Solicitation of Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of solicitation of comments.

SUMMARY: EPA granted an emergency exemption allowing a pesticide to be used for a purpose for which it is not registered based, for the first time, on its need in terms of integrated pest management (IPM). The regulations implementing the governing statute, section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), do not address IPM in relation to emergency situations. The agency is soliciting comments on whether to use IPM in the future as a basis for issuing emergency exemptions.

DATE: Comments should be received by September 30, 1983.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments should bear the control number OPP-180629. All comments will be available for review in Rm. 236 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Donald R. Stubbs, Registration Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1192).

SUPPLEMENTARY INFORMATION: On July 13, 1983, EPA granted a specific exemption to the Texas Department of Agriculture (Applicant) for the use of fenvalerate to control the sorghum midge on sorghum. The Applicant requested the use of fenvalerate because the registered alternatives are detrimental to beneficial insects both sorghum and cotton. Thus, the use of fenvalerate, which is not expected to affect these beneficial insects adversely, is necessary in terms of IPM, according to the Applicant. The issuance of an emergency exemption on the sole basis of the principles of IPM is an issue which has not been dealt with prior to the Applicant’s request. The regulations governing section 18 of FIFRA at 40 CFR Part 166 do not specifically address IPM and its relationship to the determination of an emergency situation. This notice solicits comments regarding the general philosophy of whether IPM should be used in the future as a basis for issuing emergency exemptions.

Dated: August 17, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

SUPPLEMENTARY INFORMATION: On July 13, 1983, EPA granted a specific exemption to the Texas Department of Agriculture (Applicant) for the use of fenvalerate to control the sorghum midge on sorghum. The Applicant requested the use of fenvalerate because the registered alternatives are detrimental to beneficial insects both sorghum and cotton. Thus, the use of fenvalerate, which is not expected to affect these beneficial insects adversely, is necessary in terms of IPM, according to the Applicant. The issuance of an emergency exemption on the sole basis of the principles of IPM is an issue which has not been dealt with prior to the Applicant’s request. The regulations governing section 18 of FIFRA at 40 CFR Part 166 do not specifically address IPM and its relationship to the determination of an emergency situation. This notice solicits comments regarding the general philosophy of whether IPM should be used in the future as a basis for issuing emergency exemptions.

Dated: August 17, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

Texas A and M University, Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from Texas A and M University. The experimental use permit, file symbol 35099-EUP-A, proposes allowing the use of 1.0 grams of sodium fluoroacetate (Compound 1080) in single lethal dose baits on range and pasturelands to determine the primary poisoning hazards for certain non-target wildlife species. A total of 10,000 acres in Texas would be involved.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should bear the control number OPP-50587 and should be submitted by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2600).

SUPPLEMENTARY INFORMATION: On July 13, 1983, EPA granted a specific exemption to the Texas Department of Agriculture (Applicant) for the use of fenvalerate to control the sorghum midge on sorghum. The Applicant requested the use of fenvalerate because the registered alternatives are detrimental to beneficial insects both sorghum and cotton. Thus, the use of fenvalerate, which is not expected to affect these beneficial insects adversely, is necessary in terms of IPM, according to the Applicant. The issuance of an emergency exemption on the sole basis of the principles of IPM is an issue which has not been dealt with prior to the Applicant’s request. The regulations governing section 18 of FIFRA at 40 CFR Part 166 do not specifically address IPM and its relationship to the determination of an emergency situation. This notice solicits comments regarding the general philosophy of whether IPM should be used in the future as a basis for issuing emergency exemptions.

Dated: August 17, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

SUPPLEMENTARY INFORMATION: On July 13, 1983, EPA granted a specific exemption to the Texas Department of Agriculture (Applicant) for the use of fenvalerate to control the sorghum midge on sorghum. The Applicant requested the use of fenvalerate because the registered alternatives are detrimental to beneficial insects both sorghum and cotton. Thus, the use of fenvalerate, which is not expected to affect these beneficial insects adversely, is necessary in terms of IPM, according to the Applicant. The issuance of an emergency exemption on the sole basis of the principles of IPM is an issue which has not been dealt with prior to the Applicant’s request. The regulations governing section 18 of FIFRA at 40 CFR Part 166 do not specifically address IPM and its relationship to the determination of an emergency situation. This notice solicits comments regarding the general philosophy of whether IPM should be used in the future as a basis for issuing emergency exemptions.

Dated: August 17, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.
In the Federal Register of December 7, 1981 (46 FR 59622) that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order. The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge’s decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits or smear posts. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

[Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136c)]

Dated: August 23, 1983.

Robert V. Brown,
Acting Director, Registration Division, Office of Pesticide Programs.

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In a Federal Register order canceling the predacidal uses of Compound 1080, the Agency was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predaecides. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimental use permit. Notices of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the Federal Register.

A researcher at the University of California at Davis, Dr. Walter Howard, has requested an experimental use permit to test a new delivery mechanism for Compound 1080 called the bait delivery unit. The bait delivery unit is a plastic package containing from 5 mg. to 10 mg. of Compound 1080 in a sugar solution that is wrapped in material soaked with a scent attractive to coyotes. Dr. Howard proposes to use 0.01 pound of Compound 1080 in bait delivery units on 400 acres of livestock grazing land in California.

The Agency currently is conducting a proceeding a reconsider the 1972 order canceling and suspending the use of Compound 1080 as a predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency’s Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced in the Federal Register of December 7, 1981 (46 FR 59622) that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order. The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge issued his Initial Decision on October 22, 1982. The Administrative Law Judge’s decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits, or smear posts.

The Administrative Law Judge ruled that the use of Compound 1080 in bait delivery units was outside the scope of the reconsideration proceeding. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

[Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136c)]

Dated: August 23, 1983.

Robert V. Brown,
Acting Director, Registration Division, Office of Pesticide Programs.

University of California; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from the University of California. The experimental use permit, file symbol 46879-EUP-R, proposes allowing the use of 0.01 pound of sodium fluoroacetate (Compound 1080) in delivery bait units on livestock grazing areas to evaluate the control of coyotes. A total of 400 acres in California would be involved.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should be directed to Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.
United States Department of Agriculture; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: EPA has received an application for an experimental use permit from the U.S. Department of Agriculture's Forest Service. The experimental use permit, file symbol 49849-EUP-R, proposes allowing the use of 0.009 pound of sodium fluoroacetate (Compound 1080) in grain bait on rangeland to evaluate the control of black-tailed prairie dogs. The Department of Agriculture proposes to treat total of 75 acres in Buffalo Gap National Grassland in South Dakota. EPA, however, thinks that additional acreage, possibly up to 10 square miles, would need to be treated to assess adequately the impact of the use of Compound 1080 to control prairie dogs.

DATE: Written comments must be received on or before September 15, 1983.

ADDRESS: Comments should be submitted by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, Product Manager (PM 18), Registration Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacides.

EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacide uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [FIFRA] (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimental use permit. Notice of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the Federal Register.

The U.S. Department of Agriculture has requested an experimental use permit to evaluate the efficacy of Compound 1080 in grain bait to control black-tailed prairie dogs. The Department of Agriculture has proposed to apply Compound 1080 treated grain on only 75 acres of the Buffalo Gap National Grassland in South Dakota. EPA, however, considers the proposed test area to be insufficient to permit an adequate assessment of the impact of the use of Compound 1080. Accordingly, the Agency has informed the Department of Agriculture that it would probably deny the request for the permit unless the size of the test area is increased.

In the Federal Register of December 1, 1976 (41 FR 52792), EPA announced the start of a special review, then called a rebuttable presumption against registration, for all rodenticides containing Compound 1080. The Agency initiated the special review because of the acute toxicity of Compound 1080 to mammals and birds, the lack of emergency treatment, and the risk of significant reductions in the populations of non-target wildlife and fatalities to endangered species. The Agency has not yet completed the special review of these products.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, 92 Stat. 619, as amended (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown, Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-23863 Filed 8-30-83; 8:45 am]
BILLING CODE 6560-50-M

United States Department of the Interior; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: EPA has received an application for an experimental use permit from the U.S. Department of the Interior's Fish and Wildlife Service. The experimental use permit, file symbol 8704-EUP-ET, proposes allowing the use of 0.05 pound of sodium fluoroacetate (Compound 1080) in single lethal dose baits on rangelands to evaluate the control of coyotes. A total of 256,000 acres in Idaho and Montana would be involved.

DATE: Written comments must be received on or before September 30, 1983.

ADDRESS: Comments should be submitted by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, Product Manager (PM 18), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

SUPPLEMENTARY INFORMATION: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972,
Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended the registrations of products containing Compound 1080 that were used as predacides. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136c) to use products containing Compound 1080 to collect data necessary for registration of both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for an experimental use permit. Notices of receipt of the additional requests for experimental use permits may be found elsewhere in this issue of the Federal Register.

The U.S. Department of the Interior, Fish and Wildlife Service, seeks a permit to use single lethal dose baits containing 5 mg. of Compound 1080 in an experimental program to evaluate the efficacy of this method of delivery in controlling predation. The Fish and Wildlife Service also intends to study the impact of Compound 1080 single lethal dose baits on non-target wildlife. The Fish and Wildlife Service seeks authorization to use 0.05 pound of Compound 1080 on up to 256,000 acres of rangeland in Idaho and Montana. An earlier similar experimental use permit issued to the Fish and Wildlife Service was revoked because the single lethal dose baits contained more Compound 1080 than allowed by the permit and were distributed at a site that had not been authorized under the permit.

The Agency is currently conducting a proceeding to consider whether the 1972 order canceling and suspending the use of Compound 1080 as a predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency’s Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced in the Federal Register of December 7, 1981 (46 FR 39622) that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order. The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge issued his Initial Decision on October 22, 1982. The Administrative Law Judge’s decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits, or smear posts. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown,
Acting Director, Registration Division, Office of Pesticide Programs.

For further information contact: By mail: William H. Miller, Product Manager (Pm 18), Registration Division (TS-787C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2600).

Supplementary information: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacide. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) to use products containing Compound 1080 to collect data necessary for registration for both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for experimental use permits. Notices of receipt of the additional requests for experimental use permits must be received on or before September 30, 1983.

Address: Comments should be directed to the U.S. Environmental Protection Agency, Office of Pesticide Programs, Reg. 6 (OPP), Washington, DC 20460. Comments will be available for public inspection at the Office of the Federal Register, 411 First Street, S.E., Washington, D.C. 20402.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address, from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William H. Miller, Product Manager (Pm 18), Registration Division (TS-787C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2600).

Supplementary information: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacide. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) to use products containing Compound 1080 to collect data necessary for registration for both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for experimental use permits. Notices of receipt of the additional requests for experimental use permits must be received on or before September 30, 1983.

Address: Comments should be directed to the U.S. Environmental Protection Agency, Office of Pesticide Programs, Reg. 6 (OPP), Washington, DC 20460. Comments will be available for public inspection at the Office of the Federal Register, 411 First Street, S.E., Washington, D.C. 20402.

The public record regarding this notice will be available for public inspection in Rm. 236, at the above address, from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

For further information contact: By mail: William H. Miller, Product Manager (Pm 18), Registration Division (TS-787C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2600).

Supplementary information: Sodium fluoroacetate, commonly called Compound 1080, is a highly toxic chemical. It is currently registered for use in numerous products to control rodents. In addition, prior to 1972, Compound 1080 was widely used to control coyotes and other species that prey on livestock. In 1972, EPA canceled and suspended all registrations of products containing Compound 1080 that were used as predacide. As explained more fully below, EPA is currently conducting a proceeding to reconsider the 1972 order canceling the predacidal uses of Compound 1080. The Agency is also conducting a special review of the registrations of all Compound 1080 rodenticides to determine whether any of those uses should be subject to additional restrictions or canceled.

EPA has received several applications under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) to use products containing Compound 1080 to collect data necessary for registration for both a rodenticide and several predacide uses. Because of the regulatory history of Compound 1080, the Agency has determined that these applications may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11, the Agency is soliciting public comments on these requests for experimental use permits. Notices of receipt of the additional requests for experimental use permits must be received on or before September 30, 1983.
permits may be found elsewhere in this issue of the Federal Register.

The Fish and Wildlife Service has asked EPA to renew its experimental use permit, No. 6704-EUP-14, for use of 1080 in livestock protection collars placed on sheep and goats. The Service has conducted research on the 1080 collar for several years and requests a renewal of its permit to evaluate further the efficacy and safety of this delivery mechanism. The requested renewal would authorize use of 299 grams of 1080 which had been approved under the Service’s earlier permit but which had not been used. The 1080 collars would be placed on livestock at sites in Idaho, Montana, Texas, and Utah.

The Agency currently is conducting a proceeding to consider whether the 1972 order canceling and suspending use of Compound 1080 as a predacide should be reversed or modified. In 1981, EPA received applications for registration and emergency use of Compound 1080 in single lethal dose baits, livestock protection collars, large meat baits, and smear posts to control livestock predators, principally coyotes. Under Subpart D of the Agency’s Rules of Practice (40 CFR 164.130 through 164.133), the applications were considered petitions to reconsider the 1972 cancellation order. Finding that the applications contained substantial new evidence, the Administrator announced that the Agency would conduct a formal adjudicatory hearing to reconsider the 1972 cancellation order, as announced in the Federal Register of December 7, 1981 (46 FR 59622). The presentation of testimony in the hearing concluded on August 5, 1982, and the Administrative Law Judge issued his Initial Decision on October 22, 1982. The Administrative Law Judge’s decision allowed for use of Compound 1080 in livestock protection collars and single lethal dose baits, subject to specific restrictions. He concluded, however, that the evidence did not support any change in the 1972 order to allow use of Compound 1080 in either large meat baits or smear posts. Several parties to the hearing appealed the decision to the Administrator. The matter is now awaiting a final Agency decision.

While neither the special review nor the reconsideration hearing prevents the Agency from issuing the requested permits, the Agency will take into account the information collected through these procedures in deciding whether to issue the permits.

(Sec. 5, Pub. L. 95-396; 92 Stat. 428 [7 U.S.C. 136c])

Dated: August 23, 1983.

Robert V. Brown,
Acting Director, Registration Division, Office of Pesticides Programs.

[A-2-FRL 2426-1]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations; International Business Machines Corp. et al.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Action.

SUMMARY: The purpose of this notice is to announce that between June 1, 1983, and July 31, 1983, the U.S. Environmental Protection Agency, Region II, issued four final determinations relative to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart. (See SUPPLEMENTARY INFORMATION)

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA has made final determinations relative to the sources listed below:

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<th>Name of applicant</th>
<th>Type of source</th>
<th>Location</th>
<th>Type of final action</th>
<th>Date of final action</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Business Machines Corp.</td>
<td>Installation of five emergency generators</td>
<td>Owego, New York</td>
<td>Final PSD permit</td>
<td>June 9, 1983</td>
</tr>
<tr>
<td>Gershow Recycling Center (Corporation)</td>
<td>New cogeneration facility</td>
<td>New York, New York</td>
<td>PSD applicability</td>
<td>June 2, 1983</td>
</tr>
<tr>
<td></td>
<td>Turbine replacement at gas transmission peaking station</td>
<td>Tompkins County, New York</td>
<td>PSD applicability</td>
<td>July 8, 1983</td>
</tr>
</tbody>
</table>

This notice contains only a list of the sources which have received final determinations. Copies of these determinations and related materials are available for public inspection at: Environmental Protection Agency, Region II Office, Permits Administration Branch, Office of Policy and Management, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

If available, pursuant to the Consolidated Permit Regulations (section 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit October 31, 1983. Under Section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: August 22, 1983.

Jacqueline E. Schafer,
Regional Administrator.

[FR Doc. 83-23870 Filed 8-30-83; 8:45 am] BILLING CODE 6560-50-M

[OPP-00167; PH-FRL 2427-5]

State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a two-day meeting of the Working Committee on Enforcement and Certification of the State FIFRA Issues Research and Evaluation Group (SFIREG) and a two-day meeting of the SFIREG Working Committee on Registration and Certification to discuss various aspects of pesticides. The meetings will be open to the public.

DATES: The Working Committee on Enforcement and Certification will meet on Tuesday and Wednesday, September 20 and 21, 1983. The Working Committee on Registration and Certification will meet on Thursday and Friday, September 22 and 23, 1983. The meetings of both committees will start at 8:30 a.m. each day. The final meeting will
conclude by 12 noon on Friday, September 23.

ADDRESS: Both meetings will be at: Atkinson Hotel, Illinois at Georgia, Indianapolis, IN 46225; (317-659-5611).

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1115B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703–557–7096).

SUPPLEMENTARY INFORMATION: The meeting of the Working Committee on Enforcement and Certification will be concerned with the following topics:

1. EPA policy on termiteciders.
2. Policy on "Under the Direct Supervision of a Certified Applicator."
3. Outdoor household article inspections/Impact on applicator certification.
4. Policy on advertising.
5. Use of vegetable oil as a diluent in LV/ULV applications.
6. Consideration of policy of declassification of restricted use products to general use.
7. Consideration of policy on disposal.
10. Final policy on protective clothing and closed systems.
11. Other topics as appropriate.

The meeting of the Working Committee on Registration and Classification will be concerned with the following topics:

1. Imprecise label language as exemplified by the Killmaster 2 case.
2. Proposed policy and criteria notice on advertising of pesticides.
3. Use of termiteciders at less than label rate.
5. Classification of granular formulations of certain agricultural pesticides.
6. Classification of grain fumigants.
7. Use of vegetable oil as a diluent in LV/ULV applications.
8. Exposure to ambient air levels of termiteciders residues.
9. EPA review process for section 24(c) registrations.
11. Participation by State lead agencies in EPA's electronic mail system.
12. Kirkpatrick section 18/24 survey.
13. Other topics as appropriate.

James M. Conlon,
Acting Director, Office of Pesticide Programs.

BILLING CODE 6550-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 83-525 and 79–184]

Meeting of Interested Parties for Facilities Planning in the Caribbean Region and in the North Atlantic Region

August 24, 1983.

Members of the Common Carrier Bureau staff will convene a meeting of interested parties to the Caribbean and North Atlantic Planning processes in Room 856, FCC, 1919 M Street, NW., Washington, D.C. at 10:00 a.m. on Thursday September 1, 1983.

The meeting for the Caribbean Process will convene at 10:00 a.m. The agenda of the meeting will include: (1) The submission of alternative plans; and (2) any comments on material already submitted in the Process.

The meeting for the North Atlantic Process will convene at 2:00 p.m. The agenda of the meeting will include: (1) Discussion of the traffic forecasts to be submitted on August 26, 1983 and (2) remaining information and the timetable for its submission agreed to during the July 22, 1983 public meeting.

For additional information, contact Margot Bester or Robert Gosse /202/ 632–4047.

William J. Tricarico,
Secretary, Federal Communications Commission.

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Agreement Nos. 9951, 9952, 9953 and 9954]

Agreements Filed; Intent To Terminate Various Agreements

Title: Caribbean Trailer Express, Ltd.—Feederships, Inc. Transshipment Agreements.
Parties: Caribbean Trailer Express, Ltd. and Feederships, Inc.
Synopsis: A review of Commission records discloses that neither party to these agreements advertises a service or maintains a tariff in the agreement trades between U.S. Atlantic and Gulf ports and various Caribbean, Central America and South America ports; nor is the Commission able to identify an address at which official inquiries and correspondence can be delivered to the parties. It, therefore, appears that the subject agreements are no longer active and should be terminated. Accordingly, notice is hereby given that, in the absence of any showing of good cause to the contrary, the Commission intends to terminate the approval of Agreements Nos. 9951, 9952, 9953 and 9954, said terminations to be effective twenty days subsequent to the date of publication of this notice in the Federal Register.

By Order of the Federal Maritime Commission.

Dated: August 26, 1983.
Francis C. Hurney,
Secretary.

BILLING CODE 6730–01–M

[FDoc. 83–2883 Filed 8–30–83; 8:45 am]

[Agreement Nos. 9951 and 9952]

Filing of Complaint and Assignment; Contract Marine Carriers, Inc. v. Richmond Waterfront Terminals, Inc.

Notice is given that a complaint filed by Contract Marine Carriers, Inc. against Richmond Waterfront Terminals, Inc. was served August 18, 1983. Complainant alleges that respondent is assessing a "wharfage surcharge" against its cargo in violation of section 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

BILLING CODE 6730–01–M

Investigation and Hearing; Jorge Reynoso Import and Export Co.; Possible Violation of Shipping Act, 1916

A preliminary investigation conducted by the Commission's Bureau of Investigation indicates that Jorge Reynoso Import and Export Company
may have violated section 44(a) of the Shipping Act, 1916 (46 U.S.C. 841(b)) by carrying on the business of forwarding in connection with at least 49 ocean shipments between February 22, 1981 and December 28, 1982. Section 44 (a) prohibits any person from carrying on the business of forwarding as defined in section 1 of the Shipping Act, 1916, 46 U.S.C. 801, unless that person has been issued a license by the Federal Maritime Commission. The Commission has not issued Reynoso a license to carry on the business of forwarding. Accordingly, the Commission is instituting a formal proceeding to determine whether Reynoso has violated the Shipping Act, 1916, and if so, whether a civil penalty should be assessed against Reynoso pursuant to section 32 of the Act, 46 U.S.C. 831.

Therefore it is ordered, that pursuant to sections 22, 32 and 44 of the Shipping Act, 1916 (46 U.S.C. 821, 831 and 841b), a proceeding is hereby instituted to determine:
1. Whether Jorge Reynoso Import and Export Co. violated section 44(a) of the Shipping Act, 1916 (46 U.S.C. 801b), by carrying on the business of forwarding without a license issued by the Commission; and
2. Whether a civil penalty should be assessed against Jorge Reynoso Import and Export Co. pursuant to section 32 of the Shipping Act, 1916 (46 U.S.C. 831), for violation of section 44(a) of the Shipping Act, 1916, and, if so, the amount of penalty which should be imposed; and
3. Whether the Commission should order Jorge Reynoso Import and Export Co. to cease and desist from carrying on the business of forwarding without a license obtained pursuant to section 44 of the Shipping Act, 1916.

It is further ordered, that Jorge Reynoso Import and Export Co. be named Respondent in this proceeding. It is further ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but in no event later than the time limitation set forth in Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61). The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, that, in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeding.

It is further ordered, that this Order be published in the Federal Register, and a copy be served upon all parties of record.

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that, all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that, all documents submitted by any parties of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
Secretary.

[Federal Register: 83-23926, 8-30-83, 8:45 am]
BILLING CODE 6730-01-M

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreements Nos.: T-2756-3 and T-2756-4.

Title: Milwaukee/Jacobus Lease Amendments.

Parties: City of Milwaukee (City) / The Jacobus Company (Jacobus).

Synopsis: Agreements Nos. T-2756-3 and T-2756-4 modify the basic agreement between the parties which provides for the lease by City to Jacobus of certain premises located on the South Harbor Tract in the Port of Milwaukee for use in the business of supplying heating oil fuel to industry customers and in the export of inedible oils and greases. The purpose of the modifications is to provide for the extension of the agreement to December 31, 1997, with increases in rental and through-put charges, as well as an additional five-year renewal option.

Filing Agent: Beverly J. Strike, Secretary, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

By Order of the Federal Maritime Commission.

Dated: August 26, 1983.

Francis C. Hurney,
Secretary.

[Federal Register: 83-23926, 8-30-83, 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-225-79-2401]

Memorandum of Understanding With the Food Safety and Inspection Service, Department of Agriculture

AGENCY: Food and Drug Administration.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Food Safety and Inspection Service, United States Department of Agriculture. The purpose of the understanding is to establish procedures to be followed by the Food Safety and Inspection Service (FSIS) and the FDA to minimize duplication of inspectional effort.

EFFECTIVE DATE: This agreement became effective July 25, 1983.
FOR FURTHER INFORMATION CONTACT: Walter J. Kuuska, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1530.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the Federal Register, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between The Food Safety And Inspection Service, United States Department of Agriculture And The Food and Drug Administration, Department of Health and Human Services

I. Purpose

This agreement describes procedures to be followed by the Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) to minimize duplication of inspectional effort. This will be done by exchanging information for work planning and referring violative conditions concerning food manufacturers whose facilities are under the jurisdiction of both FDA and FSIS.

II. Statutes Relating to the Agreement

A. FDA is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. FDA conducts announced and unannounced inspections and examinations of food products other than meat and poultry for the purpose of determining their status under the statute.

B. FSIS is responsible for enforcing the Federal Meat Inspection Act and the Poultry Products Inspection Act. In carrying out its responsibility, FSIS has inspectors stationed on-site in certain meat and poultry processing plants while one inspector on patrol may be responsible for several smaller plants in other situations.

Nothing in this agreement shall lessen the responsibilities of FSIS under the Federal Meat Inspection Act or the Poultry Products Inspection Act. In accordance with section IV.A.3., above: Director, Division of Regulatory Guidance, Bureau of Foods.

III. Background

A limited General Accounting Office survey conducted during 1975 disclosed inspectional overlap by FSIS and FDA at certain processors of meat products. The two agencies agreed to study the overlap problem to assure that their responsibilities were being carried out efficiently. In October, 1978, officials of the agencies determined that the amount of avoidable overlap was not great enough to justify introducing a management system to prevent it. They agreed that by exchanging information on inspections, the agencies may be able to reduce overlap through better planning of surveillance activities. Both agencies will continue to perform inspections under their own programs and priorities.

The agencies formalized their agreement in a Memorandum of Understanding which became effective August 8, 1979. In June, 1981, this agreement was revised in order to take into consideration the provisions of the Infant Formula Act. This document revises and supercedes the Memorandum of Understanding which became effective June 25, 1981.

IV. Substance of Agreement

A. The Food Safety and Inspection Service will:

1. Upon completion of any inspection during which products under FDA’s jurisdiction are being handled under insanitary conditions or are otherwise believed to be adulterated, inform the appropriate FDA District Office by telephone of the conditions founds (see Attachment A).

2. To the extent possible, consider information provided by FDA to minimize duplication of effort.

3. Provide FDA with information concerning the quality control programs of manufacturers of meat-based infant formulas.

4. Provide FDA, prior to approval, with a copy of the proposed labeling or proposed changes in labeling for meat-based infant formulas and information concerning new formulas as well as information regarding proposed changes in the formulation or processing of existing formulas. This information should be submitted to the Director, Division of Regulatory Guidance, Bureau of Foods.

B. The Food and Drug Administration will:

1. Instruct all its investigators to: (a) Attempt to contact any on-site FSIS inspectors on their arrival at a plant; (b) invite the FSIS inspectors’ participation in the FDA inspection; and (c) report any adverse findings involving meat and poultry products to on-site FSIS inspectors prior to leaving the premises.

2. Provide FSIS with a copy of a report of findings of each inspection classified “action indicated” when the plant is also inspected by FSIS. Such reports should be forwarded to the FSIS office in whose area the plant is located (see Attachment B).

3. Upon completion of any inspection during which products under FSIS’s jurisdiction are being handled under insanitary conditions or are otherwise believed to be adulterated, the appropriate FSIS office should be informed by telephone. Such telephone contact may not be necessary if the FDA investigator has reported his findings to an FSIS inspector at the plant location.

4. After receipt of that information specified in paragraph A.4., above, review and provide comments on proposed labels for meat-based infant formulas, on proposed new formulations or processes, and on proposed changes in the formulation or processing as these may affect the nutrients required by section 412(g) of the Federal Food, Drug, and Cosmetic Act.

5. To the extent possible, consider information provided by FSIS to minimize duplication of effort.

V. Name and Address of Participating Agencies

A. Food Safety and Inspection Service, 12th St. and Independence Ave. SW., Washington, D.C.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

VI. Liaison Officers

A. For Food Safety and Inspection Service: Assistant to Deputy Administrator, Poultry Inspection Operations, (currently Dr. James K. Payne), Food Safety and Inspection Service, 344 E. Administration Bldg., 14th and Independence Ave. SW., Washington, DC 20250.

As the Project Officer, Dr. Payne will be responsible for implementing, monitoring, and coordinating this MOU. Any inquiries should be directed to Dr. Payne on 202-447-5190.

B. For Food and Drug Administration:

1. For information provided in accordance with section IV.A.3., above: Director, Investigations and Engineering Branch (HFO-520), (currently Clarence A. Loucks), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3276.

2. For information provided in accordance with section IV.A.4., above: Director, Division of Regulatory Guidance (HFF-310), (currently John Taylor), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1186.

VII. Period of Agreement

This agreement, when accepted by both parties, will be effective indefinitely. It may be modified by mutual consent or terminated by either
party upon a 30-day written notice to the other.

Dated: July 14, 1983.
Approved and accepted for the Food Safety and Inspection Service. 

Joseph A. Powers, 
Deputy Administrator, Administrative Management.

Dated: July 25, 1983.
Approved and accepted for the Food and Drug Administration.

Joseph P. Hile, 
Associate Commissioner for Regulatory Affairs and Acting EDRO (HFC-l).

Effective date. This Memorandum of Understanding became effective July 25, 1983.


William R. Clark, 
Acting Associate Commissioner for Regulatory Affairs.

Attachment A—List of Food and Drug Administration District Office Directors of Investigations as of March 1983

Virginia, West Virginia, Maryland, District of Columbia


Alabama, Georgia, South Carolina, North Carolina

Atlanta District Office: Director of Investigations (Currently Roger E. Kline), Food and Drug Administration, 800 W. Peachtree St. NW, Atlanta, GA 30309, Telephone: 404-881-3151 (FTS: 257-3151).

Florida

Orlando District Office: Director of Investigations (Currently Carl C. Reynolds), Food and Drug Administration, 7200 Lake Ellenor Drive, P.O. Box 118, Orlando, FL 32802, Telephone: 305-855-0900 (FTS: 820-6251).

Tennesssee, Mississippi, Kentucky


Minnesota, Wisconsin


Illinois

Chicago District Office: Director of Investigations (Currently George A. Masters), Food and Drug Administration, 433 W. Van Buren St., Rm. 1222 Post Office Bldg., Chicago, IL 60607, Telephone: 312-353-7769 (FTS: 353-7769).

Michigan, Indiana

Detroit District Office: Director of Investigations (Currently Eugene S. Spivak), Food and Drug Administration, 1500 E. Jefferson Ave., Detroit, MI 48207, Telephone: 313-226-2259 (FTS: 226-2259).

Ohio


Arkansas, Louisiana


Oklahoma, New Mexico, Northern Texas

(including cities of Temple, Abilene, San Angelo, Odessa, El Paso)

Dallas District Office: Director of Investigations (Currently Theodore L. Rotto), Food and Drug Administration, 3032 Bryan St., Dallas, TX 75204, Telephone: 214-787-0312 (FTS: 729-0312).

Southern Texas (including cities of Huntsville, Austin, San Antonio, Laredo)

Houston Station Office: Station Director (Currently A. J. Whitehead), Food and Drug Administration, 1440 North Loop—Suite 250, Houston, TX 77009, Telephone: 713-229-3530 (FTS: 528-7530).

Note.—Houston is a Station, not a District.

Kansas, Nebraska, Western Iowa (including cities of Mason City, Marshalltown & Des Moines), Western Missouri (including cities of Columbia & Jefferson City)

Kansas City District Office: Director of Investigations (Currently Mary H. Woleske), Food and Drug Administration, 1009 Cherry St., Kansas City, Mo 64108, Telephone: 816-574-5623 (FTS: 578-5623).

Eastern Iowa, Eastern Missouri

St. Louis Station: Station Director (Currently R. M. Johnson), Food and Drug Administration, 808 North Collins St., St. Louis, MO 63102, Telephone: 314-425-4137 (FTS: 279-4137).

Note: St. Louis is a Station, not a District.

Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota


Arizona, Southern California (including counties of San Bernardino, Los Angeles, Ventura, Santa Barbara, San Luis Obispo

Los Angeles District Office: Director of Investigations (Currently Roger L. Lowell), Food and Drug Administration, 1523 W. Pico Blvd., Los Angeles, CA 90015, Telephone: 213-668-3781 (FTS: 798-3781).

Hawaii, Nevada, Northern California (including counties of Inyo, Kern, Kings & Monterey)


Washington, Oregon, Idaho, Alaska

Seattle District Office: Director of Investigations (Currently James A. Davis), Food and Drug Administration, Rm. 5003 Federal Office Bldg., 900 1st Ave., Seattle, WA 98174, Telephone: 206-442-5319 (FTS: 399-5319).

Attachment B—U.S. Department of Agriculture, Food Safety and Inspection Service, Meat and Poultry Inspection Operations

Northeastern Region, 1421 Cherry Street, Seventh Floor, Philadelphia, Pennsylvania 19102, Telephone: (215) 597-4217, FTS: 597-4217.

Area Offices

Laconia Area Office, O'Shea Industrial Park, 55 Primrose Drive, South, Laconia, NH
Area Offices

Springfield Area Office, 61 East Lincoln Way, P.O. Box 604, Ames, IA 50010, Telephone: (515) 232-0250, Ext. 207, FTS: 892-6207, 8200 Southwestern Region, 1100 Commerce Street, Room 5P41, Dallas, Texas 75242, Telephone: (214) 767-9118, FTS: 729-0743

Area Offices

Springdale area Office, San Jose Manor Building, 2nd Floor, 216 S East Emma Avenue, Springdale, AR 72764, Telephone: (501) 751-8412, FTS: 740-0800

Baton Rouge Area Office, 8130 Renoir Avenue, Baton Rouge, LA 70806, Telephone: (504) 389-0397, FTS: 887-0397

Austin Area Office, 811 East 6th Street, Room 401, Austin, TX 78701, Telephone: (512) 462-5151, FTS: 770-5151

Topeka area Office, Federal Building, Room 271, 444 SE Quincy, Topeka, KS 66603, Telephone: (913) 285-2765, FTS: 752-2765

Jefferson City Area Office, 101 Adams Street, Suite 102 Jefferson City, MO 65101, Telephone: (514) 635-0253, FTS: 270-3521

Western Region, 620 Central Avenue, Building 2C, Alameda, California 94501, Telephone: (415) 273-7402, FTS: 536-7402.

Area offices

Sacramento Area Office, 83 Scripps Drive, 2nd Floor, Suite 202, Sacramento, CA 95825, Telephone: (916) 484-4554, FTS: 468-4554

Long Beach Area Office, 400 Oceangate Plaza Suite 220, Long Beach, CA 90802, Telephone: (213) 549-2415, FTS: 790-2414

Salem Area Office, 530 Center Street, NE, Room 405, Salem, OR 97301, Telephone: (503) 399-5831, FTS: 422-5833

Boulder Area Office, 2985 Baseline Road, Suite 105, Boulder, CO 80303, Telephone: (303) 497-5411, FTS: 320-5411

Billings Area Office, 2602 1st Avenue North Billings, MT 59101, Telephone: (406) 657-0620, FTS: 585-6820

[FR Doc. 83-23850 Filed 8-30-83; 8:45 am]
BILLING CODE 4160-01-M

SUPPLEMENTARY INFORMATION: In accordance with §20.106(c) (21 CFR 20.106(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the Federal Register, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the National Center for Health Statistics and the Food and Drug Administration

I. Purpose

This agreement establishes a mechanism for the regular exchange of information in areas of common interest and shared responsibility, and provides a procedure for fostering the development of collaborative projects.

II. Background

The Food and Drug Administration (FDA) provides leadership among Federal agencies in protecting the public health of the Nation by insuring that foods are safe, pure, and wholesome; drugs, medical devices, and biological products are safe and effective; cosmetics are harmless; and that exposure to potentially injurious radiation is minimized.

To accomplish these functions, FDA:

1. Establishes regulations governing the manufacture and distribution of products;
2. Monitors manufacturers’ compliance with the statute and applicable regulations;
3. Evaluates the safety and effectiveness of new drugs and certain medical devices;
4. Conducts and supports special surveys and other research and analyses on nutrition, use of drug products, and exposure to radiation; and
5. Collaborates with, and provides assistance to, other Federal agencies; national, State, and local organizations; private establishments; and voluntary groups to facilitate, conduct, and expand programs to provide information and experience on reactions to drug use, exposure to x-rays, problems with medical devices, and hospital-based health hazards.

The National Center for Health Statistics (NCHS) provides leadership in the areas of health statistics and epidemiology.

In carrying out its responsibilities, NCHS:

1. Collects, analyzes, and disseminates national health statistics on vital events and health
characteristics of the population, the supply and utilization of health facilities and manpower; the operation of the health services system; health costs and expenditures; and environmental, social, and other health hazards.

2. Administers the cooperative health statistics program;
3. Stimulates and conducts basic and applied research in health data systems and statistical methodology;
4. Coordinates, to the maximum extent feasible, the overall health and epidemiological statistical activities of the agencies of the Public Health Service (PHS), and provides technical assistance in the planning, management, and evaluation of statistical programs of the PHS;
5. Maintains operational liaison with statistical units of other health agencies, public and private, and provides technical assistance within the limitations of staff resources;
6. Fosters research, consultation, and training programs in international statistical activities;
7. Participates with other Federal agencies in the development of national health statistics policy; and
8. Provides the Assistant Secretary for Health and the Surgeon General with consultation and advice on statistical matters.

III. Substance of Agreement

The two agencies share common interests in the areas of epidemiology, vital events, and statistical data collection and dissemination of information, particularly as it relates to radiation exposure, nutrition, hospital services, and dispensation of drugs. Both agencies hold interests in exploring further additional avenues where mutually supportive activities can be collaborated in and pursued further.

In order to assure that these collaborations are pursued in a continuing and timely fashion, FDA and NCHS will meet once a quarter, or more frequently if needs arise, alternating meeting sites between the two agencies, and will share information, report on progress, and explore new areas for collaboration. Co-chairpersons will be designated by the Commissioner of Food and Drugs and the NCHS Director on an annual basis.

IV. Name and Address of Participating Parties

A. National Center of Health Statistics, Prince George's Plaza, 3700 East-West Highway, Hyattsville, MD 20782.
B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. Director, Division of Health Examination Statistics (currently Mr. Robert S. Murphy), National Center for Health Statistics, Rm. 2-38, Center Bldg., Prince George's Plaza, 3700 East-West Highway, Hyattsville, MD 20782; 301-436-7068.
B. Assistant Director for Health Programs Research, (currently Evelyn W. Gordon, Ph.D.), Office of Radiological Health (HF-X-4), National Center for Devices and Radiological Health, 5600 Fishers Lane, Rockville, MD 20857; 301-443-6220.

VI. Period of Agreement

This agreement becomes effective upon acceptance by both parties, and will continue indefinitely. It may be modified by mutual consent or terminated by either party upon a 30-day advance written notice to the other party.

Approved and accepted for the National Center for Health Statistics:
Date: August 9, 1983.
M. Feinleib,
Director.

Approved and accepted for the Food and Drug Administration:
Date: August 9, 1983.
Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

Effective date. This Memorandum of Understanding became effective August 9, 1983.

William R. Clark,
Acting Associate Commissioner for Regulatory Affairs.

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3605-92, February 25, 1970, as amended most recently in pertinent part at 43 FR 16423, April 18, 1978), is amended to update the Order of Succession for the Commissioner of Food and Drugs.

Section HF-C, Order of Succession is amended to read as follows:

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Public Health Service

Health Resources and Services Administration; Delegation of Authority

Notice is hereby given that the Administrator, Health Resources and Services Administration, has delegated the following authorities under 5 U.S.C. 7901 and the authorities vested in this Department by interagency and intra-agency agreements, pertaining to the Federal Employee Occupational Health (FEOH) program:

1. To the Regional Health Administrators (RHAs), Regions I-X:
   a. The authorities under 5 U.S.C. 7901 pertaining to the FEOH program;
   b. The authority to enter into interagency or intra-agency agreements, excluding agreements that are multiregional or national in scope, regarding the FEOH program; and
   c. The authority for the day-to-day operation of the FEOH units, in accordance with the terms of interagency or intra-agency agreements.

2. To the Director, Bureau of Health Care Delivery and Assistance, all of the authorities under 5 U.S.C. 7901 and the authority to enter into interagency and intra-agency agreements excluding those authorities delegated to the RHAs.

Previous delegations and redelegations pertaining to the FEOH program are hereby superseded.

This delegation will be effective as follows:

Director, Bureau of Health Care Delivery and Assistance—July 25, 1983
Region I—October 1, 1983
Region III—October 1, 1983
Region IV—October 1, 1983
Region V—October 1, 1983
Region VI—October 1, 1983
Region VII—October 1, 1983
Region VIII—July 25, 1983
Region IX—October 1, 1983
Region X—October 1, 1983

Dated: July 25, 1983.
Robert Graham, M.D., Administrator, Health Resources and Services Administration.

Notices

BILLING CODE 4160-16-M

Federal Register / Vol. 48, No. 170 / Wednesday, August 31, 1983 / Notices 39513
For a planned period of absence, the Commissioner may specify a different order of succession.

Dated: August 19, 1983.

Wilford J. Forbush,
Deputy Assistant Secretary for Health Operations.

[FR Doc. 83-22912 Filed 8-30-83; 8:45 am]
BILLING CODE 4160-01-M

Social Security Administration

Office of Disability Hearings; Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that Part S is being amended to reflect the establishment of a new disability hearings procedure at the reconsideration level. Under this new procedure, a face-to-face evidentiary hearing, referred to as a "disability termination hearing," will constitute the first level of appeal on unfavorable determinations based on medical or medical/vocational issues by a State Agency Disability Determination Service (DDS).

This new function requires the establishment of a new headquarters office, the Office of Disability Hearings (ODH), reporting directly to the Deputy Commissioner of Social Security. Programs and Policy, and consisting of two divisions, to provide leadership and direction, through a regional network, to 57 hearings offices which are geographically dispersed throughout the United States. It also requires the establishment of a regional structure to support the hearings offices.

Chapter 5 44 FR 17218 (March 21, 1979) and last amended as 48 FR 17218 (March 21, 1983) is being amended as follows:

Sec. S.10 Social Security Administration—(Organization).
The new material for the Office of Disability Hearings reads as follows:

New title Chapter SV: Office of Disability Hearings.
Sec. SV.00 Office of Disability Hearings—(Mission): The Office of Disability Hearings plans and directs the disability termination hearings program throughout the nation. Develops plans and objectives for the programs. Provides or procures administrative support in a wide range of areas, including personnel, facilities, financial management, organization development, training and management information. Plans and coordinates the development of regulations, policy and procedures for the program. Plans, develops and coordinates a quality assurance review process for disability termination hearings. Plans and administers an appraisal and evaluation program for the hearings process. Provides technical advice to SSA components and State agencies on programmatic matters.

Sec. SV.10 Office of Disability Hearings—(Organization):
A. Director of the Office of Disability Hearings (SV).
B. Division of Management and Field Liaison (SVA).
C. Division of Policy, Evaluation and Analysis (SVA).
D. Office of the Regional Hearings Representative (SVC).
1. Disability Hearings Unit. Sec. SV.20 Office of Disability Hearings—(Functions):
A. Director of the Office of Disability Hearings (SV) is responsible to the Deputy Commissioner for directing the administrative and operational activities in support of the disability termination hearings program throughout the nation. Selects or delegates selection of disability hearing officers. Reviews and, if necessary, corrects hearing officer determinations.
B. Division of Management and Field Liaison (SVA) designs, develops and coordinates a management planning and control system for the disability termination hearings process. Plans, develops, administers and evaluates a national training program for disability hearing offices; provides or procures administrative support, including personnel, facilities and financial activities. Develops long- and short-range plans and objectives, and insures integration with overall SSA goals. Plans, develops and implements organizational improvements and delegations of authority with appropriate agency approvals. Plans, develops, executes and evaluates operational and management information systems, including a scheduling system, case control and statistical reporting system. Maintains liaison and develops procedures and directives to improve consultation and communications between the field, central office and the DDSs. Formulates and executes the budget for the disability hearings process.
C. Division of Policy, Evaluation and Analysis (SVA) plans, develops and coordinates policy and procedural guidelines on the disability termination hearing procedures, as well as on disability development and evaluation relating to the processing of disability termination reconsideration cases by State and SSA personnel. Develops regulations, rulings and operating procedures. Implements a system for communicating instructions for conducting disability termination hearings through handbooks, program directives and informational notices. Reviews and analyzes instructions and issuances of other SSA components, as well as new legislation in associated activity and takes appropriate action. Provides technical advice and guidance to SSA components and the State agencies in the interpretation and application of programmatic matters. Plans, develops and coordinates with the Office of Assessment (OA) the operation of a quality assurance review process for disability termination hearings, including reviewing cases identified and referred by OA as part of that component's pre-effectuation quality review activities and, if necessary, taking corrective action. Plans, develops, administers and evaluates an appraisal and evaluation program of the disability termination hearing process. Designs and conducts special studies and critical analyses of program policy and operations to ensure effective睡醒, and information from review activities to identify problem areas and initiate corrective action.
D. Office of the Regional Hearings Representative (SVC) provides program leadership and technical direction for regional activity for the disability termination hearings process. Assures consistent interpretation and implementation of ODH goals, objectives, policies and plans by establishing regional operating procedures and plans consistent with national objectives. Evaluates program effectiveness. Conducts a liaison and visit program with the Disability Hearings Units and State Disability Determination Services, to provide technical leadership in the resolution of operational problems.

1. Disability Hearings Unit (SVC) under the direction of the Regional Hearings Representative, conducts face-to-face evidentiary hearings for beneficiaries at the first level of appeal following the decision to cease disability. Issues a decision as soon as possible following the conclusion of the hearing based on testimony presented and evidence in file.
Dated: August 16, 1983.
Margaret M. Heckler,
Secretary of Health and Human Services.

[FR Doc. 83-23196 Filed 8-30-83; 8:45 am]
BILLING CODE 4110-07-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission with investigation No. 332-167, Quarterly and Annual Surveys on Certain Stainless Steel and Alloy Tool Steel Products, instituted under the authority of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)).

Summary of Proposals

(1) Number of forms submitted: One.
(2) Title of form: Certain Stainless Steel and Alloy Tool Steel [Annual]—Questionnaire for U.S. Producers.
(3) Type of request: New.
(4) Frequency of use: Annually.
(5) Description of respondents: Producers of certain stainless steel and alloy tool steel products.
(6) Estimated number of respondents: 27.
(7) Estimated total number of hours to complete the forms: 1,080.
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed form and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202-523-4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin [United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436].

Issued: August 26, 1983.
By order of the Commission.
Kenneth R. Mason,
Secretary.

[FR Doc. 83-23935 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-139]

Certain Caulking Guns; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) [Order No. 29] to terminate this investigation as to respondent Handy Dan Home Improvement Centers, Inc. Accordingly, the I.D. has become the Commission’s determination as to this matter.

Authority

19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the Federal Register of August 3, 1983, 48 FR 35182. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.


Issued: August 24, 1983.
By order of the Commission.
Kenneth R. Mason,
Secretary.

[FR Doc. 83-23944 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; 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: August 24, 1983.
Donald K. Duvall,
Chief Administrative Law Judge.

[FR Doc. 83-23941 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the president officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Rose’s Stores, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission’s rules, the presiding officer’s initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on August 8, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments:

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either
accept the submission in confidence or return it.


Issued: August 8, 1983.

By order of the Commission.

Kenneth R. Mason, Secretary.

[FR Doc. 83-23804 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination To Modify and Issue a Consent Order Terminating All Foreign Respondents and Intervenors

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 45) to permit intervention by a foreign firm and trade association and to terminate this investigation as to all foreign respondents and intervenors on the basis of a consent order.

Authority
19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the Federal Register of August 4, 1983, 48 FR 35527. The Commission has received neither a petition for review of the I.D. nor comments from the public or from other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: August 24, 1983.

By order of the Commission.

Kenneth R. Mason, Secretary.

[FR Doc. 83-23945 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not to Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 47) to terminate this investigation as to respondent Carol Wright Sales, Inc. accordingly, the I.D. has become the Commission's determination as to this matter.

Authority
19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the Federal Register of August 5, 1983, 48 FR 35729. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: August 24, 1983.

By order of the Commission.

Kenneth R. Mason, Secretary.

[FR Doc. 83-23946 Filed 8-30-83; 9:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not to Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 46) to terminate this investigation as to respondent Wal-Mart Stores, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority
19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the Federal Register of August 5, 1983, 48 FR 35729. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.
AUTHORITY: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the Federal Register of August 4, 1983, 48 FR 35526. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 24, 1983.

By order of the Commission.

Kenneth R. Mason, Secretary.

[FR Doc. 83-23948 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-159]

Certain Poultry Cut Up Machines; 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: August 24, 1983.

Donald K. Duvall,
Chief Administrative Law Judge.

[FR Doc. 83-23942 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-09-M

[Investigations Nos. 731-TA-118 and 119 (Final)]

Certain Lightweight Polyester Filament Fabric from Japan and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: August 23, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Japan and the Republic of Korea of lightweight polyester filament fabrics, provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015 of the Tariff Schedules of the United States Annotated, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1677), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731-TA-118 and 119 (Final) under section 735(b) of the Act (19 U.S.C. 1677(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Commission will make its final injury determinations by December 5, 1983 (19 CFR 207.25).


SUPPLEMENTARY INFORMATION: Background.—On February 18, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of certain lightweight polyester filament fabric from Japan and the Republic of Korea which are alleged to be sold at LTFV. The preliminary investigations were instituted in response to a petition filed on January 4, 1983, by counsel for the American Textile Manufacturers Institute, Inc., and certain member companies.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance as provided in § 201.11 of the Commission’s Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission’s rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on October 13, 1983, pursuant to § 207.21 of the Commission’s rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m., on October 27, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 14, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m., on October 18, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 24, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission’s rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 3, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 3, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission’s rules (19 CFR 201.8). All written submissions except for
confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidentiality treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidentiality treatment must conform with the requirements of §201.6 of the Commission's rules (19 CFR 201.6).


This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: August 23, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.


Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.


SUPPLEMENTARY INFORMATION:

Background.—On March 28, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly LTFV imports of fresh or chilled round white potatoes from Canada. The preliminary investigation was instituted in response to a petition filed on February 9, 1983, on behalf of the Maine Potato Council.

Participation in the investigation.— Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the later entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to §201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified...
by the service list], and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.10(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the prehearing staff report containing preliminary findings of fact in this investigation will be placed in the public record on September 23, 1983, pursuant to § 207.21 of the Commission’s rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 11, 1983, in Portland, Maine, at a location to be announced. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than the close of business (5:15 p.m.) on September 29, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on September 29, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 5, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission’s rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 26, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 26, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.6 of the Commission’s rules (19 CFR 201.6). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled “Confidential Business Information.” Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission’s rules (19 CFR 201.6).


This notice is published pursuant to § 207.20 of the Commission’s rules (19 CFR 207.20).

Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FEDERAL REGISTER FR 83-32938 Filed 8-30-83: 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-137 (Preliminary)]

Tubes For Tires, Other Than For Bicycle Tires, From the Republic of Korea

Determination

On the basis of the record developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Republic of Korea of tubes for tires, other than bicycle and aircraft tires, as provided for in items 772.58 and 772.60 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On July 11, 1983, counsel for seven U.S. manufacturers of tubes for tires filed a petition with the U.S. International Trade Commission and

with the Department of Commerce alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from the Republic of Korea of tubes for tires, other than for bicycle tires, which are allegedly being sold in the United States at LTFV. Accordingly, effective July 11, 1983, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)).

Notice of the Commission’s institution of the investigation and the public conference held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on July 20, 1983 (48 FR 33688). All interested parties were afforded the opportunity to present information to the Commission at the public conference which was held in Washington, D.C., on August 2, 1983.

The Commission transmitted its report on the investigation to the Secretary of Commerce on August 25, 1983. The public version of the Commission’s report, Tubes For Tires, Other Than For Bicycle Tires, From the Republic of Korea, (investigation No. 731-TA-137 (Preliminary), USITC Publication 1416, August 1983) contains the views of the Commission and the information developed during the investigation.

Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FEDERAL REGISTER FR 83-32937 Filed 8-30-83: 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-125 and 126 (Final)]

Potassium Permanganate From the People’s Republic of China and Spain

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: August 9, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports of potassium permanganate from the People’s Republic of China (China) and Spain, provided for in item 420.28 of the Tariff Schedules of the United States, are being, or are likely to
be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731-TA-125 and 126 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigations are extended, the Department of Commerce will make its final dumping determinations in the cases on or before October 17, 1983, and the Commission will make its final injury determinations by December 7, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: Background. On April 8, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly LTFV imports of potassium permanganate from China and Spain. The preliminary investigations were instituted in response to a petition filed on February 22, 1983, by counsel on behalf of Carus Chemical Co., of LaSalle, Ill.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission’s Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission’s rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the prehearing staff report containing preliminary findings of fact in these investigations will be placed in the public record on October 13, 1983, pursuant to § 207.21 of the Commission’s rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on October 28, 1983, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission, not later than the close of business (5:15 p.m.) on October 17, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on October 18, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 24, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission’s rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 7, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 7, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission’s rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled “Confidential Business Information.” Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission’s rules (19 CFR 201.6).


This notice is published pursuant to section 207.20 of the Commission’s rules (19 CFR 207.20).

Issued: August 22, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-23943 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-140]

Certain Personal Computers and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on September 1, 1983, in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. The hearing will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the Federal Register.

Issued: August 29, 1983.

Janet D. Saxon,
Administrative Law Judge.

[FR Doc. 83-23989 Filed 8-30-83; 8:45 am]
BILLING CODE 7020-02-M
INTERSTATE COMMERCE COMMISSION

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-1), Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner’s representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich, Secretary.

Volume No. OP2-380


[No. MC-F-15413]

Jerry Bell—Purchase Exemption—J & J Cattle Company

Jerry Bell (MC-150053) seeks an exemption from the requirement under section 11343 of prior regulatory approval for his purchase of the certificate held in No. MC-147832 (Sub-No. 4) by J & J Cattle Company, which authorizes the transportation of (1) Food and related products, between points in California and Texas and portions of 10 other States (including Cook County, IL), on the one hand, and, on the other, points in the United States, (2) instruments and photographic goods, chemicals and related products, and tobacco products, between points in Colorado, on the one hand, and, on the other, points in 31 States.

Bell also proposes to tack the purchased rights at Cook County, IL, with his existing authority in No. MC-150053 (Sub-No. 4) X so as to transport food and related products between points in Louisa and Des Moines Counties, IA, on the one hand, and, on the other, points in the United States. Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Larry D. Knox, 500 Hubbell Building, Des Moines, IA 50309.

Volume No. OP3-411

Decided: August 24, 1983.

[No. MC-F-15386]

Brink's Armored Car, Inc.—Purchase Exemption (Portion)—International Armored Service, Inc.

Brink’s Incorporated (BI) (No. MC-142520) seeks an exemption from the requirement under 49 U.S.C. 11343 of prior regulatory approval of its continuing control of Brink’s Armored Car, Inc. (BAC), presently a non-carrier, upon BAC’s purchase of the portion of the operating rights of International Armored Service, Inc. (IAS), contained in No. MC-133485 (Sub-Nos. 22, 32, and 33), which authorize the transportation of food coupons; shipments weighing 100 pounds or less, and bullion, coins, precious metal, and articles of unusual value, between points in the United States. BI also controls United States Trucking Corporation (No. MC-11712 and No. MC-83885), an it is controlled by The Pittston Company, a non-carrier. Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and


Comments should refer to No. MC-F-15386.

Volume No. OP3-415


[No. MC-F-15390]


Patrick J. Doyle and Nancy Doyle seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of three corporations: H.P. Leasing, Inc. (H.P. Leasing); 1 H.P. Leasing, Inc., d/b/a H.P.I. (Peck), H.P. Leasing holds Certificate No. MC-156045 (Sub-No. 4), issued June 7, 1983, authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii), under continuing contract(s) with Hasbro Industries, of Pawtucket, RI. These three corporations (H.P. Leasing, H.P.I., and Peak) are controlled by Patrick J. Doyle and Nancy Doyle through stock ownership: Patrick owns all of the stock of H.P. Leasing and H.P.I., and Nancy owns all of the stock of Peak; and Patrick and Nancy are directors of, and hold common offices in, the three corporations.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioners' representative: Francis E. Barrett, Jr., Esq., 9 Riverview Road, Hingham, MA 02043.

Comments should refer to No. MC-F-15390.

[No. MC-F-15391]

United Star Express, Inc.—Purchase Exemption—Freightways, Inc.; Freightways, Inc.—Purchase Exemption—United Star Express, Inc.

United Star Express, Inc., seeks an exemption from the requirement in 49 U.S.C. 11343(e)(2) of prior regulatory approval and authorization for its purchase of a portion of the authority issued to Freightways, Inc., in No. MC-144464 (Sub-No. 19), authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Missouri, on the one hand, and, on the other, points in the United States (except Alaska and...
Hawaii). Freightways seeks an exemption from the requirement in 49 U.S.C. 11343(a)(2) of prior regulatory approval and authorization for its purchase of a portion of the authority held by United Star, in No. MC-70090, authorizing the regular-route transportation of general commodities, with exceptions, between Cole Camp and Sedalia, MO, serving all immediate points.

Send comments to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioners’ representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbard Building, Des Moines, IA.

Comments should refer to No. MC-F-15387.

[No. MC-F-15387]

Tidwell Industries, Inc.—Continuance in Control Exemption—Winston Carriers, Inc., and Tidwell Motor Carriers, Inc.

Tidwell Industries, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Winston Carriers, Inc. (No. MC-134635) and Tidwell Motor Carriers, Inc. (No. MC-138106), both motor common carriers.

Addresses: Send comments to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and


Comments should refer to No. MC-F-15387.

Volume No. OP4–574

Decided: August 23, 1983.

[No. MC-F-15388]


Beryl A. Schatz, Ruth M. Abrams, Richard E. Abrams, Norman L. Rosen, Allen Rosen, Harold Rosen, all individuals who control Charlton Bros. Transportation Co., Inc. (MC-29647) (Charlton), Certified Brokerage Services, Inc. (MC-159135) [Certified], Contract Cargo, Inc. (MC-163086) [Contract], and Edward J. Donohue, Jr. who controls Certified Brokerage Services, Inc. (MC-159135) seek an exemption from the requirement of prior regulatory approval for their continuance in control of Charlton, Certified, and Contract.

Send Comments to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner’s representative: Edward J. Donohue, Jr., 2721 Valley Avenue, Winchester, VA 22601.

Comments should refer to No. MC-F-15189.

[No. MC-F-15404]

State Transportation, Inc.—Purchase Exemptions—Grant’s Transport

State Transportation, Inc. (MC-145985) seeks an exemption from the requirement under section 11943 of prior regulatory approval for its purchase of the permit held in No. MC-F-157938 by Grant’s Transport, which authorizes the transportation of (1) food and related products, between points in the United States, under contracts with four named Maine shippers of beverages, and (2) general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States, under contract with the Georgia-Pacific Corporation, of Darton, CT.

Send Comments to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Robert G. Parks, Suite 101, 20 Walnut Street, Wellesley Hills, MA 02181.

[No. MC-F-15370]

Stearlly’s Motor Freight, Inc.—Purchase Exemption—Motor Freight Express (Debtor-in-Possession)

Stearlly’s Motor Freight, Inc., and Motor Freight Express seek an exemption from the requirement in 49 U.S.C. 11343(a)(2) of prior regulatory approval and authorization for the purchase by the former of a portion of the latter’s authority: No. MC-F-59957 (Sub-Nos. 25, 29, 35, 36, 37, 38, 39, 44, 46, 47, 50, 58, 60, 62, 64, 66, 68, 69X, as well as a portion of Sub-No. 32), which collectively authorize the regular-route transportation of general commodities, with exceptions, generally between specified points in and east of Michigan, Wisconsin, Iowa, Missouri, Arkansas and Mississippi, as well as the irregular-route transportation of general commodities, with exceptions, (Sub-Nos. 29 and 32) and specified commodities (Sub-Nos. 36 and 38) between specified points in Pennsylvania, Maryland, Illinois, Ohio, West Virginia and New York, and the irregular-route transportation of general commodities, with exceptions, for the United States Government (Sub-No. 65) between points in the United States.

Send comments to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner’s representatives: James W. Patterson, Rubin, Quinn & Moss, 510 Walnut Street, Philadelphia, PA 19106.

Comments should refer to No. MC-F-15370.

Volume No. OP4–578


[No. MC-F-15371]

Central Delivery Service of Washington, Inc.—Purchase (Portion) Exemption—Motor Freight Express (Debtor-in-Possession)

Central Delivery Service of Washington, Inc., (Central) (MC-108480 and MC-159449) and Motor Freight Express (MFX) (MC-59957), seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase by Central of a portion of the operating rights of MFX, i.e., (1) a portion of Certificate No. MC-F-59957 (Sub-No. 32) authorizing the transportation of (a) general commodities (with exceptions), over regular-routes between Petersburg, VA and New York, NY, serving certain specified intermediate and off-route points and areas in Virginia, Washington, DC, Pennsylvania, Maryland, Delaware, New York and New Jersey, and (b) heavy machinery, contractors’ equipment, and supplies, from Baltimore, MD, and Washington, DC to points in Delaware, Maryland, New Jersey, and portions of New York, Pennsylvania, and Virginia, and (2) Sub-Nos. 45 and 48 authorizing the transportation of general commodities (with the usual exceptions) serving the facilities of named shippers at or near Cheswold, DE, and Chesterfield, VA, as off-route points in connection with carrier’s regular-route service.

Send comments to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner’s representatives: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106, and Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005.
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 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 reconsideration; 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 1181.4 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 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 20 days after publication, or within any approved extension period. Otherwise, the decision-notices 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.

Agatha L. Mergenovich,
Secretary.

Please direct status inquiries to Team 1 (202) 275-5223.

Volume No. OP3-FC-412

Please direct status inquiries to Team 5, (202) 275-7289.

Volume No. OP3-FC-442
MC-FC-81597. By decision of August 23, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Carleton, Parker, and Fortier approved the transfer to AIR FREIGHT EXPRESS, INC., of Minneapolis, MN, of Certificate No. MC-138880 Sub-Nos. 3X and 4, issued September 30, 1981, and May 25, 1983, respectively, to RED RIVER TRANSPORT & DEVELOPMENT CO., INC., d.b.a. AIR FREIGHT EXPRESS, INC., of Minneapolis, MN, authorizing the transportation of (1) general commodities, between points in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, MN, on the one hand, and, on the other, points in St. Louis and Carlton Counties, MN, and Douglas County, WI, and (2) shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI). Representative: Richard P. Anderson, 112 Roberta St., P.O. Box 2581, Fargo, ND 58108; (701) 235-3300.

Please direct status inquiries to Team 3, (202) 275-5223.
passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the Federal Register on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conflicting only a single operating right.

Agatha L. Mergenovich
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 1.

Please direct status inquiries to Team 1
(202) 275-7030.

Volume No. OP-1–356 (F)
Decided: August 22, 1983.
By the Commission, Review Board Members Fortier, Parker, and Dowell.

MC 169820, filed August 11, 1983.
Applicant: MORROW TRUCKING CO., 3109 Onondaga Dr., Maryland Heights, MO 63043. Representative: Kenneth F. Morrow (same address as applicant) 314–739–1820. Transporting food and other edible products and by-products 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 AL, AR, FL, GA, IL, IN, IA, KY, MN, MO, NC, SC, TN, TX and WI.

Volume No. OP-1–358 (F)
Decided: August 22, 1983.
By the Commission, Review Board Members Dowell, Krock, and Fortier.

MC 169750, filed August 8, 1983.
Applicant: CORBY FLAGLE, Rural Route 1, Box 86, Central City, NE 68826. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501; (402) 475–6761. Transporting food and other edible products and by-products intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169761, filed August 9, 1983.
Applicant: ROANE BUS LINE, INC., P.O. Box 245, Kilmarnock, VA 22482. Representative: Calvin F. Myers, 200 West Grace St., P.O. Box 5010, Richmond, VA 23220; (604) 649–7591. Transporting passengers, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP-1–360 (F).
Decided: August 23, 1983.
By the Commission, Review Board Members Fortier, Carleton, and Parker.

MC 138910 (Sub-4), filed August 17, 1983.
Applicant: GLOWATSKY PIGGYBACK SERVICE, INC., 524 Basin Street, P.O. Box 537, Allentown, PA 18105. Representative: Richard A. Carr, 3015 Lindberg Avenue, Allentown, PA 18105; (215) 423–3103. As a broker of general commodities (except household goods), between points in the U.S.

MC 160991 (Sub-1), filed August 17, 1983.
Applicant: ALBA/SOLE VACATIONS, INC. d.b.a. ALBA/SOLE BUS CHARTERS, 2245 S.W. 27th Terrace, Miami, FL 33133.
Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166; (305) 592–0036. Transporting passengers, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169901, filed August 16, 1983.
Applicant: ANTHONY N. NUZIO, 1662 Cornelius Ave., Wantagh, NY 11793.
Representative: Anthony N. Nuzio (same address as applicant); (516) 761–7732. As a broker of general commodities (except household goods), between points in the U.S.

Please direct status inquiries to Team 2,
(202) 275–7030.

Volume No. OP-2–381
Decided: August 24, 1983.
By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 168652 (Sub-I), filed July 29, 1983.
Applicant: CENTURY ARTISTS CORPORATION d.b.a. CENTURY LIMOUSINE SERVICE, 29 Guernsey St., Stamford, CT 06901. Representative: Richard W. Farrell, 607 Bedford St., Stamford, CT 06901; 203–348–7773. Transporting passengers, in charter and special operations, beginning and ending at points in Fairfield County, CT; and extending to points in DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160113 (Sub-1), filed July 11, 1983.
Applicant: ROADRUNNER MOTOR LINES, INC., 15 W. Union St., P.O. Box 105, Ashland, MA 01721. Representative: Mary E. Kelly, 22 Stearns Ave., Medford, MA 02155; 617–396–4090. Transporting
(1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with J.C.P. Truck Brokers, of Ashland, MA, (2) For or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (3) 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. (except AK and HI).

**Note.—**Part (1) is published in the Federal Register, this issue, under the preface with "regular applications".

**Please direct status inquiries to Team 3, (202) 275-5223.**

**Volume No. OP-3–398**

Decided: August 19, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Carleton.

MC 166935, filed August 2, 1983.
Applicant: GALIN TRANSPORTATION, INC., 48 Lockwood Ave., Stanhope, NJ 07874. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068; (201) 992-2200.

Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

**Note.—**Applicant seeks to provide privately-funded charter and special transportation.

**Volume No. OP-3–402**

Decided: August 22, 1983.

By the Commission, Review Board Members Fortier, Parker, and Dowell.

MC 165135 (Sub-1), filed June 27, 1983.
Applicant: WINSTON AIRPORT TRANSPORTATION SERVICE, INC., d.b.a. WINSTON AMERICAN TRANSPORTATION SERVICE, 1650 Sycamore Avenue, Bohemia, NY 11716. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022; (212) 759-3700. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC-165135 as follows: To operate over the rote between Riverhead, Montauk, Orient Point and Port Jefferson, NY, to provide intrastate service at all intermediate points between Riverhead, Montauk, Orient Point and Port Jefferson, NY. Condition: Issuance of a certificate in this proceeding is conditioned upon the grant and issuance of a certificate in pending No. MC–165135 which will be superseded by the Certificate issued in this proceeding. Failure to be granted and issued authority in the indicated proceeding shall render any grant of pertinent intrastate authority in this proceeding null and void.

**Note.—**Applicant seeks to provide regular route service in intrastate Commerce under 49 U.S.C. 10922(c)(2)(D).

MC 166974, filed August 5, 1983.
Applicant: DAVID A. OLENN d.b.a. DALLAS ASSEMBLY AND DISTRIBUTION SERVICE, Route 2, Box 12A, Seagoville, TX 75159.
Representative: David A. Dean (same address as applicant), (214) 287-5627. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 169684, filed August 5, 1983.
Applicant: CASINO TRAVEL SERVICE, 825 Hastings Court, Newark DE 19702. Representative: Frank Thornton (same address as applicant), (302) 654-6814.

Transporting *passengers*, in special operations, beginning and ending at points in New Castle County, DE, and extending to Atlantic City, NJ.

**Note.—**Applicant seeks to provide privately-funded special transportation.

**Volume No. OP-3–408**

Decided: August 22, 1983.

By the Commission, Review Board Members Fortier, Parker, and Dowell.

MC 122805 [Sub-7], filed August 2, 1983.
Applicant: ST. CLOUD CHARTER SERVICE, INC., 427 Lincoln Ave., NE., St. Cloud, MN 56301. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Rd. NE., Atlanta, GA 30326; (404) 262-9488.

Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

**Note.—**Applicant seeks to provide privately-funded charter and special transportation.

MC 162234 [Sub-2], filed August 3, 1983.
Applicant: HOWARD C. KENNEDY, d.b.a. KENNEDY COACHES, P.O. Box 179, Zumbro Falls, MN 55911. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 842-1121. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

**Note.—**Applicant seeks to provide privately-funded charter and special transportation.

MC 167705 [Sub-1], filed August 3, 1983.

Transporting for or on behalf of the U.S. Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).


**Note.—**Applicant seeks to provide privately-funded charter and special transportation.


**Note.—**Applicant seeks to provide privately-funded special and charter transportation.

MC 169765, filed August 8, 1983. Applicant: WORLDWAY FREIGHT SYSTEMS, INC., 1 Hackensack Ave., S. Kearny, NJ 07032. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666; (201) 836-1144. Transporting (1) for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

**Note.—**Applicant seeks to provide privately-funded special and charter transportation.

MC 169765[A], filed August 8, 1983. Applicant: WORLDWAY FREIGHT SYSTEMS, INC., 1 Hackensack Ave., S. Kearny, NJ 07032. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666; (201) 836-1144. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169784, filed August 10, 1983. Applicant: CHARLES C. HIRSCH d.b.a. CHARLES C. HIRSCH TRUCKING, Rural District #2, Box 100, New Ringgold, PA 17960. Representative: Richard D. Howe, 600 Hubbell Blvd., Des Moines, IA 50309; (515) 244-2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of motor-
vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169795, filed August 11, 1983.
Applicant: EMILIO GUGLIELMELLI &
DAVID DAYTON d.b.a.
GUGLIELMELLI, DAYTON &
ASSOCIATES, 1205 N. 11th, P.O. Box
249, Walla Walla, WA 99362.
Representative: George R. LaBissoniere,
15 S. Grady Way, Suite 239, Renton, WA
98055; (206) 28-3807. As a broker of
general commodities (except household
goods), between points in the U.S.

MC 169824, filed August 11, 1983.
Applicant: DELBERT R. FEHNEL d.b.a.
ALL SPORTS TOURS, 219 Broad St.,
Tatamy, PA 18085. Representative:
Delbert R. Fehnel (same address as
applicant) (215) 253-2536. Transporting
passengers, in special and charter
operations, beginning and ending at
points in Northampton County, PA, and
extending to points in the United States
on the east of a line beginning at the
mouth of the Mississippi River, and
extending along the Mississippi River to
its junction with the western boundary
of Itasca County, MN, then northward
along the western boundaries of Itasca
and Koochiching Counties, MN, to the
International Boundary line between the
United States and Canada.

Note.—Applicant seeks to provide
privately-funded special and charter
transportation.

Volume No. OPS-449(a)
Decided: August 18, 1983.
By the Commission, Review Board
Members Fortier, Carleton and Dowell.

Applicant: RALPH B. CARVER, JR. and
RALPH B. CARVER, III d.b.a.
R.B.C. CONSOLIDATING COMPANY, Lodge
Dr., Avon, MA 02322. Representative:
Russell S. Callahan, P.O. Box 1806,
Brockton, MA 02403; (617) 897-9405. As
a broker of general commodities (except
household goods), between points in the
U.S. (except AK and HI).

For the following, please direct status
calls to Team 5 at 202-275-7289.

Volume No. OPS-448
Decided: August 18, 1983.
By the Commission, Review Board
Members Dowell, Joyce, and Fortier.

MC 57206 (Sub-16), filed August 12,
1983. Applicant: TRAILWAYS TEXAS,
INC., 1500 Jackson St., Dallas, TX 75201.
Representative: Rebecca Patton (same
address as applicant.) (214) 655-7796.
Transporting (1) 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. (except AK and HI), and (2)
passengers, in charter and special
operations, between points in the U.S.
(except HI).

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

Volume No. OPS-449
Decided: August 18, 1983.
By the Commission, Review Board
Members Fortier, Carleton and Dowell.

MC 169768, filed August 8, 1983.
Applicant: THOMAS RUSSELL
FRANCIS d.b.a. TOM FRANCIS
TOURS, 819 Archbald St., Scranton, PA
18504. Representative: Thomas Russell
Francis (same address as applicant)
717-349-6529. Transporting passengers
in charter and special operations,
beginning and ending at points in
Lackawanna County, PA, and extending
to points in NY, NJ, MD, VT, CT, MA, RI,
NH, ME, DE, VA, WV, FL, GA, NC, SC,
OH, TN, KY and DC.

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

MC 169768, filed August 8, 1983.
Applicant: JACKSON TOUR & TRAVEL,
INC., 2846 Ridgewood Road, Suite C
Jackson, MS 32211. Representative: Jerry
H. Blount, 213 South Lamar Street, Suite
200, Jackson, MS 332913; (601) 354-1608.
Transporting passengers, in charter and
special operations, beginning and ending at
points in AL, LA, MS, and TN, and
extending to points in the U.S. (except
AK and HI).

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

MC 169778, filed August 8, 1983.
Applicant: INTERNATIONAL
TRANSPORTATION, INC., 2335
Wheatheaf Lane, Philadelphia, PA
19137. Representative: Alan Kahn, 1430
Land Title Bldg., Philadelphia, PA 19110;
215-561-1030. As a broker of general
commodities (except household goods),
between points in the U.S. (except AK
and HI).

MC 169788, filed August 10, 1983.
Applicant: H.M.H. MOTOR SERVICE,
INC., P.O. Box 98, Morris Rd., Haz
hurst, GA 31539. Representative: Morton E.
Kiel, Suite 2B, 475 South Main St., P.O.
Box 489, New City, NY 10958; 914-638-
4007. As a broker of general
commodities (except household goods),
between points in the U.S. (except AK and
HI).

MC 169798, filed August 10, 1983.
Applicant: TOUR-AM LTD., 2600 Buford
Rd., Richmond, VA 23235.
Representative: Robert L. Dolbeare,
Suite 1300, 700 East Main St., Richmond,
VA 23219; (804) 780-2900. Transporting
passengers, in charter and special
operations, between points in the U.S.
(except HI).

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

Volume No. OPS-450
Decided: August 19, 1983.
By the Commission, Review Board
Members Fortier, Carleton and Parker.

MC 169740, filed August 8, 1983.
Applicant: JACK L. SMITH, d.b.a. J.L.S.
TRANSPORTATION, 2243 N Indiana
Hill Blvd., Claremont, CA 91711.
Representative: Jack L. Smith (same
address as applicant) (714) 621-4352. To
operate as a broker of general
commodities (except household goods),
between points in the U.S.

MC 169819, filed August 11, 1983.
Applicant: WEST PAC TRUCK
BROKERS, P.O. Box 1621, Sparks, NV
89431. Representative: Robert G.
Harrison, 4290 James Dr., Carson City,
NV 89701; 702-682-4640. As a broker of
general commodities (except household
goods), between points in the U.S.

MC 169832, filed August 13, 1983.
Applicant: VERNON MEYER and
HAROLD MEYER d.b.a. Meyer Bros.
Trucking, Box 2, Pollock, SD 57648.
Representative: Wanda Stange, RR Box
20, Stratford, SD 57474; (605) 395-6401.
Transporting food and other edible
products and byproducts intended for
human consumption (except alcoholic
beverages and drugs), agricultural
limestone and fertilizers and other soil
conditioners, by the owner of the motor
vehicle in such vehicle, between points in
the U.S. (except AK and HI).

Volume No. OPS-451
Decided: August 22, 1983.
By the Commission, Review Board
Members Carleton, Parker and Fortier.

MC 169839(A), filed August 12, 1983.
Applicant: SILVER STATE STAGELINE,
INC., 1705 Marietta Way, Sparks, NV
89431. Representative: Robert G.
Harrison, 4290 James Drive, Carson City,
NV 89701; (701) 682-5649. Transporting
passengers, in charter and special
operations, between points in the U.S.
(except HI).

Note.—Applicant seeks to provide
privately-funded charter and special
transportation. Applicant also seeks
authority in MC 169839 (B) published in this
same issue.

MC 169848, filed August 12, 1983.
Applicant: TOUR-AM LTD., 2600 Buford
Rd., Richmond, VA 23235.
Representative: Robert L. Dolbeare,
Suite 1300, 700 East Main St., Richmond,
VA 23219; (804) 780-2900. Transporting
passengers, in charter and special
operations, between points in the U.S.
(except HI).

Note.—Applicant seeks to provide
privately-funded charter and special
transportation.

Motor Carriers; Permanent Authority
Decisions; Decision-Notice

Motor Common and Contract Carriers
of Property (except fitness-only); Motor
Common Carriers of Passengers (public

interest): Freight Forwards; Water Carriers; Household Goods Brokers. The following applications for motor
common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the
November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal
Register December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an
application must follow the rules under 49 CFR 1160, Subpart B.
The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are
For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must
comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an
application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications
may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.
Applicant's representative is required to mail a copy of an application, including all supporting evidence, within
three days of a request and upon 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 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.
We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—
that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common
carrier—that the transportation to be
provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the service proposed will be consistent with the public interest and the
transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.
These presumptions 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
In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the
application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly
noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The
unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the
compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the
authority will be issued.
Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in
opposition.
To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single
operating right.
Agatha L. Mergenovich,
Secretary.
Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor
common carrier of passengers are duly noted.
Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP-2--382
Decided: August 24, 1983.

By the Commission, Review Board Members Krock, Dowell, and Carleton.

Box 2307, Austin, TX 78768, 512-472-6207. Transporting hides, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).
MC 151153, filed August 3, 1983. Applicant: ALES ENTERPRISES CORP., 1409 15th St., Suits #13 and #3, Moline, IL 61265. Representative: Chris Ales (same address as applicant), 309-762-2818. Transporting (1) machinery, (2)
metal products, and (3) waste or scrap materials not identified by industry producing, between points in IA, IL, MI, TX, GA, and CO, on the one hand, and, on the other, points in IA, IL, TX, NE, MN, and KS.
MC 155342 Sub-2, filed August 12, 1983. Applicant: C.W.D. EXPRESS, INC., P.O. Box 396, Pioneer, OH 43554. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting general commodities (except classes A and B explosive, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with World Wide Transportation Services, Inc., Romulus, MI.
MC 155763 (Sub-2), filed May 31, 1983, published in the Federal Register issue of July 8, 1983, and republished, as corrected, this issue. Applicant: CAPSTAN TRANSPORTATION CO., 109 North Broad St., Lancaster, OH 43130. Representative: Mr. D. C. Bolger, (same address as applicant), 614-687-2271. Transporting general commodities (except classes A and B explosive), between points in the U.S., under continuing contract(s) with Anchor Glass Container Corp., c/o Wesray Container Corporation, of Morristown, NJ.

Note.—The purpose of this republication is to remove the restrictions against "household goods and commodities in bulk".
MC 155913 (Sub-5), filed August 1, 1983. Applicant: SELDEN AND SPENCER, INC., Route 661, Chance, VA 22439. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, 804-282-3809. Transporting (1) building materials, (2) clay, concrete, glass or stone products, (3) lumber and wood products, (4) machinery, (5) metal products, (6) pulp, paper and related products, (7) rubber and plastic products, (8) transportation equipment and (9) chemicals and related products, between those points in the U.S. in and east of MN, IA, MO, OK, and TX.
MC 159823 (Sub-2), filed August 11, 1983. Applicant: WESTEXPRESS, INC., 421 West Erie St., Chicago, IL 60610. Representative: Edward P. Bocko, P.O.
Box 496, Mineral Ridge, OH 44440, 216-652-2789. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160113 (Sub-1), filed July 11, 1983. Applicant: RODDRUNNER MOTOR LINES, INC., 15 W. Union St., P.O. Box 105, Ashland, MA 01721. Representative: Mary E. Kelly, 22 Stearns Ave., Medford, MA 02155, 617-396-4090. Transporting (1) general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with J.C.P. Truck Brokers, of Ashland, MA, (2) For or on behalf of the United States Government, general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (3) 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. (except AK and HI).

Note.—Parts (2) and (3) are published in the Federal Register, this issue, under the preface with "fitness applications".

MC 160463 (Sub-1), filed August 10, 1983. Applicant: McDANIEL WELDING, INC., P.O. Box 579, Cameron, LA 70631. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205, 601-948-8620. Transporting Mercer general commodities, between points in AL, AK, AR, CA, CO, FL, GA, IL, KS, LA, MD, MS, MT, NJ, ND, OK, SD, TN, TX, and WY.

MC 160893 (Sub-1), filed August 11, 1983. Applicant: V & W, INC., 5085 Mulcare Dr., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101 612-291-1215. Transporting metal products, between points in Box Elder County, UT, and Maricopa County, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).


MC 162868, filed August 16, 1983. Applicant: TERMINAL TRANSPORTATION, INC., 1215 Southern Minerals Rd., Corpus Christi, TX 78403. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, 512-476-8066. Transporting general commodities, (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. § 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 169872, filed August 15, 1983. Applicant: UNIVERSAL TRANSPORTATION, INC., 990 W. 1020 S. Provo, UT 84601. Representative: Irene Warr, 311 S. State St. Ste. 200, Salt Lake City, UT 84111, 801-531-1300. Transporting general commodities, (except classes A and B explosives and household goods), between points in CA, NV, UT, ID, and WY, on the one hand, and, on the other, points in OR, WA, WY, UT, ID, CA, CO, AZ, IN, NV, MT, IL, OH, MN, OK, MO, WI, TX, NM, NY, SD, and PA.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP–3–397

Decided: August 19, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Carleton.

MC 15735 (Sub-8), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680, (312) 681-8377. Transporting household goods, between points in the U.S. (except AK and HI), under continuing contract(s) with Texas Instruments, Inc., and its subsidiaries, of Dallas, TX.


MC 117954 (Sub-28), filed July 29, 1983. Applicant: H. L. HERRIN TRUCKING CO., P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265-2034. Transporting such commodities as are dealt in or used by food business houses and chain grocery stores, between points in the U.S. (except AK and HI).

MC 149145 (Sub-4), filed July 18, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498-7689. Transporting such commodities as are dealt in or used by department stores and home improvement stores, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of described commodities.

MC 164775 (Sub-1), filed July 29, 1983. Applicant: MEG INDUSTRIES, INC., 3388 S. 127th St., Omaha, NE 68144. Representative: Arlyn L. Westergren, 9202 W. Dodge Rd., Suite 201, Omaha, NE 68114, (402) 397-7033. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 169544, filed July 29, 1983. Applicant: LES PETROLES BUSSIERES LTEE, 258 Rue Commerciale, C. P. 156, St. Henri de Levis, Quebec, Canada GOR 3E0. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02198, (617) 742-3530. In foreign commerce only, transporting chemicals and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Reed, Inc., of St. Henri de Levis, Quebec, Canada.

Volume No. OP–3–401

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Krock.

MC 107515 (Sub-1433), filed August 5, 1983. Applicant: RTC TRANSPORTATION, INC., P.O. Box 306, Forest Park, GA 30051. Representative: Robert W. Gerson, 127 Peachtree Street, NE, Suite 1400, Atlanta, GA 30043, (404) 658-8045. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Minnesota Mining and Manufacturing Company, of St. Paul, MN, and its subsidiaries.

MC 160854, filed August 4, 1983. Applicant: LONG'S TRANSFER & STORAGE, INC., 4603 Long Ave., Pascagoula, MS 39567. Representative: Donald J. Flurry (same address as applicant), (601) 762-2581. Transporting
general commodities (except classes A and B explosives), between points in the U.S. (except AK and HI).  

MC 15753s (Sub-91), filed August 2, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. (312) 681-8377. Transporting household goods, between points in the U.S. (except AK and HI), under continuing contract(s) with B. W. LaTourette, 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with James River Transportation Corporation, of Richmond, VA.  

MC 155654 (Sub-2), filed August 5, 1983. Applicant: LAND-LINK TRUCKING CORP., 807 Ocean Rd., Point Pleasant Beach, NJ 08742. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting salt and salt products, between points in the U.S., under continuing contract(s) with James River Corporation, of Richmond, VA.  

MC 157734 (Sub-2), filed August 3, 1983. Applicant: J & J LOGGING CO., INC., P.O. Box 588, Tonasket, WA 98852. Representative: Boyd Hartman, P.O. Box 3941, Bellevue, WA 98009, (206) 453-0312. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.  

MC 162384 (Sub-1), filed August 5, 1983. Applicant: SOUTHWEST EXPRESS, INC., Washington St., East Walpole, MA 02032. Representative: Fred K. Bauer, (same address as applicant), (617) 668-2500. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).  

MC 168594, filed August 4, 1983. Applicant: IDAHO MOBILE TRANSPORT, INC., 4280 Stockman Rd., Pocatello, ID 83204. Representative: Morgan W. Richards, Jr., P.O. Box 829, Boise, ID 83701, (208) 345-2334. Transporting mobile and modular houses, trailers or buildings, mobile home frames and undercarriages, furniture and appliances, between points in ID, MT, ND, NV, UT, WY and CO.  

MC 134835 (Sub-5), filed August 4, 1983. Applicant: WINSTON CARRIERS, INCORPORATED, P. O. Box 347, Double Springs, AL 35553. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Winston Homes, Inc. of Double Springs, AL.  

MC 148994 (Sub-6), filed August 3, 1983. Applicant: MICHAEL W. AMABILE d.b.a. TRIPLE A TRUCKING, 28861 Red Arrow Hwy., Paw Paw, MI 49079. Representative: Michael W. Amabile (same address as applicant), (616) 657-3416. Transporting pulp, paper and related products, between points in the U.S., under continuing contract(s) with James River Corporation, of Richmond, VA.  

MC 148736 (Sub-59), filed August 10, 1983. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, MO 64124. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234-0556. Transporting general commodities (except commodities in bulk, classes A and B explosives and household goods), between points in AR, CO, IL, IN, IA, KS, KY, LA, MN, MS, NE, ND, OK, SD, TN, TX, WI, and WY.  

MC 58495 (Sub-3), filed August 10, 1983. Applicant: EDDIE L. BELL AND VERDEAN BELL A PARTNERSHIP, d.b.a. BELL TRANSFER, 518 Lincoln Street, Winner, SD 57580. Representative: Kim L. Bell (same address as applicant), (605) 842-0690. Transporting lumber and wood products, between points in SD and WY, on the one hand, and, on the other, points in CO, NE, MT, IA, IL, IN, MN, MI, MO, OH, WI, and TX.  

MC 67234 (Sub-88), filed August 10, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LeTourrette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting general commodities (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Commercial Shippers as defined at 49 CFR 1056.1(b)(6).  

MC 149145 (Sub-10), filed August 10, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative:
Transporting such commodities as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of food and related products.

MC 155885 (Sub-3), filed August 27, 1983. Applicant: GARFIELD TRANSFER CO., INC., d.b.a. GARFIELD TRUCK LINES, P.O. Box 800, Renton, WA 98055. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405. Applicant: GARFIELD TRANSFER products.

Transporting general commodities (except classes A and B explosives, and household goods), between points in Creston, TN, Hamburg, Green Isle, Arlington, Gaylord, Gibbon, Winthrop, Morton, Franklin, Fairfax, Belview, Arlington, Gaylord, Gibbon, Winthrop, Box 1564, York, PA 17405, Representative: David Zimmerman, P.O. Box 800, Renton, WA 98055. Applicant: GARFIELD TRANSFER products.

Transporting general commodities (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).
Volume No. OP4–576.

Decided: August 18, 1983.

By the Commission, Review Board.

Members: Williams, Carleton, and Dowell.

MC 12907 (Sub-2), filed July 18, 1983.
Applicant: KERRVILLE TOURS, INC., 429 Sidney Baker St., P.O. Box 712, Kerrville, TX 78028. Representative: Jerry Prestridge, P.O. Box 26126, Austin, TX 78755–0126, (512) 345–6596. Over regular routes, transporting passengers, between San Marcos, TX and Houston, TX: from San Marcos over Texas State Hwy 80 to junction Interstate Hwv 10, then over Interstate Hwv 10 to Houston, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

Volume No. OP4–577

Decided: August 17, 1983.

By the Commission, Review Board.

Members: Fortier, Joyce, and Carleton.

MC 169727, filed August 8, 1983.
Applicant: GARY LESLIE, INC., P.O. Box 885, Adelanto, CA 92301.

Representative: Roy Gray, P.O. Box 344, Bloomington, CA 92316, (714) 824–2453. Transporting (1) ores and minerals, (2) clay, concrete, glass and stone products, and (3) building materials, between points in AZ, CA, CO, NV, NM, OR, TX, UT, and WA.

For the following, please direct status calls to Team 5 at 202–725–7289.

Volume No. OP5–443

Decided: August 18, 1983.

By the Commission, Review Board.

Members: Dowell, Carleton, and Fortier.

MC 79658 (Sub-108), filed August 12, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), 812–424–2222. Transporting household goods, between points in the U.S. (except AK and HI), under continuing contract(s) with United Technologies Incorpoated Sikorsky Aircraft Division, of Stratford, CT.

MC 79658 (Sub-106), filed August 12, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), (812) 424–2222. Transporting household goods between points in the U.S. (except AK and HI), under continuing contract(s) with UARCO, Incorporated, of Barrington, IL.

MC 129088 (Sub-34), filed August 4, 1983. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., West Highway 30, Grand Island, NE 68801. Representative: Jack L. Schultz, P.O. Box 62028, Lincoln, NE 68501–2028, (402) 475–6701. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).


MC 146148 (Sub-22), filed August 5, 1983. Applicant: BRIGHT TRUCKING CO., 7087 West Boulevard, Suite 8, Youngstown, OH 44512. Representative: Kim D. Mann, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting (1) forest products, (2) lumber and wood products, and (3) building materials, between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in the manufacture, sale, and distribution of commodities dealt in by building supply outlets and home improvement centers.

MC 147318 (Sub-14), filed August 10, 1983. Applicant: DEEP SOUTH TRUCKING, INC., Highway 11 North, P.O. Box 304, Purvis, MS 38661. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205 (601) 498–8620. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148549 (Sub-12), filed August 12, 1983. Applicant: EQUIPMENT BAG CO., INC., 46–50 Van Dam Street, Long Island City, NY 11101. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151118 (Sub-27), filed August 11, 1983. Applicant: M.D.R. CARTAGE, INC., 518 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38702–1295, 601–335–3578. Transporting (1) metal products, and (2) rubber and plastic products, between points in the U.S. (except AK and HI), under continuing contract(s) with Halstead Industrial Products, a Division of Halstead Industries, Inc., of Wynne, AR.

MC 151789 (Sub-4), filed August 11, 1983. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, 475 South Main Street, P.O. Box 489, New City, NY 10956, (914) 638–4007. Transporting metal products, between points in the U.S. (except AK and HI), under continuing contract(s) with Berlin Steel Co., Inc., of Albertson, NY, and Metropolitan Metals, Inc., of Cleveland, OH.

Volume No. OP5–444

Decided: August 18, 1983.

By the Commission, Review Board.

Members Fortier, Carleton, and Dowell.


MC 159598 (Sub-2), filed August 10, 1983. Applicant: DCL TRANSPORT, INC., 16521 Van Dam Road, South Holland, IL 60473. Representative: Joseph Winter, 837 South St., Chicago, IL 60603, (312) 263–2306. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160449 (Sub-1), filed August 12, 1983. Applicant: COMMERCE TRUCKING COMPANY, INC., 127...
Jefferson St., Commerce, GA 30529.
Representative: David L. Capps, P.O. Box 824, Douglasville, GA 30135, (404) 949-7758. Transporting general commodities (except classes A and B explosives, commodities in bulk, and household goods), between points in AR, CA, NV, TX, and those points in the U.S. in and east of MS, TN, KY, IL, and WI.

MC 164886 (Sub-1), filed August 4, 1983. Applicant: TAX AIRFREIGHT, INC., 4430 South Kansas Ave., Milwaukee, WI 53207. Representative: James A. Spiegel, Olde Towne Office Park, 8333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting general commodities (except classes A and B explosives household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with freight forwarders.

MC 165868, filed August 11, 1983. Applicant: WELL-COAT, INC., Number 3 Industrial Park, Paula Valley, OK 73075. Representative: William F. Parker, 4460 N. Lincoln, Suite 10, Oklahoma City, OK 73105, (405) 424-3301. Transporting metal products and machinery, between points in OK on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168169 (Sub-1), filed August 5, 1983. Applicant: SUNDANCE TRANSPORTATION, 1357 Milne Lane, Midvale, UT 84047. Representative: Gordon Jensen (same address as applicant), (801) 942-4340. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and west of AR, LA, OK, KS, NE, ND, and SD (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169088, filed August 3, 1983. Applicant: RALPH SWIFT, d.b.a SWIFT TRUCK LINE, Walden, CO 80480. Representative: Ralph Swift (same address as applicant), (303) 723-4405. Transporting (1) farm products and machinery, between points in CO, WY, ID, and MT, and (2) lumber and wood products, between points in Jackson County, CO, on the one hand, and, on the other, those points in WY, NE, IA, IL, OH, IN, MO, AR, OK, KS, TX, NM, LA, TN, AL, WI, MN, and MI.


Volume No. OPS-445
MC 14708 (Sub-4), filed August 11, 1983. Applicant: FIELD VIEW FARM TRANSPORTATION, INC., 707 Derby Turnpike, Orange, CT 06477. Representative: John R. Sims, Jr., 915 Pennsylvania Blvd., 425-13th St., NW., Washington, DC 20004, (202) 737-1030. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC.

MC 22509 (Sub-38), filed August 10, 1983. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., P.O. Box 939, St. Joseph, MO 64505. Representative: Harry Ross, Jr., 58 S. Main St., Winchester, KY 40391, (606) 744-3503. Transporting such commodities as are distributed or used by manufacturers of containers and container ends, under continuing contract(s) with The Continental Group, Inc., of Stamford, Ct.

MC 148018 (Sub-14), filed August 8, 1983. Applicant: BATT TRUCKING, INC., P.O. Box 921, 121 N. 21st, Caldwell, ID 83605. Representative: John H. Goslin, 911 Main St., Caldwell, ID 83605, (208) 459-6387. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).


MC 162008 (Sub-1), filed August 19, 1983. Applicant: GREAT SOUTHWEST EXPRESS CO., INC., 1023 Rockcut Rd., Forest Park, GA 30050. Representative: Benji Fincher, P.O. Box 577, Jonesboro, GA 30239, (702) 882-0499, (404) 477-1529. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Castellaw Transportation Consultants, Inc., of Jonesboro, Ga.

Highway 395 to junction U.S. Highway 50 south of Carson City, NV, then over U.S. Highway 50 to South Lake Tahoe, CA, and return over the same route, serving all intermediate points.

Note—Applicant seeks to provide regular-route service in interstate or foreign commerce, and in intrastate commerce under Section 10922(c)(2)(B) over the same route.

Applicant also seeks authority in MC 169839(A) published in this same issue.

Transporting food and related products, between points in CA, ID, OR, and WA.

Volume No. OP5-447

Decided: August 22, 1983.

By the Commission, Review Board Members Krock, Carleton, and Parker.


MC 39568 (Sub-18), filed August 15, 1983. Applicant: ARROW TRANSFER & STORAGE CO., 1116 Market Street, Chattanooga, TN 37402. Representative: John M. Nader, 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004, (202) 737-1030. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Walgreens, of Deerfield, IL.

MC 110988 (Sub-442), filed August 16, 1983. Applicant: SCHNEIDER TANK LINES, INC., P.O. Box 117, Appleton, WI 54912. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498-7689. Transporting such commodities as are dealt in, or used by, manufacturers and distributors of chemicals and petroleum products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of the above described commodities.

MC 135679 (Sub-3), filed August 15, 1983. Applicant: FRANK E. HICKS TRUCKING, INC., 5830 Mayhew Rd., P.O. Box 26103, Sacramento, CA 95826. Representative: Ellis Ross Anderson 100 Bush St., Suite 410, San Francisco, CA 94104, 415-421-6743. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, CA, NV, UT, ID, MT, AZ and NM.

MC 144428 (Sub-18), filed August 10, 1983. Applicant: TRUCKADYNE INC., Route 16, P.O. Box 308, Mendon, MA 01756. Representative: Joseph A. Reed (same address as applicant), 1-800-962-4723. Transporting paper and paper articles between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.


Motor Carriers; 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 1162.3. 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.

As except otherwise specified 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-298

The following applications were filed in Region 2. Send Protests to: ICC, Fed. Reg. 37 The following applications were filed in Region 2. Send Protests to: ICC, Fed. Reg. 37
Serv, Inc. and The Iowa Packing Co. A
underlying ETA seeks 120 days
authority. Supporting shipper: Chem
Serv, Inc., 207 NE 6th St., Minneapolis,
MN 55413. The Iowa Packing Co., 1801
Maury St., Des Moines, IA 50317.

MC 124333 (Sub-II-16TA), filed August
12, 1983. Applicant: BAKER
PETROLEUM TRANSPORTATION CO.,
Inc., Pyles Lane, New Castle, DE 19720.
Representative: Joseph F. Fogarty (same
address as applicant). Contract,
irregular: petroleum and petroleum
products, in bulk, in tank vehicles,
between points in DE, NJ, and PA.
Under continuing contract(s) with N.V.F.
Company. An underlying ETA seeks 120
days authority. Supporting shipper(s):
N.V.F. Company, P.O.B. 66, Yorklyn, DE
19736.

MC 124333 (Sub-II-17TA), filed August
12, 1983. Applicant: BAKER
PETROLEUM TRANSPORTATION,
CO., INC., Pyles Lane, New Castle, DE
19720. Representative: Joseph F. Fogarty
(same address as applicant). Contract,
irregular: petroleum and petroleum
products, in bulk, in tank vehicles,
between points in DE, NJ, and PA.
Under continuing contract(s) with Amerada
Hess Corp. An underlying ETA seeks 120
days authority. Supporting shipper(s):
Amerada Hess Corp. #1 Hess Plaza,
Woodbridge, NJ 07095.

MC 169143 (Sub-II-1TA), filed August
8, 1983. Applicant: BERLIN MINERAL,
CO., St. Rt. 39, P.O. Box 295, Berlin, OH
44610. Representative: James Duval1,
2515 W. Granville Rd., Worthington, OH
43085. Clay, clay products, coal and
limestone, between points in Coshocton,
Guernsey, Harrison, Holmes, Stark,
Tuscarawas and Wayne Counties, OH,
on the one hand, and, on the other,
points in IN, KY, MI, NY, PA and WV
for 270 days. An underlying eta seeks
120 days authority. Supporting shipper:
Berlin Mineral Co., St. Rt. 39, P.O.
Box 285, Berlin, OH 44610.

MC 141851 (Sub-II-2TA), filed August
15, 1983. Applicant: C. C. CALDWELL
TRUCKING, INC., Route 2, P.O. Box 297,
Bidwell OH 45614. Representative: John
L. Alden, 1396 W. Fifth Ave., Columbus
OH 43212. General commodities, (except
Classes A & B explosives, household
goods, and commodities in bulk),
between Gallia County, OH on the one
hand, and, on the other, points in the
U.S. for 270 days. An underlying eta
seeks 120 days authority. Supporting
shipper: Robbins & Myers, Inc., P.O.
Box 502, Bob McCormick Rd., Gallipolis,
OH 45631.

MC 155342 (Sub-II-3TA), filed August
11, 1983. Applicant: G.W.D. EXPRESS,
INC., P.O. Box 396, Pioneer OH 43554.
Representative: A. Charles Tell, 100 E.
Broad St., Columbus, OH 43215. General
commodities (except Classes A and B
explosives, commodities in bulk and
household goods) between points in the
US (except AK and HI), under
contract(s) with World Wide
Transportation Services, Inc., of
Romulus, MI, for 270 days. Supporting
shipper: World Wide Transportation
Services, Inc., P.O. Box 344, Romulus, MI
48175.

MC 158719 (Sub-II-3TA), filed August
15, 1983. Applicant: LEE TRANSORT
INC., P.O. Box 39185, Solon, OH 44139.
Representative: Ignatius B. Trombetta,
1001 One Public Square, Cleveland, OH
44113. Calcium Carbonate, Clays,
Compounds, Silicates, Titanium Dioxide,
Kaolin, Barytcs, Caulk, Adhesives,
Sealants and related materials in
containers and bags (1) from points in
GA, AL, MD, and NJ on the one hand
and on the other to points in Cuyahoga,
Summit, Lake and Lorain Counties, OH,
and (2) from points in Cuyahoga,
Summit, Lake and Lorain Counties, OH
on the one hand and on the other to
points in PA, NY, TX, IL, GA, NC, SC,
AL and FL for 270 days. An underlying
E.T.A. seeks 120 day authority.
Supporting shippers: Dar Tech, Inc., 4900
Lakeside Avenue, Cleveland, OH. Ohio
Sealants, Inc., 7249 Commerce Park,
Mentor, OH 44060.

This was first published in the "Federal

MC 98792 (Sub-II-1TA), filed July 6,
1983. Applicant: JON E. GOLASHEWSKI
AND EDWARD VAYANSKY, d.b.a.
MON VALLEY EXPRESS, 131 Donner
Ave., Monessen, PA 15062.
Representative: John A. Pillar, 1500 Bank
Tower, 307 Fourth Ave., Pittsburgh, PA
15222. General commodities (except
Classes A and B explosives, household
goods and commodities in bulk)
between points in Washington, Fayette,
Greene, Westmoreland and Allegheny
Counties, PA, on the one hand and, on
the other, Pittsburgh PA and its
commercial zone and points in OH, NY
and WV. Applicant intends to interline
to Pittsburgh, PA and its commercial
zone and the Counties in PA as
mentioned above. Supporting shipper(s):
There are 11 supporting statements
attached to this application which may
be examined at the Phila. Regional
office.

The purpose of this re-publication is
to show the interlining points which
were omitted in the previous
publication.

MC 107012 (Sub-II-338TA), filed August
11, 1983. Applicant: NORTH
AMERICAN VAN LINES, INC., 5001
U.S. Hwy. 30 West, P.O. Box 988, Ft.
Wayne, IN 46801. Representative:
David D. Bishop (same as applicant). Contract
irregular: household goods between
points in the US (excluding Alaska &
Hawaii), under continuing contracts
with: Deere & Company of Moline, IL
for 270 days. An underlying ETA seeks
120 days authority. Supporting shipper:
Deere & Company, John Deere Road,
Moline, IL 61265.

MC 107012 (Sub-II-339 TA), filed August
12, 1983. Applicant: NORTH
AMERICAN VAN LINES, INC., 5001
U.S. Highway 30 West, P.O. Box 988, Ft.
Wayne, IN 46801. Representative:
Margaret S. Vegeler (same as applicant)
Contract, irregular: General
commodities (except classes A & B
explosives and commodities in bulk)
between points in the U.S. under
continuing contract(s) with Osborne
Computer Corp. of Hayward, CA for 270
days. Supporting shipper: Osborne
Computer Corp. 26538 Danti Court,
Hayward, CA 94548.

MC 107012 (Sub-II-340 TA), filed August
12, 1983. Applicant: NORTH
AMERICAN VAN LINES, INC., 5001
U.S. Hwy 30 West, P.O. Box 988, Fort
Wayne, IN 46801. Representative:
Gerald A. Burns (same as applicant).
Contract, irregular: General
commodities (except classes A & B
explosives, commodities in bulk, and
household goods as defined by the
Commission) between points in the U.S.
under continuing contract(s) with Targe
Stores, Minneapolis, MN, for 270 days.
An underlying ETA seeks 120 days
authority. Supporting shipper: Target
Stores, 77 Nicollet Mall, Minneapolis,
MN 55440.

MC 107012 (Sub-II-341 TA), filed August
17, 1983. Applicant: NORTH
AMERICAN VAN LINES, INC., 5001
U.S. Hwy 30 West, P.O. Box 988, Ft.
Wayne, IN 46801. Representative:
Davi D. Bishop (same as applicant). Contract
irregular: household goods between
points in the U.S. (except AK & HI)
under continuing contract(s) with Digital
Equipment Corp. of Northborough, MA
for 270 days. Supporting shipper: Digital
Equipment Corp., 50 Whitney St.,
Northborough, MA 01532.

MC 145900 (Sub-II-3TA), filed August
15, 1983. Application: THREE RIVERS
TRUCKING, INC., Legionville Road,
Ambridge, PA 15003. Representative:
William A. Gray, 2310 Grant Bldg.,
Ambridge, PA 15003. Representative:
Guy E. Bishop (same as applicant). Contract
irregular: General
commodities, in containers (except Classes A and B explosives and
household goods), between Maspeth ar
New York, NY; Baltimore and Dundalk,
MD; Newark and Port Elizabeth, NJ and
Philadelphia, PA, on the one hand, and
on the other, points in PA, WV, OH, IL, IN and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Texaco. There are fourteen support statements attached to this application which may be examined at the Phila. Regional office.

MC 16705 (Sub-II-2TA), filed August 11, 1983. Applicant: UNION TRANSPORT COMPANY, 785 Union Commerce Building, Cleveland, OH 44115. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. General commodities, in containers, between Wayne County, MI on the one hand, and, on the other, Cuyahoga County, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sofati Container Line (North America) Ltd., 1 Park Lane Blvd., Suite 1812 E., Dearborn Towers, MI 48126.

MC 145194 (Sub-II-2TA), filed August 10, 1983. Applicant: WOOSTER MOTORWAYS, INC., P.O. Box 787, Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Petroleum products, except in bulk, between Bayonne, NJ and Detroit, MI, including points in their respective commercial zones, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, and WV, for a period of 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Texaco USA, P.O. Box 430, Room W 400, Bellaire, TX 77401. Agatha L. Mergenovich, Secretary.

[FR Doc. 83-23873 Filed 8-30-83; 8:45 am] BILLING CODE 7035-01-M

[Finance Docket No. 30245]

Rail Carriers; the New York, Susquehanna and Western Railway Corp.; Abandonment and Trackage Rights Exemption, Hudson County, NJ

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901, 10903, and 11343: (1) The abandonment by The New York, Susquehanna and Western Railway Corporation (NYS&W) of a line of track between milepost 10.73, North Bergen, NJ, and milepost 3.944, near Croxton Yard, Jersey City, NJ; (2) the acquisition by NYS&W of trackage rights over a Consolidated Rail Corporation (Conrail) branch line known as the Northern Secondary, between milepost 8,2, formerly known as Owens-Illinois Switch, northern Bergen Township, NJ, and milepost 3.2 north of NYS&W's Bridge 3.51 over New County Road, Jersey City, NJ; (3) the modification dated April 1, 1982, of a previously approved trackage rights agreement between Conrail and NYS&W whereby Conrail has obtained certain trackage rights over NYS&W's lines; and (4) the construction of a connection between NYS&W's line with Conrail's line at the former Owens Illinois Industrial Sidetrack, approximately at milepost 8.2, in North Bergen, NJ, subject to standard labor protection.

DATES: This exemption will be effective on August 31, 1983. Petitions to reopen this decision must be filed by September 20, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30245 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Lawrence C. Malski One Railroad Avenue, Cooperstown, NY 13326

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. Leavitt, P.O. Box 430, Room W 400, Bellaire, TX 77401.

Agatha L. Mergenovich, Secretary.

[FR Doc. 83-23874 Filed 8-30-83; 8:45 am] BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83-23]

Ferguson Rexall Drug, Inc., Newberg, Oregon; Hearing

Notice is hereby given that on July 7, 1983, the Drug Enforcement Administration, Department of Justice, issued to Ferguson Rexall Drug, Inc., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AF1520043.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Thursday, September 29, 1983, commencing at 9:30 a.m. in Courtroom No. 8, U.S. District Court, U.S. Courthouse, 620 SW. Main Street, Portland, Oregon.

Dated: August 24, 1983.

Francis M. Mullen, Jr., Acting Administrator, Drug Enforcement Administration.

NUCLEAR REGULATORY COMMISSION

Availability of Human Factors Program Plan

Notice is given that the Commission's Office of Nuclear Reactor Regulation has published NUREG-0865, Human Factors Program Plan, Volume 1. NUREG-0865 is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in all other Commission Local Public Document Rooms.

The Human Factors Program Plan was developed to ensure consideration of human factors in the design, operation and maintenance of nuclear facilities. This initial issue of the Plan addresses nuclear power plant planning and outlines staff developmental activities planned to provide technical bases for resolution of the remaining human factors related tasks described in NUREG-0660, "The NRC Action Plan Developed as a Result of the TMI-2 Accident." Activities to investigate and resolve additional human factors problems that have been identified since publication of NUREG-0660 and NUREG-0737 "Clarification of TMI Action Plan Requirements" are also included.

The Plan has seven major program elements: (1) Staffing and Qualifications, (2) Training, (3) Licensing Examinations, (4) Procedures, (5) Man-Machine Interface, (6) Management and Organization, and (7) Human Reliability. Activities within these program elements are directed to providing technical bases for developing guidance to the nuclear industry, improving staff capabilities to perform licensing activities, and supporting staff recommendations regarding the degree
The Commission recognizes the high level of public interest and concern regarding DOE's Siting Guidelines and, therefore, will provide an opportunity for a limited number of representatives of various groups to address the Commission regarding DOE's Siting Guidelines.

**Background**

Section 112(a) of NWPA, 42 U.S.C. 10132(a), directs the Secretary of Energy ("Secretary") to issue general guidelines for the recommendation of sites for geologic high-level radioactive waste repositories following consultation with various federal agencies and states and concurrence by the NRC. On February 7, 1983, DOE issued proposed guidelines for comment. 48 FR 5670. Subsequently, DOE conducted five public hearings around the country. 48 FR 6549 (February 14, 1983), as amended, 48 FR 6229 (February 28, 1983). Due to the volume and nature of public comments, DOE assembled a task force which redrafted the proposed guidelines and decided to extend the comment period to July 7, 1983, even though that extension caused DOE to miss the statutory deadline for issuing final Siting Guidelines. 48 FR 26441 (June 7, 1983).

The NRC initiated its concurrence process soon after DOE published its proposed Siting Guidelines. See SECY- 83-121 (March 31, 1983). On April 7, 1983, the NRC staff provided DOE with extensive comments on the proposed Siting Guidelines. DOE agreed to provide NRC with copies of all public comments as they are submitted to DOE so that the NRC staff can review those comments independently and expeditiously. On June 20, 1983, the NRC staff provided the Commission with a summary of the comments received by DOE (SECY-83-241). DOE has also provided to NRC a draft of DOE's Responses to Public Comments dated May 27, 1983. Representatives from DOE briefed members of the NRC staff and Commission offices on June 27, 1983. On August 2, 1983, DOE provided the NRC staff with draft final guidelines for further review. Thus, the NRC has had complete access to DOE's public comment procedures on the proposed Siting Guidelines.

**Yakima Petition**

Although the Yakimas petition is somewhat unclear, it appears to be premised on the contention that NRC's statutory concurrence role makes the DOE Siting Guidelines into a rule jointly issued by NRC and DOE. Moreover, the Yakimas somewhat inconsistently contend that NRC concurrence is itself a rulemaking for which notice and opportunity for comment must be provided. Finally, the Yakimas content that the Commission must seek comments directed to NRC responsibilities to make an independent judgment on the Siting Guidelines, and that comments to DOE cannot serve that purpose. The only examples of NRC responsibility identified by the Yakimas is the Commission's consideration of alternatives for the purposes of the National Environmental Policy Act of 1969 ("NEPA"). Under Section 114(f) of NWPA, 42 U.S.C. 10134(f), DOE will use the Siting Guidelines to identify a proposed repository site and its alternatives for the purposes of NEPA.

Section 114(f) also directs the Commission to adopt DOE's Environmental Impact Statement ("EIS") to the extent practicable. The Yakimas are concerned that such an adoption of DOE's EIS by the NRC will bind the Commission's construction authorization proceeding on a repository to DOE's application of the Siting Guidelines in the same manner that Commission proceedings are bound by Commission rules.

**Commission Decision**

For the reasons stated below, the Commission finds that the NRC's concurrence responsibility is not rulemaking and does not require notice and opportunity for public comment. However, the Commission will give representatives of various groups an opportunity to comment on the Siting Guidelines as described below.

Section 112(a) of NWPA does not specify any procedures for Commission concurrence in DOE Siting Guidelines. A review of other statutes providing for one agency's concurrence in another agency's actions shows that such concurrence has never been considered rulemaking. The reason that

1. 42 U.S.C. 10132(a).

2. The Yakimas contend that NRC concurrence in DOE's Siting Guidelines is the same as NRC adoption of industry-developed standards as a rule. That this analogy is incorrect is clear from the differences between DOE's public procedures for issuing Siting Guidelines and an industry group's limited private procedures for adopting standards. DOE has provided hybrid notice and comment procedures that go beyond the statutory maximum that would be required in Section 553 of the APA were applicable: an industry group does not subject itself to even the most minimal of public participation procedures. Thus, there is no parallel between this situation and the NRC's use of rulemaking to adopt industry standards.

3. The Yakimas also contend that they should have an opportunity to comment to the NRC on the consistency of DOE's Siting Guidelines with NRC's technical siting criteria in 10 CFR Part 60. The NRC has provided hybrid notice and comment procedures that go beyond the statutory maximum that would be required in Section 553 of the APA. However, the NRC has provided hybrid notice and comment procedures that go beyond the statutory maximum that would be required in Section 553 of the APA. Thus, there is no parallel between this situation and the NRC's use of rulemaking to adopt industry standards.

4. These other statutes are reviewed in Appendix A.
The relief consists of the substitution of volumetric examinations of cladding welds of closure heads for certain ASME Code Class 1, 2 and 3 components.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission’s regulations. The Commission has made appropriate findings as required by the Act and the Commission’s regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 50.53(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee’s requests for relief contained in the submittals to the Commission dated April 17, 1981 and January 10, 1983 (2 letters), and (2) the Commission’s letter to the licensee dated December 7, 1979.

These items are available for public inspection at the Commission’s Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of August 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,
Chief, Operating Reactors Branch No. 1, Division of Licensing.

[Docket Nos. 50-348 and 50-364]

Alabama Power Co.; Granting of Relief from ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, “Rules for Inservice Inspection of Nuclear Power Plant Components” to the Alabama Power Company (the licensee). The relief relates to the in-service testing program for the Farley nuclear plant Unit Nos. 1 and 2 located in Houston County, Alabama. The ASME Code requirements are incorporated by reference into the Commission’s regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

*Commissioner Roberts was not present and did not participate in this action.

[Docket No. 50-293]

Boston Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), for operation of the
Pilgrim Nuclear Power Station located in Plymouth County, Massachusetts.

The amendment would revise the operating license and the provisions in the Technical Specifications relating to changes to permit reactor operation at power levels in excess of 70% of rated power with one recirculation loop out of service. Presently, the Pilgrim operating license requires plant shutdown if an idle recirculation loop cannot be returned to service within 24 hours. The change proposed by the license would delete this license condition and modify the Technical Specifications (TSs) as necessary to provide for appropriate Average Power Range Monitor (APRM) flow scram trip and rod block settings, an increase in the safety limit Minimum Critical Power Ratio (MCPR) value and revisions to the allowable Average Planar Linear Heat Generation Rate (APLHGR) values suitable for use with an idle recirculation loop, in accordance with the licensee's application for amendment dated May 12, 1981.

Prior to issuance of the proposed license amendment, the Commission would have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition would specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555.

[For the Nuclear Regulatory Commission.

Robert A. Hermann
Action Chief, Operating Reactors Branch No. 2, Division of Licensing.

Dated at Bethesda, Maryland this 23rd day of August, 1983.

For the Nuclear Regulatory Commission.]
Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve a significant hazards consideration (48 FR 14870). One such example is a purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specification, a correction of an error, or a change in nomenclature.

The proposed amendment is to correct replacement explosive initiators having a remaining service life of at least 5 years which is not currently technically feasible, since some period of time must elapse from the moment of fabrication to installation at the facility. Therefore, based on this consideration and the three criteria mentioned above, we have made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.


By September 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing or petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a hearing is requested, the licensee may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding. A petitioner who fails to file such a supplement which satisfies these requirements will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.
However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered on the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000. (In Missouri (800) 342-6700. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Philip A. Crane, Jr., Esq., Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Betty and French, P.C., Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85106, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. A final determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 23, 1983, which is available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C., and the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 25th day of August 1983.

For the Nuclear Regulatory Commission.

George W. Knighton.

Chief, Licensing Branch No. 3, Division of Licensing.

[PR Doc. 83-23903 Filed 8-30-83: 8:45 a.m]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power and Light Co. and Allegheny Electric Co-op., Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne County, Pennsylvania.

The amendment would raise the Main Steam Line Radiation-High setpoint from less than or equal to three times normal background to a setpoint of less than or equal to seven times normal background, in accordance with the licensee's application for an amendment dated July 22, 1983, and supplemented by letters dated July 26, 1983 and August 2, 1983. Previous operations at full power have resulted in reactor trips and main steam line isolations during normal plant evolutions such as placing a condensate demineralizer into service. Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

No credit is taken for operation of the main steam line radiation detectors in accident analyses. The staff proposes to determine that the proposed change to the Main Steam Line Radiation-High setpoint involves no significant hazards consideration on the basis that the Main Steam Line Radiation-High alarm and trip is not considered in any accident analysis and therefore raising its setpoint does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch. By September 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and
how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment. Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently. A request for a hearing or a petition for leave to intervene, that does not involve a request for leave to intervene, must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly inform the Commission by telephone call to the Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given a special telephone number, which is 3737, and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee. Nonfilings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. The determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)-(v) and 2.714(d). For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room: 1717 H Street, NW., Washington, D.C., and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland this 24th day of August 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,
Chief, Licensing Branch No. 2, Division of Licensing.

[For Doc. No. 80-23004 Filed 8-30-83, 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Additional Opportunity for Comment

On May 31, 1983, the Commission published in the Federal Register (48 FR 24231) a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing" related to GPU Nuclear Corporation's (GPUN) May 9, 1983 application for amendment to Facility Operating License No. DPR-50 for the Three Mile Island Nuclear Station, Unit No. 1 (the facility), located in Dauphin County, Pennsylvania.

The requested amendment would revise the Technical Specifications to recognize steam generator tube repair techniques, other than plugging, as being acceptable should such techniques be approved by the U.S. Nuclear Regulatory Commission (the Commission).

The licensees' application dated May 9, 1983, further requested that the Commission approve, within the provisions of the proposed Technical Specification revision, the kinetic expansion steam generator tube repair technique used at the facility, thus permitting subsequent operation of the facility with the as-repaired steam generators.

The May 31, 1983 Notice solicited public comments on the Commission's proposed no significant hazards consideration determination and offered an opportunity for the licensees to request a hearing and for interested parties to file a written petition for leave to intervene. A number of comments and petitions for leave to intervene were received prior to expiration of the comment period on June 30, 1983.

The Commission has recently completed its Safety Evaluation of the requested amendment and has provided it to licensees and those interested parties that submitted comments and/or
Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2223b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 31–September 2, 1983, in Room 1046, 1717 H Street, NW, Washington, D.C. Notice of this meeting was published in the Federal Register on August 23, 1983.

The agenda for the subject meeting will be as follows:

Wednesday, August 31, 1983

8:30 A.M.–8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.–9:45 A.M.: Seismic Design of Nuclear Facilities (Open)—The ACRS members and representatives of the NRC Staff will discuss the use the "Teu" effect in the seismic design of nuclear power plants.


10:45 A.M.–12:00 Noon: Unresolved Safety Issue A–43, Containment Emergency Sump Performance (Open)—The members will consider proposed NRC Staff action to resolve USI A–43, Containment Emergency Sump Performance.

1:00 P.M.–2:15 P.M.: Nuclear Plant Security (Open)—The members will consider proposed NRC rules and amendments regarding the security provisions at nuclear facilities.

2:15 P.M.–3:15 P.M.: Operating Experience at Nuclear Facilities (Open)—The members of the Committee will hear reports from representatives of the NRC Staff regarding recent experiences that impact on the safety of nuclear facilities including events leading to IE Information Notices No. 83–07 and No. 83–01 regarding nonconformance to specifications of materials provided for construction of nuclear facilities, and the recent fine levied against the Commonwealth Edison Company for breakdown of plant management at the Quad Cities Station.

3:15 P.M.–4:15 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports of ongoing activities from designated subcommittees including the scope and conduct of ACRS activities, emergency procedures guidelines and emergency operating procedures, and a proposed NRC rule on decommissioning of nuclear facilities.

4:15 P.M.–5:15 P.M.: Use of Statistics (Open)—Members of the Committee will hear and discuss a briefing by Dr. H. W. Lewis, ACRS Member, regarding statistical methodology.

Thursday, September 1, 1983

8:30 A.M.–9:00 A.M.: Future Schedule (Open)—The members will discuss anticipated ACRS Subcommittee activities and proposed full Committee activity.
conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman’s ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 A.M and 5:00 P.M. EDT.

Dated: August 24, 1983.

Samuel J. Chilk,
Secretary to the Commission.

[FR Doc. 83-23900 Filed 8-30-83; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-12598]

Hospital Corporation of America, Inc.; Application and Opportunity for Hearing


Notice is hereby given that Hospital Corporation of America (the “Applicant”) has filed an application under clause (i) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the “Act”) for a finding by the Commission that the trusteehip of Commerce Union Bank under three existing indentures of the Company which are qualified under the Act and four existing indentures of various governmental issuing authorities which have not been qualified under the Act in reliance upon Section 304(a)(4) thereof is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (l) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (l), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant had outstanding as of August 1, 1983 approximately $500,000,000 debentures (the “Debentures”) issued under the following indentures under which Commerce Union Bank acts as trustee, each of which indentures was qualified under the Trust Indenture Act of 1939 in connection with the registration of the Debentures issued thereunder pursuant to the Securities Act of 1933:

   (a) 18½% Debentures due 2007; principal amount $100,000,000; indenture filed January 15, 1982 (file no. 2-76656);
   (b) Zero Coupon Debentures due 1997-2002; principal amount $300,000,000; indenture filed May 20, 1982 (file no. 2-77611); and
   (c) 15½% Debentures due 2007; principal amount $100,000,000; indenture filed May 20, 1982 (file no. 2-77612).

2. As of August 1, 1983, the Applicant or a wholly-owned subsidiary of the applicant was obligated pursuant to various loan or other similar agreements (the “Loan Agreements”) to make payments in order to meet the debt service and other payment requirements under various indentures, and the revenue bonds (the “Tax-exempt Revenue Bonds”) issued thereunder, of various governmental issuing authorities with respect to Tax-exempt Revenue Bonds of such issuing authorities to finance hospital or other projects acquired or constructed for the benefit of the Applicant or a wholly-owned subsidiary thereof. The Tax-exempt Revenue Bonds were issued in reliance upon the exemption from registration afforded by Section 3(a)(2) of the Securities Act of 1933. The indentures relating to such Tax-exempt Revenue Bonds were not qualified under the Trust Indenture Act of 1939 in reliance upon the exemption afforded by Section 304(a)(4) of said Act. The Applicant has guaranteed the obligations of its subsidiaries with respect to the Loan Agreements. The Loan Agreements or, in the instances in which the Company guarantees the obligations of its subsidiaries, the Guarantees are senior unsecured obligations of the Company.

Information with respect to the Tax-exempt Revenue Bonds is set forth below:

1. The Edmond Industrial Development Authority Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between the Edmond Industrial Development Authority and Commerce Union Bank, as Trustee, dated as of June 1, 1983. Principal amount $1,000,000.

2. The City of Bountiful, Utah Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between City of Bountiful, Utah and Commerce Union Bank, as Trustee, dated as of May 1, 1983. Principal amount $2,000,000.

3. West Valley City, Utah Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between West Valley City, Utah and Commerce Union Bank, as Trustee, dated as of June 1, 1983. Principal amount $1,000,000.

4. City of Georgetown, Kentucky Industrial Development Revenue Bonds (Hospital Corporation of America Project) Series 1983, under Trust Indenture by and between City of Georgetown, Kentucky and Commerce Union Bank, as Trustee, dated as of August 1, 1983. Principal amount $1,000,000.

5. Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, acts as trustee with respect to the indentures described in section 1, above, and with respect to the Tax-exempt Revenue Bonds to which the Loan Agreements relate, described in section 2, above.

4. The Applicant’s respective obligations under the Debentures (and the indentures relating thereto), the Loan Agreements and the Guarantees are wholly unsecured. All of the Debentures, Loan Agreements and Guarantees pertaining to the indentures under which Commerce Union Bank acts as trustee constitute indebtedness of the Company that is not subordinated to any other indebtedness of the Applicant. The Debentures (and the indentures relating thereto), the Loan Agreements and the Guarantees rank equally on one with the other.

5. Each of the indentures contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.
6. The Applicant is not in default under the Debentures or with respect to its obligations relating to the Tax-exempt Revenue Bonds.

7. For the foregoing reasons, the Applicant believes that Commerce Union Bank's actions as trustee under any one or more of such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures. Consequently, its trustee under all of such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

The Applicant waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 13, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 13465; 812-5390]

Southern Farm Bureau Cash Fund, Inc., and Southern Farm Bureau Casualty Insurance Co.; Application for an Order

August 26, 1983.

Notice is hereby given that Southern Farm Bureau Cash Fund, Inc. ("Fund"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and Southern Farm Bureau Casualty Insurance Company ("Casualty Company") (together, "Applicants"), Suite 300, 1401 Livingston Lane, Jackson, Mississippi 32921, filed an application on June 17, 1983, and an amendment thereto on August 15, 1983, for an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, exempting them from those provisions to the extent necessary to permit the Casualty Company to indemnify the Fund for losses sustained by the sale of the Fund's portfolio securities or obligations at less than amortized cost value or in the event of default by the issuer thereof. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Designed to provide current income, liquidity, and preservation of principal, the Fund invests in U.S. Government obligations, bank obligations, commercial paper, corporate debt securities, and repurchase and reverse repurchase agreements. No investor may purchase Fund shares unless he is a member of the Farm Bureau federation of the state in which he resides. Each state Farm Bureau federation is a nonprofit membership corporation organized to provide economic and agricultural programs for its members. Southern Farm Bureau Adviser Company, Inc., a wholly-owned subsidiary of the Casualty Company, serves as the Fund's investment adviser (thus making the Casualty Company an affiliate of an affiliate of an investment company). Southern Farm Bureau Distributor, Inc., another wholly-owned subsidiary of the Casualty Company, acts as sole distributor of the Fund's shares.

A Mississippi insurance corporation, the Casualty Company is owned by five Farm Bureau companies located in Arkansas, Louisiana, Mississippi, South Carolina, and Texas. Each state Farm Bureau company is owned by the state Farm Bureau federation in its respective state. The Casualty Company writes casualty insurance only for those Farm Bureau members who belong to their respective state Farm Bureau federation. Applicants state that any distribution of the Casualty Company's profits is made to policyholders or shareholders, and they assert that any such profits are ultimately distributed to the members of state Farm Bureau federations, some of whom are Fund investors. Applicants therefore conclude that a considerable overlapping of interests exists between the Casualty Company and the Fund.

The Fund's board of directors, in response to market pressures and in order to compete with other money market funds and comparable bank accounts, desires that the Fund be indemnified against losses resulting from default by issuers of its portfolio securities and losses resulting from the sale of the Fund's portfolio securities prior to maturity. The Casualty Company proposes to indemnify the Fund against such losses. The Casualty Company does not presently insure or indemnify any similar losses, and does not plan to enter into any arrangement with other funds. The proposed coverage would protect the Fund against default by an issuer of a security in the Fund's portfolio because, upon such a default, the Casualty Company would pay to the Fund the amount of the reduction in the value of the assets of the Fund when such reduction results in such net asset value decreasing below $1.00. The Casualty Company would also pay to the Fund the difference between the market value of a portfolio security and the security's amortized cost value in the event the Fund sells the security for an amount less than its amortized cost value prior to maturity. Applicants' proposal would allow the Casualty Company to assume any rights of the Fund in either situation where the Casualty Company covers a Fund loss, upon the Casualty Company's payment of the current market price of the security in question. In such transactions, the Fund intends to fully comply with Rule 17a-7.

The Fund has approached several other insurers and has located only one insurer willing to participate in its proposal. The Fund believes the premium quoted by that insurer to be unreasonably expensive (approximately twice the Casualty Company's proposed premium) Over 14 insurance companies and five major brokerage agencies have been contacted on the Fund's behalf regarding this proposal. The Fund also investigated obtaining such coverage through the Investment Company
Institute. Based upon these investigations, Applicants assert that the Casualty Company's premium will be no higher than the premium the Fund would pay for similar coverage from any unaffiliated insurer were such coverage available from an unaffiliated insurer.

The Casualty Company plans to enter into reinsurance agreements with other insurance companies with regard to a unaffiliated insurer were such coverage would pay for similar coverage from any insurer. Based upon these findings, the proposal states that when MSTC determines that a participant is at fault in failing to meet timely settlement obligations in a timely manner, MSTC not only will assess a late payment charge, but also may take formal disciplinary action against that participant under MSTC Rule 14.3.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.


Midwest Securities Trust Co.; Filing, Immediate Effectiveness, and Withdrawal of Proposed Rule Changes


On August 1, 1983, Midwest Securities Trust Company ("MSTC") submitted a proposed rule change, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act") that authorizes MSTC to change its procedure regarding participants that fail to meet their daily MSTC money settlement obligations in a timely manner. The proposed rule change replaces MSTC's current, automatic, graduated structure of fines with a graduated schedule of automatic, late payment charges. Under the proposal, MSTC will issue a warning notice to a participant on the first occasion that it is late in paying those obligations during any twelve month period. MSTC also will pass through to that participant any interest or overdraft fees incurred by MSTC because of late payment. A participant with more than one late payment during any twelve month period, however, will be assessed stated late payment charges that increase with each late payment, in addition to the pass-through of any overdraft or interest fees. Moreover, the proposal states that when MSTC determines that a participant is at fault in failing to meet its daily money settlement obligations in a timely manner, MSTC not only will assess a late payment charge, but also may take formal disciplinary action against that participant under MSTC Rule 14.3.

The proposal rule change would delete CBOE's market maker financial requirements since the CBOE believes that adequate financial requirements are imposed by the Commission's net capital rule, Rule 15c3-1, under the Act. The present CBOE rule is written to require, generally, that a market maker maintain net liquid assets of the lesser of (a) $10,000 for each class of options to which he is appointed, or (b) $25,000.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to submit written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SB-CBOE-83-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change will be made available for inspection and copying at the Commission's Public Reference Room, 459 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SB-CBOE-83-27.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-23915 Filed 8-30-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20120; Filed No. SR-CBOE-83-27]

Filing of Proposed Rule Change by Chicago Board Options Exchange, Inc.

August 28, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 7, 1983, the Chicago Board Options Exchange, Inc., ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would delete CBOE's market maker financial requirements since the CBOE believes that adequate financial requirements are imposed by the Commission's net capital rule, Rule 15c3-1, under the Act. The present CBOE rule is written to require, generally, that a market maker maintain net liquid assets of the lesser of (a) $10,000 for each class of options to which he is appointed, or (b) $25,000.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to submit written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SB-CBOE-83-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change will be made available for inspection and copying at the Commission's Public Reference Room, 459 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SB-CBOE-83-27.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-23925 Filed 8-30-83; 8:45 am]
BILLING CODE 8010-01-M


Midwest Securities Trust Co.; Filing, Immediate Effectiveness, and Withdrawal of Proposed Rule Changes


On August 1, 1983, Midwest Securities Trust Company ("MSTC") submitted a proposed rule change, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act") that authorizes MSTC to change its procedure regarding participants that fail to meet their daily MSTC money settlement obligations in a timely manner. The proposed rule change replaces MSTC's current, automatic, graduated structure of fines with a graduated schedule of automatic, late payment charges. Under the proposal, MSTC will issue a warning notice to a participant on the first occasion that it is late in paying those obligations during any twelve month period. MSTC also will pass through to that participant any interest or overdraft fees incurred by MSTC because of late payment. A participant with more than one late payment during any twelve month period, however, will be assessed stated late payment charges that increase with each late payment, in addition to the pass-through of any overdraft or interest fees. Moreover, the proposal states that when MSTC determines that a participant is at fault in failing to meet its daily money settlement obligations in a timely manner, MSTC not only will assess a late payment charge, but also may take formal disciplinary action against that participant under MSTC Rule 14.3.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.
and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of the submission is expected to be made in the Federal Register during the week of August 29, 1983. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the Federal Register. Persons desiring to make a written submission should file six copies thereof with the Secretary of the Commission.


Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission’s Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing will also be available at the principle office of the above-mentioned self-regulatory organization.

In connection with the filing of File No. SR-MSTC-83-13, MSTC requested that the Commission order the withdrawal of File Nos. SR-MSTC-83-4 and SR-MSTC-83-9, which were filed with the Commission on May 2, 1983, and June 29, 1983, respectively. File No. SR-MSTC-83-13 is intended by MSTC to replace File Nos. SR-MSTC-83-4 and SR-MSTC-83-9, which are substantially similar. The Commission hereby grants MSTC’s request and thus orders that File Nos. SR-MSTC-83-4 and SR-MSTC-83-9 be withdrawn.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons, Secretary.

[FR Doc. 83-23916 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20118; File No. SR-MSRB-83-9]

Self-Regulatory Organizations; Proposed Rule Changes by Municipal Securities Rulemaking Board; Uniform Practice and Customer Confirmations

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 August 15, 1983, the Municipal Securities Rulemaking board filed with the securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board (“Board”) is filing herewith amendments to rules G-12 on uniform practice and G-15 on customer confirmations. The text of the proposed rule changes is as follows:

Rule G-12. Uniform Practice.

(a) and (b) No change.

(c) Dealer Confirmations.

(ii) No change.

(ii) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) No change.

(B) If the securities are “fully registered”, [or] “registered as to principal only,” or available only in book-entry form, a designation to such effect:

(C) through (F) No change.

(d) through (j) No change.


(a) and (b) No change.

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) No change.

(ii) If the securities are “fully registered”, [or] “registered as to principal only,” or available only in book-entry form, a designation to such effect:

(iii) through (vii) No change.

(d) through (j) No change.

II. Self-Regulatory Organization’s Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization’s Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) Board rules G-12 and G-15 set forth certain requirements concerning the information to be provided on inter-dealer and customer confirmations, respectively. The proposed rule changes would amend rules G-12 and G-15 to require that confirmations of transactions in securities which are available only in book-entry form include a designation to such effect. The Board believes that purchasers of municipal securities available only in book-entry form should be advised of this fact on the confirmation of the transaction, since purchasers of municipal securities customarily expect to be delivered (or to have access to) securities certificates. The Board believes that, in those relatively rare instances where securities are available only in book-entry form (and where this expectation will not be met), purchasers should be advised of this fact, since their inability to obtain physical securities may raise concerns which might affect their investment decision, such as possible restrictions on their ability to hypothecate or otherwise pledge the securities. Further, purchasers may need to make special arrangements to take delivery of book-entry securities particularly if they are not participants in a depository.

(b) The proposed rule changes are adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in clearing, settling, processing information with respect to, and facilitating transactions in municipal securities; * * * and, in general, to protect investors and the public interest * * *

The Board believes that the proposed rule changes act to protect investors by ensuring that they, and municipal securities brokers and dealers dealing with them, are advised of the unusual form of the securities they are purchasing.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Board does not believe that the proposed rule changes will impose any burden on competition, inasmuch as the proposed rule changes merely specify an item of detail to be included on confirmations, and will affect all brokers and dealers selling securities in book-entry-only form equally.

C. Self-Regulatory Organization’s Statement of Comments on the Proposed Rule Changes Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule changes from industry members of others.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal
Register 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 changes, or
(B) Institute proceedings to determine whether the proposed rule changes 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, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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. Copies of such filing also will 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 within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.


George A. Fitzsimmons,
Secretary

[FR Doc. 83-33919 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20110; File No. SR-MSRB-83-8]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board; Interpretation of Board Rule G-17

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 August 3, 1983, the Municipal Securities Rulemaking Board 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

(a) The Municipal Securities Rulemaking Board is filing herewith an interpretation of Board rule G-17 (hereafter referred to as the “proposed rule change”) concerning the conduct of municipal securities business. This interpretation concerns the timing of the mailing of initial “when, as and if issued” confirmations of transactions in new issue municipal securities which are effected pursuant to orders placed with a municipal securities dealer during the “pre-sale” portion of the underwriting period. The text of the proposed rule change, contained in a Board interpretive letter dated October 7, 1982, is as follows:

“...[C]onfirmations may not be sent out prior to the date of award of the new issue, in the case of an issue purchased at competitive bid, or on the date of execution of a bond purchase agreement on the new issue, in the case of a negotiated issue. Member firms in your district have questioned whether this interpretation is intended to apply to “all or none” underwritings, in which confirmations have been, at times, sent out prior to the execution of a formal purchase agreement.

• • •

The Board is of the view that an initial “when, as, and if issued” confirmation of a transaction in a security which is the subject of an “all or none” underwritings may be sent out prior to the time a formal bond purchase agreement is executed. It would be permissible, however, only if two conditions are met: (1) That such confirmations clearly indicate the contingent nature of the transaction, through a statement that the securities are the subject of an “all or none” underwriting or otherwise; and (2) that the dealer has established, or has arranged to have established, the escrow account for the issue as required pursuant to SEC Rule 15c2-4.

II. Self-Regulatory Organization’s Statement on Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization’s Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rules G-12 and G-15 relating to uniform practice and customer confirmations, respectively, contain certain provisions pertaining to the furnishing of initial “when, as and if issued” (“WAII”) confirmations on transactions in new issue municipal securities. Rule G-12 requires that WAII confirmations of inter-dealer transactions be sent out within two business days of the trade date, and sets forth certain requirements regarding the information to be included on such confirmations. Rule G-15 does not require that customers be sent WAII confirmations on transactions in new issue municipal securities, but does set forth requirements governing the content of such confirmations if they are sent. Board rule G-17 sets forth a general requirement that municipal securities dealers deal with all persons fairly and not engage in any deceptive, dishonest, or unfair practice.

The Board has previously interpreted rule F-17 as prohibiting the sending of initial WAII confirmations on transactions effected pursuant to orders for new issue securities placed during the pre-sale portion of the underwriting period prior to the date of award or execution of a bond purchase agreement on the new issue and prior to the time the formal allocations are made to such pre-sale orders. [A pre-sale order is an expression of the intention of the party placing the order to purchase new issue securities having certain characteristics at a stated price. Such orders are accumulated by the underwriter, and, upon award of the securities or execution of a bond purchase agreement, formal allocations of the new issue securities are made to such orders.] The Board has taken this position because it believes that the transactions evidenced by the confirmations cannot be considered to be effected until the award or formal purchase of the securities by the underwriter or underwriting syndicate. Therefore, the Board believes that the furnishing of initial WAII confirmations prior to this time may be a deceptive practice and, as such, prohibited by Board rule G-17.

The proposed rule change clarifies the requirements concerning the issuing of initial WAII confirmations with respect to “all or none” underwritings of municipal securities. With respect to such underwritings, the Board believes that municipal securities dealers should be permitted to furnish confirmations to purchasers prior to the time a formal bond purchase agreement is signed, assuming certain conditions are met. In “all or none” underwritings, it is industry custom for the underwriter to accept liability for the issue at a given price only on a stated contingency, that the entire issue is sold within a certain time period. The municipal securities dealer “presettles” with the purchasers of the securities, sending them the...
Pursuant to 17 CFR 240.15c2-4, the Board believes that an exception from the protection afforded purchasers by the purchase agreement, and in light of the prior to the signing of the formal purchasers of Wall securities industry of sending confirmations to practice in the municipal securities are not issued, and the underwriter is returned to the purchasers, the securities are then released to the issuer. If the entire issue is sold; the funds until the entire issue is sold; the funds are then released to the issuer. If the contingency is not met, the funds are returned to the purchasers, the securities are not issued, and the underwriter is released from all liability for the issue. In view of the customary trade practice in the municipal securities industry of sending confirmations to purchasers of Wall securities underwritten on an “all or none” basis prior to the signing of the formal purchase agreement, and in light of the protection afforded purchasers by the requirements of 17 CFR 240.15c2-4, the Board believes that an exception from the general prohibition against sending Wall confirmations prior to the signing of a bond purchase agreement is warranted, provided that the confirmations clearly indicate the contingent nature of the transaction, and that the dealer has established, or has arranged to have established, the escrow account for the issue as required pursuant to 17 CFR 240.15c2-4.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(c) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules designed to prevent fraudulent and manipulative acts and practices, to promote fair and orderly transactions in securities, to remove impediments to and facilitate transactions in municipal securities, an interpretive letter of April 1982, in the Commerce Clearing House Municipal Securities Rulemaking Board Manual, at §3556.55. Comments received from NASD-member firms through the NASD’s Atlanta office prompted the Board to review the application of this interpretation to “all or none” underwritings, and resulted in the interpretation discussed above. The Board has not solicited or received other comments from participants, members, or others.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (f)(2) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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. Copies of such filing also will 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 within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 24, 1983.

George A. Fitzsimmons,
Secretary.

[Release No. 34-20117; File No. SR-NYSE-83-23]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.; Financial Responsibility Requirements for Competitive Options Traders

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 August 19, 1983, the New York Stock Exchange, 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 Proposed Rule Change proposes to amend the financial responsibility requirement imposed on Competitive Options Traders (“COTs”) by Rule 758(a)(ii). Newly proposed Rule 758(a)(ii) requires each self-clearing COT to comply with the financial requirements set forth in the rules of The Options Clearing Corporation (“OCC”) and requires each COT that is not self-clearing to be a party to the OCC’s Market-Maker’s (specialist’s) account agreement with a clearing member that meets such financial requirements and the requirements of Rule 15c3-1(c)(2)(x) under the Securities Exchange Act of 1934, as amended (the “1934 Act”).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.
Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 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, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 14 days after the date of this publication.


George A. Fitzsimmons,
Secretary.

[FR Doc. 83-32918 Filed 8-30-83; 8:45 am]
BILLING CODE 8010-01-M

Chapter VI of Rules—Margins
Forms of Margin

Rule 604. Required margin may be deposited with the Corporation in one or more of the following forms:
(a) [No change].
(b) [No change].
(c) [No change].

(a) [Underlying] Common Stocks. (1) Clearing Members may deposit, as hereinafter provided, common stocks which (i) are traded on a national securities exchange, (ii) have last sale reports collected and disseminated pursuant to a consolidated transaction reporting plan and (iii) have a market value greater than $10 per share; provided, however, that stocks which are suspended from trading in the primary market for such stocks, or which are subject to special margin requirements under exchange rules because of volatility, lack of liquidity or similar characteristics, may not be deposited as margin with the Corporation. (2) Statutory Basis. (C) Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register 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.
II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

Under OCC's present rules, a clearing member may meet its margin obligations with respect to uncovered short options positions by depositing cash. Government securities, bank letters of credit, or common stocks underlying listed options which are not being used to cover options positions pursuant to Rule 610. The purpose of this proposed rule change is to expand the number of stocks which may be deposited with OCC as margin because OCC's clearing members can achieve substantial cost savings by depositing common stocks instead of cash. Government securities or bank letters of credit in satisfaction of their OCC margin obligations.

These potential cost savings have been realized only to a limited degree under OCC's existing rules, which permit only those stocks underlying listed options to be deposited as margin. This limitation significantly restricts the number of stocks eligible for deposit because the 378 stocks presently underlying listed options comprise only a small fraction of the total number of exchange-traded stocks which would be suitable for that purpose. Moreover, because these underlying stocks are in heavy demand for other uses (e.g., in stock loans and in conversion transactions involving combinations of stock and options positions), they are often not available to be deposited with OCC. As of June 30, 1983, stock valued at about $467 million had been deposited with OCC, representing only 18% of the total margin deposits at OCC on that date. Clearing members have advised OCC that they would deposit considerably more stock if the number of stocks eligible for deposit under OCC's rules were expanded.

Accordingly, the proposed rule change would expand the number of stocks that could be used to satisfy OCC's deposit requirements.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"). In that it would reduce the costs imposed on the securities industry without jeopardizing the purposes of the Act applicable to OCC. Indeed, the reduction of unnecessary costs in the clearance and settlement of securities transactions is a statutory objective under Section 17A of the Act.

The proposed rule change is entirely consistent with OCC's statutory responsibility to maintain adequate financial safeguards to protect itself, its clearing members and the public. OCC's rules, as amended by the proposed rule change, would continue to value common stock very conservatively, at the lesser of 70% of its current market value or the then maximum loan value of such stock pursuant to Regulation U (presently set at 50% of current market value). Moreover, the rules would not permit the stock of any one issuer to be used to cover more than 10% of the total margin requirement for the account in which such stock is deposited. The Commission has previously found similar proposed rules changes to be consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies. Securities Exchange Act Reg. Nos. 18994 (SR-OCC-82-11, Aug. 20, 1982) and 19496 (SR-NSCC-82-26, Feb. 9, 1983).

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (1) as the Commission may designate up to 90 days 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 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, 140 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, and 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, 140 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.


George A. Fitzsimmons, Secretary.

[FR Doc. 83-Z3924 Filed 8-30-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20115; File No. SR-PCC-83-4]

Filing of Proposed Rule Change by the Pacific Clearing Corp.


Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the Pacific Clearing Corporation ("PCC") submitted to the Commission a proposed rule change that would amend PCC's rules regarding its clearing fund. The proposed amendments would either update or conform PCC's clearing fund rules to certain Division of Market Regulation Standards for the Registration of Clearing Agencies that concern Sections 17A(b)(3)(A)-(I) of the Act.¹

The proposed rule change would amend both PCC's authority regarding the clearing fund and the clearing fund's structure. First, PCC would maintain a

clearing fund separate from the participants fund of its affiliated registered securities depository, Pacific Securities Depository Trust Company ("PSDTC"), PAC and PSDTC currently maintain a joint participants fund. Second, PAC would be authorized to invest clearing fund cash in United States Government Securities. Currently, the Pacific Stock Exchange, Inc. ("PSE") PAC's parent corporation, has this investment authority. Third, PAC's authority to use clearing fund assets would be narrowed. Under the proposal, PAC would use clearing fund assets to meet losses or liabilities incident to clearance and settlement activities. PAC's current rules provide that PAC can use clearing fund assets to discharge any liability of a member, including liabilities of PSDTC passed on to PAC for collection.

The proposal also would change individual member and aggregate clearing fund contribution levels. First, a member's minimum contribution would be increased to $5000; currently, that minimum contribution level is $3000. Second, PAC would calculate a member's required clearing fund contribution on the basis of the member's aggregate clearance activity in all of its accounts at PAC (the $5000 minimum contribution also would be applied to the member once and not to each of its accounts). Currently, PAC calculates clearing fund contribution requirements on an account-by-account basis. Third, PAC's formula by which individual member's clearing fund requirements are calculated (other that the minimum deposit requirement) would be changed substantially. PAC would calculate a member's contribution requirement by: (a) totalling all of the member's net debits and credits settling through PAC's continuous net settlement ("CNS") system during each calendar quarter (or lesser period of time, as PAC determines in its discretion), (b) dividing that total by the number of business days in the quarter (or such lesser period) to arrive at the member's average daily CNS debits and credits, and (c) multiplying the member's average daily CNS debits and credits by 2½ percent. Currently, the PAC-related portion of a member's required contribution to the PAC/PSDTC participants fund is calculated each quarter by (a) aggregating the member's CNS debit and credits for each of the three calendar months, (b) dividing that total by three to arrive at the member's average monthly CNS activity, and (c) multiplying that average monthly figure by one-half of one percent. Finally, the proposal would change the types of collateral that members can use to secure their clearing fund "open account indebtedness," i.e., clearing fund assets over and above the member's minimum cash deposit. First, the proposal would enable PAC members to secure their open account indebtedness with irrevocable letters of credit issued in favor of PAC by PAC-approved financial institutions. The proposed rule change contemplates that PAC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PAC's approval of financial institutions as letter of credit issuers and PAC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. PAC intends to design and propose specific concentration requirements shortly. Currently, PAC's rules do not enable members to use letters of credit for clearing fund purposes. Second, under the proposal, members no longer could secure their open account indebtedness with high-grade, bearer municipal bonds.

In its filing, PAC states that the proposal would increase substantially both the aggregate size of PAC's clearing fund and the size of individual members required clearing fund contributions. To ease implementation of the larger clearing fund requirements, PAC, by September 30, 1983, proposes to calculate and to advise each member of its new clearing fund requirement based on its third calendar quarter activity. No payments, however, would be required at that time. At year end, PAC would recalculate each member's new clearing fund requirement based on the member's fourth calendar quarter activity. At that time, the new requirements would become effective, and members would be required to meet the new, increased clearing fund levels. PAC states that the proposed rule change is consistent with section 17A of the Act, and, in particular, subsection (b)(3)(D) of that Section. PAC believes that the proposal assures the safeguarding of securities and funds in the custody or control of PAC or for which it is responsible.

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, 450 Fifth Street, NW., 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons, Secretary.
[FR Doc. 83-22921 Filed 8-30-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20113; File No. SR-PSDTC-83-7]

Filing of Proposed Rule Change by Pacific Securities Depository Trust Co.


Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1983, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

PSDTC submitted the proposed rule change to improve generally various portions of its rules and to conform them to the Division of Market Regulation's Standards for the Registration of Clearing Agencies that concern Sections 17a(b)(1)[(i) of the Act. 1 The proposal, among other things, modifies existing rules or adds new rules regarding: (i) The types of entities that are eligible to participate in PSDTC; (ii) the standards that applicants must satisfy to participate in PSDTC; (iii) background information that applicants must furnish PSDTC; (iv) standards of financial responsibility and operational capacity that participants must satisfy continuously; (v) PSDTC's rights to discipline participants; (vi) PSDTC's rights to suspend summarily participants in certain circumstances and to close-

(June 17, 1980), 45 FR 41920 (June 23, 1980).
out their positions; (vii) PSDTC’s liens on deposited funds and securities; (viii) PSDTC’s indemnity procedures, including rights to purge certain securities deliveries, or payments for securities; (ix) hearing and appeal rights and procedures for aggrieved applicants and participants; (x) PSDTC’s obligation to provide periodically to its participants copies of internal accounting control reports prepared by PSDTC’s independent public accountants; (xi) procedures for nominating and electing individuals to PSDTC’s board of directors; and (xii) additional non-substantive or technical amendments to PSDTC’s rules.

In its filing, PSDTC states that the proposal is consistent with Sections 17A(b)(3)(C), 17A(b)(3)(H), 17A(b)(3)(G), and 17A(b)(5) of the Act because the proposed amendments: (i) assure the fair representation of participants in the selection of its directors and administration of PSDTC’s affairs; (ii) assure the safeguarding of securities and funds which are in PSDTC’s custody or control or for which it is responsible, (iii) provide that participants shall be appropriately disciplined for violations of PSDTC’s rules; and (iv) provide a fair procedure with respect to disciplining participants, denying participation status to any applicant in, and prohibiting of limiting any person’s access to, PSDTC’s services.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-83-7.

Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission’s Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-23322 Filed 8-30-83; 8:40 am]
BILLING CODE 8010-01-M

(Release No. 20112; File No. SR-Philadep-83-3)

Order Approving Proposed Rule Change of the Philadelphia Depository Trust Co. ("Philadep")

August 23, 1983.

I. Introduction

On May 12, 1983, Philadep submitted a proposed rule change (SR-Philadep-83-5) to the Commission pursuant to Section 19b(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78n(b)(2), and Rule 19b-4 thereunder. The proposed rule change would permit Philadep, on a pilot basis, to mail directly to the customer certificates that have been transferred into the customer’s name. Notice of the proposed rule change was published in the Federal Register on July 1, 1983. The Commission solicited but did not receive comments on the proposed rule change. Philadep did not solicit or receive comments on the proposed rule change.

II. Description

The proposed rule change permits Philadep, on a pilot basis, to mail directly to its participants’ customers certain newly issued or transferred securities certificates in customer name, thereby expediting the transfer process, in particular, the delivery of certificates to the customer. Currently, upon receipt from the transfer agent of these customer name securities certificates, Philadep mails the certificates to the participant who submitted the “customer-name” instruction. After comparing the certificate against the instruction, the participant forwards the customer-name certificates to its customer.

On a daily basis, participants in the pilot program will submit to Philadep a magnetic tape of instructions to register specific quantities of securities held by Philadep for the participant into various participants’ customers’ names. As part of this program and to facilitate Philadep processing, the instructions must include customer addresses. Each business day, Philadep will deliver the instructions received on the previous day, and the stock or bond certificates necessary to satisfy all requests, to the appropriate transfer agent. Upon receipt of the newly issued or transferred certificates from the transfer agent, Philadep will compare the certificates with the participant’s instructions to ensure proper registration. If registration is correct, Philadep, on an undisclosed basis, will mail the certificates directly to the customer. If incorrect, Philadep will return the certificates with appropriate instructions to the transfer agent. Finally, on a daily basis Philadep will provide participants with a magnetic tape of the completed transfers.

Philadep will use First Class (insured) mail service for certificates with a market value of $100,000 or less. For certificates with a market value in excess of $100,000, Philadep will use Registered mail service. With respect to both First Class and Registered mail service, Philadep will insure the certificates with the United States Postal Service for market value.

III. Discussion

Philadep believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act because it promotes the prompt and accurate...
clearance and settlement of securities transactions. The Commission concludes in this assessment and further believes that the proposed rule change promotes the safeguarding of securities in Philadep’s custody or control or for which Philadep is responsible. In general, by mailing certain securities directly to its participants’ customers, Philadep will reduce the physical movement of securities certificates, which should reduce delays and enhance the safety of securities certificates in connection with processing securities transfers.

Philadep believes that by eliminating one step in the transfer process—the physical delivery of “customer-name” securities certificates to Philadep’s broker or bank participants—the rule change enhances the prompt and accurate transfer of securities. Since the rule change requires the securities certificates to be placed in the mail one less time, not delays in the transfer process should be reduced. In addition, delays ordinarily created by participant processing of these securities transfers will be avoided since participants will not receive the actual “customer-name” certificate for processing, but merely a confirmation of the transfer, once completed. Furthermore, less frequent use of the mails and reduced physical handling generally reduce the risk of loss.

Although the rule change eliminates the opportunity for participant review of these certificates prior to distribution to the customer, the rule change requires Philadep to perform such review. In fact, the rule change actually provides an additional layer of review since participants will compare the confirmations of the securities transfers against original instructions, and will have an obligation to ensure proper registration.

Ordinarily, Philadep’s insurance policy would protect against losses of certificates through the mail; however, the use of Registered mail service for deliveries of securities valued in excess of $100,000, in addition to extended insurance coverage for all customer-name securities, should help safeguard these certificates without expanding Philadep’s potential liability unreasonably. Philadep’s current insurance coverage would in most instances cover the purchase of an indemnity bond to obtain replacement certificates for certificates lost in the mail by Philadep. However, extended insurance coverage through the Postal Service should enable Philadep to pass through to its participants the cost of insurance, and in most instances, to avoid filing claims with its insurance company.

As indicated, although Philadep will mail certain customer-name certificates directly to its participants’ customers, it will do so on an undisclosed basis. As a result, customer inquiries will be channeled through Philadep’s participants. This arrangement should benefit all parties concerned. Customers will receive their securities in an expedited fashion; participants will be less involved in the transfer process unless a delivery problem arises; and, Philadep, by avoiding costly direct customer contact, should be able to provide this service in an efficient manner.

IV. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act. In addition, by streamlining the delivery process in connection with “customer-name” transfers, the rule change reduces costs to Philadep participants and reduces delivery delays experienced by participants’ customers.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority,

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-23917 Filed 9-30-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-21007; File No. SR-NYSE-83-34]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Charges Imposed on Members and Member Organizations To Reimburse the Exchange for Regulatory Oversight Services

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 August 19, 1983, the New York Stock Exchange, Inc. (“NYSE”) 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

Additions italicized; deletions [bracketed].

Rule 129. The Board may from time to time impose such charge or charges on members and member organizations as it shall deem appropriate to reimburse the Exchange, in whole or in part, for regulatory oversight services provided the membership by the Exchange. [This rule shall terminate on October 15, 1983 and all charges imposed hereunder shall be refunded unless, prior to that date, the Securities and Exchange Commission shall have approved the first sentence of this rule and the charges initially to be imposed by the Exchange hereunder pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.]

The initial regulatory oversight services fee shall be as follows:

Additions italicized; deletions [bracketed].

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

ANNUAL REGULATORY FEE

Fee per $1,000 gross revenue (as reported in the FOCUS report) ........................................................................................................ $0.13
Minimum annual fees for:
- Carrying firms and specialists .......................................................... 2,000
- Introducing firms ........................................................................... 1,000
- Members and firms not dealing with the public ................................ 1.100

6 Less frequent use of the mails also reduces the risk of loss of securities certificates. See Discussion infra.

7 See discussion and note 8 supra.
A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to remove the sunset provision and the refund provision from Exchange Rule 129. These provisions were added when the Rule was amended by a proposed rule change filing which was filed with the Commission pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 (the "Act") (SR-NYSE-83-33). The addition of those provisions was intended to permit the Rule to go into effect upon filing with the Commission while also permitting the Commission to review the substance of the Rule pursuant to section 19(b)(2) of the Act. The proposed rule change, by removing the sunset and refund provisions will permit the Exchange, on a permanent basis, to charge its members and member organizations for regulatory oversight services on the basis of their total gross revenues. Basing the regulatory oversight service fee on gross revenues provides for an equitable allocation of the fee among all members and member organizations of the Exchange. As the Commission is aware, the Exchange has been assigned the primary responsibility to examine its members and member organizations for compliance, and to enforce compliance by its members and member organizations, with applicable financial and operational requirements. All aspects of the business of a member or member organization necessarily have an impact on its compliance with such financial and operational requirements and must therefore be comprehended by the Exchange in its financial and operational oversight of members and member organizations. Consequently, the revenues received from all activities provide the most equitable basis on which the Exchange's regulatory oversight fee should be computed. Basing the service fee on gross revenues will avoid the obvious unfairness which would result if comparable firms were required to pay the Exchange quite different amounts simply because their respective mixes of business—among exchanges, between exchanges and the over-the-counter market, or between securities and commodities business—were different. The regulatory oversight fee is designed to provide for the Exchange substantially the same amount as the regulatory fee heretofore received by the Exchange from the National Stock Clearing Corporation (NSCC) under the terms of an agreement which terminated on June 30, 1983. That fee has been provided, and it is expected that the initial regulatory oversight fee will provide, the Exchange with substantially less than the total cost incurred by the Exchange in providing financial and operational oversight of its members and member organizations. The regulatory oversight fee will be determined for each Exchange member or member organization required to file a FOCUS report by multiplying its gross revenue as reported in the standard NYSE FOCUS report by a factor which will be reviewed at regular intervals by the Finance Committee of the Board of Directors. In addition, certain minimums will be imposed by class of member or member organization required to file FOCUS reports to cover the estimated minimum cost of providing regulatory oversight services. The new service fee will affect all members and member organizations required to file a FOCUS report and, depending on the relationship of each firm's dollar value of securities cleared through the NSCC (the basis for the former charge collected via the NSCC) to its total gross revenue from all sources, the net effect of the new fee on any particular member or member organization may be either a reduction or an increase in charges payable by it. The regulatory oversight service fee is imposed pursuant to the Board's authority under Article X, Section 3 of the Exchange Constitution, which authorizes the Exchange Board of Directors, by rule, to impose service fees.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the new service fee, since it is based on the gross revenues of members and member organizations and is therefore a more equitable fee than was the regulatory fee previously collected through NSCC, will reduce burdens on competition which were the result of the former NSCC fee.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received any written comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period 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 proceedings to determine whether the proposed change should be disapproved.

The Exchange has urged the Commission to approve the proposed rule change as soon as possible following the publication of this notice.

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, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments and 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, 450 Fifth Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons.

Secretary.

Dated: August 23, 1983.
Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Charges Imposed on Members and Member Organizations To Reimburse the Exchange for Regulatory Oversight Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b)(1), notice is hereby given that on August 19, 1983, the New York Stock Exchange, Inc. ("NYSE") 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

Additions italicized; deletions [bracketed].

Rule 129. The Board may from time to time impose such charge or charges on members and member organizations as it shall deem appropriate to reimburse the Exchange, in whole or in part, for regulatory oversight services provided the membership by the Exchange. This rule shall terminate on October 15, 1983 and all charges imposed hereunder shall be refunded unless, prior to that date, the Securities and Exchange Commission shall have approved the first sentence of this rule and the charges initially to be imposed by the Exchange hereunder pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.

The initial regulatory oversight services fee shall be as follows:

Additions italicized; deletions [bracketed].

Annual Regulatory Fee

Fee per $1,000 Gross Revenue as reported in the FOCUS Report—$0.13

Minimum Annual Fees for:

Carrying Firms & Specialists—$2,000.
Introducing Firms—$1,000.
Members and Firms not dealing With the public—[$600]$180.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose. The purpose of the rule change reflected by this filing is to impose on the members and member organizations of the Exchange a regulatory oversight service fee based on their total gross revenues for a limited period of time during which the Commission will be asked to approve the regulatory oversight service fee on a permanent basis pursuant to paragraph (2) of section 19(b) of the Securities Exchange Act of 1934 (the "Act").

Basing the regulatory oversight fee on gross revenues provides for an equitable allocation of the fee among all members and members organizations of the Exchange. As the Commission is aware, the Exchange has been assigned the primary responsibility to examine its members and member organizations, for compliance, and to enforce compliance by its members and member organizations with applicable financial and operational requirements. All aspects of the business of a member or member organization necessarily have an impact on its compliance with such financial and operational requirements and are comprehended within the Exchange's examinations. Consequently, the revenues received from all activities provide for the most equitable basis on which the Exchange's regulatory oversight fee should be computed. The regulatory oversight fee proposed by the Exchange is designed to provide the Exchange substantially the same amount as the regulatory fee heretofore received by the Exchange from the National Stock Clearing Corporation (NSCC) under the terms of an agreement which terminated on June 30, 1983. That fee has provided, and it is expected that the initial regulatory oversight fee will provide, the Exchange with substantially less than the total cost incurred by the Exchange in providing financial and operational oversight of its members and member organizations.

(2) Statutory Basis. The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members. The proposed rule change is also consistent with section 6(b)(1) of the Act which requires an exchange to have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members with the provisions thereof, the regulations thereunder, and the rules of the exchange. Finally, the proposed rule change is consistent with section 6(b)(5) of the Act which requires that the rules of an exchange be designed to promote just and equitable principles of trade, and to protect investors and the public.

The proposed fee will be determined for each Exchange member or member organization required to file a FOCUS report by multiplying its gross revenue as reported in the standard NYSE FOCUS report by a factor which will be reviewed at regular intervals by the Finance Committee of the Board of Directors. In addition, certain minimums will be imposed by class of member or member organization required to file. FOCUS reports to cover the estimated minimum cost of providing regulatory oversight services.

The new service fee will affect all members and member organizations required to file a FOCUS report and, depending on the relationship of each firm's dollar value of securities cleared through the NSCC (the basis for the former charge collected via the NSCC) to its total gross revenue from all sources, the net effect of the new fee on any particular member or member organization may be either a reduction or an increase in the charge payable by it.

The regulatory oversight service fee is imposed pursuant to the Board's authority under Article X, Section 3 of the Exchange Constitution, which authorizes the Exchange Board of Directors, by rule, to impose service fees. 2

[FOCUS]

[Release No. 34-20106; File No. SR-NYSE-83-33]
Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 23, 1983.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-23910 Filed 8-30-83; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Delaware; Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:00 a.m., Friday, October 7, 1983, at the Radisson Wilmington Hotel, 700 King Street, Wilmington, Delaware 19801, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, One Bal Plaza, Suite 400-East Lobby, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004 (215) 596-5801.


Jean M. Nowak,
Director, Office of Advisory Councils.

[FR Doc. 83-23911 Filed 8-30-83; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on September 23, 1983, at Headquarters, Aircraft Owners and Pilots Association, 421 Aviation Way, Frederick, Maryland commencing at 10:00 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on July 15, 1983; (2) Chairman's Report on RTCA Administration and Activities; (3) Special Committee Activities Report for July and August, 1983; (4) Consideration of Resolution Amending RTCA Constitution to add Helicopter Association International to Executive Committee Membership; (5) Report of the Fiscal and Management Subcommittee; (6) Consideration of Establishing New Special Committees; (7) Approval of Special Committee 135 Proposed Changes to Explosion Proofness Testing Procedures Contained
Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on Alternative Transit Improvements in the Baltimore, Maryland Region

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice to Prepare an Environmental Impact Statement.


FOR FURTHER INFORMATION CONTACT: Mr. John R. Caruolo, UMTA Region III, 434 Walnut Street, Suite 1010, Philadelphia, Pennsylvania, 19106, telephone (215) 597-4179.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

A public scoping meeting will be held on September 20, 1983 at 7:00 p.m., in the Baltimore City College Auditorium (3220 The Alameda, Baltimore, Maryland 21218) to help establish the purpose, scope, framework, and approach for the analysis. At the scoping meeting, staff will present a description of the proposed scope of the study using maps and visual aids, as well as a discussion of the citizen involvement program, and a projected work schedule. Members of the public and interested Federal, State, and local agencies are invited to comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing.

Corridor Description

The Baltimore Northeast Corridor is a major travel corridor which includes the Baltimore MetrorCenter and radiates into the Northeast area of the Baltimore region. The corridor originates at the north, proceeds along Charles and Baltimore Streets and proceeds along Fayette Street and Broadway to the Memorial Stadium/Clifton Park area. Possible changes in transit service may also occur in outer portions of northeast Baltimore City and Baltimore County. The corridor is bounded roughly by York Road to the west and Pulaski Highway to the east.

Alternatives

Transportation alternatives proposed for consideration in the corridor are the following:

1. A no-build option, under which existing bus services would continue to operate;
2. A low-cost transportation system management approach that would improve bus service in the corridor; and
3. Rail rapid transit options that would extend Section A of the Baltimore Metro to a number of alternative terminus points, including Johns Hopkins Hospital, North Avenue, Clifton Park, and Memorial Stadium.

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway congestion, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for the long-term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic and financial measures as required by current Federal (NEPA) and State environmental laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Comments at the scoping meeting should focus on the completeness of the proposed sets of impacts and evaluation criteria. Other impacts or criteria judged relevant to local decision-making should be identified.

Issued: August 19, 1983.

Peter N. Stowell, Regional Administrator.

DEPARTMENT OF THE TREASURY

[Order No.103-4]

Delegation of Authority to the Deputy Assistant Secretary (Federal Finance) to Dispose of Warrants to Purchase Common Stock of Chrysler Corp.

August 23, 1983.

By virtue of the authority vested in me as Deputy Secretary of the Treasury, including that delegated to me through a memorandum dated August 8, 1983, from the Secretary of the Treasury entitled "Recuspi with respect to the sale of Chrysler Corporation Stock Warrants," I hereby delegate to the Deputy Assistant Secretary (Federal Finance) the authority to exercise any power, make any determination and perform any duty granted to me for the sole purpose of disposing of the warrants to purchase Chrysler common stock which were issued to the United States, acting through the Chrysler Corporation Loan Guarantee Board (the "Board"). In 1980 and 1981 and which have been or will be transferred by the Board to the Secretary of the Treasury for disposal.

R. T. McNamar, Deputy Secretary of the Treasury.
Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, September 9, 1983.
STATUS: Closed.
MATTERS TO BE CONSIDERED:
Surveillance Briefing
CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.
[3-1235-83 Filed 8-29-83; 11:35 am]
BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 13, 1983.
STATUS: Open.
MATTERS TO BE CONSIDERED:
Domestic Exchange Traded Options Regulation § 33.4(a)(6).
CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.
[3-1234-83 Filed 8-29-83; 11:35 am]
BILLING CODE 6351-01-M

3

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 4:35 p.m. on Friday, August 26, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:
(A) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in United Southern Bank of Clarksville, Clarksville, Tennessee, which was closed by the Tennessee Commissioner of Banking on Friday, August 26, 1983; (B) accept the bid for the transaction submitted by First American Bank of Nashville, N.A., Nashville, Tennessee; and (C) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and
STATUS: Authorized to be exempt from disclosure pursuant to 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), (c)(9)(A)(ii)); and
BILLING CODE 6714-01-M

4

FEDERAL RESERVE SYSTEM

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, August 29, 1983.
CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agent items carried forward from a previous meeting; the following such closed item(s) was added:
1. Proposals regarding employee separation procedures.
2. Issues relating to Federal Reserve notes.

These items were originally announced for a meeting on August 25, 1983.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.
Dated: August 29, 1983.
James McAfee, Associate Secretary of the Board.
[5-1239-83 Filed 8-29-83; 3:47 pm]
BILLING CODE 6210-01-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-21]
TIME AND DATE: 9 a.m., Wednesday, September 7, 1983.
STATUS: The first seven items are open to the public; the remainder are closed under Exemption 10 of the Government in the Sunshine Act.
MATTERS TO BE CONSIDERED:
1. Safety Study: Child Passenger Protection Against Death, Disability, or Disfigurement in Motor Vehicle Accidents.

Dated: August 29, 1983.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson, Executive Secretary.
[5-1237-83 Filed 8-29-83; 2:51 pm]
BILLING CODE 6714-01-M

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983


5. Marine Summary Reports.

6. Special Interest Briefs of Aviation Accidents Involving Air Traffic Control or the National Weather Service as a Cause or a Factor.


CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

August 29, 1983.

[FR Doc. S-1238-83 Filed 8-29-83; 1:47 pm]

BILLING CODE 4910-58-M
Part II

Environmental Protection Agency

Environmental Radiation Protection Standards for Low-Level Radioactive Waste Disposal; Advanced Notice of Proposed Rulemaking
Environmental Protection Agency intends to develop environmental radiation protection standards and/or guides for low-level radioactive waste disposal to protect the public health and the general environment from potential adverse effects from this activity. The Agency also intends to determine if there is some limit of exposure from the disposal of radioactive waste, below which radiation-related regulation is not warranted. As used herein, standards means limits on radiation exposures or levels, or concentrations or quantities of radioactive material, outside the boundaries of locations processing, using, or disposing of radioactive material.

DATES: Comments must be received by November 29, 1983, to be of maximum value. The initial development of the standards or guides is expected to take about one year, at which time they will be proposed in the Federal Register. Public hearings will be held after the formal proposal and their dates will be announced at that time.

ADDRESS: Comments should be sent to Docket No. R-82-1, U.S. Environmental Protection Agency, Central Docket Section, (LE-130) 401 M Street, SW., Washington, D.C. 20460.


SUPPLEMENTARY INFORMATION: Low-level radioactive wastes (LLW) means all radioactive wastes except: high-level radioactive wastes (HLW) and transuranic wastes covered by proposed EPA 40 CFR 191; thorium and uranium will tailings controlled under 40 CFR 192; and radioactive wastes which potentially may be regulated under the Resource Conservation and Recovery Act of 1976 (RCRA). Transuranic wastes are those wastes which contain long-lived alpha-emitting radionuclides of elements heavier than uranium. Transuranic wastes are covered by the proposed HLW standards if they contain 100 nanocuries per gram or more alpha-emitting transuranic isotopes with half-lives greater than one year.

Typical radioactive wastes which may be regulated under RCRA include those wastes not regulated under 40 CFR 191, 40 CFR 192, or 40 CFR 193 such as accelerator-produced radionuclides and naturally-occurring radionuclides, i.e., cobalt-57 and radium.

Low-level radioactive wastes are produced by nuclear power-related facilities, medical and research institutions, industrial facilities, and Government operations. These wastes occur in a wide variety of physical and chemical forms, and may contain only trace quantities of radioactive materials to thousands of curies per cubic foot. In general, however, LLW contain very low concentrations of radioactive contaminants in the range of a few thousandths of a curie per cubic foot.

In 1980, Congress passed the Low-Level Radioactive Waste Policy Act, which makes each State responsible for disposing of low-level waste either: (1) Within the State or (2) outside the State under compacts with other States. The States have requested that EPA provide generally applicable environmental standards for the disposal of low-level radioactive wastes. In 1980, the President approved the Nuclear Waste Management Plan of the Interagency Review Group on Nuclear Waste. This plan charges EPA with issuing standards for radioactive wastes, including a standard for LLW.

We request any information pertinent to the development of environmental radiation protection standards for low-level radioactive waste disposal, especially in the following areas: 1. What is the appropriate form for Low-Level Waste Standards? The Agency currently believes that standards in the form of dose limits may be most suitable. We would particularly appreciate comments on the appropriateness of dose limitations and suggestions regarding alternative forms that may have specific merits. Further, EPA would like to receive comments on the need for other actions in lieu of standards or actions that would supplement standards. For example, should general criteria be considered to augment specific environmental standards? EPA would also appreciate comments regarding the appropriate basis for selecting the level of stringency for Low-Level Waste Standards.

2. Are there some types of classes of radioactive waste which do not need regulatory control to protect the public? Specifically, is there a sufficiently small concentration and/or likelihood of exposure from radioactive materials in some wastes, so that they can be considered to be of no radiation-related regulatory concern, or which can be disposed of with minimal controls? What should be the basis for determining a level below regulatory concern?

3. What are the key factors in reasonably assuring that environmental protection standards will be satisfied? If we consider site characteristics, engineered barriers, and administrative controls, which are the most important?

4. The Agency is currently assuming that authorities will maintain active institutional control at LLW disposal facilities for 100 years after their closure, including maintenance and upkeep of engineered control structures. Is this period reasonable, or should it be longer or shorter?

5. The LLW standards being developed under this rulemaking could be applied to a variety of types of facilities including new facilities licensed by the Nuclear Regulatory Commission (NRC) and the States, existing facilities licensed by NRC and the States, new facilities at Federal installations, and existing facilities at Federal installations. What should be the basis for determining to which facilities the standard should be applied?

6. What methods should be employed to confirm that environmental standards are being met? Consider such alternatives as predictive models, continuous monitors, and sampling programs.

List of Subjects in 40 CFR Part 193

Environmental protection, Low level radioactive waste, Radiation protection

Dated: August 23, 1983.

William D. Ruckelshaus.
Administrator
Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Nonmetallic Mineral Processing Plants; Proposed Rule and Notice of Hearing
ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60
[AD-FRL-2295-7]

Standards of Performance for New Stationary Sources; Nonmetallic Mineral Processing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of particulate matter from new, modified, and reconstructed facilities at nonmetallic mineral processing plants. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from nonmetallic mineral processing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed facilities at nonmetallic mineral processing plants to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held. If requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: Comments. Comments must be received on or before November 14, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by September 21, 1983, a public hearing will be held on October 12, 1983, beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by October 4, 1983.

ADDRESSES: Comments. Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. OAQPS-78-11, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing, it will be held at the Environmental Research Center Auditorium, corner of Hwy. 54 and Alexander Drive, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Nonmetallic Mineral Processing Plants-Background Information for Proposed Standards" (EPA-450/3-83-001a).

Docket. Docket No. OAQPS-78-11, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Proposed Standards Standards of performance for new sources established under Section III of the Clean Air Act reflect:

• • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the administrator determines has been adequately demonstrated (Section 111 (a)(1)).

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The proposed standards would apply to new, modified, and reconstructed facilities at plants that process any of the following 18 nonmetallic minerals: Crushed and broken stone, sand and gravel, clay, rock salt, gypsum, sodium compounds, pumice, gilsonite, talc and pyrophyllite, boron, barite, fluorite, feldspar, diatomite, perlite, vermiculite, mica, and kyanite. The affected facilities would be each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Common clay plants and pumice plants with capacities of 9 megagrams per hour (Mg/h) (10 tons per hour (tons/h)) or less, fixed sand and gravel plants and crushed stone plants with capacities of 25 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less would be exempt from the proposed standards. All nonmetallic mineral processing equipment at lime plants, power plants, steel mills, and other source categories that is not already covered by standards of performance for those categories would be covered by the proposed standards. At asphalt concrete plants and Portland cement plants, equipment used to process nonmetallic minerals that precedes equipment already covered by other standards of performance would be subject to the proposed standards.

The proposed standards would limit both fugitive and stack emissions of particulate matter from the affected facilities. Fugitive emissions are emissions not collected by a capture system. Fugitive emissions would be limited to 10 percent opacity for all affected facilities with the following exception: fugitive emissions from crushers at which capture systems are not used would be limited to 15 percent opacity. The proposed standard for stack emissions, which are emissions collected by a capture system, would limit the concentration of particulate matter to 0.05 gram per dry standard cubic meter (g/dscm) [0.02 grain per dry standard cubic foot (gr/dscf)] and 7 percent opacity. The stack opacity standard would not apply to affected facilities that use wet scrubbers to control emissions. Instead, the monitoring of the operating parameters of wet scrubbers (pressure drop and scrubber liquid flow rate) would be required in order to ensure proper operation and maintenance of scrubbers.

Summary of Environmental, Energy, and Economic Impacts

Environmental Impact

By the fifth year following proposal, the proposed standards would reduce the total amount of particulate matter emissions into the atmosphere by 41,000 megagrams per year (45,000 tons per year). This reduction is 90 percent greater than that achievable with a typical State process weight regulation.

Uncontrolled emission rates were not used to estimate the reduction in
particulate matter emissions associated with the proposed standards. However, these emission rates are presented in the background information document (BID), and some industry representatives have questioned their validity. They believe the rates are too high and are concerned that States will use them to determine the significance of a plant as an air pollution source.

EPA is reviewing the emission factors presented in the BID to determine if they need to be revised, and comments are solicited on this issue. The uncertainty, however, does not affect the determination of best demonstrated technology on which the proposed standards are based.

With the use of dry collection techniques (baghouses) to achieve the standards, no water discharge is generated. Therefore, there would be no adverse water pollution impact from the proposed standards. Where wet dust suppression may be used to meet the standards, there would be no significant water discharge because most of the water adheres to the material being processed until it evaporates.

The solid waste impact of the proposed standards would be very small. When dry collection techniques are used, about 1.4 megagrams (1.5 tons) of solid waste are collected for every 250 megagrams (276 tons) of material processed. In many cases, this material can be recycled back into the process, sold, or used for a variety of purposes. Where no market exists for the collected material, it is typically disposed of in the mine or in an isolated location in the quarry. No subsequent air pollution problems should develop provided the waste pile is protected from wind erosion. Information on control techniques for waste piles is included in the document entitled "Air Pollution Control Techniques for Nonmetallic Minerals Industry" [EPA 450/3-82-014] available from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711. telephone number (919) 541-2777. Where wet dust suppression could be used to meet the standards, no solid waste disposal problem would result from implementing the standards.

Energy Impact

The incremental energy requirements of the proposed standards have been estimated by comparing the use of baghouses to control particulate matter emissions to the use of no control system. The estimates indicate a greater impact than would actually occur because it is expected that less-energy-consuming wet dust suppression systems would be used in many cases to achieve the proposed standards. In addition, many new plants would use baghouses or combinations of baghouses and water spray controls to meet existing State regulations.

The energy required to control all new nonmetallic mineral processing plants constructed by the fifth year after proposal to the level of the proposed standards would be about 430 terajoules per year (1.2 terajoules per day), indicating a minor impact on national electrical energy demand. This would be about a 15 percent increase over the amount of energy that would otherwise be required to meet the industry's projected capacity additions without controls. The increased energy consumption for regulatory purposes that would result from the proposed standards would range from about 5 percent for a 136 Mg/h (150 tons/h) plant having both crushing and grinding operations to about 20 percent for a 9 Mg/h (10 tons/h) plant having only a crushing operation.

Economic Impact

The costs and economic impacts associated with the proposed standards are considered to be reasonable. The estimated impacts are based on a comparison of baghouse use to no control. Less expensive wet dust suppression systems may be used in many cases to achieve the proposed standards. Also, many new plants would use baghouses or a combination of baghouses and water sprays to meet existing State regulations. Thus, the actual economic impact of the proposed standards would be considerably less than the estimates summarized below.

The impact of the proposed standards on an individual plant was evaluated by developing a discounted cash flow (DCF) analysis for each new model plant size and for each expansion model plant size. DCF is an investment decision analysis that shows the economic feasibility of a planned capital investment project over the life of the project. The results of the analysis indicate that the costs associated with implementing the proposed standards would not preclude construction of most new nonmetallic mineral processing plants that would be built in the absence of the proposed standards. However, the DCF analysis indicated that the incremental costs associated with baghouse control may preclude the construction of new pumice plants and common clay plants with capacities of 9 Mg/h (10 tons/h) or less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 136 Mg/h (150 tons/h) or less. For this reason, these plants would be exempt from the proposed standards. Representatives of the crushed stone and sand and gravel industries have indicated that few, if any, fixed plants smaller than 23 Mg/h (25 tons/h) and portable plants smaller than 136 Mg/h (150 tons/h) would be built in the future. Nevertheless, these exemptions are provided for those few plants that may be built.

All of the dollar figures presented below are in 1979 dollars. Figures that were reported in different year dollars in the economic impact analysis in the BID were converted to 1979 dollars for comparison purposes only. The capital costs for baghouse control systems for plants having only a crushing operation would range from $70,000 for a 9 Mg/h (10 tons/h) plant to $936,000 for a 544 Mg/h (600 tons/h) plant or from 12 to 9 percent of the plant's total capital costs. Total annualized costs would range from $17,000 to $105,000 per year. For plants having both crushing and grinding operations, capital costs would range from $109,000 for a 9 Mg/h (10 tons/h) plant to $219,000 for a 136 Mg/h (150 tons/h) plant or from 16 to 6 percent, respectively, of the plant's total capital costs. For these plants, annualized costs would range from $25,000 to $53,000 per year. For portable crushing plants, capital costs would range from $88,000 for a 66 Mg/h (75 tons/h) plant to $280,000 for an 816 Mg/h (900 tons/h) plant or from 22 to 15 percent, respectively, of the plant's total capital costs. Annualized costs would range from $34,000 to $105,000 per year. The total additional capital cost to install baghouses on all new plants would be about $125 million for the first 5 years the proposed standards would be in effect. The total annualized cost would increase by $34 million in the fifth year. For each mineral industry, the annualized control cost in the fifth year divided by the annual output is less than 2 percent of the price of a ton of product.

Rationale

Selection of the Source Category for Control

EPA has identified nonmetallic mineral processing plants as sources of emissions that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. As a result, the Agency listed this source on the Priority List [40 CFR 60.16, 44 FR 49222 (August 21, 1979)], in accordance with Section 111(b)(1)(A) of the Clean Air Act. By the fifth year after proposal new, modified, and reconstructed facilities at
nonmetallic mineral processing plants would cause annual nationwide particulate matter emissions to increase by about 45,000 megagrams per year (50,000 tons per year) if no standards of performance were set.

The production of nonmetallic minerals is projected to increase at compound annual growth rates of up to 6 percent through the first 5 years after implementation of the new standards. The growth rate estimates are based on long-term trends in the industries rather than current economic conditions. They indicate that about 500 new plants will be constructed in the 5-year period.

Geographically, the nonmetallic minerals industry is highly dispersed, with plants processing at least 1 of the 18 nonmetallic minerals in all States. The 18 minerals covered by the proposed standards were selected on the basis of production tonnage rather than on the basis of any health or welfare considerations as compared to other minerals. They are the top 18, excluding minerals for which standards have already been established or are being developed. Also excluded were minerals, such as sulfur, bromine, peat, and slag, with production processes that are not typical for most minerals, and those for which no growth is expected, such as potash and pyrites.

Selection of Pollutant and Emission Sources for Control

Particulate matter is the only pollutant emitted from sources covered by the proposed standards. The process operations included under the proposed standards, because they are sources of particulate matter emissions at nonmetallic mineral processing plants and because they are all amenable to the same types of air pollution control techniques. Process operations covered include the following pieces of equipment: crushers, grinding mills (including air separators, classifiers, and conveying systems), screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, and enclosed truck and railcar loading stations. Equipment at portable plants is included because this equipment is similar to that used at fixed plants and is able to use the same emission control techniques.

Emissions from the following operations common to nonmetallic mineral processing plants are not covered by the proposed standards: haul roads, stockpiles, drilling, blasting, loading at the mine, and conveying (other than transfer points). There has been limited demonstration of the effectiveness of specific control techniques for these sources for the variety of conditions experienced across the country. EPA's Office of Research and Development is currently assessing these techniques, and the results will be considered in the future in determining the need for standards of performance for these sources. Information on control techniques for these operations is included in the document entitled "Air Pollution Control Techniques for Nonmetallic Minerals Industry" (EPA-450/3-82-014) available from the EPA Library (MD-39), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777.

Selection of Affected Facilities

The choice of the affected facility for these standards is based on the Agency's interpretation of Section 111 of the Act, and judicial construction of its meaning. Under Section 111, the NSPS must apply to "new sources"; "source" is defined as "any building, structure, facility, or installation that emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants, and that might be viewed as "sources." EPA, therefore, uses the term "affected facility" to designate the equipment, within a particular kind of plant, that is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industry. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner. If, for example, an entire plant were designated as the affected facility, no part of the plant would be covered by the standards unless the plant as a whole is "modified" or "reconstructed." If, on the other hand, each piece of equipment is designated as the affected facility, then each piece is replaced, the replacement piece will be a source subject to the standards. Because the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that the relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader definition.

The narrow designation of affected facility for nonmetallic mineral processing plants would be each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck loading station, and enclosed railcar loading station. It is technologically feasible to control each facility under the narrow designation. Moreover, the Agency considers the economic, energy, and other impacts associated with the narrow designation of affected facility reasonable. As a result, EPA has selected the narrow designation of affected facility.

In order to promulgate the broader designation, EPA would have to find that it would achieve greater total emission reductions or equivalent total reductions with significant other benefits such as reduced costs, energy consumption or other environmental impacts. EPA solicits comments on this issue.

With the narrow designation of affected facility, the standards would cover new equipment at new plants and new equipment used to expand or refurbish existing plants. Expansions of plant capacity typically occur with the addition of a new crushing or grinding line, which may include one or more of each of the facilities listed above. Each of these facilities in the new line would be covered by the proposed standards as a new source (affected facility), but the rest of the plant would not be affected.

Replacement of an entire piece of existing process equipment (e.g., a crusher) with new equipment would bring the replacement equipment under the standards as a new source. (See below the Section of Modification and Replacement for a discussion of equipment whose replacement would be considered only routine maintenance.) Industry representatives have asked for clarification of this provision. As a fixed or portable plant's crushers, screens, etc., wear out or require repair, they are usually replaced by comparable equipment. Further, a portable plant may change configuration, depending on the job for which it is being used, and equipment is either added to or taken from the plant as needed. If a piece of equipment added to a plant in such situations was manufactured before the
date of proposal of the standards, it would be considered an “existing facility” and would not be subject to the standards. If it is manufactured after the date of proposal, it would be considered an “affected facility” and would be subject to the standards. The basis for this is the requirement in Section 111[a][2] of the Clean Air Act that new source performance standards apply to sources for which construction or modification is “commenced” after proposal of the standards. EPA defines “commenced” in 40 CFR 60.1 to mean "* * * that an owner or operator (i.e., an equipment manufacturer or, in the case of field erection, a plant owner) has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification." The manufacture of equipment would constitute a "continuous program of construction," and the date of manufacture would determine whether or not the equipment would be subject to the standards.

Selection of the Basis of the Proposed Standards

Section 111 of the Clean Air Act requires that standards of performance reflect the degree of emission limitation achievable through "application of the best system of continuous emission reduction which, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements, has been adequately demonstrated." Methods currently in use to reduce particulate matter emissions at nonmetallic mineral processing plants include wet dust suppression, dry and wet collection, and a combination of collection and wet dust suppression. Wet dust suppression consists of spraying the materials with a fine mist of water causing fine particulate matter to adhere to the surface of the larger materials rather than becoming airborne. Dry and wet collection involves hosing or enclosing dust-producing points, capturing the dust generated, and passing the dust-laden air through a collection device. Combination systems use both methods at different stages throughout the processing plant. In addition to these control techniques, the use of enclosed structures to house process equipment may also be effective in preventing particulate matter emissions from reaching the atmosphere.

In a wet dust suppression system, water (with or without surfactant) is sprayed on the materials at critical dust-producing points in the process flow. This method has been used on a wide variety of materials including limestone, traprock, granite, shale, dolomite, and sand and gravel. It generally can be applied to materials that undergo crushing.

Wet dust suppression cannot be used in some cases, however, because the moisture may interfere with further processing such as screening or grinding where "blinding" problems may occur. In addition, the thermal capacity of the dryers that are used in some processing steps may limit the amount of water that can be sprayed into the materials. The addition of water at processing steps after the drying operation is not feasible for products sold in dry form and other means of emission control must be used. Where the materials processed contain a high percentage of fines, such as the product from a hammermill, wet dust suppression may be totally inadequate because of the large surface areas involved, which in turn would require large amounts of water. In some cases, wet dust suppression also reduces the maximum production rate because of the added weight to the material being processed. Although the mass emission reduction achieved with wet dust suppression systems cannot be calculated, if properly designed, installed, and operated, these systems are effective in reducing visible emissions in many situations. In addition, they are inexpensive and use little energy.

In both wet and dry collection systems, particulate matter emissions generated during process operations are controlled by capturing the emissions and passing them through a collection device. The most efficient collection device used in the nonmetallic mineral industry is the fabric filter or baghouse. Greater that 99 percent particulate collection control efficiency can be attained for material even as small as submicron sizes. Data gathered during emission tests on baghouse units used to control a variety of process operations indicate that the size distribution of particulate matter, the rock type processed, and the facility controlled do not substantially affect baghouse performance.

Other collection devices used in the nonmetallic mineral processing industry include dry inertial cyclones and wet scrubbers. Although dry inertial collectors demonstrate 95 to 99 percent efficiency for coarse particles (40 microns and larger), their efficiency for medium and fine particles (20 microns and smaller) is less that 85 percent.

The effectiveness of wet scrubber collection devices is directly related to pressure drop across the unit. The collection efficiency for a particle size distribution increases as pressure drop increases. A typical 6-inch pressure drop wet scrubber exhibits removal efficiencies of 80 to 99 percent for particles in a range of 1 to 10 microns in diameter. High-energy wet scrubbers with pressure drops of 30 inches can achieve efficiencies of 99.0 to 99.9 percent for particles from 0.2 to 1 micron. Fifteen-inch pressure drop wet scrubbers provide an intermediate level of control, removing 95.0 to 99.9 percent of the particles in the 1 to 10 micron range and 90 to 95 percent of the submicron particles. Collection efficiencies for wet scrubbers of a given pressure drop are a relatively constant percentage over the range of normal particle loadings. Thus, higher inlet particle loading will result in higher outlet concentrations, all other factors held equal. At abnormally low inlet particle loadings, however, the percentage removal may decrease even though lower outlet concentrations are reached.

Regulatory Alternatives

In determining the basis for the proposed standards, three regulatory alternatives were considered: to set no standards, to set standards based on baghouses and wet dust suppression systems, or to set standards based on baghouses only. To estimate the environmental, economic, and energy impacts of the alternatives, a "worst-case" analysis was conducted in which it was assumed that the model plants would use baghouses only to meet the proposed standards. Thus, the estimates reflect the maximum adverse economic and energy impact that could occur as a result of the standards, and actual impacts may be considerably less, particularly where wet dust suppression systems could be used instead of or in combination with baghouses.

A. Environmental Impact. There are many variations in the type and stringency of existing State regulations for nonmetallic mineral processing plants. Many, however, include process weight regulations limiting particulate matter emissions to a certain number of pounds per hour of production. For purposes of analysis, therefore, a typical process weight regulation that would reduce uncontrolled emissions by about 95 percent was selected as the baseline against which the regulatory alternatives were compared.
If no standards were set and the typical State process weight regulations were in effect, there would be an increase in nationwide particulate matter emissions of about 45,000 megagrams per year (50,000 tons per year) in 5 years. Standards based on baghouse control would reduce the increase in emissions to only 4,500 megagrams per year (5,000 tons per year). This is approximately 90 percent lower than the emission level that would be allowed under State regulations. It is not possible to quantify the mass emission reduction that would be achieved by the use of wet dust suppression systems although they are almost as effective as baghouses in reducing visible particulate emissions.

There would be no adverse water pollution impact resulting from any of the three regulatory alternatives. If no standards were set, plant processing operations would continue as in the past with neither an increase nor a decrease in water consumption or discharge. The use of baghouse control systems to meet the standards would not result in any water discharge because the standards would not require the use of any water. If wet dust suppression were used to meet the standards, there would be an increase in water consumption, but there would be no significant water discharge because most of the water adheres to the material being processed until it evaporates.

If no standards were set, there would be no solid waste impact other than that resulting from normal operation. The use of baghouse control systems to meet the standards would result in the collection of about 1.4 megagrams (1.5 tons) of solid waste for every 250 megagrams (278 tons) of material processed. In many cases, however, this material can be recycled back into the process, sold, or used for a variety of purposes. Where no market exists, the material is generally disposed of in the mine or in an isolated location in the quarry. To prevent subsequent air pollution problems, the waste pile should be protected from wind erosion. Methods for minimizing windblown dust are discussed in the document entitled “Air Pollution Control Techniques for Nonmetallic Minerals Industry” (EPA-450/3-82-014) available from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. The use of wet suppression systems to meet the standards would result in no solid waste impact other than that resulting from normal operation.

There would be no noise impact if no standards were set. The only source of noise that would result from the standards would be the exhaust fans used in dry emission control systems. When compared to the noise from crushing and grinding process equipment, any additional noise from baghouse control system exhaust fans would be insignificant.

B. Energy Impact. There would be no energy impact if no standards were set. The net increase in electrical energy consumption by all new plants using baghouse control would be about 430 terajoules per year (1.2 terajoules per day) by the fifth year after proposal or 15 percent over that which would otherwise be required to meet the projected capacity additions without any controls. The estimates indicate a greater impact than would actually occur because many new plants would use baghouses or combinations of baghouses and water spray controls to meet existing State regulations. The energy impact that would result from the use of wet dust suppression systems has not been quantified, but would be less than the impact that would result from baghouse control.

The incremental increase in energy consumption at a particular plant using baghouse control is dependent on the size of the plant. Although the amount of energy that would be required would be more for a large plant than for a small plant, the percentage increase in the plant's total energy consumption would be less for a large plant than for a small plant. The increased energy consumption associated with baghouse control at a plant having both crushing and grinding operations would range from about 5 percent for a 36 Mg/h (150 tons/h) plant to 14 percent for a 9 Mg/h (10 tons/h) plant. For plants with crushing operations only, the increase range would range from about 19 percent for a 544 Mg/h (600 tons/h) plant to 20 percent for a 9 Mg/h (10 tons/h) plant.

C. Cost and Economic Impact. There would be no adverse economic impact if no standards were set. The economic impact comparing no control to baghouse control is discussed below.

The actual economic impact would be considerably less than the estimates presented because many new plants would use baghouses or combinations of baghouses and wet dust suppression systems to meet existing State standards. All of the dollar figures presented below are in 1979 dollars. Figures that were reported in different year dollars in the economic impact analysis in the BID have been converted to 1979 dollars for comparison purposes only.

The capital costs for baghouse control for a fixed plant with crushing but not grinding operations would range from $70,000 for a 9 Mg/h (10 tons/h) plant to $936,000 for a 544 Mg/h (600 tons/h) plant or from 12 to 9 percent, respectively, of the plant's total capital costs. For a fixed plant with both crushing and grinding operations, the capital costs would range from $109,000 for a 9 Mg/h (10 tons/h) plant to $219,000 for a 136 Mg/h (150 tons/h) plant or from 18 to 6 percent, respectively, of the plant's total capital costs. For portable crushing plants, the capital costs would range from $86,000 for a 68 Mg/h (75 tons/h) plant to $260,000 for an 816 Mg/h (900 tons/h) plant or from 22 to 15 percent of the plant's total capital costs.

The annualized costs for baghouse control at a fixed crushing plant would range from $17,000 to $105,000 per year, corresponding to $0.93 to $0.04/Mg ($0.30 to $0.05/ton) of product, as the plant capacity goes from 9 to 544 Mg/h (10 to 600 tons/h). The annualized costs for a fixed crushing and grinding plant would range from $25,000 to $53,000 per year or $0.33 to $0.05/Mg ($0.30 to $0.04/ton) of product as the plant capacity goes from 9 to 136 Mg/h (10 to 150 tons/h). The annualized costs for a portable crushing plant would range from $34,000 to $105,000 per year or $0.25 to $0.06/Mg ($0.23 to $0.06/ton) of product as the plant capacity goes from 68 to 816 Mg/h (75 to 900 tons/h).

The total additional capital cost for all new plants using baghouses would be about $125 million for the first 5 years the proposed standards would be in effect. These costs would vary for each industry, ranging from about $109,000 for several minerals to $90.5 million for crushed stone. The total annualized costs in the fifth year would increase by about $230,000, ranging from about $25,000 for vermiculite to more than $28 million for crushed stone. The average annualized control costs per ton of output in the fifth year following proposal would range from $0.005 for sand and gravel to $0.165 for kyanite. For each mineral industry, the annualized control cost in the fifth year divided by the annual output is less than 2 percent of the price of a ton of product. The economic impacts associated with standards based on baghouse control techniques would not preclude the building of most new plants. However, discounted cash flow analysis indicates that the incremental costs associated with the use of baghouse control may preclude the construction of new common clay plants and pumice plants with capacities of 9 Mg/h (10 tons/h) or...
less, fixed sand and gravel plants and crushed stone plants with capacities of 23 Mg/h (25 tons/h) or less, and portable sand and gravel plants and crushed stone plants with capacities of 138 Mg/h (150 tons/h) or less. For this reason, these plants are exempt from the proposed standards. Representatives of the crushed stone and sand and gravel industries have indicated that few, if any, fixed plants smaller than 23 Mg/h (25 tons/h) and portable plants smaller than 138 Mg/h (150 tons/h) would be built in the future. Nevertheless, these exemptions are provided for those few plants that may be built.

If wet dust suppression systems were used to comply with the proposed standards, the economic impact would be less due to the lower costs of these systems. The capital costs for these systems for a fixed crushing plant would range from $57,000 for a 68 Mg/h (75 tons/h) plant to $154,000 for an 816 Mg/h (900 tons/h) plant. For portable crushing plants, the capital costs would range from $13,000 to $30,000 per year, corresponding to $0.10 to $0.02/Mg ($0.09 to $0.02/ton) of product, as the plant capacity goes from 68 to 544 Mg/h (75 to 600 tons/h). The total annualized costs for a fixed crushing plant would range from $13,000 to $34,000 per year, corresponding to $0.10 to $0.02/Mg ($0.09 to $0.02/ton) as the plant capacity goes from 68 to 816 Mg/h (75 to 900 tons/h).

The economic analysis conducted for nonmetallic mineral processing plants would apply also to integrated production plants, such as those at lime plants, power plants, and steel mills. The economic impact for integrated production plants is expected to be the same or less for two reasons. First, the integrated plants would tend to have a lower cost of capital since they are usually affiliated with larger companies. Second, these plants would tend to pass on control costs sooner because the relative magnitude of the control cost in terms of final product value would be less. Therefore, all mineral processing equipment at lime plants, power plants, steel mills, and other source categories that operate separate mineral processing plants, would be covered by the proposed standards. At asphalt concrete plants and Portland cement plants, equipment used to process nonmetallic minerals that precedes equipment already covered by other standards of performance would be subject to the proposed standards. The equipment is identical to equipment at nonmetallic mineral processing plants. For example, an asphalt concrete plant may have all of the stone necessary for its product crushed on-sited. Because the asphalt concrete plant would crush as much stone as a nonmetallic mineral processing plant and use similar equipment, this plant would be considered a nonmetallic mineral processing plant and would be covered by the proposed standards. However, once the crushed stone is entered as a raw material into the process by which asphalt concrete is manufactured, equipment for handling it is considered part of the asphalt concrete plant and would not be covered by the proposed standards.

Representatives of the Chemical Manufacturers Association have commented that the economic analysis does not address the processing of synthetic nonmetallic minerals. EPA has found that the processing and emission control equipment used for synthetic nonmetallic minerals that would be covered by the standards is comparable to that used for natural nonmetallic minerals. The approach used in the economic analysis is believed to be valid for both synthetic and natural minerals. It indicates impacts that would occur under worst-case conditions for natural minerals, and EPA believes that the processing of synthetic minerals is adequately, although not specifically, represented by the synthetic minerals analyzed. In the economic analysis, each industry was evaluated for potentially significant impacts as a result of the cost of control. A screening analysis that measured the effect of annualized control cost for the smallest size model plant in each industry (thus resulting in the highest per unit control cost and a worst case situation) on the average selling price of the mineral was prepared. Any industry that had a plant whose per unit production cost could be increased by 2 percent or more because of the cost of control was further evaluated. For these industries, a financial analysis of the impact of the cost of control on different plant sizes was prepared. This approach is believed to be valid for all segments of the industries covered by the standards.

Summary. Comparison of the alternatives indicates that a significant reduction in particulate matter emissions would result from setting standards and there would be minimal adverse water pollution, solid waste, and noise impacts. The increase in energy consumption would not be significant and the costs and economic impacts would be reasonable.

The standards that are being proposed are based on emission levels achievable using well designed and operated baghouse control or wet suppression techniques. Both systems are designated as best demonstrated technology (BDT). The effectiveness of wet dust suppression systems cannot be quantified in terms of mass emissions. However, where their use is feasible technologically, they are almost as effective as baghouse systems in reducing visible emissions. They cost about one-third as much as baghouses and use less energy. Therefore, the Administrator has determined that the small difference in visible emissions is justified by the large difference in cost and energy usage and has selected wet dust suppression as well as baghouses as BDT for cases where it can be used. The standards of performance do not require the installation or operation of any specific type of control equipment, rather, only that the specified emission limits be met. Thus, recognizing the diverse nature of the nonmetallic mineral processing industry, it is expected that effective wet dust suppression can and will be utilized to meet the standards in many cases. As described in another section of this preamble (SELECTION OF EMISSION LIMITS), this capability has been confirmed through EPA emission tests. In other instances, wet dust suppression may not provide the necessary control, and baghouse controls would be needed. The proposed standards do not specify that any particular type of control equipment be installed and operated. Rather, they are “performance” standards that simply specify emission limits that must be met. Plants may choose any type of control system appropriate to their situations, as long as the emission limits are met.

Selection of Format for the Proposed Standards

In selecting the format for the proposed standards, it was necessary to differentiate between the two types of particulate matter emissions at nonmetallic mineral processing plants: fugitive emissions and stack emissions. Fugitive emissions are those that are not caught by a capture system before they are released into the atmosphere. Stack emissions, on the other hand, are those that are caught by a capture system, pass through a control device, and are released into the atmosphere from a stack or duct. Fugitive emissions are present when emissions generated at a point are not captured. They are also present when the capture system is not 100 percent effective in catching
emissions. To ensure that all emissions at affected facilities are controlled by the proposed standards, it is necessary to have one standard for fugitive emissions, another standard for stack emissions, which effectively requires good capture of emissions, and another standard for stack emissions, which effectively requires good collection of emissions.

**Fugitive Emissions Standard.** Two different formats could be selected to limit fugitive emissions from nonmetallic mineral processing plants: an equipment standard or a visible emissions standard. An equipment standard would require that a specific control device or technique be used. The Clean Air Act permits the use of equipment standards only when it is infeasible to set emission standards.

The second alternative format for controlling fugitive emissions is a visible emissions standard. A visible emissions standard would specify the maximum allowable opacity. A visible emissions standard could be applied to any process operation regardless of whether or not it is enclosed. For this reason, a visible emissions standard that specifies the maximum allowable opacity was selected for all plant process equipment.

**Stack Emissions Standard.** Two different formats could be selected to limit stack emissions from nonmetallic mineral processing plants. These are: (1) A mass standard, limiting emissions in terms of mass emission per unit of production, (2) a concentration standard, limiting the concentration of particulate matter in the effluent gases.

A mass standard may appear more meaningful in the sense that it relates directly to the quantity of emissions discharged into the atmosphere. However, a major disadvantage of a mass standard for nonmetallic mineral processing plants is that, typically, the production or feed rate of a process operation is not measured over the short term. This, an accurate determination of the weight of material processed through an affected facility would not be possible.

A factor to consider when establishing a concentration standard is the possibility of the standard being circumvented by diluting the air going to the control device. This is unlikely to occur at nonmetallic mineral processing plants, because the size and operating costs of the control device are functions of the volume of gas treated and the cost of such a strategy probably would be prohibitive. Consequently, a concentration standard was selected for stack emissions at nonmetallic mineral processing plants. To ensure that the air pollution control system is properly installed, operated, and maintained, an opacity standard is also being proposed for all facilities not controlled by wet scrubbers. As discussed later in this preamble, an opacity standard for scrubbers would not be a meaningful indication of scrubber performance at nonmetallic mineral processing plants. However, the monitoring of operating parameters of wet scrubbers (pressure drop across the unit and scrubber liquid flow rate) would be required by the proposed standards.

**Selection of Emission Limits**

The selection of emission limits is based on the performance of the best systems of continuous emission reduction for the nonmetallic mineral processing industry. Because the proposed standards set emission limits for both capture devices (such as hoods and enclosures) or dust suppression systems, and for control devices (such as baghouses), all of these types of systems require evaluation.

In order to broaden the range of conditions considered for the performance of the control equipment, test data for metallic mineral processing facilities are also included in the data base considered in the selection of emission limits. Data from the metallic mineral processing industries may be appropriately transferred to the nonmetallic mineral industries for several reasons. Much of the process equipment relevant to the proposed standards is similar in the metallic and nonmetallic processing industries. Because the ores from which metallic elements are extracted are primarily nonmetallic in character, the emissions from metallic mineral processing operations are primarily nonmetallic mineral constituents. Furthermore, the similarity of emissions from metallic and nonmetallic mineral processing industries can be indicated by parameters such as particle size distribution and mass loading provides additional evidence of similarity between the two industries. These measurements were made during the testing of both metal and nonmetallic processing facilities and form the basis for extrapolating control efficiency from one industry, whether metallic or nonmetallic, to another.

**Fugitive Emission Standard.** Observations of visible emissions were made at hoods and enclosures to record the presence of process fugitive emissions escaping capture. Observations at both metallic and nonmetallic mineral processing plants are included in the data base presented in the background information document. A total of 53 operations at 13 plants were tested including all types of facilities covered by the standards.

Visible emission readings were conducted in accordance with procedures outlined in EPA Method 9 (Appendix A 40 CFR Part 60) in which opacity is measured at 15-second intervals on a scale from 0 to 100 percent, to the nearest 5 percent. The sequence of the highest 24 consecutive readings was then averaged to give the maximum 6-minute average.

The maximum 6-minute average at 35 of the 53 processes tested was 0 percent. Only two facilities exceeded 5 percent opacity at any time. A grizzly screen at a copper operation showed maximum visible emissions of 8 percent opacity, and a bagging operation at a talc plant showed maximum visible emissions of 9 percent.

After reviewing the visible emission data for the plants controlled with capture and collection devices, representatives of the crushed stone and the sand and gravel industries commented that a representative cross section of plants had not been tested. Their primary concern was that controlled emissions at plants using dust suppression had not been characterized. Therefore, EPA and industry representatives cooperated in selecting 20 plants to visit as candidates for testing. Five of the twenty plants were judged to have the best wet dust suppression systems, and, therefore, were selected for visible emission observations. EPA and industry representatives observed visible emissions at these plants at the same time. For the most part, the results of the industry observations are in accord with EPA observations discussed below.

Opacity determinations were made at four crush stone processing plants and one sand and gravel processing plant that use wet dust suppression systems. Three of the plants were stationary and two were portable. At all of the process equipment (except crushers) being operated under conditions representative of normal operations and for which the wet dust suppression system was properly designed and operated, emissions were below 5 percent opacity. At crushers operated under the same conditions, emissions were below 15 percent opacity.

Based on the results of the visible emissions tests, a standard is being proposed to limit fugitive emissions to 10 percent opacity for all process equipment, with the following exception: the proposed standard for crushers at which capture systems are not used would limit emissions to 15 percent opacity. This standard, as shown by the data presented above and in the BID, is achievable with an ample margin in all.
but the most extreme cases through the application of properly designed, operated, and maintained capture systems and in many cases through the use of properly designed, operated, and maintained wet dust suppression systems.

**Stack Emissions Standard.** The proposed concentration standard is based on the emission levels achievable using a baghouse. Particulate matter emissions were measured from 25 baghouses used to control emissions at crushing, screening, conveying (transfer points), and grinding operations at 13 plants in the metallic and nonmetallic mineral processing industries. The concentration of particulate matter emissions from these baghouses averaged 0.014 g/dscm (0.006 gr/dscf) and never exceeded 0.041 g/dscm (0.018 gr/dscf). Additional test results in a study performed by the Industrial Gas Cleaning Institute showed emission concentrations below 0.023 g/dscm (0.01 gr/dscf) for two fluid energy grinding mills processing clay (Fuller's earth).

Included in the testing program were emission tests at one gypsum and two talc plants. In all three tests, emissions exceeded the proposed standard of 0.05 g/dscm (0.02 gr/dscf). These test results were not representative of normal plant operation or proper baghouse operation. At the gypsum plant frequent startup and shutdown did not allow the baghouse to build up the necessary filter cake. Opacity determinations ranged continuously from 1 to 6 percent. Periodic visible puffing at one talc plant indicated either that a torn bag was being used or that the baghouse was operated improperly. Test results from the second talc plant indicated that emissions were well above the baghouse manufacturer's specification. To verify that properly designated and operated baghouses should have controlled emissions at these plants to levels below the standards, additional tests were conducted at plants processing Fuller's earth and kaolin. These clays were selected because their emissions contain particles as small or smaller than those from gypsum and talc plants and, therefore, would be just as difficult to control with a baghouse. The emission levels at these clay plants were lower than the proposed standard, confirming that a properly operated baghouse can control emissions to the level of the standard even on very fine particles. However, some industry representatives have previously commented that sufficient consideration was not given to the effect of particle size on collection efficiency, outlet emission grain loading, and opacity. Based on the results of the tests on plants processing Fuller's earth and kaolin, the Administrator believes that the standards are achievable even for very fine particles. However, comments are specifically requested on the effect of particle size on collection efficiency, outlet emission grain loading, and opacity.

The test data and modelling results summarized above indicate that baghouses can be used to achieve an emission limit of 0.05 g/dscm (0.02 gr/dscf). Therefore, the proposed stack emission standard would limit emissions to this level.

A 7-percent opacity standard (based on 6-minute averages) is also proposed for stack emissions. Opacity data were obtained during the emission tests on which the concentration standard is based. At 21 of 25 baghouses tested the maximum 6-minute average was 0 percent opacity. At three of the remaining four baghouses the maximum 6-minute opacity was 1 percent. The last baghouse showed visible emissions of up to 6 percent opacity. Therefore, a 7-percent opacity standard is being proposed to insure the proper operation and maintenance of the air pollution control device. Facilities controlled with wet scrubbers would be exempt from the proposed opacity standard as discussed below.

The opacity standard for stack emissions would be applicable in all cases unless EPA were to approve establishment of a special opacity standard under the provisions of 40 CFR 60.11(e). The provisions allow an owner or operator to apply to EPA for establishment of a special opacity standard for any source that meets the applicable concentration standard (demonstrated through performance tests under conditions established by EPA) but is unable to meet the opacity standard despite operating and maintaining the control equipment so as to minimize opacity. A special opacity standard might be established, for example, where an unusually large diameter stack precludes compliance with the proposed opacity standard.

Stack emission opacity data collected during test of wet scrubbers at metallic mineral processing plants were inconclusive due to their high variability. Some of the highest opacity readings (e.g., 25 percent) were observed at low outlet particle concentrations (e.g., 0.006 gr/dscf); while at other facilities with outlet concentrations closer to the stack emission limits, opacity was essentially zero. Therefore, an opacity standard is not being proposed for wet scrubbers. Instead, monitoring operating parameters of wet scrubbers (pressure drop and scrubber liquid flow rate) would be required by the proposed standard.

**Modification and Reconstruction of Existing Facilities.** Under the modification provisions applicable to all standards of performance, facilities at existing plants would be required to comply with the proposed standards if some type of physical or operational change is made that results in an increase in particular matter emissions.

Under the modification provisions, actions that by themselves would not be considered modifications and thus would not cause an existing facility to become subject to the standards, regardless of emission increase, include the following:

1. Routine maintenance, repair, and replacement, such as replacement or refurbishing of components subject to high abrasion and impact (crushing surfaces, screening surfaces, conveyor belts, etc.).

2. An increase in the production rate, if the increase can be accomplished without a capital expenditure exceeding the product of the existing facility's Internal Revenue Service annual asset guideline repair allowance of 6.5 percent per year and the facility's basis.

3. An increase in the hours of operation.

4. Use of an alternative raw material, if the existing facility was designed to accommodate such material. Because process equipment (crushers, screens, conveyors, etc.) is designed to accommodate a variety of rock types, any change in raw material feed would not likely be considered a modification.

5. The addition or use of any air pollution control system except when a system is removed or replaced with a system considered to be less effective.

6. The relocation or change in ownership of an existing facility.

Because most changes to nonmetallic mineral processing plants would fall under one of the six categories listed above, there would be few cases where an existing facility would become subject to the standards as a result of modification. Typically, expansions in capacity at an existing plant involves adding completely new process lines. The affected facilities in each new process line would be regulated as new sources subject to the proposed standards.

Under the reconstruction provisions applicable to all standards of performance, an existing facility might become subject to the standards if its
components were replaced to such an extent that the fixed capital cost of new components exceeded 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility. At nonmetallic mineral processing plants, several types of actions that constitute routine repair and maintenance would conceivably bring an existing facility under the standards within a short period of time. For example, crusher jaw and spindle surfaces and screen meshing are typically replaced on regular intervals ranging from 1 to 6 months. These replacements parts typically represent from 5 to 10 percent of the cost of new equipment. Thus, within a period of 2 years or less, most existing crushers and screens will encounter such replacements. Depending on the application and the material handled, the replacement of conveyor belts is also a routine repair item of many plants. The replacement of crushing surfaces; screen meshes, bars and plates; conveyor belts; and other surfaces subject to abrasion occurs regularly to maintain the equipment in proper working order. However, as explained below, these types of replacements would not bring a facility under the standard.

As noted in the preamble to the regulation regarding reconstruction of existing facilities, 40 FR 58417 (December 16, 1975), the purpose of the reconstruction provisions is to "recognize that replacement of many of the components of a facility can be substantially equivalent to totally replacing it at the end of its useful life with a newly constructed affected facility." By requiring this type of essentially new facility to comply with NSPS, the Agency furthers Congress' intent of ensuring that best demonstrated control technology is applied during the turnover in the nation's industrial base. The reasoning underlying the reconstruction provisions may apply even when replacement of the components of a facility occurs over a relatively long period of time.

Section 60.15 defines the "fixed capital cost" of replacement components as the capital needed to provide all the "depreciable" components. By excluding nondepreciable components from consideration in calculating component replacement costs, this definition excludes many components that are replaced frequently to keep the plant in proper working order. There may, however, be some relatively minor depreciable components that are replaced frequently for similar purposes. In the Agency's judgment, maintaining records of the repair or replacement of these items may constitute an unnecessary burden. Moreover, the Agency does not consider the replacement of these items an element of the turnover in the life of the facility which concerned Congress when it enacted Section 111. Therefore, in accordance with 40 CFR 60.15(g), these proposed standards would exempt certain frequently replaced components, whether depreciable or nondepreciable, from consideration in applying the reconstruction provisions to nonmetallic processing plant facilities. The cost of these components will not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital costs that would be required to construct a comparable new facility" under § 60.15. In the Agency's judgment, these items are ore-contact surfaces on processing equipment, including crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.

Other types of repairs and replacement also take place at nonmetallic mineral processing plants over a period of time. Section 60.15 currently defines "reconstruction" as the replacement of components of an existing facility to such an extent that "the fixed capital cost of the new components" exceeds 50 percent of the "fixed capital cost" that would be required to construct a comparable entirely new facility and EPA determines that it is technologically and economically feasible to meet the applicable NSPS. The question arises under this wording whether a reconstruction has occurred in the case of an owner who first replaces components of an existing facility at a cost equal to, say, 30 percent of the cost of an entirely new facility and then, shortly after completing or replacing those replacements, replaces an additional 30 percent. More specifically, it is uncertain whether there are two separate actions occurring, neither of which would be a reconstruction, or the actions would be considered as one, and thus a possible reconstruction.

EPA does not believe that the facilities undergoing this type of extensive component replacement should be excluded from NSPS coverage. Failure to cover these sources serves to undermine Congress' intent that air quality be enhanced over the long term by applying best demonstrated technology. With the turnover in the Nation's industrial base. To eliminate the ambiguity in the current wording of § 60.15 and further the intent underlying Section 111 (as described above), the Agency in this notice is interpreting replacement components under § 60.15 to include components that are replaced pursuant to an continuous program of component replacement that commence (but are not necessarily completed) within the period of time determined by the Agency to be appropriate for the individual NSPS involved. The Agency is selecting a 2-year period as the appropriate period for purposes of the nonmetallic minerals NSPS being proposed today (§ 60.673(b)). Thus, the Agency will count toward the 50 percent reconstruction threshold the "fixed capital cost" of all depreciable components (except those described above) replaced pursuant to all continuous programs of reconstruction that commence within any 2-year period following proposal of these standards. In the Administrator's judgment, the 2-year period provides a reasonable, objective method of determining whether an owner or operator of a nonmetallic mineral production facility is actually conducting extensive component replacement, within the Agency's original intent in promulgating § 60.15.

Selection of Performance Test Methods

Under the proposed standards, performance tests for particulate matter emissions would be required for all air pollution control devices on process equipment. Particulate matter would be measured by Reference Methods 1, 2, 3, and 5 or 17 to determine compliance with the stack emission standards. Performance tests would not be required for fugitive emission sources.

The proposed standards do not include any requirements for continuous emission monitoring for opacity on either baghouses or wet scrubbers. The lack of requirements for opacity monitors for wet scrubbers logically follows from the exemption of wet scrubbers for the stack opacity standard. At many nonmetallic mineral processing plants, the cost of operating continuous monitors on baghouses could be prohibitive. The total annualized cost for monitors would range from 47 percent of the annualized cost for baghouses on a 9 Mg/h (10 tons/h) crushing and grinding plant to 15 percent for a 544 Mg/h (600 tons/h) crushing and grinding plant. Therefore, continuous emissions monitors would not be required by the proposed standards.

In order to provide an inexpensive and easily verified check of the operation and maintenance of wet scrubbers, the owner or operator of an affected facility whose emissions are controlled by a wet scrubber would be
required by the proposed standards to install a device to measure scrubber liquid flow rate to within ±5 percent. The owner or operator of a wet scrubber on an affected facility would also be required to install a device to measure the pressure drop to within ±250 pascals (±1 inch water) gauge pressure.

Selection of Reporting and Recordkeeping Requirements

The implementation of the proposed standards would involve no reporting by industry beyond the reports required under the General Provisions (40 CFR 60.7). The General Provisions require the owner or operator of a proposed affected facility to notify the Administrator or his designated representative of the construction, anticipated startup, actual startup, and control system performance test of an affected facility.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96-511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). For the purposes of accommodating OMB's review, EPA uses 2-year periods in its impact analysis procedures for estimating the labor-hour burden of reporting and recordkeeping requirements. During the first 2 years that the proposed standards would be in effect, the average annual industry-wide burden of the reporting and recordkeeping required by the General Provisions (notifications, performance tests, etc.) would be 79,500 person-hours, based on an average of 104 respondents per year. No additional burden would be associated with the proposed standards. The supporting statement that documents calculation of this burden is filed as item II-A-37 in docket number OAQPS-79-11. The collection of information requirements contained in this rule have been submitted to OMB for review under Section 350(h) of the Paperwork Reduction Act. Comments on these requirements should be directed to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for EPA.

Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES Section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section, in Washington, D.C. (See ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

Miscellaneous

As prescribed by Section 111 of the Clean Air Act, as amended, establishment of standards of performance for nonmetallic mineral processing plants was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. In addition, numerous meetings were held with industry representatives and trade associations during development of the proposed standards. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Comments are also specifically invited on the effect of particle size on collection efficiency, outlet grain loading, opacity, and the designation of an affected facility. Any comments submitted to the Administrator on this issue, however, should contain specific information and data pertinent to an evaluation of the magnitude and severity of its impact and suggested alternative courses of action that could avoid this impact.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The industry-wide annualized costs in the fifth year after the standards would go into effect would be $34 million, much less than the $100 million established as the first criterion for a major regulation in the Order. The estimated price increase of less than 2 percent associated with the proposed standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standards' effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

In addition to the economic impact analysis, the emission reductions and annualized costs for typical facilities—expressed in dollars per ton of pollutant removed per year—were examined. Worst-case estimates (assuming the use of baghouses at all affected facilities) indicate that annualized costs per megagram of emission reduction for typical plants would be no more than $32 for stationary plants and $110 for portable plants.

Pursuant to the provisions of 5 U.S.C. 503(b), I hereby certify that this rule, if promulgated, will not have a significant
economic impact on a substantial number of small entities.

List of Subject in 40 CFR Part 60


PART 60—AMENDED

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations by adding Subpart OOO as follows:

Subpart OOO—Standards of Performance of Nonmetallic Mineral Processing Plants

Sec. 60.670 Applicability and designation of affected facility.

(a) Except as provided in paragraphs (b) and (c) of this section, the provisions of this subpart are applicable to the following facilities: each plant processing a nonmetallic mineral wherever located, that is used to crush or grind any nonmetallic mineral. Grinding mills include by are not limited to the following types: Hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the conveyer system, air separator, or air classifier, where such systems are used.

Nonmetallic mineral means any of the following minerals or any mixture of which the majority is any of the following minerals:

(a) Crushed and Broken Stone, including Limestone, Dolomite, Granite, Trapprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell.

(b) Sand and Gravel.

(c) Clay including Kaolin, Fireclay, Bentonite, Fuller's Earth, Ball Clay, and Common Clay.

(d) Rock Salt.

(e) Gypsum.

(f) Sodium compounds, including Sodium Chloride, Sodium Carbonate, and Sodium Sulfate.

(g) Pumice.

(h) Gypsumite.

(i) Talc and Pyrophyllite.

(j) Boron, including Borax, Kernite, and Colemanite.

(k) Barite.

(l) Fluorspar.

(m) Feldspar.

(n) Diatomite.

(o) Perlite.

(p) Vermiculite.

(q) Mica.

(r) Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.

Nonmetallic mineral processing plant means any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located, including lime plants, power plants, steel mills, asphalt concrete plants, Portland cement plants, or any other facility processing nonmetallic minerals except as provided in § 60.670 (b) and (c).

Portable plant means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means by which any piece of equipment is attached to be pulled, or by which any anchor, slab, or structure, including bedrock, that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit.

Screening operation means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).

Sec. 60.671 Definitions.

(a) Crushed and Broken Stone, including Limestone, Dolomite, Granite, Trapprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell.

(b) Sand and Gravel.

(c) Clay including Kaolin, Fireclay, Bentonite, Fuller's Earth, Ball Clay, and Common Clay.

(d) Rock Salt.

(e) Gypsum.

(f) Sodium compounds, including Sodium Chloride, Sodium Carbonate, and Sodium Sulfate.

(g) Pumice.

(h) Gypsumite.

(i) Talc and Pyrophyllite.

(j) Boron, including Borax, Kernite, and Colemanite.

(k) Barite.

(l) Fluorspar.

(m) Feldspar.

(n) Diatomite.

(o) Perlite.

(p) Vermiculite.

(q) Mica.

(r) Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.

Sec. 60.672 Standard for particulate matter.

Sec. 60.673 Reconstruction.

Sec. 60.674 Monitoring of operations.

Sec. 60.675 Test methods and procedures.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)].
Stack emission means the particulate matter that is released to the atmosphere from a capture system. Storage bin means a facility for storage (including surge bins) of nonmetallic minerals prior to further processing or loading. Transfer point means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile.

§ 60.672 Standard for particulate matter.
(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which:
1. Contain particulate matter in excess of 0.05 g/dscm; or
2. Exhibit greater than 7 percent opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device.
(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which:
1. Contain particulate matter in excess of 0.05 g/dscm; or
2. Exhibit greater than 7 percent opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device.

§ 60.674 Monitoring of operations.
(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the pressure loss of the gas stream through the scrubber for any affected facility using a wet scrubbing emission control device. The monitoring device must be certified by the manufacturer to be accurate within ±1.7 percent of design scrubbing liquid flow rate.
(b) The observer shall, when possible, select a position that minimizes interference from other fugitive emission sources (e.g., road dust). Note that the required observer position relative to the sun (Method 9, Section 2.1) must be followed.

§ 60.675 Test methods and procedures.
(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards prescribed under § 60.672 as follows:
1. Method 5 or Method 17 for concentration of particulate matter and associated moisture content;
2. Method 1 for sample and velocity traverses;
3. Method 2 for velocity and volumetric flow rate;
(b) For Method 5, the following stipulations shall apply:
1. The sampling probe and filter holder may be operated without heaters if the gas stream being sampled is at ambient temperature;
2. For gas streams above ambient temperature, the sampling train shall be operated with a probe and filter temperature slightly above the effluent temperature (up to a maximum filter temperature of 121°C (250°F)) in order to prevent water condensation on the filter;
3. The minimum sample volume shall be 1.7 dscm (60 dscf).
(c) When determining compliance with the standard prescribed under § 60.672 (b) and (c), the Administrator shall adhere to the following stipulations for Method 9:
1. The minimum distance between the observer and the emission source shall be 4.57 meters (15 feet).
2. The observer shall, when possible, select a position that minimizes interference from other fugitive emission sources (e.g., road dust). Note that the required observer position relative to the sun (Method 9, Section 2.1) must be followed.
3. For affected facilities utilizing wet dust suppression for particulate matter control, a visible water mist is sometimes generated by the spray. Whether or not a visible mist is generated is a function of spray design and wind condition. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of the emissions is to be made at a point in the plume where the mist is no longer visible.
(d) During each performance test of a wet scrubber and at least weekly thereafter, the owner or operator shall record the measurements of pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate required in § 60.674.

[Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414)]
Part IV

Environmental Protection Agency

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits
ENVIRONMENTAL PROTECTION AGENCY

(PRM-FRL-2361-3)

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits

AGENCY: Environmental Protection Agency.

ACTION: Request for further comment on specific issues from previous policy statement and technical issues document, proposed April 7, 1982.

SUMMARY: EPA has received and reviewed numerous formal comments on its interim Emissions Trading Policy (47 FR 15076, April 7, 1982). EPA today requests additional public comment on specific alternatives that could further respond to concerns raised. Alternatives address: (1) The extent to which states may allow emission reduction credits (ERCs) from shutdowns to be used in existing-source bubble trades, particularly in nonattainment areas requiring but lacking demonstrations of attainment, and (2) whether and under what conditions existing-source bubble trades should be allowed in such areas, as well as in areas required to attain by December 31, 1982 which may ultimately be found not to have attained by that statutory deadline. For easy reference this notice generally addresses such issues first within the context and structure of the April 7 Policy, which was drafted long before expiration of the 1982 attainment deadlines (see Sections II and III below), and second with respect to areas where such deadlines have expired (see Section IV below). It does not address the use of credits from shutdowns for new source offsets in any such areas.

EPA further requests comment on (1) appropriate methods for determining whether and to what extent State Implementation Plans rely on reductions from anticipated shutdowns for their demonstrations of attainment or reasonable further progress, and on (2) what level of reduced operations should constitute a shutdown for emissions trading purposes.

This notice additionally discusses current emissions trading policy regarding all the above. It should be construed in light of the entire April 7 Policy Statement and Technical Issues Document.

DATES: The deadline for submitting written comments is September 30, 1983.


Docket: EPA has established docket number C-61-2 for this action. This docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA. The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section. A reasonable fee may be charged for copying.


SUPPLEMENTARY INFORMATION: Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it merely requests further comment on policies that are voluntary and can substantially reduce costs of complying with the Clean Air Act.

This Notice was submitted to the Office of Management and Budget for review. Any comments from OMB to EPA are available for public inspection in Docket C-81-2. Pursuant to 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. As a request for further comment on specific issues raised by a previously-issued policy designed to allow firms flexibility and to reduce administrative complexity, it will impose no burdens on either small or large entities.

Format of This Notice

I. Background—The Interim (April 7th) Emissions Trading Policy

EPA's April 7 Emissions Trading Policy Statement and accompanying Technical Issues Document set forth the Agency's interpretation of minimum legal requirements that states 1 and sources must meet to utilize trading consistent with the Clean Air Act. Under this Policy, states could grant credit for emission reductions that were "surplus," "enforceable," "permanent," and "quantifiable." Reductions from shutdowns were generally considered surplus if the state showed they were not "double-counted" and an appropriate baseline had been applied. This generally meant that: First, emissions from the shutdown facility must have been included in the inventory used to develop the State Implementation Plan (SIP), so that the facility's emissions were among the pool from which reductions were or would be calculated to produce an approvable SIP. Second, the state must not have already taken credit for the shutdown, directly or indirectly, as part of its plan.

Third, like other emission reductions, shutdowns were only considered surplus to the extent the reduction went beyond the required reduction level, or baseline. Where an area was to have attained by December 1982 but lacked a required demonstration of ambient attainment, this baseline was to consist of either a reduced level of emissions reflecting Reasonably Available Control Technology (RACT) as defined in the SIP, or an agreed-upon "negotiated RACT" level if RACT for the particular source or source category had not been defined in the SIP. Where credit was sought for a pollutant for which the area had received an attainment extension beyond December 1982 under section 172(a)(2) of the Clean Air Act, states could instead use a baseline consisting of actual emissions, provided the source committed to find or produce additional reductions equivalent to RACT, if and when RACT were subsequently defined in the SIP for that source. See generally 47 FR 15077, 15080-81 (April 7, 1982).2

1 "States" includes local air pollution agencies or any other entity properly delegated authority to administer relevant parts of a State Implementation Plan (SIP) under the Clean Air Act.

2 Expiration of the July 1982 deadline for submittal of plans demonstrating attainment for such extension areas has generally limited the option of an actual emissions baseline to extension areas for which EPA has approved follow-up ozone SIPs and, within those areas, to VOC sources within source categories which EPA has identified for "Group III" Control Technique Guidelines (CTGs)
Subject to these requirements the April Policy allowed, and currently allows, reductions from shutdowns to be used in existing source bubbles in the same manner as any other emission reduction credit.\footnote{EPA does not agree with this ruling. On March 25, 1983 the Solicitor General filed a Petition for Certiorari asking the U.S. Supreme Court to review the decision. On May 31, 1980 the Supreme Court granted the Government’s petition. Ruckelshaus v. NRDC. Nos. 82-1591 et al.}

II. Discussion of April Policy: Formal Comments, NRDC v. Gorsuch, and Additional Rationales

EPA is re-examining emissions trading with respect to shutdowns, in light of formal comments on the April 7 Policy; the NRDC v. Gorsuch decision (685 F. 2d 718 (D.C. Cir. 1982), cert. granted, No. 82-1591, May 31, 1983); and the need to further articulate the Policy’s approach in this area. Many comments focused on ways states can avoid double-counting and on whether reductions from shutdowns should be treated differently than other types of reductions for use in existing-source bubbles. The possibility of different treatment, if adopted, would make precise definition of “shutdown” important.

A. Avoiding Double-Counting. The April 7th Policy and accompanying Technical Issues Document noted that under the Clean Air Act states had at least three options to grant credit for shutdowns without double-counting. Where SIPs assumed a fixed quantity of net “turnover” reductions (more reductions from shutdowns than emissions from new plant openings), and took credit for these reductions as part of their approved demonstration of reasonable further progress of attainment, states could: (1) “Re-examine any “turnover” credits in their SIP, decide not take credit for these reductions;” and revise their attainment and maintenance plans accordingly; (2) “allow credit only after the total quantity of shutdown reductions assumed in the SIP has occurred”; or (3) “allow credit for a percentage of the total emission reduction realized from a

and which States are required to control in their 1982 Plans, but for which EPA has not yet issued final CTGs. See Alternative ONE, Section III. B. below.

In this notice EPA also requests comments (see part IV. B below) on continued trading in areas that may be found not to have attained despite approved SIP demonstrations of attainment, as well as in areas that require but lack such demonstrations. The latter restriction is being re-examined in implementing the settlement agreement in Chemical Manufacturers Association v. EPA (D.C. Circuit, No. 79-1112), and is not otherwise discussed here.

For purposes of this notice, “existing-source bubbles” means trades to meet applicable emission limitations between sources subject neither to Federal New Source Review Requirements nor to any Federal New Source Performance Standard promulgated under Section 111 of the Clean Air Act. shutdown, if they can show that such credit is consistent with the SIP’s demonstration of attainment and reasonable further progress.” 47 FR 15081.

Comments. Concerned commenters found these options either too loose or too restrictive. An environmental group asserted that despite the options, it was not possible “to identify what quantity of shutdowns are above and beyond those assumed in the plan.” Other commenters, including an industry and a utility group, asserted that credit should be denied only for shutdowns specifically identified in the plan. EPA Regions also pointed out that a number of SIPs use “OBERS” projections of economic growth, developed by the U.S. Department of Commerce, as a basis for projecting emissions growth. Since such projections reflect net economic growth which these SIPs appear to translate directly into emissions growth, there seems no straightforward way to disaggregate the projection into shutdowns and new plant openings. Therefore, there seems no straightforward way to determine the extent to which a SIP using “OBERS” projections relies on shutdowns.

If this conclusion is accurate it may be difficult or impossible for states whose SIPs rest on OBERS projections to grant credit from shutdowns for use in existing-source bubble trades, consistent with the Clean Air Act.

B. Use of ERCS From Shutdowns for Bubble Trades in Nonattainment Areas Requiring but Lacking Demonstrations of Attainment.

Comments. A number of comments questioned the extent to which states can allow use of shutdown credits in existing-source bubbles in any area, consistent with the Clean Air Act. A large percentage of comments on this issue supported the Policy authorizing shutdown credits to be used in existing-source bubbles, so long as shutdowns were not double-counted and were measured against appropriate baselines. Other commenters, however, included some environmental groups and pollution control agencies, raised concerns. These commenters noted that shutdowns can hasten attainment, and suggested that EPA’s shutdown policy might not be consistent with the Act’s requirement for attainment “as expeditiously as practicable.” Several of these commenters maintained that credit should generally be granted only for shutdowns undertaken solely to obtain credit, and then only for the period before which the source would otherwise have shut down.

Adverse comments were most critical about use of ERCS from shutdowns for bubbles in areas requiring but lacking approved demonstrations of attainment. Several commenters said that no reduction can be surplus without a demonstration. Accordingly, they would not grant credit for any reductions in attainment areas lacking demonstrations of attainment, including reductions produced by extra pollution controls or less-polluting process changes.

NRDC v. Gorsuch. The recent Circuit Court decision in NRDC v. Gorsuch raises similar issues indirectly. The Court decided only the narrow issue of the validity of EPA’s plant-wide definition of “source” for New Source Review purposes in nonattainment areas (i.e., nonattainment area “netting”), and ruled that definition invalid.\footnote{This includes current ozone or CO extension areas as well as other nonattainment areas subject to December 31, 1982 deadlines until such time as approved SIPs for the later areas may be determined by EPA to be inadequate to attain relevant ambient standards. Sources in such areas should be aware, however, that future determinations of SIP inadequacy may require their states to impose additional reduction requirements, and that some states may impose requirements which adversely affect some prior trades. See e.g., 47 FR 15077: but cf. n. 16 below.} It reaffirmed the validity of the plant-wide definition for PSD review. Moreover, the case did not consider the validity of existing-source bubbles in nonattainment areas, and the Court did not decide this issue. The decision does, however, contain language which might be read to suggest that all emissions trades in nonattainment areas must, in and of themselves, produce progress toward attainment beyond the progress currently mandated by applicable SIPs. The implied issue for existing-source bubbles is whether some additional net benefit beyond the current requirement of air quality equivalence to applicable SIP limits (e.g., a substantial net air quality benefit from each bubble trade) might be required by the Clean Air Act.

Discussion—Nonattainment Areas With Demonstrations of Attainment. EPA does not currently believe the concerns discussed above warrant any change in the April Policy’s treatment of shutdowns or surplus reductions for bubble trades in nonattainment areas which are required to have and do have approved demonstrations of attainment.\footnote{EPA does not agree with this ruling. On March 25, 1983 the Solicitor General filed a Petition for Certiorari asking the U.S. Supreme Court to review the decision. On May 31, 1980 the Supreme Court granted the Government’s petition. Ruckelshaus v. NRDC. Nos. 82-1591 et al.}
Once a state had demonstrated it will attain ambient standards by the applicable deadline, subsequent emissions trades amount to fairly routine SIP revisions, which EPA will approve (either directly or through a generic rule) as long as these are enforceable and do not undermine the demonstration. The state has discretion to make and maintain its demonstration through any combination of emission reductions, including shutdowns, so long as these are adequate for attainment, and cannot be required to do more than demonstrate timely attainment and maintain ambient standards. See, e.g., *Train v. NRDC*, 421 U.S. 60, 79–80 (1975); *Union Electric Co. v. EPA*, 427 U.S. 246 (1976). This is true even where EPA may suspect that a previously-approved demonstration is no longer adequate to assure attainment. Until EPA makes a formal finding of inadequacy, based on record evidence, the approved demonstration controls. See Clean Air Act sections 110(e)(2)(H), 110(c)(1).

In short, under the Clean Air Act an approved attainment demonstration is a legal and logical stopping point. Since the state has shown it will attain with the reductions required by its current SIP, there is no ground to deny use of shutdown credits in bubble trades which meet those SIP requirements, so long as the demonstration is protected by assurance that these credits are not double-counted, that a baseline consistent with the demonstration is applied, and that tests of air quality equivalence are met. See 47 FR 15077, 15080–81 (April 7, 1982). So long as there is an approved attainment demonstration, there seems no reason to treat such shutdowns differently from other sources of credit, since they share the same legal basis supporting use of any surplus emission reductions, whether from positive controls, process changes or other means.

Under this interpretation it follows that all such reductions from shutdowns will be in excess of those currently required by law and need to attain. Moreover, under current policy their use will not compromise the state's ability to secure further reductions. should such steps eventually be necessary to restore progress or maintain attainment. See, e.g., 47 FR 15077, 15080, 15084 (April 7, 1982). Indeed, availability of such reductions for use in bubble trades may encourage faster compliance with applicable SIP limits by reducing the cost of compliance and the time needed to comply.

**Discussion—Nonattainment Areas Which Lack Demonstrations of Attainment.** The situation differs, however, for nonattainment areas which require but lack demonstrations of attainment. In order to attain, such areas will need more reductions than their SIPs currently require. Moreover, the extent of those additional reductions, and the sources from which those reductions will come, are presently unclear. Finally, the state that lacks a required demonstration of attainment may have more limited flexibility to choose where to secure needed reductions (and consequently to substitute alternative reductions through emissions trading), since it has not yet fulfilled its Clean Air Act responsibilities. Cf. Clean Air Act sections 110(a)(2)(A) and (c)(1), 172.

Nevertheless, to bar existing-source bubbles in such areas could eliminate useful partial solution to their air quality problems. Regulated firms may often be reluctant to disclose information that may be used to require retrofits against them. Even where such emissions information is obtained, it may not be sufficiently precise with respect to, e.g., source-receptor relationships, to allow EPA and the state to resolve remaining ambient problems. While one possible response could be a more aggressive government search for potential retrofits, that response is likely to collide with the very information barriers that discouraged a demonstration of attainment in the first place. EPA believes the bubble can help break such deadlocks by allowing sources to substitute more cost-effective reductions for required ones, subject to conditions—especially use of a RACT baseline—which enhance the state's ability to secure both improvements now and further reductions later, if such further reductions are found necessary for attainment.

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6 Some ozone attainment areas do not require full demonstrations of attainment because their pollution problems are primarily caused by sources outside the area. Under long-standing EPA policy, for example, so-called "rural zone nonattainment areas" whose ambient problem is caused by upwind urban emitters outside the air quality control region need only show that they have required RACT controls for all major sources for which EPA has issued RACT guidance. Upon such a showing these areas have long been allowed to notify Part D requirements, since they must ultimately rely on reductions from adjacent areas to cure their pollution problem. See 44 FR 20372, 20378 and n. 22 (April 4, 1979).

7 EPA is considering a requirement (in its final Emissions Trading Policy) that all bubble trades in those areas utilize a RACT baseline, whether or not RACT guidance has been issued for the sources in question. That requirement could help assure that the contribution of these areas towards solving their ozone problem remains current. However, since such areas do not require demonstrations of attainment, they are beyond the scope of discussion here.

8 Where trades of TSP, SO₂, or CO in significant amounts or over significant distances are involved, given these conditions, reasons apply which are similar to those that justify use of surplus reductions in nonattainment areas which possess approved demonstrations. Where both the source which seeks to create ERCs and the source which seeks to use them are already subject (in an incomplete SIP) to RACT requirements, the creating source must reduce emissions below RACT control levels in order to secure credit, and the difference between current SIP emissions and RACT is not available for credit. That difference goes directly to speed SIP implementation in the short-run. Over the longer run the net reductions produced by the bubble will be at least equal to what RACT would have yielded under traditional regulations. The state and public may also benefit by reductions which can be more rapid than under traditional regulation, since sources have a financial motive to surpass RACT quickly in order to trade. Environmental progress may be accelerated still further where the source which seeks to create ERCs is not subject either to RACT levels defined in the SIP or to other SIP emission limits. These sources must also reduce emissions below acceptable, EPA-approved RACT levels to receive credit for surplus reductions, and the larger difference between uncontrolled emissions and RACT is again not available for credit. The state may secure faster RACT definitions, since sources have a strong incentive to agree upon RACT in order to use a bubble. The possibility of credit may also encourage such sources to come forward and request regulation, in order to establish the quantifiable and enforceable emission limits on which credit must be based.
Thus the bubble may create an incentive for faster compliance, because sources must do better than comply with RACT to secure ERCs and because compliance costs may be reduced by control strategies the source can tailor to its operations. The bubble may also improve air quality planning by encouraging plant managers to submit data on emissions, modeling and unregulated or unvented emissions, in order to create usable ERCs. It may help states develop new RACT regulations for categories of sources, both because of improved information and because opportunity for trading reduces these rules' potential cost. It may help states secure additional reductions from existing sources, which comprise over 85% of nonattainment area emissions.9

The DuPont Chambers Works bubble for emissions of volatile organic compounds (VOCs) illustrates several of these points. New Jersey approved this bubble in Deepwater, NJ under its "generic" emissions trading rule, 46 FR 20551 (Apr. 6, 1981). As part of that rule, New Jersey imposed uniform RACT reduction requirements (generally 65% control) on broad categories of sources, including DuPont's 11 stacks and 112 smaller fugitive sources (See Administrative Code of New Jersey, Title 7, Chapter 27, Subchapter 10 (1981)). The opportunity to meet these uniform requirements through bubbles helped New Jersey avoid both legal challenge by regulated industries and the laborious task of developing process-by-process regulations. DuPont complied by controlling its 7 large stacks to over 99%, enough to meet RACT requirements for all 119 emission sources while producing over 2000 tons per year of extra reductions.

For such reasons EPA continues to believe that in general its April 7 Policy approximately authorizes trading in furtherance of the Act's mandate that nonattainment areas require RACT “at a minimum” and achieve “reasonable further progress” toward attainment. Clean Air Act sections 171(1), 172(b)(2)–(4).

Notwithstanding these considerations, while bubble trades in such areas may yield progress towards attainment, the area may fall short of “reasonable further progress and attainment as expeditiously as practicable.” Clean Air Act sections 171–172. In these circumstances EPA is authorized to promulgate a Federally-developed SIP which does demonstrate attainment.10

However, EPA could also take less drastic steps designed to accelerate ambient progress and enhance the state's ability to develop a complete SIP. For example, EPA could mandate that pending a demonstration of attainment, each existing-source bubble produce a substantial net air quality improvement. A substantial net reduction in emissions could be a surrogate for such improvement.11 Properly structured, such a requirement should not discourage environmentally-beneficial trading activity to a significant degree.

Indeed, requiring a net air quality improvement, beyond the current

9 Clean Air Act section 110(c)(1). The Agency has had difficulty acquiring the detailed knowledge of local conditions needed to promulgate such SIPs. One EPA attempt to promulgate a full Federal SIP took over four years to complete. See, e.g., 37 FR 10442 (1972) (Ohio SIP; proposal); 41 FR 3624 (1976) (last part of the final rule).

10 EPA's Emission Offset Interpretive Ruling (40 CFR Part 51, Appendix S) has since 1979 declared net emission reductions an acceptable surrogate for the required positive net air quality benefit for several classes of new source offsets. Similar flexibiity, contained in 40 CFR 122.12(f), "avoid unnecessary consumption of limited, costly and time consuming modeling resources," has also been incorporated into the Emissions Trading Policy. For example, pound-for-pound trades of VOC or NO_x may be treated as equal in ambient effect across broad geographic areas. See 47 FR at 15082 (April 7, 1982).

11 EPA requests comment on the extent to which a substantial emission reduction could assure a substantial air quality improvement under Section III. Alternatives 3 and 4 below. Comment is specifically requested on the extent to which, once a bubble trade's air quality equivalence is established under the Policy's ambient tests, air quality improvement for all pollutants may be assumed based on substantial additional emission reductions. To the extent this emission surrogate for ambient improvement may not be warranted, further comment is requested on how currently required modeling might be modified to define and evaluate substantial air quality improvement. For example, one alternative to a surrogate approach could be a direct trade of demonstrated emissions in which some form of dispersion modeling is required to show an actual air quality improvement produced by the emissions trade. Comment is requested on this or other possible alternatives.
some commenters' suggestions that credit be allowed only if credit availability were a sole or principal reason for the shutdown, and only then for the remaining useful life of the shutdown facility.

Unfortunately the issue is not this simple. So long as it has not been double-counted and a proper RACT baseline is applied, the shutdown does contribute to air quality progress, and, since much less than 100% credit will be granted. Moreover, the opportunity for credit may improve air quality by encouraging early shutdown of high-polluting facilities that might otherwise be kept running, either because replacement is too expensive or to preserve credit for future plant expansion.

In addition, despite their logical appeal these commenters' suggestion of a test based on subjective motive appears administratively unworkable. EPA and states would find it exceedingly difficult to evaluate or rebut source evidence that a shutdown was motivated by credit and that the shutdown facility would otherwise have operated for twenty or forty years. Thus this approach would likely result in either de facto approval of all such credits (undermining the reason for the test), or a burden of proof so stringent that none would be approved (penalizing sources whose shutdowns were elicited by trading). More straightforward approaches might either ban shutdown bubbles until a demonstration of attainment, or acknowledge their uncertain nature by applying a margin of safety—e.g., a requirement that such bubbles produce substantial air quality improvement—sufficient to compensate for any uncertainties and protect the integrity of current or future SIPs.

C. Definition of "shutdown." The April Policy and accompanying Technical Issues Document do not explicitly define "shutdown," since credits from shutdowns for use in existing-source bubbles are treated no differently than credits produced by other means of emission reduction. For example, the Policy's discussion of double-counting focusses only on determining the extent to which a particular shutdown is surplus, a requirement for all credits. Under the April Policy, as long as the shutdown is enforceable, quantifiable, and permanent, as well as surplus, it is eligible for credit. More precise definition is needed only if shutdowns are to be subject to special requirements for use in existing-source bubbles. Issues raised by that potential approach include whether "shutdowns" should cover all production cutbacks or curtailments; whether the shutdown must be of an entire plant or only identifiable pieces of process equipment; and whether credit should turn on surrender of operating permits or some other action. Such distinctions could have major functional significance, since a broader definition might subject more bubble trades to special requirements. Thus, the definition offers one potential way of balancing possible environmental benefits from special treatment of shutdown credits for bubbles, against the administrative difficulties and negative environmental effects (e.g., discouraging beneficial trades) which might result from such special treatment.

To help evaluate the potential effects of adopting any special treatment of shutdowns, this notice requests comment on the appropriate definition of a "shutdown." See Section III.C. below.

D. Conclusions. EPA wishes to both strengthen emissions trading and to minimize any uncertainty which alterations to the April 7 Policy might create. The Policy set out minimum legal requirements for trading in the belief that this approach comported with the broad primary discretion accorded states to design and implement SIPs. E.g., Clean Air Act section 101(a)(3). EPA sees merit, however, in the concerns raised by commenters and wishes to consider alternatives which might increase the environmental benefits of individual trades.

III. Requests for Comment

A. Avoiding "Double-Counting." Before emissions trading, use of OBERS or similar turnover trades produced much less impact on the integrity of SIP development. Expanded trading has heightened concern over the extent to which SIPs may already have taken credit for shutdowns in their attainment demonstrations. EPA accordingly requests assistance in determining specifically how particular SIPs take shutdowns into account either directly or indirectly, especially through use of "OBERS" projections or similar means. EPA further requests suggestions on how to improve its options for avoiding double-counting of shutdown credits in ways which are administratively workable for state agencies and which adequately address these concerns. Commenters should be aware that failure satisfactorily to resolve this issue may endanger continued use of shutdown credits for existing-source bubble trades under all SIPs relying on OBERS (or similar) projections, even in nonattainment areas for which demonstrations of attainment have been or may eventually be approved.

B. Alternatives: Bubble Trades and Use of ERCs from Shutdowns or Other Actions for Bubble Trades in Nonattainment Areas Requiring But Lacking Demonstrations. EPA requests comment on the specific alternatives outlined below or on other alternatives for resolving concerns addressed here. Comments will be most useful where they are based on specific examples from actual experience in pollution control and focus on the extent to which these or other alternatives might adversely affect overall environmental quality as well as specific, planned bubble activities. Commenters should feel free to suggest combinations or variations of these alternatives, which should all be considered in addition to the current Policy's requirements.

1. Where RACT has not already been defined in the SIP, require a "negotiated RACT" baseline before shutdowns can receive bubble credit in any nonattainment areas requiring but lacking complete demonstrations of attainment—even areas with approved attainment extensions beyond 1982. Discussion: For areas which received attainment extensions past 1982, the April 7 Policy allowed states and sources to use either a negotiated RACT baseline or an actual emissions baseline. States using "actuals" baselines could then regulate source categories other than those involved in the trade, or could seek further reductions from categories including trading sources, where future reductions were needed to assure attainment and maintenance. This option rested on the fact that follow-up SIPs incorporating sufficient additional controls to demonstrate post-1982 attainment "as expeditiously as practicable" would have to be developed for such areas before the end of 1982. Clean Air Act Section 172. These follow-up SIPs were
generally required to incorporate or commit to incorporate (a) RACT level controls for all categories of VOC sources for which EPA had issued Control Techniques Guidelines (CTGs), and (b) RACT-level controls for all other 100-ton VOC sources to the extent prior SIPs had not required such controls. See 46 FR 7182 [Jan. 22, 1981].

EPA believes that expiration of the 1982 deadline for submittal of such extension-area attainment SIPs has effectively limited this option under the Clean Air Act. Generally, "actuals" baselines are now appropriate only in extension areas for which EPA has approved follow-up ozone SIPs and, within those areas, only for VOC sources which fall within identified "Group III" Control Techniques Guideline (CTG) categories but for which EPA has not yet issued a CTG.14

Under the April 7 Policy, states could still authorize such sources to trade using either a "negotiated RACT" baseline, or an actual emissions baseline with a commitment to find or produce further RACT-level reductions when required.

However, where sources in these categories shut down and seek to secure credit based on actual emissions before becoming subject to RACT-level requirements, their future regulation will plainly be more difficult than obtaining enforceable reductions from sources still in operation. The source is no longer in existence, and "revisiting" its former operator or quantifying what additional reductions it might have produced may be impractical. This alternative would better insure enforceability, SIP integrity and ambient progress by assuming that all such shutdown sources in nonattainment areas with approved demonstrations lacking complete RACT requirements would eventually have been subject to RACT if they continued in operation. It would accordingly require a RACT baseline as a precondition to credit for such shutdowns in any bubble trade.

2. Where RACT has not already been defined in the SIP, require a "negotiated RACT" baseline for all bubble trades in nonattainment areas requiring but lacking complete demonstrations of attainment—even areas with approved attainment extensions beyond 1982. No special requirement for bubbles using shutdown credits.

Discussion: Certain states may never have had an approved demonstration, or may have received an extension which is not confirmed by an approved 1982 SIP incorporating such a demonstration. Other states may ultimately be found not to have attained despite the presence of an approved demonstration. For all such areas RACT-level control at minimum appears required under the Clean Air Act. Use of a RACT baseline for all sources seeking to use bubble trades in such areas would better effectuate the status-quo design by securing immediate RACT-level emission reductions while strengthening the state's ability to attain. This alternative would accordingly confirm application of the April Policy's requirement of a RACT baseline for bubble trades in non-demonstration areas required to attain relevant ambient air quality standards by December 31, 1982, to bubble trades in all areas which require but do not currently possess approved demonstrations of attainment. It would also extend that RACT-baseline requirement to certain additional bubble trades in nonattainment areas with approved but incomplete follow-up SIPs—i.e., even trades involving "Group III" sources which are not being shut down.

3. Require a substantial air quality improvement, beyond a RACT baseline, from each bubble using net credits in nonattainment areas requiring but lacking demonstrations of attainment. E.g., require each such bubble to produce a 20% net reduction in emissions beyond RACT equivalence.

Discussion: This alternative would secure additional air quality progress from bubbles using shutdown credits in areas requiring but lacking attainment demonstrations. Requiring substantial progress from each bubble using shutdowns could accelerate momentum toward attainment, directly improve air quality through each trade, and provide an objective margin of safety against uncertainties associated with some individual shutdowns, while leaving to the state the task of final SIP development.17 It would also maintain the incentives within the April Policy for industry to shut down high-polluting, economically-marginal sources.

Comment is specifically requested on the extent to which a substantial emission reduction, beyond that required to demonstrate ambient equivalence, could be accepted for substantial air quality improvement. See Footnote 11 above.

In addition to comments on this alternative, EPA requests specific information on the extent to which particular firms or types of industrial operations have prolonged, or can realistically prolong, the minimal operations of such economically-marginal facilities (e.g., by placing them on "hot idle") in order to preserve credit for future modernization or expansion.

4. Require a substantial air quality benefit, beyond a RACT baseline, from all bubbles in nonattainment areas requiring but lacking demonstrations of attainment. No additional requirement for bubbles using shutdown credits.

Discussion: Essentially the same as for 3 above. The more each existing source bubble contributes directly to accelerated air quality progress, the stronger the justification for authorizing creation and use of surplus reductions for such bubbles in the absence of a demonstration. Moreover, requiring all bubbles to produce a substantial air quality improvement, beyond RACT baselines and RACT equivalence, could provide a margin of safety sufficient to make special treatment of shutdowns unnecessary. Since many bubbles are already producing substantial net reductions in overall emissions, it is not believed that this alternative will significantly reduce bubble opportunities. Indeed, it may be the most rational and reliable way to authorize continued trading in such areas. See Section IV.B. below.

Comment is requested on the use of substantial net emission reductions to demonstrate substantial air quality improvement. See Footnote 11 above.

5. For bubbles using shutdown credits in nonattainment areas requiring but lacking demonstrations of attainment, require a substantial air quality improvement, beyond RACT baselines, and define that improvement by the severity of the area's pollution problem. For example, require each shutdown bubble to produce net reductions proportional to the extent by which the SIP's design value exceeds the relevant

4 Where EPA has approved a 1982 extension plan, all other sources regulated by the SIP will by definition be subject to RACT-level or attainment-level requirements. Their "RACT baseline" will accordingly be defined in the SIP, and the option is no longer open. The option may, however, remain open to certain minor VOC sources which neither fall within designated "Group III" categories nor emit 100 tons per year, since these sources may not be "regulated by the SIP.

Where EPA has approved a 1982 follow-up SIP, all sources involved in bubble trades appear required to use an EPA-approved RACT baseline. See Alternative 2 and Section IV.B. below.

14 In light of some comments it is important to reiterate that if further reductions are later required, trading presents no bar to the state's obtaining them from these or similar sources. Current policy simply suggests that the state look first to other potential reductions in the area before revisiting individual sources or source categories which have voluntarily done more than required by agreeing early to the "negotiated-RACT," and that if the state does engage in such revisiting, it structure additional requirements so they too may be met through trades.
ambient standard at the time of the trade. Other bubble trades in such areas would simply have to produce a net air quality improvement.

Discussion: This alternative would acknowledge that shutdowns may present special problems absent a demonstration, due to difficulties of determining whether they would have occurred anyway or how much earlier they occurred because of the opportunity to trade. It would continue to authorize use of shutdown credits in existing-source bubble trades, but would require that such bubbles contribute a proportional share of the surplus reduction to attainment. One potential problem with this alternative is that it may require sources to solve a nonattainment problem which is largely not of their making, merely because they have found ways to meet applicable requirements less expensively. Another potential problem is the difficulty of establishing a workable, objective ratio of emission reductions to ambient concentrations. EPA accordingly requests specific suggestions, pollutant-by-pollutant, on how to define a reasonable and legally defensible relationship between an area's general pollution problem and the cleanup responsibility of a particular source engaged in a trade.

6. Prohibit use of shutdown credits for existing-source bubbles in nonattainment areas requiring but lacking demonstrations of attainment.

Discussion: Shutdowns produce a total reduction of source emissions. Prohibiting use of shutdowns for bubble trades in areas where demonstrations are required but lacking would preserve this total reduction, except as shutdowns were used (or "preserved" by continued source operation) to facilitate new source growth. It might also provide additional incentives for states to complete their attainment demonstrations.

This approach would obviate questions of motive or duration regarding shutdowns. However, it might also sacrifice any incentive for early, environmentally-beneficial shutdown of high-polluting marginal facilities.

C. Definition of "Shutdown": EPA requests comment both on the need for further definition of "shutdown," in light of the range of alternatives suggested in III.B above, and on what an appropriate definition might be. Comments will be most helpful if they address the specific economic, administrative and trading consequences of defining "shutdown" for use in bubbles as any reduction created by partly or totally reduced operations. The specific economic, administrative and trading consequences of any other suggested definitions should also be addressed.

IV. Effect of This Notice


EPA's Emissions Trading Policy was proposed April 7, 1982 but made effective immediately as interim guidance. It was meant to be used to "evaluate trading activities which become ripe for decision (before issuance of a final Policy Statement), including state adoption of generic bubble and banking rules." 47 FR 15076, 15077. This Notice does not change the Policy or alter that intent. If EPA concludes, based on comments and further analysis, that changes in the Policy are warranted, it intends to make such changes effective from the date of issuance of a final Emissions Trading Policy. EPA also intends to apply any such changes prospectively (i.e., not to actions which already have been approved) and will give careful consideration to pending regulatory actions in which a state or source has invested significant resources in good-faith reliance on the April Policy and its accompanying Technical Issues Document. EPA solicits comment on whether and on what bases it might "grandfather" such actions.

B. On Trading Where 1982 Attainment Deadlines Have Expired.

On January 31, 1983 EPA announced a general policy (the "Sanctions Policy") for areas that were required to but may not have attained the SO2, TSP, CO or NOx ambient air quality standards by December 31, 1982. The same day EPA proposed to make specific findings of nonattainment status for such areas. 48 FR 4972 (Feb. 3, 1983).

These actions do not affect current emissions trading activities in these areas or the ability of states to continue approving transactions under the April 7 Policy. After comment and careful Agency review some areas which were required to but did not demonstrate attainment by December 31, 1982 may nevertheless be found to have attained the relevant NAAQS. Other areas which demonstrated attainment may ultimately be found not to have attained. In the interim the effect of the December deadlines on either class of area cannot be foretold. Moreover, since the "Sanctions Policy" merely proposed to find certain SIPs deficient because they did not provide for attainment by December 31, 1982, it had no legal effect on areas which possessed an EPA-approved demonstration, even though they may eventually be found not to have attained by that date.19

Accordingly, pending final determination of their attainment status, areas which had or did not require approved demonstrations of attainment by December 31, 1982 may continue to approve bubbles or other emissions trades under the April Policy, using the appropriate SIP baseline. Areas which required but lacked demonstrations of attainment by December 31, 1982 may continue to approve bubbles or other emissions trades based on RACT as defined in their SIPs or as negotiated among the source, the state and EPA. Comment is requested on the determinations in these paragraphs.

To the extent certain alternatives proposed for comment in III.B. above for bubble trades in areas which require but lack demonstrations of attainment may also be generally appropriate for bubble trades in areas which are ultimately found not to have attained by December 31, 1982 (e.g., Alternatives 4 or 5 above), commenters should address the effects of such additional applications.

Commenters should also address whether—or under what other conditions—existing-source trades should be authorized at all in such areas. Any changes in current practice which result from these comments will also be incorporated in the final Emissions Trading Policy. EPA intends to apply any such changes prospectively (i.e., not to actions which have already been approved) and will give careful consideration to pending regulatory actions in which a state or source has invested insignificant resources in good-faith reliance on the April Policy and its accompanying Technical Issues Document. EPA solicits comment on whether and on what bases it might "grandfather" such actions.


William D. Ruckelshaus,
Administrator.

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18As noted above, however, submittal of extension-area attainment SIPs may have independently restricted one option offered by the April 7th Policy See Alternative 1, Section III.B. above.

19On June 16, 1983 EPA agreed to develop a new sanctions policy which departs from the February 3, 1983 Notice. Generally, the new policy will impose sanctions only where a state is not making reasonable efforts to submit a SIP, correct deficiencies or implement SIP provisions.
Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978
DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy of 1978

Issued: August 26, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PRD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5295 Port Royal Rd, Springfield, VA 22161.

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Kenneth F. Plumb,
Secretary.

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**NOTICE OF DETERMINATIONS**

**ISSUED AUGUST 26, 1983**

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Part VI

Department of Transportation

Federal Highway Administration

Truck Size; Proposed Rule
DEPARTMENT OF TRANSPORTATION
23 CFR Part 658
[ FHWA Docket No. 83-12 ]

Truck Size

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.


DATE: Comments on this docket must be received on or before September 30, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA, Docket No. 83-12, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harry B. Skinner, Office of Traffic Operations, (202) 426-0825, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. Operations, (202) 426-1993, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097, as amended by Pub. L. 98-17, 97 Stat. 59, require the States to permit certain size vehicles to operate on the Interstate System and those Federal-aid Primary System (FAP) highways designed by the Secretary of Transportation, who has delegated this function to the Federal Highway Administration (FHWA). The legislative intent is underscored by the enactment of Pub. L. 98-17, 97 Stat. 59, which placed the truck width provision, formerly enacted as part of the Department of Transportation and Related Agencies Appropriations Act, 1983, Pub. L. 97-389, 96 Stat. 1765, into Title IV of the STAA, and advanced the effective date of that provision to April 6, 1983, the effective date of the truck length provisions of section 411. One rationale for this legislative change was the need to provide a single system of highways for use by vehicles with the dimensions specified by the Congress.

In making the interim designations in the April 5 notice, and in proposing the interim designations in the five States covered by this NPRM, FHWA has attempted to provide consistency in routing among the States, so that a recognizable national network of highways which serve major points of economic activity would be available for use by the larger vehicles allowed by the STAA. Safety has always been of paramount concern to the FHWA in making these designations. In the absence of conclusive evidence attributing increased safety problems to the operation of the commercial motor vehicles with dimensions authorized by the STAA, and in recognition of the fact that the proposed provides a mechanism for deletion of potentially unsafe segments from the designated system, the FHWA has initially determined that any safety effects of this proposal will be minor compared to expected benefits.

The States, the commercial motor vehicle industry, and all other interested parties are encouraged to comment on the proposed designated routes.

the public with an opportunity to comment on a revised set of FHWA's proposed FAP and proposed interim network of highways. This notice serves to clarify that FHWA fully intended that "qualifying primary highways" to four-lane divided highways with full control of access. That notice encouraged the States to propose additional FAP routes, beyond the minimum stated criteria, to facilitate commerce. On April 5, 1983 (48 FR 14844), the FHWA published a notice which designated, on an interim basis, those FAP routes on which commercial motor vehicles authorized by the STAA could operate. The published list for some States included routes in addition to those proposed by the States and included routes beyond the 4-lane divided, full control of access minimum. For example, all States currently permit the operation of large commercial motor vehicles on some 2-lane highways and the majority of States in responding to the February 3 notice submitted for inclusion 2-lane highway segments for designation as interim highways on which the vehicles authorized by the FHWA may operate. In turn, FHWA included some 2-lane segments in making the interim designations. FHWA additions to State proposals were intended to achieve route continuity essential for geographic coverage and interstate commerce.

Alabama, Florida, Georgia, Pennsylvania, and Vermont brought suits in the U.S. District Courts to enjoin the FHWA from including routes in the interim designated system beyond those proposed by the States pursuant to the Federal Highway Act of 1982. Notice of proposed rulemaking is to provide the States and the public with an opportunity to comment on a revised set of FHWA's proposed FAP and proposed interim network of highways. This notice serves to clarify that FHWA fully intended that "qualifying primary highways" to four-lane divided highways with full control of access. That notice encouraged the States to propose additional FAP routes, beyond the minimum stated criteria, to satisfy the mandate of the STAA and to facilitate commerce. On April 5, 1983 (48 FR 14844), the FHWA published a notice which designated, on an interim basis, those FAP routes on which commercial motor vehicles authorized by the STAA could operate. The published list for some States included routes in addition to those proposed by the States and included routes beyond the 4-lane divided, full control of access minimum. For example, all States currently permit the operation of large commercial motor vehicles on some 2-lane highways and the majority of States in responding to the February 3 notice submitted for inclusion 2-lane highway segments for designation as interim highways on which the vehicles authorized by the FHWA may operate. In turn, FHWA included some 2-lane segments in making the interim designations. FHWA additions to State proposals were intended to achieve route continuity essential for geographic coverage and interstate commerce.

The States, the commercial motor vehicle industry, and all other interested parties are encouraged to comment on the proposed designated routes.
specified in the Appendix to the proposed rule. The FHWA invites the
States to submit any information they may have on any potential adverse
safety consequences that might result from allowing vehicles authorized under
the STAA to use these roads. If a State believes that there is a safety problem
with a particular route, an alternate route that will accommodate the
objectives of the STAA should be proposed, if possible. FHWA also
invites comments on the proposed designations from the standpoint of
whether they adequately provide for the needs of interstate commerce.

In the April 5, 1983 policy statement, FHWA permitted the States to restrict
or prohibit the vehicles authorized by the STAA from operating on portions of
the designated system, under certain defined circumstances. In addition, the
FHWA is continuing to add or delete routes from the interim designations in a
number of States, based on continuing discussions with those States. Notices
updating the status of these discussions have been published at 49 FR 20022
(May 3, 1983), 49 FR 21317 (May 12, 1983), 49 FR 24653 (June 2, 1983), 49 FR 31588 (July 8, 1983) and 49 FR 35386
(August 4, 1983) and will continue to appear in the Federal Register.

The proposed final designations for all States will be published in the near
future. Ample opportunity will be provided for all parties to comment on the
proposed final designations.

Regulatory Impact

The FHWA has determined that this is not a major rule under Executive Order
12291. However, under the regulatory policies and procedures of the
Department of Transportation, this rulemaking action is considered
significant based on the public interest involved.

A draft regulatory evaluation and initial regulatory flexibility analysis has
been prepared and is available for inspection in the public docket. With
regard to the assessment of the impact this proposal will have on small entities
pursuant to the Regulatory Flexibility Act (Pub. L. 96-354), the reasons for,
objectives, and legal basis for this proposed action have been previously explained in this notice. The proposal
will allow any carrier to increase productivity through the use of larger vehicles and therefore should provide
benefits to all segments of the motor carrier industry. The FHWA specifically requests information on whether this
action would have a significant economic impact on a substantial number of small entities.

In the absence of conclusive evidence attributing increased safety problems to
operations with larger trucks or twin trailers, FHWA has initially
determined that any safety effects of this proposal will be minor compared to
potential benefits. The safety issue is addressed further in the draft regulatory
evaluation. Also, FHWA has determined that this proposal will significantly
increase productivity benefits for the trucking industry which may ultimately
result in lower transportation costs to consumers. The FHWA invites
comments on this initial estimation of
The FHWA has determined that this action will not individually or cumulatively have a significant effect on the
environment. This proposed action falls within the categorical exclusions set out at 23 CFR 771.115(b), since it is a
regulation for which a regulatory impact analysis is not required pursuant to
Section 3 of Executive Order 12291, which superseded Executive Order
12044 (See 23 CFR 771.115(b)(27)). Therefore, no environmental assessment or environmental impact statement is
required.

Since the interim system being prepared in this rulemaking has been the
subject of previous public notices and judicial proceedings, a 30-day comment period has been determined to be
sufficient. In consideration of the foregoing, and under the authority of sections 411 and 416 of the Surface
Transportation Assistance Act of 1982, 23 U.S.C. 315, and 49 CFR 1.48(b), the
Federal Highway Administration proposes to amend Title 23, Code of Federal Regulations, Chapter I, by
adding a new Part 658 as set forth below.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size and weight.

(Catalog of Federal Domestic Assistance Program Number 20.505, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A-95 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

### APPENDIX—Interim Designated Truck Routes on the Federal Aid Primary System

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<td>AL 210 in Dothan</td>
<td>US 431/AL 173 in Headland</td>
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<td>AL 431</td>
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<td>US 31/AL 20</td>
<td>AL 210 Dothan</td>
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<td>AL 5 near Russellville</td>
<td>US 72 Tuscarawas</td>
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## APPENDIX—Interim Designated Truck Routes on the Federal Aid Primary System—Continued

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<td>US 221 Troy</td>
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<td>US 84 Enterprise</td>
<td>AL 85 Daleville</td>
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<td>US 8 Enterprise</td>
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<td>US 84 Enterprise</td>
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<td>US 231</td>
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<td>Straightview Ocala</td>
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<td>I-10</td>
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<tr>
<td>US 80</td>
<td>SR 311 in Waldo</td>
<td>SR 24 in Gainesville</td>
</tr>
<tr>
<td>US 80</td>
<td>FL 80 in south Tampa</td>
<td>Lake Wales</td>
</tr>
<tr>
<td>US 84</td>
<td>US 27 at Andrews</td>
<td>I-95 in Ft. Lauderdale I-10</td>
</tr>
<tr>
<td>FL 263</td>
<td>US 90 west of Tallassee</td>
<td>I-4</td>
</tr>
<tr>
<td>US 301</td>
<td>FL 60 near Tampa</td>
<td>SR 24</td>
</tr>
<tr>
<td>US 301</td>
<td>SR 331 Palmetto</td>
<td>SR 41</td>
</tr>
<tr>
<td>US 301</td>
<td>US 41 near Palmetto</td>
<td>I-75</td>
</tr>
<tr>
<td>US 301</td>
<td>In Jacksonville from I-95</td>
<td>SR A-1-1A</td>
</tr>
<tr>
<td>FL 528/SR 407</td>
<td>Florida Tpk</td>
<td>I-75 at Wildwood</td>
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<tr>
<td>20th St.</td>
<td>In Jacksonville at I-95</td>
<td>Adams Street</td>
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<th>Post route No.</th>
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<td>GA 400</td>
<td>GA 325, near Atlanta</td>
<td>GA 60</td>
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<tr>
<td>GA 365/US 23</td>
<td>I-85 Norheasterly</td>
<td>US 441 near Cordele</td>
</tr>
<tr>
<td>US 411/GA 20</td>
<td>US 41 near Rome</td>
<td>I-16 North to Gray</td>
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<tr>
<td>US 119/GA 11</td>
<td>US 80 near Ellijay</td>
<td>US 17/80 Northerly to I-95</td>
</tr>
<tr>
<td>GA 25 Spur</td>
<td>US 85B/US 295</td>
<td>Fort Benning</td>
</tr>
<tr>
<td>US 280/SP 1</td>
<td>US 82 Albany</td>
<td>I-75 near Cordele North of Statesboro</td>
</tr>
<tr>
<td>US 82 SR 50</td>
<td>US 82 Albany</td>
<td>I-16</td>
</tr>
<tr>
<td>US 300</td>
<td>US 82/US 295</td>
<td>I-85 easterly toward Lawrenceville (5 miles)</td>
</tr>
<tr>
<td>GA 21</td>
<td>GA 59, I-75</td>
<td>GA 304, I-20 East to Welcome All Road</td>
</tr>
<tr>
<td>GA 14 Spur</td>
<td>Interchange</td>
<td>SR 10, US 82 near Columbus</td>
</tr>
<tr>
<td>GA 410</td>
<td>SR 10, US 82 near Columbus</td>
<td>Jonesville I-75</td>
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<tr>
<td>GA 411</td>
<td>US 85 South</td>
<td>US 411 Elberton</td>
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<td>US 41</td>
<td>I-75 South near Barnsville, US 82 South near Blandon PA 129</td>
</tr>
<tr>
<td>US 84</td>
<td>Waycross I-85</td>
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<table>
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<th>Post route No.</th>
<th>Route description</th>
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<tr>
<td>US 1</td>
<td>From Montville to US 13</td>
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<td>US 13</td>
<td>Controlled access segment south from US 1</td>
</tr>
<tr>
<td>US 15</td>
<td>From Pennsylvania Turnpike (I-76) Interchange 17 northeast to Harrisburg Expressway South of Carlisle Hill</td>
</tr>
<tr>
<td>US 19</td>
<td>Controlled access segment north of junction with US 220 at WillamSPORT</td>
</tr>
<tr>
<td>US 22</td>
<td>From I-279 west to the Pennsylvania-West Virginia Line east of Steubenville, Ohio</td>
</tr>
<tr>
<td>US 23</td>
<td>From west to PA 100 near Foggsville east to the Pennsylvania-New Jersey ST Line interchange at Easton</td>
</tr>
<tr>
<td>US 30</td>
<td>Greensburg Bypass south of Greensburg</td>
</tr>
<tr>
<td>US 30</td>
<td>From a junction with PA 462 west of York to a junction with PA 452 east of Lancaster, excluding the 4-mile uncontrolled access segment north of York</td>
</tr>
<tr>
<td>US 119</td>
<td>Limited access Bypass west of Uniontown</td>
</tr>
<tr>
<td>US 119</td>
<td>From Pennsylvania north to Pennsylvania Turnpike (I-76) Interchange 8 at New Stanton</td>
</tr>
<tr>
<td>US 202</td>
<td>From the south terminus of the West Chester Bypass north east to I-76 near King of Prussia</td>
</tr>
<tr>
<td>US 219</td>
<td>From west of Pennsylvania Turnpike southeast of Somerset near US 422 west Emsburg</td>
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<td>US 219</td>
<td>From the PA-New York Line to just south of Bradford</td>
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<td>US 220</td>
<td>From Pennsylvania Turnpike interchange 11 north to King</td>
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<td>US 220</td>
<td>From PA 147 near halls, north of Muncy, west to western terminus of controlled access segment at Linden</td>
</tr>
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<td>US 220</td>
<td>From just south of Athens north to NY 17 at the Pennsylvania-New York ST Line</td>
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<td>Warren Street Bypass and Extension from Pottstown Road north of Reading west to Wyomissing</td>
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<td>Commodore Barry Bridge in Chester</td>
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<td>From eastern terminus of limited access segment southeast of Reading northwest to the Warren Street Bypass</td>
</tr>
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<td>PA 9</td>
<td>NorthEast Extension of Pennsylvania Turnpike from Exit 25 (I-276) southeast of Norristown to Exit 38 at I-81 north of Scranton</td>
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<td>From PA 8 near Ellta northeast to Creighton, east of the Pennsylvania Turnpike</td>
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<td>PA 33/US 209</td>
<td>From US 22 near Wilson north to I-80 at interchange 46 near Soudsbury via US 209 at Sydnquanlne</td>
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<td>PA 422</td>
<td>From I-80 Interchange 1 southeast of Sharon south to including the New Castle Bypass</td>
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<td>From PA 51 west of Beaver Falls south to US 22, excluding the uncontrolled access segment near the Greater Pittsburgh International Airport</td>
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<td>PA 147</td>
<td>From I-80 interchange 31 near Milton north to US 220 at I-80 north of Adams Township</td>
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<td>PA 222</td>
<td>From US 107 northeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 21 near Adamstown</td>
</tr>
<tr>
<td>PA 263</td>
<td>From US 107 southeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 20 near Adams Township</td>
</tr>
<tr>
<td>PA 286</td>
<td>From junction of US 30 263 near the Pennsylvania Turnpike interchange 19</td>
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<tr>
<td>PA 286</td>
<td>Hamilton Expressway (LR 767) from I-83 west to US 11 near Camp Hill</td>
</tr>
<tr>
<td>PA 286</td>
<td>Airport Access Road (LR 1081 Spur A) from PA 283 south to the Harrisburg International Airport at Middletown</td>
</tr>
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<td>PA 286</td>
<td>Reading Outer Loop (LR 1095) from PA 183 near Lembo Lake northeast to US 222 near Tuckerton</td>
</tr>
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<td>US 6</td>
<td>From the Borough of Conneaut Lake east to just north of Mapville at the terminus of the North-South Bypass</td>
</tr>
<tr>
<td>US 11</td>
<td>From Pennsylvania Turnpike interchange 16 east to the western terminus of the Harrisburg Expressway near Camp Hill</td>
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<tr>
<td>US 20</td>
<td>From I-80 interchange 12 west to Pennsylvania Turnpike</td>
</tr>
<tr>
<td>US 30</td>
<td>Uncontrolled access segment of York Bypass from North Mills Road west to a point one mile north of the junction of PA 74</td>
</tr>
<tr>
<td>US 119</td>
<td>Uncontrolled access segment northeast of I-279 Uncontrolled to Pennsylvania Turnpike</td>
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<td>US 116</td>
<td>Uncontrolled access segment from the Pennsylvania Turnpike (I-76) Interchange 18 to the Greensburg Bypass</td>
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<td>From the PA-Delaware St. Line north to West Chester Bypass</td>
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<tr>
<td>US 322</td>
<td>From the junction of I-83 and I-283 east to the junction of US 422</td>
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<tr>
<td>US 422</td>
<td>From the junction of US 322 east to the junction of LR 139 at the west end of Harrisburg</td>
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<tr>
<td>PA 3</td>
<td>From West Chester Bypass (US 202) east to Garrett Road at Upper Darby</td>
</tr>
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<td>PA 42</td>
<td>From I-80 interchange 34 south to Bloomsburg at US 11</td>
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<td>PA 51</td>
<td>From US 119 near Uncounton north to the Monongahela River at Elizabeth</td>
</tr>
<tr>
<td>PA 54</td>
<td>From I-60 interchange 33 south to Danville at US 11</td>
</tr>
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<td>PA 60</td>
<td>Uncontrolled access segment in the vicinity of the Greater Pittsburgh International Airport</td>
</tr>
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<td>PA 61</td>
<td>From US 222 near Tuckerton north to I-78 interchange at Harrisburg</td>
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<td>PA 93</td>
<td>From I-61 interchange 41 east and south to US 924 at west end of Hazleton</td>
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<td>PA 924</td>
<td>From the junction of US 93 west to I-81 interchange 40 near Hazleton</td>
</tr>
<tr>
<td>PA 100</td>
<td>From I-11 north Pennsylvania Turnpike entrance Downingtown to US 202 near West Chester</td>
</tr>
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## VERMONT

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<tbody>
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<td>I-91 Interchange 3 north of Brattleboro, VT 70 near Rutland City, VT 100 near Rutland Center, VT 107</td>
</tr>
<tr>
<td>VT 100</td>
<td>VT 100 I-91 south of Brattleboro, VT 70 near Rutland City, VT 100 near Rutland Center, VT 107</td>
</tr>
</tbody>
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| BILLING CODE | 4910-22-M |

[DR Doc: 83-26806 Filed 8-30-83, 9:47 am]
### CFR Parts Affected During August

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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List of Public Laws

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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 (phone 202-786-3001).


S. 1797/Public. L. 98-81 To name the United States Post Office Building to be constructed in Fort Worth, Texas, as the "Jack D. Watson Post Office Building". (Aug. 23, 1983; 97 Stat. 475) Price: $1.50


S.J. Res. 98/Public. L. 98-83 To designate October 2 through October 9, 1983, as "National Housing Week". (Aug. 23, 1983; 97 Stat. 489) Price: $1.50


