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Wednesday
August 31, 1983

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Air Pollution Control
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
Agricultural Marketing Service

Motor Carriers
Federal Highway Administration

Pesticides and Pests
Environmental Protection Agency

Radiation Protection
Environmental Protection Agency

Reporting and Recordkeeping Requirements
Federal Aviation Administration

Tobacco
Agricultural Stabilization and Conservation Service

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

[Amdt. 5]

Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder, Cigar-Filler and Binder—1982-1983 Average Market Price and 1983-1984 Penalty Rate

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 tobaccos 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:

AVERAGE MARKET PRICE

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

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

RATE OF PENALTY

Kinds of tobacco	Cents per pound
Fire-cured (type 21)	88
Fire-cured (types 22, 23, and 24)	117
Dark air-cured	92
Virginia sun-cured	80
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	76
Cigar-binder (types 51 and 52)	136

(Sec. 314 of the Agricultural Adjustment Act of 1983, as amended, (7 U.S.C. 1314))

Signed at Washington, D.C. on August 25, 1983.

Everett Rank,

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; Amdt. 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 preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). 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:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (in.) (4)
*	*	*	*
Oranges:			
Valencia and other late type.	8/25/83-10/2/83, on and after 10/3/83	U.S. No. 2 Russet, U.S. No. 1	2-8/16, 2-8/16
*	*	*	*

(b) * * *

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (in.) (4)
*	*	*	*
Oranges:			
Valencia and other late type.	8/25/83-10/2/83, on and after 10/3/83	U.S. No. 2 Russet, U.S. No. 1	2-4/16, 2-4/16
*	*	*	*

* * * * *

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

Dated: August 26, 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 using 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

14 CFR part or section indentified and described	Current OMB control No.
Part 21	2120–0018
Part 39	2120–0056
Part 43	2120–0020
§§ 47.3, 47.5	2120–0029
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§ 159.93	2120–0084
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§§ 183.15 thru 183.17	2120–0033
§§ 183–25 thru 183.31	2120–0035
Part 199	2120–0081
SFAR 44–5 Appendix	2120–0502

(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 4910–13–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.

ACTION: Final rule.

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 unrecoverable spins. The AD will prevent an operator from entering an intentional spin that may develop an unrecoverable 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 67209; Telephone (316) 269-7012.

SUPPPLEMENTARY 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 that 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 Beech and the FAA. 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 take AD action 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 spin in a steep nose-down attitude and with slowly increasing airspeed. It is entered by the use of normal spin entry techniques and maintained by the pro-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 on 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 certification program, but the information that is available to the FAA at this time indicates that it was encountered in each of the unrecoverable 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 pro-spin controls inputs are maintained. Transition into this mode is marked by a shallowing of the nose-down spining 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 $257,839 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-25) and Model F33C (Serial Numbers CJ-26 through CJ-155) airplanes certificated 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-26 through CJ-38 and CJ-40 through CJ-51 airplanes) or 33-4002-1 (F33C Serial Number 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:

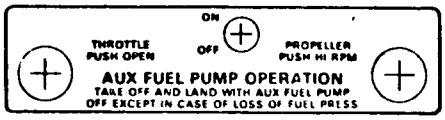
1. Place a copy of this AD in the limitations section of the Pilot's Operating Manual and FAA Approved Flight Manual.

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 4140-00-191 (E33C Serial Numbers CJ-1 through CJ-25 and F33C Serial Numbers CJ-26 through CJ-148 airplanes) or P/N 1297-00-1 (F33C Serial Numbers CJ-149 through CJ-155 airplanes) at a point near the pump motor housing. Cap and stow these leads per AC 43-13.

4. Replace the existing 3-position fuel boost pump switch P/N 35-380053-27 with 2-position switch P/N 35-380053-21, restoring electrical connections for correct operation of the auxiliary fuel boost pump P/N 4140-00-39 (E33C Serial Numbers CJ-1 through CJ-25 and F33C Serial Numbers CJ-26 through CJ-148 airplanes) or P/N 1296-00-1 (F33C Serial Numbers CJ-149 through CJ-155 airplanes). Cap and stow the unused electrical lead per AC 43-13. Secure knob P/N 96-384050-9 to the installed switch with LOCTITE 222 or equivalent bonding agent.

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 33-590003-7 Pilot's Operating Handbook and FAA Approved Airplane Flight Manual:

(i) On the cover page, the words "ACROBATIC See Flight Manual Supplement" after "E33C".

(ii) On page 9-3, "33-590006-17 Acrobatic Bonanza E33C."

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 5-8, all information pertaining to F33C Acrobatic Category limits.

(2) On page 8-1, "Pilot's Operating Manual Acrobatic Supplement P/N 33-590006-9."

(3) On Page 8-3, "33-590006-11 Acrobatic Supplement for the F33C 11/3/72."

(B) Remove P/N 33-590006-9 Pilot's Operating Manual Supplement or

12. In P/N 33-590009-15A1 Pilot's Operating Handbook and FAA Approved Airplane Flight Manual:

(i) Obliterate the following:

(A) On the cover page, the word "Acrobatic" after F33C and the words "See Flight Manual Supplement" after CJ-128.

(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.

(D) On page 9-3, "33-590006-11 Acrobatic Supplement for the F33C, Rev. No. 2/11/77."

(ii) Remove pages 6-17 and 6-18.

13. On model F33C (Serial Numbers CJ-129 through CJ-155) airplanes, obliterate from P/N 33-590009-13A3 Pilot's Operating Handbook and FAA Approved Airplane Flight Manual the following:

(i) On page 6-10, all information pertaining to F33C Acrobatic Category limits.

(ii) On cover page: The word "Acrobatic" before F33C and the words "(See Flight Manual Supplement)" after "CJ-129 and after."

(iii) On page 9-3, "33-590006-13 Acrobatic Supplement for the F33C Rev. No. 2/9/78."

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.

This amendment becomes effective October 1, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449 January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation only involves 29 airplanes on the U.S. Registry. The total one time cost of complying with the AD is $257,839. Therefore, I certify that this action (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) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

Issued in Kansas City, Missouri on August 17, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-23679 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-62-AD; Amdt. 39-4720]

Airworthiness Directives; Piper Models PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P) and PA-60-602P (Aerostar 602P) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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, 601 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 all operations and limits the aft CG to 166.0 inches. Subsequent to the issuance of this AD, additional data became available to the FAA which showed that when an aft CG limit of 163.0 inches is used, the airplane is controllable during power on stalls with wing flaps extended. Therefore, the FAA is revising AD 83-14-07 by adding an alternate means of compliance which limits the aft CG to 163.0 inches and does not include the prohibition on use of flaps. This amendment provides an option which may be used at the operator's discretion. It imposes no additional burden on any person and is relieving in nature. Therefore, notice and public procedure hereon are unnecessary and not in public interest and good cause exists for making this Amendment effective in less than 30 days.

List of Subjects of 14 CFR 39

Aviation Safety, Aircraft.

Adoption to the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 83-14-07, Amendment 39-4686, (48 FR 32553, 32554) § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is revised as follows:

(1) Redesignate existing paragraph (b) and subparagraph (1) under paragraph (a).

(2) Add the word "or" following the new subparagraph (a)(1).

(3) Add a new paragraph (b) which reads as follows:

(b) Revise the aft CG limit in the Limitation Section of the applicable Airplane Flight Manual (AFM) or Pilot's Operating Handbook (POH) by obliterating or marking overall existing aft CG limitations numbers and inserting 163.0 inches.

This amendment becomes effective on August 31, 1983.

(Secs 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449 January 12,, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any persons. Therefore, (1) it is not a major rule under Executive Order 12291, and (2) it is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it 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.

[FR Doc 83-24030 Filed 8-29-83; 2:54 pm]

BILLING CODE 4910-13-M

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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 Airway 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.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

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]

V-83 [Amended]

By deleting the words ", including an E alternative INT Roswell 335° and Corona 124° radials, 85 MSL Corona"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(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.

[FR Doc. 83-23854 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-13-M

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.

ADDRESS: Written comments on the two lists and requests for single copies of the advisory opinions to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

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 (address above).

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.

[FR Doc. 83-23848 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

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

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

AGENCY: Enviromental 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 29889), 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 (PP 6E1837) and Florida (PP 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 benomyl (methyl 1-[butylcarbamoyl]-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) 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 sougth.

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

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

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

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 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Currants	7.0
* * * * *	
Papayas	3.0
* * * * *	

[FR Doc. 83-23755 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

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

Tolerances and Exemptions From 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, 1921 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 16962, 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 6, 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, 94 Stat. 1164. 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346(a)(d)(2)))

List of Subjects in 40 CFR Part 180

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

Dated: August 19, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by (1) increasing the established tolerances for almonds and almond hulls and (2) adding, and alphabetically inserting, the commodity walnuts to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Almonds	0.2
Almond, hulls	12.0
* * * * *	
Walnuts	0.2
* * * * *	

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

BILLING CODE 6560-50-M

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 33298, 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

[WASH-03047, OR-22052 (WASH), OR-22058 (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 34268, in the issue of Thursday, July 28, 1983, on page 34269, in the first column, under "T. 9 N., R. 27 E.," in Sec. 28, the second line should read "and N½S½S½NW¼."

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 inivites 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, and authorized five years of 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 regulations. 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 to regulate highway commerce between the States was 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. 93-633, 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 State adoption of 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 employ 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 commerical 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.

f. *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-aside 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

document will also receive consideration for inclusion in any revision to this interim final rule.

g. *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) Provisions 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).

h. *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.

i. *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.

j. *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 grant application forms, administrative requirements for the Federal grants, technical advisories on program activities, payment procedures, and other procedural counselling is available at the FHWA division offices located in each State. To be considered for grants during FY 1984, State plans must be received within 60 days of the publication of the interim final rule.

The FHWA has determined that this action does not contain a major rule under the Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. However, the importance of this

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.
350.3 Definitions.
350.5 Policy.
350.7 Objective.
350.9 Conditions for grant approval.
350.11 Maintenance of effort.
350.13 Distribution of funds.
350.15 Certification by State.
350.17 State Enforcement Plan (SEP).
350.19 Acceptance of SEP.
350.21 Effect of failure to submit a satisfactory SEP.
350.23 Procedure for withdrawal of approval.
350.25 Eligible costs.

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

Authority: Sec. 401–404, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2154, 49 U.S.C. 2301–2304; 49 CFR 1.48, and 301.60.

§ 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 inplementation 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 adopt, and to assume responsibility for enforcing the Federal Motor Carrier Safety Regulations (49 CFR Parts 386 and 388 through 399 except as may be determined by the Administrator to be inapplicable to a State enforcement program) including highway related portions of the Federal Hazardous Materials Regulations (49 CFR Parts 107, 171–173, 177 and 178) (hereinafter jointly referred to as the FMCSR) or compatible State rules, regulations, standards and orders applicable to motor carrier safety, including highway transportation of hazardous materials (hereinafter referred to as State Motor Carrier Safety Regulations (SMCSR)).

(b) Grants are approved for a period of one year upon annual application by a State. Each State shall submit a State Enforcement Plan (SEP) for the conduct of an effective safety program. Such plan, upon acceptance by the FHWA, will serve as the basis for evaluating performance by the State under the grant, and will be updated as necessary in applications for renewals in following years.

(c) The SEP shall designate the State motor carrier safety agency responsible for administering the plan for the State.

(d) The designated motor carrier safety agency and other agencies named to perform functions under the plan shall have the legal authority, resources and qualified personnel necessary to enforce the FMCSR or SMCSR, at the time the State implements the approved SEP.

(e) The State shall dedicate adequate funds for the administration of the SEP and the enforcement of the FMCSR or SMCSR.

(f) State laws shall provide for right of entry and inspection by State personnel sufficient to enforce the FMCSR or SMCSR, and to perform the activities detailed in the SEP.

(g) All reports required in connection with the SEP or other conditions of the grant shall be submitted to the designated State agency and shall be made available to the FHWA upon request.

(h) The designated State agency shall agree to adopt such uniform reporting requirements and use such uniform forms to record work activities performed under the SEP as may be established and required by the FHWA.

(i) The State shall require that registrants of commercial motor vehicles declare, at the time of registration, knowledge of the FMCSR or SMCSR, as applicable.

(j) The statutory authority of the State to regulate motor carriers shall extend to private carriers as well as for-hire carriers.

(k) *Exception.* The above conditions do not apply for development grants.

§ 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.

§ 350.13 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 allocated 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).

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.

(c) 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.

(d) For imlementation purposes, the allocation formula shall be adjusted so that no State shall be allocated less than $75,000 nor 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.

§ 350.17 State Enforcement Plan (SEP).

(a) The State shall submit its proposed SEP or update thereof to the FHWA division office on or before August 1 of each year.

(b) The SEP 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:

(i) 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 the results of the evaluation, and of any needed changes either in the plan itself or in its implementation.

§ 350.21 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 data base 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) ————, (title) ————, on behalf of the State of ———, as requested by the Federal Highway Administrator as a condition of approval of a grant under the authority of Sec. 402 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424), 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; and 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

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 of results, where possible, or at least of effort. Ideally, the objectives should include a measureable 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 carriages;
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 effectiveness 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 [1]

State	Amount
Alabama	$176,147
Alaska	75,000
Arizona	126,920
Arkansas	125,425
California	843,854
Colorado	126,920
Connecticut	75,000
Delaware	75,000
Dist. of Col.	75,000
Florida	369,820
Georgia	280,362
Guam	75,000
Hawaii	75,000
Idaho	75,000
Illinois	400,254
Indiana	270,217
Iowa	169,692
Kansas	179,838
Kentucky	161,393
Louisiana	161,393
Maine	75,000
Marianas	75,000
Maryland	140,118
Massachusetts	154,014
Michigan	314,485
Minnesota	216,727
Mississippi	112,514
Missouri	237,939
Montana	75,000
Nebraska	118,970
Nevada	75,000
New Hampshire	75,000
New Jersey	224,000
New Mexico	75,000
New York	394,720
North Carolina	242,550
North Dakota	88,535
Ohio	392,876
Oklahoma	190,905
Oregon	158,626
Pennsylvania	390,109
Puerto Rico	75,000
Rhode Island	75,000
Samoa	75,000
South Carolina	130,036
South Dakota	75,000
Tennessee	193,671
Texas	675,082
Utah	75,000
Vermont	75,000
Virgin Islands	75,000
Virginia	201,049
Washington	176,149
West Virginia	75,000
Wisconsin	200,127
Wyoming	75,000

[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 three in FY 1984 and a factor of 1.5 in FY 1985 up to the maximum of $1,250,000. (See § 350.13(e).)

The allocation figures above make no provision for States requesting development funds. These 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. 83-24059 Filed 8-30-83; 8:45 am]

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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 species 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 disapproval of the related specifications of optimum yield and expected domestic annual harvest. The Regional Director has advised the Council of this partial disapproval and provided recommendations to the Council that would conform the measure to the requirements of applicable law. The Council's reconsideration of the measure and action on the Regional Director's recommendations may result in amendment to this final rule.

A proposed rulemaking was published on June 10, 1983, (48 FR 26483), initiating a 45-day comment period which ended July 25, 1983. The proposed rulemaking contained information on the snapper-grouper fishery, its economic value, 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 limited fishery data) and the management measures to resolve them were also discussed in detail.

In the proposed rulemaking, § 646.5, Gear identification, was reserved. This section is also being reserved in this final rule, pending development of a region-wide identification system.

Comments and Responses

Fourteen comments were received on the proposed rule, addressing 17 issues. Responses are grouped by general categories.

Prevention of overfishing

Several commenters stated that the regulations would not prevent overfishing. According to the FMP, there is no evidence that any species in the fishery is currently experiencing recruitment overfishing (i.e., insufficient spawning to maintain the stock). 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 regulations 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 × 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

overfishing. The Council has, however, listed studies on the effect of mesh size on size and 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 degrdable 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. The vast majority of buoy 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 § 646.6 (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 303(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 § 646.6(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 §§ 646.6(g) and 646.21(c).

In addition, FDNR contends that allowing fish traps in the FCZ will create an enforcement 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 (§§ 646.6(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 69 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 (q) are redesignated (i) 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/costs ratios depending on the assumed per pound value of the fish to commercial and recreational fishermen:

Assumed per pound value	Benefit/cost ratio
$0.75	$15,539,462/$4,085,128=3.80
1.00	20,719,283/$4,085,128=5.07
1.25	25,899,104/$4,085,128=6.34
1.50	31,078,925/$4,085,128=7.61

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:

(a) Any person so designated by the Center Director; or

(b) Any person so designated by the head of any Federal or State agency which has entered into an agreement with the Secretary to collect fishery data.

Center Director means the Center Director or a designee, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305-361-5761.

Commercial fisherman means a person who sells, trades, or barters any part of his or her catch of fish.

Dealer means the person who first receives by way of purchase, barter, or trade fish from a commercial fisherman.

Fish in the snapper-grouper species means the following species;

Snappers Lutjanidae

Black snapper—*Apsilus dentatus*
Queen snapper—*Etelis oculatus*
Mutton snapper—*Lutjanus analis*
Schoolmaster—*Lutjanus apodus*
Blackfin snapper—*Lutjanus buccanella*
Red snapper—*Lutjanus campechanus*
Cubera snapper—*Lutjanus cyanopterus*
Gray snapper—*Lutjanus griseus*
Mahogan snapper—*Lutjanus mahogoni*
Dog snapper—*Lutjanus jocu*
Lane snapper—*Lutjanus synagris*
Silk snapper—*Lutjanus vivanus*
Yellowtail snapper—*Ocyurus chrysurus*
Vermilion snapper—*Rhomboplites aurorubens*

Sea Basses—Serranidae

Bank sea bass—*Centropristis ocyurus*
Rock sea bass—*Centropristis philadelphica*
Black sea bass—*Centropristis striata*

Groupers—Serranidae

Rock hind—*Epinephelus adscensionis*
Graysby—*Epinephelus cruentatus*
Speckled hind—*Epinephelus drummondhayi*
Yellowedge grouper—*Epinephelus flavolimbatus*
Coney—*Epinephelus fulvus*
Red hind—*Epinephelus guttatus*
Jewfish—*Epinephelus itajara*
Red grouper—*Epinephelus morio*
Misty grouper—*Epinephelus mystacinus*
Warsaw grouper—*Epinephelus nigritus*
Snowy grouper—*Epinephelus niveatus*
Nassau grouper—*Epinephelus striatus*
Black grouper—*Mycteroperca bonaci*
Yellowmouth grouper—*Mycteroperca interstitialis*
Gag—*Mycteroperca microlepis*
Scamp—*Mycteroperca phenax*
Tiger grouper—*Mycteroperca tigris*
Yellowfin grouper—*Mycteroperca venenosa*

Porgies—Sparidae

Sheepshead—*Archosargus probatocephalus*
Grass porgy—*Calamus arctifrons*
Jolthead porgy—*Calamus bajonado*
Saucereye porgy—*Calamus calamus*
Whitebone porgy—*Calamus leucosteus*
Knobbed porgy—*Calamus nodosus*
Red porgy—*Pagrus pagrus*
Longspine porgy—*Stenotomus caprinus*
Scup—*Stenotomus chrysops*

Grunts—Haemulidae

Black margate—*Anisotremus surinamensis*
Porkfish—*Anisotremus virginicus*
Margate—*Haemulon album*
Tomtate—*Haemulon aurolineatum*
Smallmouth grunt—*Haemulon chrysargyreum*
French grunt—*Haemulon flavolineatum*
Spanish grunt—*Haemulon macrostomum*
Cottonwick—*Haemulon melanurum*
Sailors choice—*Haemulon parrai*
White grunt—*Haemulon plumieri*
Blue stripe grunt—*Haemulon sciurus*

Tilefishes—Malacanthidae

Blueline tilefish—*Caulolatilus microps*
Tilefish (Golden)—*Lopholatilus chamaeleonticeps*
Sand tilefish—*Malacanthus plumieri*

Triggerfishes—Balistidae

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

Wrasses—Labridae

Hogfish—*Lachnolaimus maximus*
Puddingwife—*Halichoeres radiatus*

Jacks—Carangidae

Yellow jack—*Caranx bartholomaei*
Blue runner—*Caranx crysos*
Crevalle jack—*Caranx hippos*
Bar Jack—*Caranx ruber*
Greater amber jack—*Seriola dumerili*
Almaco jack—*Seriola rivoliana*

Fish trap means any trap and the component parts thereof used for or capable of taking finfish, 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; or

(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.

Magnuson 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 Viriginia/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 furthermost tip 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 fish 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

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.)* and used exclusively for pleasure.

§ 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. 410gg);

(4) Gray's Reef National Marine Sanctuary (15 CFR Part 938); and

(5) Monitor Marine Sanctuary (15 CFR Part 924).

§ 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 during the hours specified in § 646.20;

(c) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another persons's 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(a)(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 fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(l) Forcibly to assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (k) of this section;

(m) Resist a lawful arrest for any act prohibited by this part;

(n) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(o) 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.

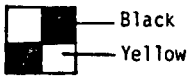
§ 646.7 Facilitation of enforcement.

(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-short (· — · ·); and the code Flag "L" is a square yellow and black flag shown as follows:



(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 illumination 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 fishing vessel found to be 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), the 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) (1) 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.

[FR Doc. 83-23950 Filed 8-27-83; 11:00 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 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 discretionary authority 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.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

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, Agricutural 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. 601 *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 respond 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 298 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.

Signed at Washington, D.C. on August 29, 1983.

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 1952

[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 18(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 reopens 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, NW., 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, NW., 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 18(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 18(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 on the Virgin Island's 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 64 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 35 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 82 private sector supervisors and employees.

Consistent with earlier data derived from the 1980 BLS survey and included in the 18(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 18(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:

U.S. Department of Labor, Occupational Safety and Health Administration, Docket Office, Room S-6212, Docket No. T-2, 200 Constitution Avenue, NW., Washington, D.C. 20210

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. Court House and Fedral Office Building, Carlos Chardon Avenue, Room 555, Hato Rey, Purto Rico 00918

Office of the Commissoner, 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 18(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.

[FR Doc. 83-23859 Filed 8-30-83; 8:45 am]

BILLING CODE 4510-26-M

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 110, Section 172(b)(6), Section 173, Section 161, and Section 123 of the Act.

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

ADDRESSES: Comments should be addressed to Mary C. Carter, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission are available for inspection during normal business hours at the above address and at the following location: Nebraska Department of Environmental Control, Air Pollution Control Division, Box 94877, Statehouse Station, 301 Centennial Mall South, Lincoln, Nebraska 68509.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791, FTS 758-3791.

SUPPLEMENTARY INFORMATION: On March 25, 1983, the Nebraska Environmental Control Council adopted revisions to the SIP to comply with the new source review and stack height requirements of the Act. These rules were submitted by the Governor of Nebraska on May 23, 1983 as a revision to the Nebraska SIP. The Submission is comprised of amendments to the following state regulations: Rule 4, "New and Complex Sources; Standards of Performance, Application for Permit, When Required," and Rule 1, "Definitions;" and two new regulations: Rule 4.01, "Prevention of Significant Deterioration of Air Quality," and Rule 3A, "Stack Heights; Good Engineering Practice (GEP)." The proposed amendments and new regulations were heard at public hearing on March 25, 1983.

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 attaining 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. Consequently, the state proceeded to make the necessary changes. Meanwhile, on August 7, 1980, EPA published regulatory changes affecting

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 6, 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 § 51.1(ii)(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 § 51.1(ii) (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 46 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 Kay,

Regional Administrator.

[FR Doc. 83-23871 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 6E1794/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 methanidophos 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 Interregional 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 Stubbs (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 insecticed methamidophos (*O,S*-dimethyl phosphoramidothioate) 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 (7H5162) 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 (LD_{50}) rat study; acute dermal LD_{50} 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 chlolinesterase inhibition; a 90-day rat-feeding study with a cholinesteranse 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 27932-27954), 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 dipterious leafminers infesting growing celery in Florida. Comments must bear a notation indicating the document control number (PP 6E1794/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 8 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 (46 FR 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and 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.

* * * * *

Commodities	Parts per million
* * * * *	
Celery	1
* * * * *	

[FR Doc. 83-23312 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-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,

Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick NJ 08903, has submitted pesticide petition 3E2853 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of New Jersey and the New Jersey Department of Agriculture.

This petition requested that the Administrator, pursuant to section 403(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of inorganic bromides, resulting from postharvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity blueberries at 20 parts per million (ppm).

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 three studies (using inorganic bromide only) which have been classified as supplemental; a 20-month rat feeding study with a no-observed-effect level (NOEL) of 235 ppm (11.75 mg/kg); a 52-week rabbit feeding study with a NOEL of 90 ppm (2.7 mg/kg); and a 1-year dog feeding study with a NOEL of 2,900 ppm (72.5 mg/kg). Also considered were long-term clinical studies of inorganic bromides in man, deemed highly significant and of sufficient quality to support tolerances in raw agricultural commodities. Agricultural tolerances for residues of inorganic bromides resulting from postharvest commodity fumigation with methyl bromide have previously been established on various commodities at levels ranging from 5 ppm to 240 ppm.

The acceptable daily intake (ADI), based on studies of systemic effects in humans and using a 10-fold safety factor, is calculated to be 60 mg/kg of body weight (bw)/day, calculated as the bromide ion. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3,600 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is currently estimated to be 125 mg/day. 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 3E2853/P305]. 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. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and 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.

* * * * *

Commodities	Parts per million
* * * * *	
Blueberries	20.0
* * * * *	

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

BILLING CODE 6560-50-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.

SUMMARY: On June 9, 1983 EPA published a Notice of Proposed Rulemaking (NPRM) entitled Revisions to Improve Fuel Economy Labeling and the Fuel Economy Data Base (48 FR 26698). The NPRM established September 1, 1983 as the closing date for the comments 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.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford D. Tyree, Certification Division, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313-668-4310.

Dated: August 26, 1983.

Richard Wilson,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-23869 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SEVICES

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 26676, 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., 20201, 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 eror 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 States' requests 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)(E) 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 Supplementary 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 apply only 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) was ineligible 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 medical 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 these 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 error 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 may present 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 criteria.

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)(1)(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 1(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

amount of $22 million in FY 1984 and $20 million in FY 1985. These estimates reflect the product of the difference between the 3-percent national standard and the adjusted error rate, and the amount of the Federal share of the medical assistance expenditures, for those States that we anticipate would exceed the 3-percent level. We would make prospective adjustments to quarterly grant estimates of States that exceed the 3-percent level.

As the estimates are below the $100 million threshold, and as it is the statutory provisions and not these proposed regulations that would result in the program savings, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These proposed regulations would implement congressionally mandated tolerance levels for erroneous payments in the Medicaid program. The proposed regulations affect only State Medicaid agencies, which do not fall into the category of small governmental jurisdictions as defined by Pub. L. 96–354. However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provisions and not these proposed regulations which merely implement the provisions. Therefore, a regulatory flexibility analysis is not required.

IV. Other Reqired Information

A. Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this proposed rule that are received by the date specified in the "DATES" section.

List of Subjects in 42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepared health plans, Privacy, Quality control, and Reporting and recordkeeping requirement.

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* * * *

(2) *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 Mariana 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 Mariana Islands and American Samoa must follow the rules and procedures specified in § 431.804.

* * * * *

3. Section 431.803 is amended by revising the title, and paragraph (a)(2), the definition of "State payment error rate" in paragraph (b), and paragraphs (c)(1) and (e)(1) as follows.

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

(a) *Purpose and applicability.* * * *

(2) *Applicability.* This section will apply to all States except Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa for the period of April 1983–September 1983.

(b) *Definition* * * *

"State payment error rate" means the ratio of erroneous payments for medical assistance detected under the MQC system for the period April-September 1983 to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for the same period.

* * * * *

(c) *Setting the State's payment error rate.* (1) A payment error rate for each State is determined by HCFA for the period April–September 1983 by computing the ratio of erroneous payments for medical assistance to total expenditures for medical assistance for that State under its State plan in effect at the time of review. This ratio incorporates the findings of a federally re-reviewed subsample of the State's rereview findings.

* * * * *

(e) *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.,800.

(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 Scurity Income beneficiaries in section 1634 contract States) for the same period.

"Technical error" means errors in eligibility conditions that, if corrected, would not result in a difference in the amount of medical assistance paid; that is, Work Incentive Program requirements, assignment of social security numbers, the requirement for a separate Medicaid application, monthly reporting requirements, and assignment of rights to third-party benefits as a condition of eligibility for Medicaid.

(c) *Setting of State's payment error rate.* (1) A payment error rate for each State is determined by HCFA for each annual assessment period by computing the ratio of erroneous payments for medical assistance to total expenditures for medical assistance for that State under its State plan in effect at the time of review. This ratio incorporates the findings of a federally re-reviewed subsample of the State's review findings.

(2) The State's payment error rate does not include payments made on behalf of individuals whose eligibility determinations were made exclusively by the Social Security Administration under an agreement under section 1634 of the Act.

(3) The amount of erroneous payments is determined as follows:

(i) For ineligible cases resulting from excess resources, the amount of error is the lesser of:

(A) The amount of the payments made on behalf of the family or individual for the review month; or

(B) The difference between the actual amount of countable resources of the family or individual for the review month and the State's applicable resource standard in the approved State plan.

(ii) For ineligible cases resulting from other than excess resources, the amount of error is the total amount of medical assistance payments made for the individual or family under review for the review month.

(iii) For erroneous payments resulting from failure 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; or

(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.

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

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

(5) 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:

(i) A special sample or audit;

(ii) The Federal subsample; or

(iii) Other arrangements as the Administrator may prescribe.

(6) 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 these determinations. HCFA may make these determinations either directly or under contractual or other arrangements.

(d) *Computation for disallowance of FFP.* (1) Each State must, for each annual assessment period, have a payment error rate no greater than 3 percent or be subject to a disallowance in FFP.

(2) Before the beginning of each quarter, HCFA will project the anticipated medical assistance payment error rate for each State for that quarter. The anticipated error rate is that reported for the most recent 6-month review period completed by HCFA and the State and adjusted for erroneous payments and technical errors. If a State fails to provide HCFA with information needed to project anticipated excess erroneous expenditures, HCFA will assign the State an error rate as prescribed in paragraph (c)(5) of this section.

(3) If the State believes that the anticipated payment error rate established in paragraph (d)(2) of this section is significantly unrepresentative of current experience, the State may submit statistically valid evidence, conforming to criteria established by the Administrator, which demonstrates with more recent data that the State's latest error rate is significantly below the error rate projected in paragraph (d)(2) of this section. The statistical evidence supplied by the State is subject to validation by the Administrator. This evidence must be submitted to the Administrator at least 40 days prior to the beginning of the quarter for which the projection is being made. If accepted by the Administrator, the error rate supported by State data will be used instead of the anticipated error rate determined under paragraph (d)(2) of this section.

(4) Based on the anticipated error rate established in paragraph (d)(2) or (d)(3) of this section, HCFA will reduce the State's estimate of its requirements for FFP for medical assistance for the quarter by the percentage by which the anticipated payment error rate exceeds the 3-percent national standard. This reduction will be applied against the State's total estimate of FFP for medical assistance expenditures prior to any other required reductions. The reduction will be noted on the State's grant award for the quarter and does not constitute a disallowance, and therefore is not appealable.

(5) After the end of each quarter, an adjustment to the reduction will be made based on the State's actual expenditures.

(6) After the actual payment error rate has been established for an assessment period, HCFA will compute the actual amount of the disallowance and adjust the FFP payable to each State based on the difference between the amount previously withheld for each quarter during the appropriate assessment period and the amount that should have been withheld based on the State's actual final error rate.

(7) HCFA will compute the amount to be withheld or disallowed as follows:

(i) Subtract the 3-percent national standard from the State's anticipated or actual payment error rate percentage.

(ii) If the difference is greater than zero, the Federal medical assistance funds for the period, excluding payments for those individuals whose eligibility for Medicaid was determined exclusively by the Social Security Administration under a section 1634 agreement, are multiplied by that percentage. This product is the amount of the disallowance or withholding.

(8) A State's payment error rate for an annual assessment period is the sum of the weighted average of the payment error rates in the two 6-month review

periods comprising the annual assessment period.

(9) The weights are established as the percent of the total annual payments that occur in each of the 6-month periods.

Example: Assume that the State has an anticipated payment error rate of 6 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 (6 percent −3 percent).

(ii) The State's initial grant award for the October-December 1983 quarter is reduced by $3,000 ($100,000×0.03).

(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.

(2) 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 adminstration; 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.

Approved: August 25, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23949 Filed 8-26-83; 4:50 pm]

BILLING CODE 4120-03-M

Notices

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 26, 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. 96–511 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.
VS–16–3, 16–25.
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.
7 CFR Part 230, Food Servcie Equipment Assistance Program—Recordkeeping.
On occasion.
State or local governments, non-profit institutions: 3,553 responses; 10,993 hours: not applicable under 3504(h).
Diane Marcantonio (703) 756–3600.

Marshall L. Dantzler,
Acting Department Clearance Officer.

[FR Doc. 83–23857 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 26, 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 0230, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1400, or the Dairyland Power Cooperative, P.O. Box 817, 2615 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

considered feasible because of additional environmental impacts and costs. Although some small floodplains are crossed, there is no practicable alternative which entirely avoids floodplains. No change in the flood handling capability of the area is anticipated. REA has determined that the proposed project is an acceptable alternative because it would avoid, to the extent practicable, cultural resources, important farmland, threatened and endangered species and critical habitat, wetlands, and floodplains.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: August 18, 1983.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 83-23912 Filed 8-30-83; 8:45 am]

BILLING CODE 3410-15-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: September 15 and 16, 1983.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington,

D.C. Type of Meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of Advisory Committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

September 15:

a.m. and p.m.: Compliance

September 16:

a.m.: Compliance

Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. 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. 83-23677 Filed 8-30-83; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

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: 376.

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

Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

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: CAB Form 205-A—Policies of Insurance For Aircraft Accident Bodily Injury and Property Damage Liability.

Agency Form Number: 205-A.

How often the Collection of Information must be filed: On occasion.

Who is asked or required to report: U.S. route, charter, all-cargo and commuter air carriers; and foreign scheduled and charter air carriers.

Estimate of number of annual responses: 1,140.

Estimate of number of annual hours needed to complete the collection of information: 570.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

August 23, 1983.

[FR Doc. 83-23898 Filed 8-30-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41453]

Midwest Express Airlines Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on September 22, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., August 26, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-23899 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 Treating) 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

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, NW., 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 91359;
2. Tim Eichenberg, California Coastal Commission, 631 Howard Street, San Francisco, CA 94105; and
3. William Grant, Minerals Management Service, Pacific OCS Region, 1340 W. 6th Street, Los Angeles, CA 90017.

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, 94105.
2. Office of Ocean and Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, Room 328A, Page 1 Building, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.
3. Minerals Management Service, Pacific OCS Region, Public Information Room, 1340 W. 6th Street, Los Angeles, CA 90017.
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 Resources 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. 23933 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.

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

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)

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

BILLING CODE 3510-08-M

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.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

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. The letter published below amends the letter of June 24, 1983 to include a level of restraint of 32,814 dozen for cotton apparel in Category 335.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 26, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of June 24, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements 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.[1]

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. 83–23927 Filed 8–30–83; 8:45 am]

BILLING CODE 3510–25–M

[1] The level of restraint has not been adjusted to account for any imports after June 30, 1983.

Announcing 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.

SUMMARY: In summary with the Paperwork Reduction Act of 1981 (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 collection of information in the form of a telephone survey of households about unreported residential fires.

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:

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

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.

Dated: August 26, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23881 Filed 8-30-83; 8:45 am]

BILLING CODE 6355-01-M

Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (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 addresse 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 26, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23880 Filed 8-30-83; 8:45 am]

BILLING CODE 6355-01-M

Chronic Hazard Advisory Panel on Asbestos; Report

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The final report of the Chronic Hazard Advisory Panel on Asbestos, dated July, 1983, has been submitted to, and is available from, the Commission.

For Copies of the Report Contact

Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492-6800. Single copies are available free of charge while the supply lasts.

SUPPLEMENTARY INFORMATION: The Chronic Hazard Advisory Panel on Asbestos was convened in January, 1983 to advise the Commission concerning the potential cancer hazard associated with the use of consumer products containing asbestos. The seven-member panel chosen from candidates selected by the National Academy of Sciences was asked to consider among other things, animal and epidemiologic data relating to the human carcinogenicity of asbestos, the effects of low level human exposure, chronic adverse health effects other than cancer, the significance of fiber type and size and the evidence to support an exposure level (threshold) below which there is no adverse human health effects

During the following six months the Panel met five times in open meetings, distributed a draft report for public comment and held a public meeting on June 20, 1983 to obtain comments on the draft report. Following the meeting the Panel met to revise its draft report to refelct the comments received. The final report to the Commission contains sections on the chemical and physical properties of asbestos, laboratory studies including fiber deposition and clearance, cancers of concern, health effects other than cancer and dose-response relationships. The report is now available to the public upon request.

Dated: August 26, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23883 Filed 8-30-83; 8:45 am]

BILLING CODE 6355-01-M

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:

Board members will review previous glycol labels in view of new information; they will also discuss prototype labels for (1) chromate, (2) pure chloroflurocarbons, 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 their requests by September 19, 1983, as described above, will be notified of the presiding officer's decision before the meeting.

Dated:August 26, 1983.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-23882 Filed 8-30-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 5-6 October 1983 at Night Vision and E-O Laboratory, Fort Belvoir, Virginia.

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.

[FR Do. 83-23928 Filed 8-30-83; 8:45 am]

BILLING CODE 3810-01-M

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 6 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 classifed 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.

[FR Do. 83-23929 Filed 8-30-83; 8:45 am]

BILLING CODE 3810-01-M

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.

[FR Doc. 83-23855 Filed 8-26-83; 2:30 p.m.]

BILLING CODE 6450-01-M

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

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 protestants 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. 83-23887 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2066-000]

J. Robert Causton; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, J. Robert Causton 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—Philadelphia Electric Power 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, NE., 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 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

[FR Doc 83-23891 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2065-000]

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—Philadelphia Electric Power 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, 823 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 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.

[FR Doc. 83-23889 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2063-000]

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—Philadelphia Electric Power 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, NE., 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 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.

[FR Doc. 83-23890 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2064-000]

William M. Lennox, Jr.; Application

August 26, 1983.

The filing individual submits the following:

Take notice that on August 22, 1983, William M. Lennox, Jr. 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—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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211, 385.214). All such motion 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 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.

[FR Doc. 83-23895 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-502-001]

Michigan Consolidated Gas Co., Interstate Storage Division; Amendment

August 25, 1983.

Take notic 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 or gas per day for, and receive a quantity of gas for compressor fuel equal to 0.6 percent of the daily quantities delivered. The transportation would be incidental to the storage of gas by ANR for Transcontinental Gas Pipe Line Corporation (Transco), it is explained.

MichCon states that on July 29, 1983, MichCon and ANR amended the transportation agreement between them to reflect recent changes in the storage agreement between ANR and Transco. Because of that amendment, MichCon is amending its application herein as follows:

(1) Because of the reduced pressure at which ANR would deliver the gas to MichCon for transportation, MichCon would retain for compressor fuel usage 1.36 percent, rather than 0.6 percent, of the quantities transported.

(2) Because of the increase in the fuel consumption referred to in (1) above, the maximum daily quantity of gas which MichCon would transport for ANR would be 146,910 Mcf, rather than 147,675 Mcf.

(3) The transportation service would begin on April 1, 1985, rather than April 1, 1984. MichCon indicates that though it is not at this time revising its charge for the transportation service to take into account this one-year delay, it may, pursuant to Section 8.4 of the transportation agreement, make an appropriate filing not later than six months prior to the new commencement date to reflect any difference in the cost of service from that projected in its application filed on August 20, 1982.

(4) If requested by ANR at the time of termination of the transportation service, MichCon would accept delivery of and redeliver pursuant to the terms, conditions and limitations of the transprotation agreement, for the account of the ultimate redelivery to, Transco, such quantities of the base gas (currently estimated to be 1,500,000 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 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-23893 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2062-000]

Kenneth A. Randall; Application

August 26, 1983.

The filing individual submits the following:

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

Director—Virginia Electric and Power Company

Director—Kemper Corporation

Director—Lumbermens Mutual Casualty 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 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 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.

[FR Doc. 83-23892 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-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(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 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.

[FR Doc. 83-23888 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

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

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 annual valuation is under consideration for the common carrier by pipeline listed below:

1979 Report

Valuation Docket No. PV-1463-000—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 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.

[FR Doc. 83-23896 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-387-000]

Small Power Production and Cogeneration Facilities; Paper Pak Products, Inc.; Application for Commission Certification of Qualifying Status

August 26, 1983.

On August 8, 1983, Paper Pak Products, Inc. (Applicant) of 1941 White Avenue, Box 398, La Verne, California 91750, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Applicant's paper mill in La Verne, California. Heat and steam, which are extracted from exhaust gases of a reciprocating engine, will be utilized in paper mill production processes. The primary energy source for the facility will be natural gas. The electrical power production capacity of the facility will be 1.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-23894 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3740-000, et al.]

Getty Oil Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

August 24, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 12, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-3740-000, D, Aug. 8, 1983	Getty Oil Co., P.O. Box 1404, Houston, Texas 77251	Tennessee Gas Pipeline Co., East Bay City Field, Matagorda County, Texas.	(1)	
G-4622-000, D, Aug. 5, 1983	Amoco Production Co., P.O. Box 1492, El Paso, Texas 79978.	El Paso Natural Gas Co., Levelland Plant, Hockley County, Texas.	(2)	
G-11762-002, D, Aug. 15, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Northern Natural Gas Co., Harper Ranch Field, Clark County, Kansas.	(3)	
G-20136-000, C, Aug. 15, 1983	Exxon Corp., P.O. Box 2180, Houston, Texas 77001	Transcontinental Gas Pipe Line Corp., San Miguel and Dilworth Fields, McMullen County, Texas.	(4)	14.65
CI61-1147-004, D, Aug. 15, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Co., Seiling, N.E. Field, Major County, Oklahoma.	(5)	
CI63-657-000, D, Aug. 5, 1983	Amoco Production Co., P.O. Box 1492, El Paso, Texas 79978.	El Paso Natural Gas Co., Levelland Plant, Hockley County, Texas.	(2)	
CI67-230-000, Aug. 5, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Northwest Central Pipeline Corp., K. L. Miller Lease, Grant County, Oklahoma.	(7)	
CI67-474-000, D, July 29, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Panhandle Eastern Pipe Line Co., Interstate Field, Hugoton-Anadarko Area.	(8)	
CI83-361-000 (CI60-497), B, Aug. 8, 1983.	Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.	Florida Gas Transmission Co., Palacios Field, Matagorda County, Texas.	(9)	
CI83-362-000 (CI71-364), B, Aug. 8, 1983.	Petroleum Inc., 800 R. H. Garvey Building, 300 West Douglas, Wichita, Kansas 67202.	Northern Natural Gas Co., N.W. Fargo Field—Jahay No. 1, All Sec. 16-23N-23W, Ellis County, Oklahoma.	(10)	
CI83-363-000 (CI70-693), B, Aug. 8, 1983.	do	Michigan Wisconsin Pipeline Co., Laverne Field, Piersall Unit, All Sec. 25 and all Sec. 26-1N-28ECM, Beaver County, Oklahoma.	(11)	
CI83-364-000 (CI67-513), B, Aug. 8, 1983.	do	Northern Natural Gas Co., Camrick Field—Beasley Unit No. 1, All Sec. 35-3N-17ECM, Texas County, Oklahoma.	(12)	
CI83-365-000 CI61-226), B, Aug. 8, 1983.	do	El Paso Natural Gas Co., Mocane-Laverne Field—Nelson Unit No. 1, All Sec. 7-2N-26ECM, Beaver County, Oklahoma.	(13)	
CI83-366-000 (G-5332), B, Aug. 8, 1983.	Getty Oil Co., P.O. Box 1404, Houston, Texas 77251	Tennessee Gas Pipeline Co., East Bay City Field, Matagorda County, Texas.	(14)	
CI83-367-000, A, Aug. 11, 1983	Tenneco Oil Co., P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Co., Ship Shoal Area Blocks 170 and 181 "B", Offshore Louisiana.	(15)	14.73
CI83-369-000, A, Aug. 12, 1983	Samedan Oil Corp., P.O. Box 909, Ardmore, Oklahoma 73402.	Trunkline Gas Co., Panhandle Eastern Pipe Line Co. and Transco Gas Supply Co., High Island Blocks A-365 and A-376, Offshore Texas.	(16)	14.73
CI83-370-000, A, Aug. 15, 1983	Tenneco Oil Co., P.O. Box 2511, Houston, Texas 77001.	Florida Gas Transmission Corp., Sabine Pass Block 18, Offshore Texas.	(17)	14.65
CI83-371-000, A, Aug. 15, 1983	TINCO, Ltd., P.O. Box 2511, Houston, Texas 77001	Creole Gas Pipeline Corp., Ship Shoal Area Block 170 Well No. 4 and 181 "B", Offshore Louisiana.	(18)	15.025
CI83-372-000, A, Aug. 15, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Creole Gas Pipeline Corp., Vermilion 122 and East Cameron 128—Offshore Louisiana. Eugene Island 215—Offshore Louisiana South Marsh Island Block 160—Offshore Louisiana South Marsh Island Block 236—Offshore Louisiana South Marsh Island Block 116—Offshore Louisiana Ship Shoal 170—Offshore Louisiana Ship Shoal 181—Offshore Louisiana Brazos Block A-22—Offshore Texas High Island Block A-270—Offshore Texas High Island Block A-416—Offshore Texas	(18)	14.65
CI83-368-000, B, Aug. 11, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Tennessee Gas Pipeline Co., Bully Camp Field, La-Fourche Parish, Louisiana.	(19)	
CI72-686-000, Aug. 16, 1983	Phillips Petroleum Co., 336 Home Savings and Loan Building, Bartlesville, Oklahoma 74004.	El Paso Natural Gas Co., Cabot Corp.'s Walton Plant, Winkler County, Texas.	(20)	
CI83-373-000, Aug. 15, 1983	Pelto Oil Co., Two Greenspoint Plaza, Suite 400, 16825 Northchase, Houston, Texas 77060.	Transcontinental Gas Pipe Line Corp., Vermilion Area Block 76 Field, Offshore Louisiana.	(21)	
CI83-374-000, A, Aug. 15, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221.	Texas Eastern Transmission Corp., West Cameron Block 648, Offshore Louisiana.	(22)	15.025
CI83-376-000, F, Aug. 16, 1983	ARCO Oil and Gas Co., Division of Atlantic Richfield Co. (partial successor to Conoco Inc.), P.O. Box 2819, Dallas, Texas 75221.	Texas Eastern Transmission Corp., High Island Block 110/111 Field, Offshore Texas.	(23)	14.65
CI83-377-000, F, Aug. 16, 1983	do	Texas Eastern Transmission Corp., High Island Blocks 110/111 Field, Offshore Texas.	(23)	14.65
CI83-378-000, A, Aug. 17, 1983	Getty Oil Co., P.O. Box 1404, Houston, Texas 77251	Texas Eastern Transmission Corp., Vermilion Block 146, Offshore Louisiana.	(24)	15.025
CI83-168-001, D, July 15, 1983	Cities Service Oil & Gas Corp., P.O. Box 300, Tulsa, Oklahoma 74102.	Tennessee Gas Pipeline Co., West Delta Block 56, Offshore Louisiana.	(25)	

(1) Acreage being abandoned has been released.
(2) Applicant is filing to temporarily abandon sales at the Levelland Plant to sell gas to the Slaughter Plant.
(3) Allowed lease to expire by its own terms March 31, 1980. Evaluation indicated no economical justification to retain this property.
(4) Applicant is filing to add interest in L. M. Gubbels #7 Well.
(5) The James Smith Unit #1 was plugged and abandoned September 21, 1970. Sun's interest was 80/621.44. Sun surrendered all leasehold rights effective September 21, 1970; future activity was not considered economically justifiable.
(6) Not used.
(7) Applicant is filing to add K. L. Miller Lease.
(8) Uneconomical.
(9) Gas reserves were depleted, the leases are no longer productive, and most of the walls have been plugged and abandoned. Acreage has subsequently been released to the lessors or assigned to others.
(10) Daily gas from well depleted to only 15 MDFD which was clearly noncommercial. Compressor not feasible due to low deliverability rate.
(11) Both compressor and pumping unit installed to remove fluids from well bore and assist well in delivering gas into purchaser's pipeline. Loss of $2,600 during preceding 3 months period. Daily sales depleted to less than 40 MCFD.
(12) Zone depleted to a point where it will not deliver any gas against a pipeline operating pressure of 60%. Plunger lift system was installed to remove excessive fluids in well bore. No other productive zones.
(13) Daily sales are 30 MCFD, plus 30 BWPD, which resulted in a net operating loss of $5,254 during preceding 3 months. A compressor was installed but no improvement in daily sales. Both Tonkawa and Lovell Sand zones depleted. No other productive zones present in well bore. Final analysis, zone watered out.
(14) Acreage dedicated under Rate Schedule 233 and Rate Schedule 13 is identical. The May 11, 1983 rollover contract encompassed the former "Skelly" interest and the former "Tidewater" interest, therefore rate Schedule 233 is being abandoned.
(15) Applicant is filing under Gas Purchase and Sales Agreement dated August 9, 1983.
(16) Applicant is filing under Gas Purchase Contracts dated April 27, 1983 and June 22, 1983.
(17) Applicant is filing under Gas Purchase Contract dated August 3, 1983.
(18) Applicant is filing under Gas Purchase and Sales Agreement dated August 12, 1983.
(19) The last well covered by the Contract and Rate Schedule has been plugged and service has ceased from acreage involved. Acreage has been released of record or expired of its own terms.
(20) Applicant is filing to reflect the correct delivery point to be Cabot Corporation's Walton Plant rather than Phillips' Winkler Plant.
(21) Applicant is filing under Gas Purchase Agreement dated October 25, 1981, and Ratification and Amendment to Gas Purchase Agreement dated June 9, 1983.

(22) Applicant is filing under Gas Purchase Contract dated July 27, 1983.
(23) Applicant acquired certain interests in High Island Blocks 110 and 111, Offshore Texas, from Conoco, Inc., under three instruments entitled "Assignment, Bill of Sale and Conveyance" dated effective as of January 1, 1983.
(24) Applicant is filing under Gas Purchase Contract dated August 2, 1983.
(25) OCS G-4678 was non-productive acreage and the lease expired on June 6, 1982.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-23647 Filed 8-30-83; 8:45 am]
BILLING CODE 6717-01-M

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 8 States and 42 quarantine exemptions initiated by the U.S. Department of Agriculture.

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. The following information applies to all contact people: By mail:

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 Commission of Agriculture and Horticulture for the use of metalaxyl on head lettuce to control downy mildew; June 1, 1983 to May 25, 1984. (Jack E. Housenger)

2. Arizona Commission of Agriculture and Horticulture for the use of methamidophos on pistachios to control leaf-footed plantbugs and lygus bugs; June 28, 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 triadimefon on caneberries to control powdery mildew; June 28, 1983 to December 31, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

6. California Department of Food and Agriculture for the use of methiocarb on crucifers grown for seed to repel birds (horned larks and linnets); June 14, 1983 to June 1, 1984. (Gene Asbury)

7. California Department of Food and Agriculture for the use of methamidophos on safflowers to control beet and yellow-striped armyworms and lygus bugs; July 1, 1983 to June 30, 1984. (Gene Asbury)

8. California Department of Food and Agriculture for the use of iprodione on grapes to control bunch rot; June 14, 1983 to December 1, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

9. California Department of Food and Agriculture for the use of triadimefon on sugar beets to control powdery mildew; July 5, 1983 to June 30, 1984. (Gene Asbury)

10. California Department of Food and Agriculture for the use of triadimefon on cucurbits to control powdery mildew; July 8, 1983 to June 30, 1984. (Gene Asbury)

11. California Department of Food and Agriculture for the use of oxytetracycline hydrochloride on sweet cherries to control western X-disease (buckskin); June 24, 1983 to October 1, 1983. (Gene Asbury)

12. California Department of Food and Agriculture for the use of metalaxyl on almond 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 cyromazine in poultry houses to control flies; June 21, 1983 to December 31, 1983. Kansas had initiated a crisis exemption for this use. (Jim Tompkins)

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. (Jack E. Housenger)

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 budmouths; 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 apple trees 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 16, 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. Tennesse 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 strychnine 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 chlorate 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 snails in ship holds or temporary enclosures.
3. Methyl bromide to control khapra beetles and snails 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 oak 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 hypochlorite to treat propagative plant parts and plant materials at inspection stations.
19. Captan and Zineb to treat seeds for plant diseases at designated inspection stations.
20. Copper sulfate to treat some seeds and dead plant material at designated inspection stations.
21. Copper carbonate to treat seeds, which can be completely coated, at inspection stations.
22. Zineb to treat certain plants infested with diseases at designated inspection stations.
23. Propoxur for use in insect traps.
24. Dichlorvos for use in gypsy moth and khapra beetle traps.
25. Naled for use in fruit fly traps.
26. Ethyl acetate for use in black-light insect 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 relesed from quarantine.
29. Sodium carbonate as a surface disinfectant in semen containers potentially exposed to certain animal diseases.
30. Sodium carbonate-sodium silicate mixture applied to aircraft surfaces potentially exposed to cetain animal diseases.
31. Sodium hypoclorite 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 not present.
36. 8-Hydroxyquinoline sulfate to treat plant diseases in citrus and other rutaceous seeds at inspection stations.
37. Sodium hypochlorite to treat propagative plant parts and plant materials at inspection stations.
38. Sodium carbonate as a surface disinfectant in semen containers 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. Dienochlor to control spider mites on propagative plants in quarantine.

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

Dated: August 11, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-23328 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.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

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. Warnick (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 at 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 siginificant 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 resassessed 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 exists 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 LC_{50} 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

Use site	Final decision
Mosquito Larvicide use.	Cancel, effective as of the end of the statutorily prescribed 30-day period.
All other uses	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 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 mid-forearm in length; a wide brimmed waterproof hat or waterproof 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 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".
WP and EC formulations for use on cotton.	In addition to the requirements for "All Uses", the following statement must appear in the "Use Directions" section of the label: "Do not apply to blooming cotton if bees are visiting the treatment area".
WP and EC formulations for use on field corn and/or sweet corn.	In addition to the requirements for "All Uses", the following statement must appear in the "Use Directions" section of the label: "Do not apply to corn during the pollen-shed period if bees are visiting the treatment area."
WP and EC formulations for use on store fruits, pone fruits, and citrus.	In addition to the requirements for "All Uses", the following statemtnt must appear in the "Use Directions" section of the label: "Do not apply when trees or a substantial number of weeds in the orchard/grove are in bloom".
All food uses	Reassess tolerances. Data necessary to reassess EPN tolerances is required.

TABLE 1— SUMMARY OF FINAL REGULATORY DECISION ON EPN—Continued

Use site	Final decision
Areas for further consideration.	Teratogenic effect; Oncogenic effect; Delayed neurotoxic effect; Reentry.

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 fo 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 due 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 164,000 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 were 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 1 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 LC_{50} 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 intakes 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 to WP and EC formulations only] Do not apply to blooming cotton 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:

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.

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 mechancial 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.

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.

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.

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.

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 standarized, 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:

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

(2) [applies only to WP and EC formulations labeled for use on stone fruits, pome fruits, and citrus]. Do not apply when trees or a substantial number of weeds in the orchard/grove are in bloom.

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.

I. 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 compeleted 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 and 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 6 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 LD_{50} 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 atropine 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 daily in 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 (1958) 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 insecticide and that exposure to it may cause OPIDN in humans together with other more subtle neurological impairment. The very low chronic dosages 0.1–5.0 mg/kg/day required to produce OPIDN in hens after oral or dermal exposure over relatively short periods of exposure (one to several months) indicate that EPN is a particularly hazardous delayed neurotoxin. It also has a relative high octanol/H_2O 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 this study were 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 (Wallerian 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 st 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 T_3 ataxia). It would appear, therefore, that the EPN NOEL should be set betwen 0.2 and 0.5 mg/kg/day on the basis of the leghorn assay. In tha 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 ft^2 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 Zoology, North Carolina State University]

12. *Appropriate Safety Factor.* Concern for an additional safety factor for delayed neurotoxicity seems unnecessary for the general populations and the occupationally exposed, provided protective clothing, respirators and goggles are label requirements for the later group. The special proviso for glaggers seems reasonable since historically this occupational subcategory is notoriously unprotected. [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 aout 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 pyrothroids, the major altenative 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 6560-50-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-31063] 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

1. File Symbol: 9402-G. Applicant: Kimberly Clark Corp., PO Box 999, Neenah, WI 54956. Product name: Kleenex™ Virucidal Tissues. Impregnated facial tissue. Active ingredients: Citric acid 10%, malic acid 5%, and sodium lauryl sulfate 2%. Proposed classification/Use: General. For a new virucidal use as a chemically impregnated dry facial tissue intended to inactivate viruses deposited on the tissue. Type registration: Conditional.

2. File Symbol: 50096-R. Applicant: Wipex Laboratories Corp., c/o U.S. Corporation Co., 306 South St., Dover Kent, DE 19901. Product name: Wipex. Disinfectant. Active ingredients: Polyhexamethylene bisquanide hydrochloride, (P.H.M.B.) 3.6% and Alkyl dimethyl benzyl ammonium chloride, C_{12} – C_{18} 8.9%. Proposed classification/Use: General. To include 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. Campt,

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-(diphenlyacetyl) -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 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. Filed 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: Mobay 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-(1*H*-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

[OPP-180629; PH-FRL 2423-7]

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 IMP 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-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, (703-557-1192).

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.

[FR Doc. 83-23759 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50587; PH-FRL 2425-5]

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 35899-EUP-A, proposes allowing the use of 10.0 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 document 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.

In person, bring comments to: Rm. 236, CM#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 16), 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#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. As explained more fully below, EPA is currently 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.**

Texas A and M University seeks an experimental use permit for use of Compound 1080 in single lethal dose baits. The proposed experimental program would involve use of 10 grams of Compound 1080 on 10,000 acres in Texas and would be designed to evaluate the hazards of Compound 1080 single lethal dose baits to certain species of non-target wildlife.

The Agency currently is conducting a proceeding to reconsider whether the 1972 order canceling and suspending the use of Compound 1080 as 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'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 heaing 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.

[FR Doc. 23864 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50602; PH-FRL 2425-4]

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 bear the document control number OPP-50604 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.

In person, bring comments to Rm. 236, CM#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) 16, 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#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. 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 packet 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 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 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.

[FR Doc. 83-23865 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50603; PH-FRL 2425-6]

United States Department of Agriculture; Receipt of Application for an Experimental Use Permit for Sodium Fluoroacetate (Compound 1080)

AGENCY: Evironmental Protection Agency (EPA).

ACTION: Notice.

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 .0009 pound of sodium fluroacetate (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 bear the document control number OPP-50603 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.

In person, bbring comments to: Rm. 236, CM#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 16), 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#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 expeimental use pemit 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 asessment 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. 819, 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

[OPP-50604; PH-FRL 2425-2]

United States Department of the Interior; 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 U.S. Department of the Interior's Fish and Wildlife Service. The experimental use permit, file symbol 6704-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 bear the document control number OPP-50604 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

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) 16, 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 all 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 experimetal 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 currently is 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 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. 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.

[FR Doc. 83-23887 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50606; PH-FRL 2425-3]

United States Department of the Interior; 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 the renewal for a year of an experimental use permit from the Fish and Wildlife Service, U.S. Department of the Interior. The request proposes that experimental use permit 6704-EUP-14 be renewed to allow the use of the remaining supply of the previously authorized 299 grams of sodium fluoroacetate (Compound 1080) in 800 toxic collars attached to sheep or goats to evaluate the control of coyotes in Idaho, Montana, Texas, and Utah. The Agency is soliciting comments on the request.

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

ADDRESS: Comments should bear the document control number OPP-50606 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.

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 H. Miller, Product Manager (PM 16), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

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. 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 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. 828 (7 U.S.C. 136c))

Dated: August 23, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–23866 Filed 8–30–83; 8:45 am]

BILLING CODE 6560–50–M

[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:

Name of applicant	Type of source	Location	Type of final action	Date of final action
International Business Machines Corp.	Installation of five emergency generators	Owego, New York	Final PSD permit	June 8, 1983.
375 Hudson Street Cogeneration Project.	New cogeneration facility	New York, New York	PSD applicability	June 2, 1983.
Gershow Recycling Center (Corporation).	New automobile shredding plant	Medford, New York	PSD non-applicability	July 12, 1983.
Consolidated Gas Supply Corp.	Turbine replacement at gas transmission peaking station.	Tompkins County, New York	PSD applicability	July 8, 1983.

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 Classification 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 Classification 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; (317-639-5611).

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 termiticides.
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.
8. Criteria for State monitoring program.
9. Proposals for fiscal year 1985 cooperative agreement guidance.
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 termiticides at less than label rate.
4. National Forest Products Association AAPCO resolution.
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 termiticide residues.
9. EPA review process for section 24(c) registrations.
10. Pesticide Incident Monitoring System (PIMS).
11. Participation by State lead agencies in EPA's electronic mail system.
12. Kirkpatrick section 18/24 survey.
13. Other topics as appropriate.

Dated: August 25, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-24007 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-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.

[FR Doc. 83-24081 Filed 8-30-83; 10:39 am]

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.

[FR Doc. 83-23847 Filed 8-30-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-34]

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.

[FR Doc. 83-23843 Filed 8-30-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-36]

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.

[FR Doc. 83-23844 Filed 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, 1987, 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.

[FR Doc. 83-23926 Filed 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.

ACTION: Notice.

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. Kustka, 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 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, nor of FDA under the Federal Food, Drug, and Cosmetic Act.

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 supersedes 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 classed "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-1).

Effective date. This Memorandum of Understanding became effective July 25, 1983.

Dated: August 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

Maine, Massachusetts, Vermont, New Hampshire, Connecticut, Rhode Island

Boston District Office: Director of Investigations (Currently Donald J. Johnson), Food and Drug Administration, 585 Commercial St., Boston, MA 02109, Telephone: 617-223-2266 (FTS: 223-2266).

New York City Area (including Westchester, Rockland, Nassua, Suffork, Richmond, Bronx, Kings, New York, and Queens Counties)

Brooklyn District Office: Director of Investigations (Currently Jerome G. Woyshner), Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, Telephone: 212-965-5709 (FTS: 633-5709).

New York State (excluding NYC Area)

Buffalo District Office: Director of Investigations (Currently Burton I. Love), Food and Drug Administration, 599 Delaware Ave., Buffalo. NY 14202, Telephone: 716-846-4467 (FTS: 437-4467).

New Jersey

Newark District Office: Director of Investigations (Currently Edward H. Wilkens), Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, Telephone: 201-645-6230 (FTS: 341-6230).

Puerto Rico, U.S. Virgin Islands

San Juan District Office: Director of Investigations (Currently Harry P. Lynch), Food and Drug Administration, Fernandez Juncos Ave., Stop 8½, Puerto de Tierra (P.O. Box S-4427), San Juan, Puerto Rico 00905, Telephone: FTS: 809-753-4495.

Pennsylvania, Delaware

Philadelphia District Office: Director of Investigations (Currently Paula J. Oliver), Food and Drug Administration, U.S. Customhouse, Rm. 900, 2d & Chestnut Sts., Philadelphia, PA 19106, Telephone: 215-597-4393 (FTS: 597-4393).

Virginia, West Virginia, Maryland, District of Columbia

Baltimore District Office: Director of Investigations (Currently Janice F. Oliver), Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21201, Telephone: 301-962-4099 (FTS: 922-4099).

Alabama, Georgia, South Carolina, North Carolina

Atlanta District Office: Director of Investigations (Currently Roger E. Kline), Food and Drug Administration, 880 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: 820-6281).

Tennessee, Mississippi, Kentucky

Nashville District Office: Director of Investigations (Currently Patrick J. Pouyar), Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, Telephone: 615-251-5851 (FTS: 852-5851).

Minnesota, Wisconsin

Minneapolis District Office: Director of Investigations (Currently John H. Scharmann), Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, Telephone: 612-725-2121 (FTS: 725-2121).

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, 1560 E. Jefferson Ave., Detroit, MI 48207, Telephone: 313-226-2259 (FTS: 226-2259).

Ohio

Cincinnati District Office: Director of Investigations (Currently James R. Dupre), Food and Drug Administration, 1141 Central Parkway, Cincinnati, OH 45202, Telephone: 513-684-3505 (FTS: 684-3505).

Arkansas, Louisiana

New Orleans District Office: Director of Investigations (Currently ——— ———),Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, Telephone: 504-589-6344 (FTS: 682-6344).

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: 214-767-0312 (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: 526-7530).

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 64106, Telephone: 816-374-5623 (FTS: 758-5623).

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

Denver District Office: Director of Investigations (Currently Douglas C. Payne), Food and Drug Administration, 721—19th St., Rm. 500, U.S. Customhouse, Denver, CO 80202, Telephone: 303-837-4915 (FTS: 327-4915).

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, 1521 W. Pico Blvd., Los Angeles, CA 90015, Telephone: 213-688-3781 (FTS: 798-3781).

Hawaii, Nevada, Northern California (including counties of Inyo, Kern, Kings. & Monterey)

San Francisco District Office: Director of Investigations (Currently Wayne A. Mayanec), Food and Drug Administration, 50 U.N. Plaza, Rm. 526 Federal Office Bldg., San Francisco, CA 94102, Telephone: 415-556-8576 (FTS: 556-8576).

Washington, Oregon, Idaho, Alaska

Seattle District Office: Director of Investigations (Currently James A. Davis), Food and Drug Administration, Rm. 5003 Federal Office Bldg., 909 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, 56 Primrose Drive, South, Laconia, NH

93246, Telephone: (603) 528-1874, FTS: 834-3765

Boston Sub Area Office (Laconia), Room 2, Customhouse Building, 165 State Street, Boston, MA 02109, Telephone: (617) 223-6557, FTS: 223-6557

Albany Area Office, 80 Wolf Road, Suite 503, Albany, NY 12205, Telephone: (518) 472-6304, FTS: 562-6304

New York City Area Office, 26 Federal Plaza, Room 1737, New York, NY 20278, Telephone: (212) 264-1390, FTS: 264-1390

Ft. Washington Area Office, 275 Commerce Drive, Suite 104, Ft. Washington, PA 19034, Telephone: (215) 951-5406, FTS: 486-5406

Harrisburg Area Office, (Mailing: P.O. Box 875), Federal Building, Room 270, 228 Walnut Street, Harrisburg, PA 17108, Telephone: (717) 782-3413, FTS: 590-3413.

San Juan Sub Area Office, (Mailing: GPO Box AG, San Juan, PR 00936), Federal Office Building, Room 206, Chardon Avenue, Hato Rey, PR 00918, Telephone: (809) 753-4483, FTS: 753-4650

Southeastern Region, 1718 Peachtree Street, NW, Room 216, Atlanta, Georgia 30309. Telephone: (404) 881-3911, FTS: 257-3911.

Area Offices

Tallahassee Area Office, 2027 Thomasville Road, Room 206, Tallahassee, FL 32312, Telephone: (904) 681-7471, FTS: 965-7471

Louisville Area Office, Federal Building, Room 351H, 600 Federal Place, Louisville, KY 40202, Telephone: (502) 582-5291, FTS: 352-5291

Jackson Area Office, (Mailing: P.O. Box 11305), 300 Woodrow Wilson Aenue, Suite 3145, Jackson, MS 39213, Telephone: (601) 960-4312 FTS: 490-4312

Athens Area Office, 355 East Hancock, Room 334, Athens, GA 30601, Telephone: (404) 546-2126, FTS: 250-2125

Hyattsville Area Office, Presidential Building, Room 633, 6525 Belcrest Road, Hyattsville, MD 20782, Telephone: (301) 436-7330, FTS: 436-7330

Raleigh Area Office, (Mailing: P.O. Box 25231), Federal Office Building, Room 442, 310 New Bern Avenue, Raleigh, NC 27611, Telephone: (919) 755-4424, FTS: 672-4424

North Central Region, 607 East Second Street, Des Moines, Iowa 50316. Telephone: (515) 284-4042, FTS: 862-4042.

Area Offices

Springfield Area Office, Lincoln Tower Plaza, 6th Floor, 524 South 2nd Street, Springfield, IL 62701, Telephone: (217) 492-4500, FTS: 955-4500

Pickerington Area Office, 155 East Columbus Street, Pickerington, OH 43147, Telephone: (614) 469-5104, FTS: 943-5104

Madison Area Office, Hilldale Centre Building, Room 203, 310 Price Place, Madison, WI 53705, Telephone: (608) 264-5296, FTS: 364-5296

Chicago Area Office, 55 East Jackson Boulevard, Room 1300, Chicago, IL 60604, Telephone: (312) 353-0177, FTS: 353-0177

Ames Area Office, 619 East Lincoln Way, P.O. Box 604, Ames, IA 50010, Telephone: (515) 232-0250, Ext. 207, FTS: 862-8207; 8200

Southwestern Region, 1100 Commerce Street, Room 5F41, Dallas, Texas 75242. Telephone: (214) 767-9116, FTS: 729-0743

Area Offices

Springdale area Office, San Jose Manor Building, 2nd Floor, 216-½ East Emma Avenue, Springdale, AR 72764, Telephone: (501) 751-8412, FTS: 740-0603

Baton Rouge Area Office, 6130 Renoir Avenue, Baton Rouge, LA 70806, Telephone: (504) 389-0397, FTS: 687-0397

Austin Area Office, 611 East 6th Street, Room 401, Austin, TX 78701, Telephone: (512) 482-5151, FTS: 770-5151

Topeka Area office, Federal Building, Room 271, 444 SE Quincy, Topeka, KS 66683, Telephone: (913) 295-2765, FTS: 752-2765

Jefferson City Area Office, 101 Adams Street, Suite 102 Jefferson City, MO 65101 Telephone: (314) 635-0258, FTS: 276-3521

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) 548-2415, FTS: 796-2414

Salem Area Office, 530 Center Street, NE, Room 405, Salem, OR 97301, Telephone: (503) 399-5831, FTS: 422-5831

Boulder Area Office, 2995 Baseline Road, Suite 105, Boulder, CO 80303, Telephone: (303) 497-5411, FTS: 320-5411

Billings Area Office, 2602 1st Avenue North Billings, Mt 59105, Telephone: (406) 657-6820, FTS: 585-6820

[FR Doc. 83-23850 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-01-M

[FDA 225-83-6000]

Exchange of Information and Development of Collaborative Projects; Memorandum of Understanding With the National Center for Health Statistics

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the National Center for Health Statistics. The purpose of the MOU is to establish a mechanism for the regular exchange of information in areas of common interest and shared responsibility, and to provide a procedure for fostering the development of collaborative projects.

EFFECTIVE DATE: August 9, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

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 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 national 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. 2-58, 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 (HFX-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.

Dated: August 25, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-23849 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-01-M

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.

[FR Doc. 83-23884 Filed 8-30-83; 8:45 am]

BILLING CODE 4160-16-M

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 3685-92, 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:

Section HF-C Order of Succession. During the absence or disability of the Commissioner or in the event of a vacancy in that position the first official who is available in the following positions, or has been designated by the Commissioner to act in such position, shall act as Commissioner:

a. Deputy Commissioner.

b. Associate Commissioner for Regulatory Affairs.

c. Associate Commissioner for Management and Operations.

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. 83-23913 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 continuing disability 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 S 44 FR 17218 (March 21, 1979) and last amended as 48 FR 338 (January 4, 1983) is being amended as follows:

Sec. S.10 *Social Security Administration—(Organization).*

Add: Subsection: U. Office of Disability Hearings (SV).

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 (SVB).

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, Programs and Policy 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 redelegations 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 (SVB)* 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 activities 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 integrity and fairness. Analyzes data 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 (SVC1)* 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. 83-23168 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.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202-523-0499.

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 herby given that the Commission has received an intitial determination from the president officer in the above-captioned investigtion 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 determiniation 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.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: August 8, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23934 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 25, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23939 Filed 8-30-83; 8:45 am]

BILLING CODE 702-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondents

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 49) to terminate this investigation with prejudice as to all remaining respondents that have not entered into settlement agreements. 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: The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

The respondents terminated are Daewoo International America Corp.; Trend Products Co.; G&S Metal Products Co., Inc.; K Mart Corp.; New Process Co.; Merchandisers' Association, Inc.; Mutual Merchandising Cooperative, Inc.; Consumers Distributing Ltd., USA; and Western Auto Supply Co.

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 Cooper-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 C.F.R. 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; 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. 44) to terminate this investigation as to respondent The May Department Stores Co., d/b/a/ Venture 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 3, 1983, 48 FR 35183. 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. 83-23947 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. 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 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 7020-02-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. 1673), 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. 1673(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).

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz (202-523-0114), Office of Industries, U.S. International Trade Commission.

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 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 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 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).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 CFR 33682, Aug. 4, 1982).

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.

[FR Doc. 83-23940 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-133]

Certain Vertical Milling Machines and Parts, Attachments, and Accessories Thereto; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order Agreement; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (I.D.) (Order No. 42) granting a joint motion to terminate this investigation with respect to responent Equipment Importers, Inc. d/b/a Jet Equipment & Tools (Jet) on the basis of a consent order agreement.

Authority: 19 U.S.C. § 1337, 47 FR 25134, June 10, 1982 and 48 FR 2025, May 5, 1983 and §§ 210.53(c), 210.53(h), 211.20, and 211.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.53 (c) and (h) and 19 CFR 211.20 and 211.21).

SUPPLEMENTARY INFORMATION: The Commission published notice of the I.D. in the **Federal Register** of August 3, 1983. 48 FR 35185. The Commission has not received a petition for review of the I.D. or comments from government agencies or the public.

The Commission has determined not to review the initial determinaiton terminating Jet as a respondent and issuing the consent order. The consent order allows Jet to continue importing and selling vertical milling machines that do not infringe Textron's alleged common law trademark rights. The consent order identifies machines that do not violate the order. Thus, available alternatives to the Textron machine do exist. Furthermore, the provisions regarding other alleged unfair acts will not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles, or the U.S. consumer. Jet can sell and advertise its products through other permissible means.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0189.

Issued: August 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-23936 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-124 (Final)]

Fresh or Chilled Round White Potatoes From Canada

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: August 2, 1983.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports of fall-harvested, round, white potatoes from Canada, provided for in items 137.20, 137.21, 137.25, and 137.28 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 investigation No. 731-TA-124 (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 from Canada of fresh or chilled round white potatoes. The scope of the Commission's investigation is broader than that of the Department of Commerce's preliminary investigation. The Commission has been informally advised by the Department of Commerce that it intends to revise its notice of preliminary determination of sales at less than fair value to conform the scope of its investigation to the scope of the Commission's investigation. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before October 17, 1983, and the Commission will make its final injury determination by November 30, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. George Deyman, Office of Investigations, (202-523-0481), U.S. International Trade Commission, Washington, D.C. 20436.

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 201.16(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 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 § 201.8 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).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

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.

[FR Doc. 83-23938 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 [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(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 772.59 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. 1673b(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 33066). 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.

[FR Doc. 83-23937 Filed 8-30-83; 8:45 am]

BILLING CODE 7020-02-M

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[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: Mr. Robert Carpenter, Office of Investigations, (202-523-0399), U.S. International Trade Commission, Washington, D.C. 20436.

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).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

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 26, 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

Decided: August 25, 1983.

[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-124328) 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

(2) Petitioner's representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street, NW., Washington, D.C. 20006.

Comments should refer to No. MC-F-15386.

Volume No. OP3-415

Decided: August 25, 1983.

[No. MC-F-15390]

Patrick J. Doyle and Nancy Doyle—Continuance in Control Exemption—Peck Leasing, Inc., H.P. Leasing, Inc., and H.P. Leasing, Inc. d.b.a. H.P.I.

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. (H.P.I.); and Peak Leasing, Inc. (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 U.S. (except AK and HI). In No. MC-FC-81551, decision entered July 11, 1983, the Review Board approved the transfer of this certificate from H.P. Leasing to H.P.I. This transfer has not yet been consummated. Upon consummation, H.P. Leasing will hold no operating authority (and it is expected to be formally dissolved), and H.P.I. will hold the certificate. Peck now holds no operating authority, but it has pending, in Docket No. MC-168667, an application seeking a permit 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(a)(2) of prior regulatory approval and authorization for its purchase of a portion of the authority issued to Freightways, Inc., in No. MC-144484 (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

[1] /As a consequence of the decision entered by the Review Board on July 11, 1983, in No. MC-FC-81551, the transfer of H.P. Leasing's only operating authority (its Sub-No. 4 Certificate) is anticipated. When this transfer is consummated, the Doyles' continuance in control of H.P. Leasing will no longer be subject to the requirements of section 11343.

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 Hubbell Building, Des Moines, IA.

Comments should refer to No. MC-F-15391.

[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-134835) 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

(2) Petitioner's representative: E. Stephen Heisley, P.G., 1919 Pennsylvania Avenue, N.W., Washington, DC 20006.

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, and Edward J. Donohue—Continuance in Control Exemption—Charlton Bros. Transportation Co., Inc., Certified Brokerage Services, Inc., and Contract Cargo, Inc.

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-15189.

[No. MC-F-15404]

State Transportation, Inc.—Purchase Exemptions—Grant's Transport

State Transportation, Inc. (MC-145895) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of the permit held in No. MC-157936 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 Darien, CT.

Send Comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Robert G. Parks, Suite 101, 20 Walnut Street, Wellesley Hills, MA 02181.

[No. MC-F-15370]

Stearly's Motor Freight, Inc.—Purchase Exemption—Motor Freight Express (Debtor-in-Possession)

Stearly'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-59957 (Sub-Nos. 25, 29, 35, 36, 37, 38, 39, 44, 46, 47, 50, 58, 60, 62, 64, 66, 67, 68 and 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 52) and specified commodities (Sub-Nos. 36 and 38) between specified points in Pennsylania, 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, D.C. 20423, and

(2) Petitioner's representative: James W. Patterson, Rubin, Quinn & Moss, 510 Walnut Street, Philadelphia, PA 19106.

Comments should refer to No. MC-F-15370.

Volume No. OP4-578

Decided: August 25, 1983.

[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-138480 and MC-140443) 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-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, Pennsylania, 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, D.C. 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.

Pleadings should refer to No. MC-F-15371.

[FR Doc. 83-23879 Filed 8-30-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 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 peson 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-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1 (202) 275-7992.

Volume No. OP1-FC-362

MC-FC-81582. By decision of August 22, 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 Roberts St., P.O. Box 2581, Fargo, ND 58108; (701) 235-3300.

MC-FC-81674. By decision of August 22, 1983, issued under 49 U.C.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Krock, Dowell, and Carleton, approved the transfer to GREAT LAKES TRUCKING CO., INC., of Wauwatosa, WI, of Permit No. MC-162041, issued August 17, 1982, to P.M. SMITH CARTAGE, INC., of Milwaukee, WI, authorizing the transportation of empty beverage containers, between points in the U.S., under continuing contract(s) with Jos Schlitz Brewing Company, of Milwaukee, WI. Representative: Joseph P. Duffey, 111 East Wisconsin Ave., Milwaukee, WI 53202; (414) 276-0830.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-FC-412

MC-FC 81659. By decision of August 23, 1983, issued under 49 U.S.C. and the transfer rules at 49 CFR 1181, the Review Board, members Carleton, Krock, and Dowell, approved the transfer to TREK, INC., of Little Rock, AR, of Certificate No. MC-162804, issued June 7, 1983, to PENNY'S WRECKER SERVICE, INC.,of Little Rock, AR, authorizing the irregular-route transportation of disabled motor vehicles, in wrecker service, between points in AR, on the one hand, and, on the other, points in LA, MS, TN, and AR. Applicant's Representative: A. R. Pendergrass, 6404 Geyer Springs Road, Little Rock, AR 72209; (501) 565-6641.

Please direct status inquiries to Team 5, (202) 275-7289.

Volume No. OP-FC-442

MC-FC-81597. By decision of August 22, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Parker, Fortier and Krock, approved the transfer to GLENDELL LEASING, INC., of Gary, IN, of Certificate No. MC 18738 Sub 67X issued April 8, 1982, and its underlying authority in MC 18738 Sub 66F, issued March 11, 1981; MC 18738 Sub 68X issued October 12, 1982, and its underlying authority in MC 18738 issued August 12, 1975, Sub 20 issued July 21, 1954, Sub 21 issued April 16, 1957, Sub 22 issued September 10, 1958, Sub 23 issued May 21, 1957, Sub 24 issued May 26, 1958, Sub 25 issued July 7, 1958, Sub 27 issued January 25, 1962, Sub 33 issued September 4, 1969, Sub 37 issued November 18, 1969, Sub 38 issued April 16, 1970, Sub 44 issued March 18, 1976, Sub 43F issued September 14, 1979, Sub 59F issued July 23, 1980, Sub 61F issued August 11, 1980, Sub 62F issued August 29, 1980, Sub 63F issued August 4, 1980, and Sub 64F issued August 4, 1980; MC 18738 Sub 69 issued August 2, 1982, and MC 18738 Sub 70 issued May 20, 1982, to SIMS MOTOR TRANSPORT LINES, INC. (Jay Weisman, Trustee in Bankruptcy), of Chicago, IL, authorizing the transportation generally of specified commodities over regular and irregular routes in AL, AR, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MN, MO, MI, MS, NC, NE, ND, NH, NJ, NM, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, and DC. Representative: Carl U. Hurst, P.O. Box 691, Madisonville, KY 42431.

[FR Doc. 83-23878 Filed 8-30-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions Volume; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of

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 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." 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 169781, filed August 9, 1983. Applicant: ROANE BUS LINE, INC., P.O. Box 245, Kilmarnock, VA 22482. Representative: Calvin F. Major, 200 West Grace St., P.O. Box 5010, Richmond, VA 23220; (804) 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 18103; (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) 781-7732. 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 169552, 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 or 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 169595, filed August 2, 1983. Applicant: GALIN TRANSPORTATION, INC., 46 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 Carleton, Fortier, and Krock.

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 route 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)(B).

MC 169674, filed August 5, 1983. Applicant: DAVID A. GLENN 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) 834–6814. 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. OP3–408

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 162284 (Sub-2), filed August 3, 1983. Applicant: HOWARD C. KENNEDY, d.b.a. KENNEDY COACHES, P.O. Box 179, Zumbro Falls, MN 55991. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 542–1121. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 167705 (Sub-1), filed August 3, 1983. Applicant: ALL-CONTINENT TRANSPORT, INC., 2016 Tucker Industrial Rd., Tucker, GA 30084. Representative: Paul F. Sullivan, Suite 202, 3408 Wisconsin Ave., NW., Washington, DC 20016; (202) 363–1848. Transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 168474, filed August 10, 1983. Applicant: FRANK W. McGINNIS, SR., and ROGER L. GRAFEL d.b.a. VOYAGER BUS LINES CO., 7920 Widmer, Lenexa, KS 66215. Representative: Frank W. McGinnis, Sr. (same address as applicant) (913) 492–8905. 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 169705, filed August 5, 1983. Applicant: FRANK JACONETTI JR. d.b.a. TOMCO CHARTER SERVICE, Route 1, Box 1079A, Woodland, CA 95695. Representative: Frank Jaconetti Jr. (same address as applicant) (916) 666–6164. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

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 used 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).

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 106, New Ringgold, PA 17960. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309; (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of 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 commidities* (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) 253-2538. 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. OP3-408(a)

Decided: August 16, 1983.

By the Commission, Review Borad Members Dowell, Joyce, and Fortier.

MC 169514, filed July 27, 1983. Applicant: RALPH B. CARVER, JR. and RALPH B. CARVER, III d.b.a. R.B.C. CONSOLIDATING COMPANY, Ladge Dr., Avon, MA 02322. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403; (617) 697-9405. 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. OP5-448

Decided: August 18, 1983.

By the Commission, Review Board, Members Dowell, Carleton and Fortier.

MC 57298 (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. OP5-449

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) 717-346-6259. Transporting *passengers* in charter and special operation, 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 169769, filed August 9, 1983. Applicant: JACKSON TOUR & TRAVEL, INC., 2648 Ridgewood Road, Suite C, Jackson, MS 39211. Representative: Jerry H. Blount, 213 South Lamar Street, Suite 200, Jackson, MS 39201; (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 Wheatsheaf 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 10956; 914-638-4007. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5-450

Decided: August 19, 1983.

By the Commission, Review Board Members Fortier, Carleton and Parker.

MC 169749, 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, 4299 James Dr., Carson City, NV 89701; 702-882-5649. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169838, 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. OP5-451

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, 4299 James Drive, Carson City, NV 89701; (701) 882-5649. 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.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83-23876 Filed 8-30-83; 8:45 am]
BILLING CODE 7035-01-M

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 Forwarders; 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 Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on 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 governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982, at 47 FR 53271. 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 aplications 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 transportation 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 Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

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.

MC 142802 (Sub-2), filed August 16, 1983. Applicant: W. V. BRILEY, JR., d.b.a. BRILEY TRANSPORT, 1621 Old Ballinger Rd., San Angelo, TX 79603. Representative: Patrick C. Long, P.O. 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., Suites #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: G.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 explosives, 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 explosives), 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: ROADRUNNER MOTOR LINES, INC., 15 W. Union St. P.O. Box 105, Ashland, MA 01721. Representative: Mary E. Kelley, 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 22628, Jackson, MS 39205, 601-948-8820. Transporting *Mercer 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 168963 (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 169853, filed August 15, 1983. Applicant: STAFEK & SON TRUCKING, INC., 3895 Commercial, Springfield, OR 97477. Representative: Terry L. Stafek (same address as applicant), 503-747-2433. Transporting *lumber and wood products and building materials*, between points in Cowlitz and Clark Counties, WA, and Multnomah and Washington Counties, OR.

MC 169863, 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. 280, 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-88), 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 98935 (Sub-3), filed July 28, 1983. Applicant: COMMODORE CARTAGE COMPANY, A Corporation, 2200 E. Ten Mile Rd., Warren, MI 48091. Representative: Robert E. McFarland, 2855 Collidge, Ste. 201A, Troy, MI 48084, (313) 649-6650. Transporting *building materials, machinery, metal products, transportation equipment*, and *those commodities which because of their size or weight require the use of special handling or equipment*, between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 117954 (Sub-36), filed July 29, 1983. Applicant: H. L. HERRIN, JR., d.b.a. H. L. HERRIN TRUCKING CO., P.O. Box 1106, Metaire, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265-2634. 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-6), filed July 18, 1983. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 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 G0R 3E0. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108, (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 308, 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 169654, 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) 762-2681. Transporting

general commodities (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 169665, filed August 4, 1983. Applicant: WILSON INDUSTRIAL DOOR SUPPLY, LTD., Route 1, Box 47, Walworth, WI 53184. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Wilson Industrial Doors, Inc., of Walworth, WI.

Volume No. OP–3–407

Decided: August 22, 1983.

By the Commission, Review Board Members Krock, Parker, and Dowell.

MC 15735 (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 Bemis Company, Inc., of Minneapolis, MN.

MC 15735 (Sub-92), filed August 5, 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 Kimberly-Clark Corporation, of Neenah, WI, and its subsidiaries.

MC 133215 (Sub-3), filed August 2, 1983. Applicant: INTERIOR MOTOR FREIGHT, INC., P.O. Box 405, 221 Webber St., The Dalles, OR 97058. Representative: John Magill (same address as applicant), (503) 298–1272. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR and Siskiyou West, Inc., of Yreka, CA.

MC 133655 (Sub-240), filed August 5, 1983. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 809072, Dallas, TX 75380–9072 Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306. Transporting *such commodities as are dealt in, or used by, manufacturers and distributors of printed matter, pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of those commodities.

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 AAA TRUCKING, 29891 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 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 Schuyler County, NY, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA and RI.

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 3641, 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., 4290 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.

Volume No.-OP3–405

Decided: August 23, 1983.

By the Commission, Review Board Members Parker, Fortier, and Krock.

MC 2934 (Sub-172), filed August 9, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 N. Michigan Rd., Carmel, IN 46032. Representative: W.G. Lowry (same address as applicant), (317) 875–1142. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Manville Service Corporation, of Denver, CO.

MC 15735 (Sub-97), filed August 10, 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 Armco Inc., of Middletown, OH, and its subsidiaries.

MC 44735 (Sub-59), filed August 10, 1983. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, MO 64126, Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. 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, MO, 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-86), filed August 10, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, 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:

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 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, (717) 854-3138. 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, Delhi, Redwood, Hazel Run, Wood Lake, Clarkfield, Echo, Madison, Dawson and Boyd, MN, Lundgren, Palm Grove, Harcourt, Dayton, Lanyon, Hope, Boxholm, Wolf, Frazer, Logansport, Boone, Napier, Huxley, and Alleman, IA, Oak Ridge, Brodenax, Denlco, Archibald, Mangham, Foules and Lee Bayou, LA, Rosinclare, Shelterville, Golconda, Homberg, and Brownsville, IL, Carpentersville and Dundee, IL, Galina, AZ, Scalley, WA, Rich and Jonestown, Summerland, Gitano and Soso, MS, North Henderson, IL, Palmertown, CT, Woodhull, IL, Brockway, MT, Manhattan Beach, Hermosa Beach, and Redondo Beach, CA, Alto, Wells and Pollok, TX, Voorhies and Buckingham, IA, Rutherfordton, NC, McKinley, Brace, Fair Valley, Freedom, Edith, Lovedale, Selman and Buffalo, OK, Delisle and Abbottsville, OH, Battle Lake and Underwood, MN, Sawbill Landing, MN, Dr. Phillips, FL, Dousman, Wales, Sullivan, London, Lake Mills, Helenville and Deerfield, WI, Rex, CO, Brimfield and Duncan, IL, Jonesboro, NC, Moon, IL, Caseville, MI, Cyrus, MN, Prince, Pioche and Panaca, NV, Maxine, Praco and Colta, Al, Belmont, Hickerson, McMinnville, Smartt and Sparta, TN, Mountain View and Winona, MO, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson and Hamilton, IN, Edon, OH, Youngsville, LA, Olympia, Bayboro, Grantsboro, Alliance, NC, Lowrys, Dephia and McConnells, SC, Somerton, AZ, Oakfield and Warwick, GA, Hammonton and Egg Harbor, NJ, Woodbine and Cape May, NJ, Grinnell, WA, and Monson, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168305, filed August 5, 1983. Applicant: ATLANTIC WEST CORPORATION OF ILLINOIS, 9944 Bryn Mawr, Rosemont, IL 60018. Representative: Victor M. Pilolla, 5423 W. North Ave., Chicago, IL 60639, (312) 622-5044. 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 168755 (Sub-1), filed August 8, 1983. Applicant: TIMBERLINE TRANSPORT, INC., N3542 Woodland Rd., Medford, WI 54451. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238-3119. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, and WI.

MC 169794, filed August 9, 1983. Applicant: COORDINATED TRANSPORT, INC., 9201 River Road, Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between ponts in the U.S. (except AK and HI), under continuing contract(s) with Coordinated Services, Inc., of Pennsauken, NJ.

Volume No. OP3-409

Decided: August 23, 1983.

By The Commission, Review Board Members Carleton, Fortier, and Krock.

MC 15735 (Sub-96), filed August 8, 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) 681-6377. Transporting *houshold goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN.

MC 133415 (Sub-11), filed August 2, 1983. Applicant: SNR DELIVERY, INC., 913 Mckinley St., Peekskill, NY 10566. Representative: John L. Alfano, 550 Mamaronech Ave., Harrison, NY 10528 (914) 835-4411. Transporting *paint and paint products,* between points in the U.S. (except AK and HI), under continuing contract(s) with PPG Industries, Inc., Ditzler Color division, of Bronx, NY.

MC 133814 (Sub-12), filed August 10, 1983 Applicant: WHATLEY TRANSPORTATION CO., INC., P.O. Box 1789, Dothan, AL 36302. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345 (404) 321-1765. 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 146885 (Sub-12), filed August 8, 1983. Applicant: BEN CAPOBIANCO TRUCKING, INC., 9814-9818 Princeton-Glendale Rd., Cincinnati, OH 45246. Representative: Ben Capobianco (same address as applicant) (513) 874-6840. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sporting goods equipment and apparel, between points in the U.S. (except AK and HI).

MC 165614 (Sub-1), filed August 4, 1983. Applicant: BIG STATE FREIGHT LINES, INC., 2451 Stemmons Freeway, Dallas, TX 75207. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245 (214) 358-3341. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 169734, filed August 8, 1983. Applicant: CROSS COUNTRY TRANSPORT, INC., 1415 University Blvd., P.O. Box 1846, Melbourne, FL 32936. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32715, (305) 869-5936. Transporting *plastic fittings, granules and products used in the manufacture and installation of plastic fittings,* between points in the U.S. (except AK and HI), under continuing contract(s) with Colonial Engineering, Inc., of Ft. Pierce, FL.

MC 169764, filed August 9, 1983. Applicant: THE CROM CORPORATION, 250 S. W. 36th Terrace, Gainesville, FL 32607. Representative: William K Kellogg, (same address as applicant), (904) 372-3436. Transporting *chemicals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Zirconium Technology Corporation, of Gainesville, FL.

MC 169774, filed August 9, 1983. Applicant: AMERICAN TRUCKING COMPANY, 4721 Simonton, Dallas, Tx 75234. Representative: David Horne, (same address as applicant), (214) 392-3044. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 169785, filed August 10, 1983. Applicant: STATE INDUSTRIES, INC., Ashland City, TN 37015. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, D.C. 20005, (202) 223-680. 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 169804, filed August 11, 1983. Applicant: F. B. BETTS INC., 6425 Schurmier Rd., Houston, TX 77048. Representative: Frederick B. Betts III, (same address as applicant), (713) 991-0398. Transporting *lamps*, between points in Carlisle County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Deena Products Co., of Arlington, KY.

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume No. OP4-576.

Decided: August 16, 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) 345-8596. Over regular routes, transporting *passengers*, between San Marcos, TX and Houston, TX: from San Marcos over Texas State Hwy 80 to junction Interstate Hwy 10, then over Interstate Hwy 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 202-275-7289.

Volume No. OP5-443

Decided: August 18, 1983.

By the Commission, Review Board Members Dowell, Carleton, and Fortier.

MC 79658 (Sub-105), 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 Incorporated Sikorsky Aircraft Divison, 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 129808 (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 82028, Lincoln, NE 68501-2028, (402) 475-6761. 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 146078 (Sub-50), filed August 11, 1983. Applicant: CAL-ARK, INC., 854 Moline, Malvern, AR 72104. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, (501) 375-3022. 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: B-RIGHT 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 39475. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205 (601) 948-8820. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148849 (Sub-12), filed August 12, 1983. Applicant: EQUITABLE BAG CO., INC., 45-50 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., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38702-1295, 601-335-3576. 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 155118 (Sub-17), filed August 3, 1983. Applicant: T.D.S. TRANSPORTATION, INC., 1700 S. Wolf Rd., Des Plaines, IL 60018. Representative: R. T. Krubeck (same address as applicant) (312) 298-8800. 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 Alabama Elevators, Inc., of Prattville, AL, Cook Paint and Varnish Company, of Kansas City, MO, The Musicland Group, Division of Pickwick International, Inc., of Minneapolis, MN, Twin City Deshler Broom Co., of Deshler, NE, Tri County Products, Inc., of Raytown, MO, and Avtex Fibers, Inc., of Valley Forge, PA.

MC 159568 (Sub-2), filed August 10, 1983. Applicant: DC&L TRANSPORT, INC., 16521 Van Dam Road, South Holland, IL 60473. Representative: Joseph Winter, 29 South LaSalle Street, 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 924, Douglasville, GA 30133, (404) 949-7756. 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 164888 (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, 6333 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, Pauls Valley, OK 73075. Representative: William P. Parker, 4400 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 166169 (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 169688, 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, points in WY, NE, IA, IL, OH, IN, MO, AR, OK, KS, TX, NM, LA, TN, AL, WI, MN, and MI.

MC 169779, filed August 9, 1983. Applicant: B & L TRUCKING & SONS CO., INC., 28 Wanaque Avenue, Pompton Lakes, NJ 07442. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791-2270. Transporting *textile mill products,* between New York, NY, and points in Warren County, NJ, on the one hand, and, on the other, points in AL, GA, MA, NC, NJ, NY, SC, TN, and VA.

Volume No. OP5-445

Decided: August 19, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Parker.

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 Bldg., 425—13th St., NW., Washington, DC 20004, (202) 737-1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in 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 49391, (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 169798, filed August 10, 1983. Applicant: LEND LEASE TRANSPORTATION CO., 7700 France Avenue South, Minneapolis, MN 55435. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927-8855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Holiday Inns, Inc., of Memphis, TN; Coast to Coast Stores, Inc., (Central Organization), of Minnetonka, MN; Ben Franklin Stores, of Des Plaines, IL; T G & Y Stores Co., of Oklahoma City, OK; and Von's Grocery Company, of El Monte, CA.

MC 169818, filed August 12, 1983. Applicant: HATHCOCK TRUCK LINES, P.O. Box 968, Hampton, AR 71744. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948-8820. Transporting *lumber and wood products,* and *building materials,* betweem points in the U.S. (except AK and HI), under continuing contract(s) with Georgia-Pacific Corporation, of Crossett, AR.

Volume No. OP5-446

Decided: August 22, 1983.

By the Commission, Review Board Members Carleton, Parker, and Fortier.

MC 160349 (Sub-1), filed August 16, 1983. Applicant: J.A.M.M. TRUCKING COMPANY, 1050 North Beltline Highway, Mobile, AL 36608. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251-6602. Transporting *food and related products,* between points in FL, and points in Mobile, Baldwin and Escambia Counties, AL, under continuing contract(s) with Budweiser-Busch Distributing Company, Inc., of Mobile, AL.

MC 160799, filed July 27, 1983. Applicant: H.M. SMITH TRANSPORT, LTD., P.O. Box 421, Elrose, Sask, Canada SOL OZO. Representative: Jerome Anderson, P.O. Drawer 849, Billings, MT 59103-0849, 406-248-2611. Transporting *chemicals and related products,* between points in MT, ND, ID, WY, and MN.

MC 161669 (Sub-3), filed August 16, 1983. Applicant: DIXIE DRAYAGE SERVICE, INC., 680 Industrial Pkwy., Saraland, AL 36571. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251-6602. Transporting *food and related products,* between points in Mobile, Baldwin and Escambia Counties, AL, and points in FL, under continuuing contract(s) with Budweiser-Busch Distributing Company, Inc., of Mobile, AL.

MC 162008 (Sub-1), filed August 16, 1983. Applicant: GREAT SOUTHWEST EXPRESS CO., INC., 1023 Rockcut Rd., Forest Park, GA 30050. Representative: Benjy Fincher, P.O. Box 577, Jonesboro, GA 30237 (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 Tranportation Consultants, Inc., of Jonesboro, Ga.

MC 169839 (B), filed August 12, 1983. Applicant: SILVER STATE STAGELINE, INC., 1705 Marietta Way, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701 (702) 882-5649. Over regular routes, transporting *passengers,* between Reno, NV and South Lake Tahoe, CA: from Reno over U.S.

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 49 U.S.C. 10922(c)(2)(B) over the same route. Applicant also seeks authority in MC 169839(A) published in this same issue.

MC 169859, filed August 15, 1983. Applicant: ADOLPH MARKSTEIN & SONS TRUCKING CO., d.b.a. AM&S TRUCKING CO., 4050 Pell Circle, Sacramento, CA 95815. Representative: Andrew J. Skaff, 100 Bush St., Suite 410, San Francisco, CA 94104, 415-421-6743. 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 31389 (Sub-353), filed August 15, 1983. Applicant: McLEAN TRUCKING COMPANY 1920 West First Street, Winston-Salem, NC 27154. Representative: Daniel R. Simmons, (same address as applicant) (919) 721-2433. 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 39568 (Sub-18), filed August 15, 1983. Applicant: ARROW TRANSFER & STORAGE CO., 1116 Market Street, Chattanooga, TN 37402. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589-5400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

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), 1-800-982-4723. 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.

MC 152658 (Sub-3), filed August 15, 1983. Applicant: HUCKS PIGGYBACK SERVICE, INC., 618 Atando Avenue, Charlotte, NC 28206. Representative: Joseph L. Steinfeld, Jr., 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 NC, SC, GA, VA, and TN.

MC 155719 (Sub-1), filed August 15, 1983. Applicant: DAN RODRIGUEZ, d.b.a. BIG D TRUCKING CO., P.O. Box 5275, McAllen, TX 78501. Representative: Harry F. Horak, P.O. Box 294, Cherokee, TX 76832, (915) 622-4495. 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 Wal-Mart Stores, Inc., of Bentoinville, AR.

[FR Doc. 83-23877 Filed 8-30-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interestate 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.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted. 4Motor Carriers of Property

Notice No. F-289

The following applications were filed in Region 2. Send Protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 139805 (Sub-II-2TA), filed August 9, 1983. Applicant: B. MOTOR FREIGHT INC., P.O. Box 368, Bear, DE 19701. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810 Contract, irregular: *general commodities (except Classes A & B explosives, household goods and commodities in bulk)* from the facilities of GAF located in Annapolis, Baltimore, MD; Bound Brook, Gloucester, South Bound Brook, NJ; Chairman and Erie, PA; Millis, MA, on the one hand, and, on the other, Springfield, VA; Wilmington, DE; Buffalo, NY; Millis, MA; Washington, DC; Huntington, WV; Hartford, CT and Providence, RI, under continuing contract(s) with GAF Corp. An underlying ETA seeks 120 days authority. Supporting shipper(s): GAF Corp., 1361 Alps Rd., Wayne, NJ 07470.

MC 169815 (Sub-II-1TA), filed August 12, 1983. Applicant: WILLIAM R. FOUST, d.b.a. B & R EXPRESS, 910 Thornton Dr., Mechanicsburg, PA 17055. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375. Contract, irregular: (1) *chemical (except in bulk)* between the facilities of Chem Serv, Inc., located at or near Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK & HI); and (2) *meat, meat products and meat by-products and merchandise dealt in by meat packinghouse* from the facilities of The Iowa Packing Co., located at or near Des Moines, IA to points in the U.S. (except AK & HI), under continuing contract(s) with Chem

Serv, Inc. and The Iowa Packing Co. An underlying ETA seeks 120 days authority. Supporting shipper(s) 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. 68, 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, PA, MD, VA and DC, 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 Duvall, 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 295, 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 continuing contract(s) with WorldWide Transportation Services, Inc., of Romulus, MI, for 270 days. Supporting shipper: WorldWide Transportation Services, Inc., P.O. Box 344, Romulus, MI 48175.

MC 156719 (Sub-II-3TA), filed August 15, 1983. Applicant: LEE TRANSPORT, 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, Barytics, 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 Register** dated July 27, 1983.

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 at 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 94545.

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 Target 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: David 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., Pittsburgh, PA 15219. *General commodities, in containers (except Classes A and B explosives and household goods),* between Maspeth and 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(s): There are fourteen support statements attached to this application which may be examined at the Phila. Regional office.

MC 167805 (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 1612 E., Dearborn Towers, MI 48126.

MC 145194 (Sub-II-2TA), filed August 10, 1983. Applicant: WOOSTER MOTOR WAYS, INC., P.O. Box 767, 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. 83-23875 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. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: August 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

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, AF1620043.

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. 6, 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.

[FR Doc. 83-23873 Filed 8-30-83; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Availability of Human Factors Program Plan

Notice is given that the Commission's Office of Nuclear Reactor Regulation has published NUREG-0985, Human Factors Program Plan, Volume 1. NUREG-0985 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 plants 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

of regulation required to resolve technical issues. Appendixes to the Plan describe the status of TMI Action Plan human factors issues, staff responses to recommendations provided by the Human Factors Society, and schedules for the seven program elements. Volume 1 of the Plan describes activities now in progress and planned for Fiscal Years 1983 through 1985.

The Human Factors Program Plan will be revised on an annual basis. Future Volumes of the Plan will include human factors development activities addressing other regulatory responsibilities of the Commission.

Copies of NUREG–0985 are available for purchase from the GPO Sales Program, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555, and from the National Technical Information Service, Springfield, Virginia 22161.

For further information, Contact Dr. Daniel B. Jones, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 492–4818.

Dated at Bethesda, Maryland, this 27th day of August, 1983.

Hugh L. Thompson, Jr.,

Director, Division of Human Factors Safety.

[FR Doc. 83–23906 Filed 8–30–83; 8:45 am]

BILLING CODE 7590–01–M

NRC Concurrence in High-Level Waste Repository Safety Guidelines Under the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425); Memorandum and Order

On June 21, 1983, the Yakima Indian Nation ("Yakima") petitioned the Nuclear Regulatory Commission ("NRC" or "Commission") to institute a notice and comment rulemaking proceeding on the Commission's statutory concurrence [1] in the Department of Energy's ("DOE") General Guidelines for Recommendation of Sites for Nuclear Waste Repositories, 10 CFR Part 960 ("Siting Guidelines"). For the reasons discussed below, the Commission has determined that its concurrence role under Section 112(a) of the Nuclear Waste Policy Act of 1982 ("NWPA") does not constitute a rulemaking action under either the Atomic Energy Act of 1954, as amended ("Atomic Energy Act") or the Administrative Procedure Act ("APA"). Accordingly, the Commission finds that there is no legal obligation to provide an opportunity for notice and comment on the NRC's concurrence or non-concurrence in DOE's Siting Guidelines. However, 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.

[1] 42 U.S.C. 10132(a).

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 8289 (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 Yakima 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.[2] 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 Yakima 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.[3]

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.[4] The reason that

[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 is Section 553 of the APA were aplicable; 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. Since it is DOE's Siting Guidelines that are involved, it appears that such comments should be directed to DOE in an effort to get DOE to conform to existing NRC regulations. Once those comments have been provided to DOE, they will also automatically come before the NRC.

[4] These other statutes are reviewed in Appendix A.

concurrence has never been considered a separate rulemaking follows directly from the purpose of public opportunity for notice and comment. Notice and comment provides interested parties an opportunity to criticize projected agency action and allows an agency to benefit from the views of others before a rule is fixed in final form. *Council of Southern Mountains, Inc.* v. *Donovan*, 635 F.2d 573, 580 (D.C. Cir. 1981). Where one agency is concurring in another agency's action, it is not the act of concurrence but the underlying substantive rule that is of interest to the public. Where the agency promulgating the substantive rule has provided for public notice and comment, that agency has had the benefit of the public's views in formulating a final rule. The agency with concurrence responsibility also has the benefit of those views because they are a matter of public record. Accordingly, the interpretation of concurrence responsibility as a separate rulemaking requiring another round of public notice and comment would be redundant and wasteful of limited resources.[5]

This analysis is applicable to the current situation. DOE has provided public participation procedures that exceed the minimum that would be required if the APA were applicable to the promulgation of Siting Guidelines. The Yakimas have not identified any issues on which it would be appropriate to comment to NRC but not DOE. Even if the Siting Guidelines were treated in the NRC's construction authorization proceeding as suggested by the Yakimas, there would be no comments to NRC that would not have already been made to DOE. It is DOE's selection criteria that will be applied to alternative sites. There is nothing more that could be said to the NRC over and above the views presented to DOE and known to the NRC to influence the Commission's independent judgment as to whether the DOE Siting Guidelines are adequate for identifying alternative sites. For these reasons, the Commission believes that it would be unreasonable to interpret this statutory concurrence obligation differently from other such concurrence statutes to find that this concurrence would require the provision of an opportunity for public notice and comment.

Notwisthstanding the lack of a legal requirement to provide an opportunity for notice and comment, in the past the Commission has found that oral presentations are sometimes helpful in crystallizing the central issues important to various interested groups. In the present case, moreover, a number of organizations and individuals have already demonstrated their interest in the subject by submitting comments to DOE on the draft guidelines. In summarizing the comments, the NRC staff divided the commenters into seven classes: (1) Federal agencies; (2) state government; (3) local governments; (4) industry; (5) public interest groups; (6) Indian tribes; and (7) individuals.

Accordingly, the Commission will hold a public meeting at which those organizations and individuals which have previously commented on the DOE Draft Siting Guidelines may present their views to the Commission concerning NRC's concurrence or non-concurrence in those guidelines, and on the guidelines themselves. The Commission strongly encourages commenters to consolidate their presentations. The opportunity to participate will also be extended to DOE. The meeting will be held at the NRC's headquarters at 1717 H Street, NW., Washington, D.C., in approximately 30 days. The precise date and time, as well as the amount of time which will be allotted to the various classes of commenters, will be set forth in a further order, to be issued shortly by the Commission's Secretary.

It is so ordered.

Dated at Washington, DC. this 24th day of August, 1983.

For the Commission.[6]

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-23905 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[5] Even if the Siting Guidelines could be considered a jointly issued rule, it does not follow that each agency must separately seek public comment on one joint action

[6] Commissioner Roberts was not present and did not participate in this action.

[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 inservice 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.

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 50.5(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.

[FR Doc. 83-23901 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[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) flux 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 will 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, Attention: 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 or representative for 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 377 and the following message addressed to Domenic B. Vassallo: (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 W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199, attorney 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. That 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 12, 1981, which is available for public inspection at the Commission's Public Document room, 1717 H Street, NW., Washington, D.C. and at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Dated at Bethesda, Maryland this 23rd day of August, 1983

For the Nuclear Regulatory Commission.

Robert A. Hermann,

Action Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-23902 Filed 8-30-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas and Electric Co.; 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. DPR-76, issued to Pacific Gas and Electric Company (the licensee), for operation of the Diablo Canyon, Unit 1 nuclear power plant located in San Luis Obispo County, California.

The proposed amendment would update the facility Technical Specifications to reflect the installation of an additional 2500 gpm firewater pump to provide an increased capacity based on a reanalysis of the largest fire system demand, and modify the surveillance requirements for explosive initiators in the Halon fire suppression system in accordance with the licensee's application dated May 23, 1983.

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 change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement

The proposed amendment which increases the required capacity of the firewater system by installing a new fire pump constitutes an additional limitation that is currently required by the Technical Specifications. Therefore, based on this consideration and the three criteria given above we have made a proposed determination that this amendment request involves no significant hazards consideration.

Section 4.7.9.4c of the Technical Specifications currently requires that the explosive initiators in the Halon fire suppression system be replaced at least one every five years with initiators that have a remaining service life of at least 5 years. The licensee states that the greatest service life available for the type of explosive initiators used in the Halon system is 5 years from the time that they are made based on information obtained from the vendor. Consequently, to meet the letter of the Technical Specifications replacement explosive initiators, which must have a remaining service life of at least 5 years, is feasible only if zero time has elapsed from the time of manufacture. The proposed amendment request would require replacement of the explosive initiator prior to the expiration of its service life and at least once every 5 years.

The Commission has provided guidance for the application of the above mentioned criteria by providing examples of amendments that are considered not likely to involve 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 an error in the current Technical Specification which requires 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.

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 ammendment 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 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; (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 perior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisify 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 in the proceeding 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 which respect to at least one contention will not be permited 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 hearings 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. 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 must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 220555, Attention: Docketing and Service Branch, or may be delivered on 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 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. That 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.

[FR Doc. 83-23903 Filed 8-30-83; 8:45 am]

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 proosed 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 consequenes 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 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 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 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.

Nontimely filings 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. That 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 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.

[FR Doc. 83-23904 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 for 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, provided such techniques are 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

filed written petitions for leave to intervene and to the Public Document Rooms in Washington, D.C., and Harrisburg, Pennsylvania. In view of the additional information contained in the Safety Evaluation, the Commission is reopening the comment period to receive further public comments on the proposed no significant hazards consideration published on May 31 at (48 FR 24231). Any comments received within 30 days after the date of publication of this notice will be considered along with those comments previously received in making a final determination on the amendment authorizing operation of the facility with the as-repaired steam generators after completion of non-nuclear hot functional testing. The Commission is also publishing a notice of issuance of an amendment authorizing non-nuclear hot functional testing of the steam generators. In connection with this amendment, the Commission has made a final determination that such amendment involves no significant hazards considerations.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Att: Docketing and Service Branch.

For further details with respect to this action see: (1) The application for amendment dated May 9, 1983, (2) the May 31, 1983 **Federal Register** Notice (48 FR 24231), and (3) the Commission's Safety Commission's Safety Evaluation provided in a letter dated. August 25, 1983, (J. Stolz (NRC) to H. Hukill (GPUN)). These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of the Safety Evaluation may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of August 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 24041 Filed 8-30-83 8:45 am]

BILLING CODE 7590-01-M

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, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 31–September 2, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. 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 "Tau" effect in the seismic design of nuclear power plants.

9:45 A.M.–10:45 A.M.: Unresolved Safety Issue A-1, Water Hammer (Open)—The Committee will consider the NRC Staff proposal for resolution of USI A-1, Water Hammer.

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 activity and proposed full Committee activity.

9:00 A.M.–10:00 A.M.: Office of Nuclear Regulatory Research Activities (Open)—The Director of the NRC Office of Nuclear Regulatory Research will brief the ACRS regarding the activities of the NRC Office of Nuclear Regulatory Research.

10:00 A.M.–12:00 Noon and 1:00 P.M.–2:00 P.M.: Severe Accident Research Program (Open)—The Committee members will hear and discuss presentations by representatives of NRR and RES regarding the objectives of the SARP.

2:00 P.M.–2:30 P.M.: ACRS Subcommittee Activities (Open/Closed)—The members will hear and discuss reports of designated subcommittees regarding ongoing activities including the annual ACRS report to the U.S. Congress on the proposed NRC safety research budget and program, and the proposed Westinghouse Electric Corporation advanced PWR standard plant design.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered.

2:30 P.M.–4:30 P.M.: Nuclear Power Plant Operator Training and Qualification (Open)—The members will consider proposed new and revised NRC regulations and regulatory guides on training and qualification of individuals working at nuclear power plants.

4:30 P.M.–5:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will prepare its reports to the NRC regarding items considered during this meeting.

Friday, September 2, 1983

8:30 A.M.–12:30 P.M.: Preparation of ACRS Reports to NRC (Open)—The Committee will prepare its reports to the Nuclear Regulatory Commission regarding items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the

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

August 25, 1983.

Notice is hereby given that Hospital Corporation of America (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship 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) 16½% Debentures due 2007; principal amount $100,000,000; indenture filed January 15, 1982 (file no. 2–75696);

(b) Zero Coupon Debentures due 1997–2002; principal amount $300,000,000; indenture filed May 20, 1982 (file no. 2–77611); and

(c) 15⅝% 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 Guaranties 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.

3. 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 Guaranties are wholly unsecured. All of the Debentures, Loan Agreements and Guaranties pertaining to the indentures under which Commerce Union acts as trustee constitute indebtedness of the Company that is not subordinated to any other indebteness of the Applicant. The Debentures (and the indentures relating thereto), the Loan Agreements and the Guaranties rank equally 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 serving as trustee under any one of the indentures listed in Paragraphs 1 and 2 above, and continuing such trusteeship during such time as the indebtedness under each such indenture is outstanding in each instance, should in no way inhibit, discourage or otherwise influence Commerce Union Bank's actions as trustee under any one or more of such other indentures. Consequently, its trusteeship 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.

[FR Doc. 83-23923 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13463; 812-5390]

Southern Farm Bureau Cash Fund, Inc., and Southern Farm Bureau Casualty Insurance Co.; Application for an Order

August 25, 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 39213, 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 memberhsip 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 such arrangements with other funds. The proposed coverage would protect the Fund agains 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 th 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 portion of its risk under this proposal. Applicants state that any such reinsurance agreements will not adversely affect the Fund or its shareholders. While the Applicants do not presently intend to change the premiums charged in this proposal, they agree as a condition to the granting of this exemptive request that the disinterested members of the Fund's board of directors will review at least annually the premium paid under this proposal to verify its fairness, and that the disinterested directors' approval will be obtained prior to increasing the premium rates stated in the proposal.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 19, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

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 26, 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 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, 459 5th Street, NW., Washington, D.C. 20549. Copies of the filing are 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. 83-23925 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20116; File Nos. SR-MSTC-83-13, SR-MSTC-83-9, SR-MSTC-83-4]

Midwest Securities Trust Co.; Filing, Immediate Effectiveness, and Withdrawal of Proposed Rule Changes

August 25, 1983.

On August 1, 1983, Midwest Securities Trust Company ("MSTC") submitted a proposed rule change,[1] 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.[2] 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

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[1] By letter dated August 11, 1983, from MSTC to the staff, MSTC amended the proposed rule change for clarification purposes.

[2] Under MSTC Rule 3, Section 4, and MSTC's related procedures, every MSTC participant each day must satisfy fully its daily net money settlement obligations to MSTC by presenting to MSTC a certified check drawn on a MSTC approved Chicago bank (*i.e.*, next-day or "clearing house" funds). If a participant cannot meet this requirement, the participant, on the next business day, must pay MSTC the outstanding cash balance in "same-day funds," *i.e.*, federal funds.

[3] MSTC Rule 14 currently authorizes MSTC to fine, suspend, or expel participants for, among other things, violations of MSTC's rules or procedures. When MSTC determines that a participant is "at fault" in connection with its failure to meet timely its payment obligations, MSTC will deem late payment charges to be disciplinary actions that must be reported to the Commission under Section 19(d)(1) of the Act and Rule 19d-1 (17 CFR 240.19d-1) when MSTC's actions become final.

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 agruments 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, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Reference should be made to File No. SR-MSTC-83-13.

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, NW., 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.[1] Uniform Practice.

(a) and (b) No change.

(c) Dealer Confirmations.

(i) through (v) No change.

(vi) 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 (1) No change.

Rule G-15. Customer Confirmations.

(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 (i) 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**

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[1] Italics indicate new language; [brackets] indicate deletions.

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 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 25, 1983.

George A. Fitzsimmons,

Secretary

[FR Doc. 83-23919 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" underwriting may be sent out prior to the time a formal bond purchase agreement is executed. This would be permissable, 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 R]ule 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 intial 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.[1] (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

[1] *See* File No. SR-MSRB-82-9.

confirmations and receiving payment while the underwriting is taking place. Pursuant to 17 CFR 240.15c2–4, purchasers' funds must be placed in a special escrow account for the issuer 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 WAII 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 WAII 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 just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition, since the proposed rule change merely clarifies the manner in which municipal securities brokers and municipal securities dealers are to comply with an existing requirement of Board rules, and applies equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on Proposed Rule Change Received from Members, Participants and Others

The Board published its initial interpretation concerning the sending of confirmations for transactions in "when issued" 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 (e) 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.

[FR Doc. 83–23920 Filed 8–30–83; 8:45 am]

BILLING CODE 8010–01–M

[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.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* COTs are presently subject to more rigorous financial responsibility requirements than are imposed by the other index stock group option exchanges. In order to prevent the COT financial responsibility requirement from operating as a disincentive to COT registration, and thereby to the development of the Exchange's secondary market making capacity in index group options, the Exchange is proposing to conform its COT financial responsibility requirement to those applicable to CBOE market makers.

(2) *Statutory Basis.* The revised COT financial responsibility requirement is consistent with the requirements of section 6(b)(5) of the 1934 Act in that it removes impediments to, and otherwise facilitates, a free and open market for index group option transactions and promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that Amendment No. 1 will not impose any burden on competition.

(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. 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.

Dated: August 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23918 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20114; File No. SR-OCC-83-17]

Self-Regulatory Organizations; Proposed Rule Change by the Options Clearing Corp.; Expansion of Number of Stocks Permitted To Be Deposited With OCC As Margin

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby givern that on August 8, 1983, The Options Clearing Corporation ("OCC") 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 OCC. 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 the Proposed Rule Change

OCC proposes to amend its rules as set forth below. Italics indicate material proposed to be added to OCC's existing rules and brackets indicate material to be deleted from existing rules.

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 that $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.* [are underlying securities for classes of option contracts outstanding at the time of the deposit.] Each such deposit shall be made with respect to a designated account of the Clearing Member. Such stocks shall be valued on a daily basis at the then maximum loan value of such stocks pursuant to the provisions of Regulation U of the Board of Governors of the Federal Reserve System or such lower value as the Margin Committee of the Corporation may prescribe from time to time with respect to such stocks, or any of them; provided, however, that in no event shall any stock be valued in excess of 70% of its current market value. In determining the maximum loan value of any stock, its current market value shall be deemed to be its *closing price on the primary market for such stock during the preceding trading day or, if it was not traded in the primary market, the lowest reported bid quotation for such stock at or about the close of trading on such day.* ["daily underlying security marking price" as defined in Rule 602.] Stocks of any one issuer shall not be valued at an amount in excess of 10% of the margin requirement in the account for which such stocks are deposited. Stocks deposited pursuant to Rule 610 shall have not value as margin for the purposes of this Rule 604(d).

(2) [No change]

(3) [No change]

(e) [No change]

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 Rel. 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 (i) 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, 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 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23924 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.

August 25, 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 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

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

clearing fund separate from the participants fund of its affiliated registered securities depository, Pacific Securities Depository Trust Compnay ("PSDTC"). PCC and PSDTC currently maintain a joint participants fund. Second, PCC would be authorized to invest clearing fund cash in United States Government Securities. Currently, the Pacific Stock Exchange, Inc. ("PSE"), PCC's parent corporation, has this investment authority. Third, PCC's authority to use clearing fund assets would be narrowed. Under the proposal, PCC would use clearing fund assets to meet losses or liabilities incident to clearance and settlement activities. PCC's current rules provide that PCC can use clearing fund assets to discharge any liability of a member, including liabilities of PSDTC passed on to PCC 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, PCC 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 PCC (the $5000 minimum contribution also would be applied to the member once and not to each of its accounts). Currently, PCC calculates clearing fund contribution requirements on an account-by-account basis. Thrid, PCC's formula by which individual member's clearing fund requirements are calculated (other that the minimum deposit requirement) would be changed substantially. PCC would calculate a member's contribution requirement by: (a) totalling all of the member's net debits and credits settling through PCC's continuous net settlement ("CNS") system during each calendar quarter (or lesser period of time, as PCC 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 PCC-related portion of a member's required contribution to the PCC/PSDTC participants fund is calculated each quarter by (a) aggregating the member's CNS debits 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 PCC members to secure their open account indebtedness with irrevocable letters of credit issued in favor of PCC by PCC-approved financial institutions. The proposed rule change contemplates that PCC will control closely participant letter of credit usage through a number of safeguarding mechanisms, such as PCC's approval of financial institutions as letter of credit issuers and PCC's general authority to prevent or to deter an undue concentration of letters of credit from one or more approved letter of credit issuers. PCC intends to design and propose specific concentration requirements shortly. Currently, PCC'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 undebtedness with high-grade, bearer municipal bonds.

In its filing, PCC states that the proposal would increase substantially both the aggregate size of PCC's clearing fund and the size of individual members required clearing fund contributions. To ease implementation of the larger clearing fund requirements, PCC, 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, PCC 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. PCC states that the proposed rule change is consistent with section 17A of the Act, and, in particular, subsection (b)(3)(F) of that Section. PCC believes that the proposal assures the safeguarding of securities and funds in the custody or control of PCC 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. 83-23921 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.

August 25, 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 16, 1983, the Pacific Securities Depositiory 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 Regulations's Standards for the Registration of Clearing Agencies that concern Sections 17A(b)(A)-(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-

[1] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

out their positions; (vii) PSDTC's liens on deposited funds and securities; (viii) PSDTC's insolvency procedures, including rights to reverse 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 statements with respect 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. 83-23922 Filed 8-30-83; 8:45 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 25, 1983.

I. Introduction

On May 12, 1983, Philadep submitted a proposed rule change (SR-Philadep-83-3) to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(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. [1] 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, [2] 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, jPhiladep 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. [3] 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. [4] 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. [5]

Philadep will use First Class (insured) mail service for certificates with a market value of $100,000 or less. [6] 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. [7]

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

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[1] *See* Securities Exchange Act Release No. 19917 (June 27, 1983), 48 FR 30507 (July 1, 1983).

[2] The pilot program will involve several participants with whom Philadep has developed a system of tape-to-tape transmission of transfer instructions and movement activity and will involve only certain local securities issues traded mostly in the Philadelphia area.

[3] Philadep will not mail the instructions to the transfer agent until Philadep checks for proper completion of the instructions and sufficiency of the participants' position at Philadep. Ordinarily, this takes one business day.

Participant registration instructions that are unsatisfactory to either Philadep or the transfer agent will be rejected and returned to the participant by Philadep with an appropriate notation of the reason for rejection.

[4] Philadep will perform this service for its participants on an undisclosed basis. The envelope containing the customer's securities certificates is unmarked except for a Post Office Box return address.

[5] This information will be provided to participants after Philadep mails the customer-name certificates to the customer. In addition, Philadep will provide participants with a daily transfer activity report, a daily net position magnetic tape, and the ability to make inquiries in an on-line mode through the Philadep Terminal System.

[6] The Commission understands that the use of First Class insured mail service for the delivery of securities with a market value of less than $100,000 is consistent with industry practice.

[7] In addition to the fees described in note 6 *supra*, Philadep will pass through to participants the cost of Registered Mail Service and insurance purchased from the United States Postal Service.

clearance and settlement of securities transactions. The Commission concurs 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, net delays in the transfer process should be reduced.[8] 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.[9] 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.[10]

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 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[8] Less frequent use of the mails also reduces the risk of loss of the securities certificates. *See* Discussion *infra*.

[9] *See* discussion and note 6 *supra*.

[10] The Commission will monitor this program during the pilot period to assure that Philadep's processing of the certificates and their mailing arrangements do not create unnecessary risks and that the program, in fact, is beneficial to Philadep's participants and their customers, as anticipated.

[Release No. 34-20107; 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].

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	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

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.[1] 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 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 (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 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 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.

[FR Doc. 83-23764 Filed 8-30-83; 8:45 am]

BILLING CODE 8010-01-M

[1] The proposed rule change (SR-NYSE-83-33) amended Rule 129 to provide that the rule shall terminate on October 15, 1983, and all charges imposed thereunder will be refunded unless, prior to that date, the Commission approves the first sentence of Rule 129 and the charges initially to be imposed thereunder pursuant to Section 19(b)(2) of the Act.

[Release No. 34-20106; File No. SR-NYSE-83-33]

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].

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").[1] 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.

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 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.[2]

(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

[1] On August 19, 1983, the NYSE submitted to the Commission a proposed rule change (SR-NYSE-83-34) under Section 19(b)(2) of the Act to make permanently effective the first sentence of Rule 129 and the charges imposed thereunder.

[2] On June 23, 1983, the NYSE submitted a proposed rule change (SE-NYSE-83-24) which became effective pursuant to Section 19(b)(3)(A) of the Act to impose charges for regulatory oversight services and to amend NYSE Rule 129 by deleting that portion of the rule providing for charges for regulatory oversight services to be measured as required by Article X, Section 10 of the NYSE Constitution. Instead, those charges would be imposed under Article X, Section 3. In connection with that filing, the NYSE stated that it would not actually collect regulatory oversight charges from its members until August 24, 1983. *See* Securities Exchange Act Release No. 19934, July 1, 1983. The NYSE's current filing (SR-NYSE-83-33) further amends Rule 129 as amended under NYSE's previous filing (SR-NYSE-83-24).

interest; and not be designed to permit unfair discrimination between brokers or dealers.

(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

The foregoing rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such 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.

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, 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, N.W., 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.

Dated: August 23, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-23505 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, Customs House Plaza, 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 Bala Plaza, Suite 400-East Lobby, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004 (215) 596-5801.

Dated: August 25, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-23910 Filed 8-30-83; 8:45 am]

BILLING CODE 8025-01-M

Oregon; Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Portland, will hold a public meeting at 10:00 a.m., on Friday, September 30, 1983, at the First Interstate Bank Tower—1300 SW. 5th Avenue, Suite 2100, Portland, Oregon, 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 Stewart L. Rollins, District Director, U.S. Small Business Administration, 1220 S.W. 3rd Room 676, Portland, Oregon 97204—(503) 294-5221.

Dated: August 25, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 83-23909 Filed 8-30-83; 8:45 am]

BILLING CODE 8025-01-M

Washington; Region X Advisory Council; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m., Thursday, September 29, 1983, in Room 752 U.S. Courthouse Building, West 920 Riverside Avenue, Spokane, Washington, to discuss such matters as they may be presented by members, staff of the U.S. Small Business Administration, or others present.

For futher information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651 U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210 (509) 456-3781.

Dated: August 25, 1983.

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 Sub-Committee; (6) Consideration of Establishing New Special Committees; (7) Approval of Special Committee 135 Proposed Changes to Explosion Proofness Testing Procedures Contained

in RTCA Document DO-160A "Environmental Test Conditions and Test Procedures for Airborne Equipment"; (8) Approval of Special Committee 147 Report on Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment (Volume 1) and Collision Avoidance Algorithms (Volume 2); and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Suite 500, Washington, D.C. 20005, (202) 683-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 23, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-23852 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-13-M

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.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Mass Transportation Administration are undertaking the preparation of an Environmental Impact Statement (EIS) for alternative transit improvements in the Northeast Corridor of the Baltimore region. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality (CEQ), Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

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 critieria 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 MetroCenter and radiates into the Northeast area of the Baltimore region. The corridor originates at 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.

Comments at the scoping meeting should focus on the appropriateness of these and other options for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

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 guidelnes. Mitigating measures will be explored for any adverse impacts that are indentified.

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.

[FR Doc. 83-23851 Filed 8-30-83; 8:45 am]

BILLING CODE 4910-57-M

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 "Recusal 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.

[FR Doc. 83-23930 Filed 8-30-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 170
Wednesday, August 31, 1983

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.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

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.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Domestic Exchange Traded Options Regulation § 33.4(a)(6).

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-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)(1) 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; (2) accept the bid for the transaction submitted by First American Bank of Nashville, N.A., Nashville, Tennessee; and (3) 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

(B) consider a recommendation with respect to the initiation and conduct of a cease-and-desist proceeding against an insured bank (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii)); and

(C) approve the application of Reelfoot Bank, Hornbeak, Tennessee, an insured State nonmember bank, for the Corportion's consent to merge, under its charter and title, with Reelfoot Interim Bank, Hornbeak, Tennessee, a recently organized interim bank; and

(D) approve the application of California First Bank, San Francisco, California, an insured State nonmember bank, for the Corporation's consent to purchase certain assets of and assume the liability to pay deposits made in 18 branches of The Bank of California, National Association, San Francisco, California, and to establish those 18 branches as branches of California First Bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 29, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1237-83 Filed 8-29-83; 2:51 pm]

BILLING CODE 6714-01-M

4

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 38371, Tuesday, August 23, 1983.

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 agenda 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.

[S-1238-83 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.

PLACE: NTSB Board Room, Eighth floor, 800 Independence Avenue SW., Washington, D.C. 20594.

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.
2. *Aircraft Accident Report:* A. E. Staley Co., Inc., Canadair Challenger CL-600, N805C, Hailey, Idaho, January 3, 1983.

3. *Reconsideration of Probable Cause* and comments about Safety Recommendations and other issues related to the Pipeline Accident Report, Mid-America Pipeline System Liquefied Petroleum Gas Pipeline Rupture and Fire, Donnellson, Iowa, August 4, 1978.

4. *Response to Reconsideration of Probable Cause*—Aircraft Accident Report: Eastern Air Lines, Inc., Boeing 727-225, N8838E, Raleigh, North Carolina, November 12, 1975.

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.

7. *Discussion* of Ad Hoc Task Force Report and Recommendations on Petitions for Reconsideration of Probable Cause.

8. *Opinion and Order:* Administrator v. Anderson, Dkt. SE-5564; disposition of the Administrator's appeal.

9. *Opinion and Order:* Administrator v. Marshall, Dkt. SE-5707; disposition of respondent's interlocutory appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

August 29, 1983.

[FR Doc. S-1236-83 Filed 8-29-83; 1:47 pm]

BILLING CODE 4910-58-M

federal register

Wednesday
August 31, 1983

Part II

Environmental Protection Agency

Environmental Radiation Protection Standards for Low-Level Radioactive Waste Disposal; Advanced Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 193

[A-FRL 2395-3]

Environmental Radiation Protection Standards for Low-Level Radioactive Waste Disposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The U.S. 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.

FOR FURTHER INFORMATION CONTACT: G. Lewis Meyer, Office of Radiation Programs (ANR-460), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone (703) 557-8610.

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

[FR Doc. 83-23581 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-28-M

federal register

Wednesday
August 31, 1983

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, fluorspar, 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 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 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 coverd 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 cosumption for typical plants 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 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, 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 proposals, depending on mineral type. 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 were selected becasue 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-35), 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.[1] 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 inlight 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 as 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) points 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 ot 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

[1] The most important case is *ASARCo, Inc. v. EPA*, 578 F., 2d 319 (D.C. Cir. 1978).

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 hooding 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 though 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 presssure 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 80 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 reducting 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 (276 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 136 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 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 considerable 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 16 to 6 percent, respectively, of the plant's total capital costs. For portable crushing plants, the capital costs would range from $88,000 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 $0.10/Mg ($0.85 to $0.09/ton) of product, as the plant capacity goes from 9 to 544 Mg/h (10 to 600 tons/h). The annulized 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 $96.5 million for crushed stone. The total annualized costs in the fifth year would increase by about $34 million, ranging from about $25,000 for vermiculite to more than $26 million for crushed stone. The average annualized control costs per ton of output in the fifth year following proposal would range from $0.006 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 136 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 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.

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 $135,000 for a 544 Mg/h (600 tons/h) plant. For portable crushing plants, the capital costs 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. The total annualized costs for a fixed crushing plant 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 portable 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 part of an asphalt concrete 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 situations 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 no 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, 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 emissions 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 theatmosphere. 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 an 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 procesing plants. However, the monitoring of operating parameters of wet scrubbers (pressure drop accross 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 processes in key 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 metallic 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 date 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 particulate 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 accomodate 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 relocaltion or change in ownership of an existing facility.

Because most changes to nonmetalic 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 commencing or completing those replacements, replaces an additional 30 percent. More specifically, it is uncertain whether there are two separate actions occuring, 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 all continuous programs 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 withing ±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–78–11.

The collection of information requirements contained in this rule have been submitted to OMB for review under Section 3504(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 Administator'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.

Pursant to the provisions of 5 U.S.C. 605(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

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating.

Dated: August 12, 1983.

William Ruckelshaus,

Administrator.

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
60.671 Definitions.
60.672 Standard for particulate matter
60.673 Reconstruction.
60.674 Monitoring of operations.
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)], and additional authority as noted below

Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants

§ 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 affected facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station.

(b) An affected facility that is subject to the provisions of Subpart F or I or that follows in the plant process any facility subject to the provisions of Subparts F or I of this part is not subject to the provisions of this subpart.

(c) Facilities at the following plants are not subject to the provisions of this subpart:

(1) Fixed sand and gravel plants and crushed stone plants with capacities of 23 megagrams per hour (25 tons per hour) or less;

(2) Portable sand and gravel plants and crushed stone plants with capacities of 136 megagrams per hour (150 tons per hour) or less; and

(3) Common clay plants and pumice plants with capacities of 9 megagrams per hour (10 tons per hour) or less.

(d) An affected facility under paragraph (a) of this section that commences construction or modification after ——— (date of publication in the **Federal Register**) is subject to the requirements of this part.

§ 60.671 Definitions.

All terms used in this subpart, but not specifically defined in this section, shall have the meaning given them in the Act and in subpart A of this part.

Bagging operation means the mechanical process by which bags are filled with nonmetallic minerals.

Belt conveyor means a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.

Bucket elevator means a conveying device for nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.

Capture system means the equipment (including buildings, enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one or more process operations to a control device.

Control device means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more process operations at a nonmetallic mineral processing plant.

Crusher means a machine used to crush any nonmetallic mineral, and includes but is not limited to the following types: jaw, gyratory, cone, roll, rod mill, and hammermill.

Enclosed truck or railcar loading station means that portion of a nonmetallic mineral processing plant where nonmetallic minerals are loaded by an enclosed conveying system into enclosed trucks or railcars.

Fixed plant means any nonmetallic mineral processing plant at which any piece of equipment is attached by a cable, chain, turnbuckle, bolt or other means to any anchor, slab, or structure including bedrock.

Fugitive emission means particulate matter that is not collected by a capture system and is released to the atmosphere at the point of generation.

Grinding mill means a machine used for the wet or dry fine crushing of 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 air conveying 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, Traprock, 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) Gilsonite.

(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 or clamped to 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).

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 of 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 fugitive emissions which exhibit greater than 10 percent opacity, except as provided in paragraphs (c) and (d) of this section.

(c) 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 shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity.

(d) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the requirements of this section.

§ 60.673 Reconstruction.

(a) The cost of replacement of ore-contact surfaces on processing equipment shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital cost that would be required to construct a comparable new facility" under § 60.15. Ore-contact surfaces are crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.

(b) Under § 60.15, the "fixed capital cost of the new components" includes the fixed capital cost of all depreciable components (except components specified in paragraph (a) of this section) which are or will be replaced pursuant to all continuous programs of component replacement commenced within any 2-year period following—[date of publication in **Federal Register**].

§ 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 ±250 pascals ±1 inch water) gauge pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.

(b) 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 scrubbing liquid flow rate to a wet scrubber for any affected facility using any type of wet scrubbing emission control device. The monitoring device must be certified by the manufacturer to be accurate within ±5 percent of design scrubbing liquid flow rate and must be calibrated on an annual basis in accordance with manufacturer's instructions.

§ 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;

(4) Method 3 for gas analysis.

(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))

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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 ands 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.

ADDRESSES: Comments should be sent in triplicate if possible to: Central Docket Section (A-130), U.S. Environmental Protection Agency, Washington, D.C. 20460, Attn: Doc. No. G-81-2.

Docket: EPA has established docket number G-81-2 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.

FOR FURTHER INFORMATION CONTACT: Ivan Tether, Regulatory Reform Staff (PM-223), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2765, or Brock Nicholson, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5516.

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 G-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

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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.[3]

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 focussed 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 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 base-lines. Other commenters, however, includng 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 nonattainment 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.[4] It reaffirmend 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.[5]

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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.

[3] Use of *past* shutdowns for new source *offsets* is generally limited to replacements (See 40 CFR Part 51, Appendix S (1981)). 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.

[4] 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, 1983 the Supreme Court granted the Government's petition. *Ruckelshaus* v. *NRDC*, Nos. 82–1591 et al.

[5] 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.

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(a)(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 doublecounted, 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.[6] In order to attain, such areas will need more reductions thatn their SIPs currently require. Moreover, the extent of thos additional reductions, and the sources from which those reductions will come, are presently unclear. Finally, the state that lacks a required demonstration of attaintment 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 elimnate 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.[7]

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 created 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 yield 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.[8]

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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 cause 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 deemed to satify Part D requirements, since they must ultimately rely on reductions from adjacent areas to cure their pollution problem. See 44 FR 20372, 20376 and n. 22 (April 4, 1979).

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.

[7] Where trades of TSP SO_2 or CO in significant amounts or over significant distances are involved, modelled demonstrations of ambient equvalence to traditional RACT reductions may also produce better data on source-receptor relationships than conventional regulation would yield. E.g., 47 FR 15078, 15082, 15084–85 (April 17, 1982); "Emissions Trading Policy—Technical Clarifications," memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, U.S. EPA, to Directors, Air Management Divisions, EPA Regions I–X (Feb. 17, 1983).

Under the April 7 Policy states with attainment extensions until 1987 for relevant pollutants could authorize creation of ERCs using an actual emissions baseline, provided the source committed to "find or produce reductions equivalent to future RACT requirements if and when the state imposes them." 47 FR 15080 (April 7, 1982). To EPA's knowledge no state has elected this alternative approach; and as noted in Section I above, expiration of the 1982 deadline for submittal of extionsion-area attainment SIPs has substantially limited its applicability.

[8] It has been asserted that some sources will have greater incentive to press for less stringent "negotiated RACT" limits in these circumstances. However, this incentive does not appear to vary

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 uninventoried emission sources 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 those rules' potential cost. It may help states secure additional reductions from existing sources, which comprise over 95% of most nonattainment area emissions.[9]

The Dupont Chambers Works bubble for emissions for 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 85% control) on broad categories of sources, including Dupont's 7 large stacks and 112 smaller fugitive sources (See Administrative Code of New Jersey, Title 7, Chapter 27, Subchapter 16 (1981).) The opportunity to meet these uniform requirements through bubbies 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 requires 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 requirements of no double-counting and application of appropriate baselines, could produce additional enviromental benefits. While it might inhibit some trades, such a requirement would assure that every existing-source bubble make a direct and immediate contribution towards attainment, beyond what the state has required thus far. It could compensate for other SIP uncertainties and further assure that "surplus" designations comport with the Act. Finally, it could increase the stability of the existing Policy, with minimal disruption of current or planned trading activities. This conclusion seems supported by the fact that nearly two-thirds of the existing source bubbles already approved or proposed for approval by EPA will produce extra emission reductions.[12]

Requiring a net air quality imrpovement might be particularly appropriate where trades involve *use of ERCs from shutdowns for existing-source bubbles in areas which require but lack demonstrations of attainment.*[13] Unlike surplus reductions from additional pollution control or less-polluting process changes, shutdowns produce a total reduction of emissions, 100% of which might benefit air quality if credit were not allowed. Granting full or partial credit for their use in existing-source bubbles might reduce that benefit, slow progress, and be inconsistent with the Act's mandate that such areas attain as expeditously as practicable, at least where the source would have shut down anyway. This reasoning (reflecting a desire to avoid granting credit for reductions that may not be "surplus" because they would have occurred in any event) underlies

from that present in any rulemaking expected to result in new reduction requirements under the Act. Moreover, in all such cases EPA must still approve the agreed-upon baseline as equivalent to RACT, before the trade may be finally approved and implemented. See, e.g., 47 FR 15080 at A.l.b. (i) and (ii) (April 7, 1982).

[9] See, e.g., Goklany, *Issues Related to the Source Definition for New Source Review in Nonattainment Areas*, September 1982 (summarizing data). See generally, Domenici, "Emissions Trading: The Subtle Hersey," *Environmental Forum*, Vol I. No. 8 (Dec. 1982), pp. 18–24, reprinted in *Congressional Record* (daily ed.), (December 15, 1982), pp. S14765–68 (remarks of Majority Leader Baker).

[10] 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 10842 (1972) (Ohio SO_2 SIP; proposal); 41 FR 36324 (1976) (last part of the final rule).

[11] 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 flexibility, intended "to 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).

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 emissions 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 ambient demonstration 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.

[12] For example, of the 34 bubbles approved or proposed by EPA directly through January 1983, 21 or nearly two-thirds are producing or would produce more reductions than required by applicable regulations. Of these 21, VOC bubbles produced an average extra reduction of 191 tons per year (TPY), SO_2 bubbles an average extra reduction of 2825 TPY, and TSP bubbles an average extra reduction of 907 TPY (one group) and 15.9 lb./hr. (another group).

A few jurisdictions (e.g., Jefferson County (Louisville, Ky.), Already require existing-source bubbles to produce significant net reductions in overall emissions. All such bubbles must continue to meet ambient tests as well. See, e.g., 47 FR at 15078, 15082 (April 7, 1982).

[13] The following discussion does not affect the established availability of shutdown credits for offsets or other trading activities to facilitate construction of *new* major sources or major modifications. See, e.g., 44 FR 3284–85 (Jan. 16, 1979).

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 beeen double-counted and a proper RACT baseline is applied, the shutdown does contribute to air quality progress, since much less than 100% credit will be granted.[14] 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 comments' 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.[15] 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, so long as the reduction from a 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 would 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 both to 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" projections had relatively little 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 a 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

[14] This can readily be seen from the fact that most state VOC RACT regulations require between 80% and 85% control of uncontrolled emissions. See, e.g., 46 FR 20551, 20553 (April 6, 1981) (New Jersey; 85% control for sources emitting VOC is RACT). Thus, even under the April Policy only 15% to 20% of the reductions produced by a shutdown would ordinarily be available as a credit for use in bubbles; the remaining 80% to 85% will contribute directly to air quality progress. Even less credit would generally be available for shutdowns involving other pollutants such as TSP, where required RACT reductions are often substantially greater than 85%.

[15] This is especially true because current economic conditions have resulted in plants operating much longer than might have been predicted at their time of construction. Thus, any attempt to credit shutdowns on this basis would require difficult determinations of fact that could frequently demand judicial resolution.

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.[16] 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 statutory 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 shutdown 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 alternatative, 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

[16] 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 not 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.

[17] 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 "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

A. *On Current Trading in General.* 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.[18] 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* 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 accompany 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 SO_2, TSP, O_3, CO or NO_x 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.

Dated: August 25, 1983.

Wiliam D. Ruckelshaus,

Administrator.

[FR Doc. 83-23860 Filed 8-30-83; 8:45 am]

BILLING CODE 6560-50-M

[18] As 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.

[19] On 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.

Wednesday
August 31, 1983

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 (PROD) 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, 5285 Port Royal Rd, Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED AUGUST 26, 1983

VOLUME 959

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
**********									
LOUISIANA OFFICE OF CONSERVATION									
**********									
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/15/83	JA: LA			
8349395	83-22	1710121149		102-4		RUTH N ROANE #1	JEANERETTE	365.0	MICHIGAN WISCONSI
-EQUITABLE PETROLEUM CORP				RECEIVED:	08/15/83	JA: LA			
8349393	83-195	1705120623		102-4		S L 2383 #6	LITTLE LAKE	365.0	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	08/15/83	JA: LA			
8349487	82-2672	1704520712		102-4		S L 1706 #21	LAKE SAND	500.0	COLUMBIA GAS TRAN
-PENNZOIL PRODUCING COMPANY				RECEIVED:	08/15/83	JA: LA			
8349489	82-824	1702720817		102-4		MEADOWS #C-2 SMK A RA SU G	LISBON	550.0	UNITED GAS PIPE L
-THE STONE OIL CORPORATION				RECEIVED:	08/15/83	JA: LA			
8349488	82-984	1711321153		102-4		EXXON FEE #16	LAC BLANC	239.5	TENNESSEE GAS PIP
-TODD OIL CORP OF LOUISIANA				RECEIVED:	08/15/83	JA: LA			
8349394	82-3196	1701120477		102-4		BOISE SOUTHERN #1	FIELDS	182.0	TRUNKLINE GAS CO
-WEAVER EXPLORATION CO				RECEIVED:	08/15/83	JA: LA			
8349392	83-194	1772720132		102-4		ST OF LA JOA LLLL #1	CHANDELEUR SOUND	700.0	SUGAR BOWL GAS CO
**********									
NORTH DAKOTA INDUSTRIAL COMMISSION									
**********									
-AMERADA HESS CORPORATION				RECEIVED:	08/12/83	JA: ND			
8349328		3310500000		108		BEAVER LODGE MADISON UNIT #M011	BEAVER LODGE	8.4	MONTANA-DAKOTA UT
8349327		3310500000		108		TIOGA MADISON UNIT #G147	TIOGA	0.9	MONTANA-DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: ND			
8349323		3305301473		102-4		SHEEP CREEK BN 22-25	ROUGHRIDER	0.0	KOCH OIL CO
-BROSCHAT ENG & MANAGEMENT SERVICES				RECEIVED:	08/12/83	JA: ND			
8349326		3305301483		102-4		JOHN KIRKLAND #1	CROFF	400.0	AMINOIL USA INC
-DEPCO INC				RECEIVED:	08/12/83	JA: ND			
8349325		3310500000		102-4		HOUSTON 41-4	EIGHT MILE	0.0	
8349324		3310500000		102-4		SKARDERUD #2-7	TEMPLE	0.0	AMINOIL USA INC
-MONSANTO COMPANY				RECEIVED:	08/12/83	JA: ND			
8349330		3301300822		102-4		RAMEDEN #1	NE FOOTHILLS	2.0	CITIES SERVICE CO
-PETRO-LEWIS CORPORATION				RECEIVED:	08/12/83	JA: ND			
8349329		3301100295		108		STATE 1-16	LITTLE MISSOURI FIELD	13.0	MONTANA-DAKOTA UT
**********									
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	08/15/83	JA: NM			
8349411		3004525616		103		CANDELARIA "A" #1	ARMENTA GALLUP	0.0	
8349405		3004595024		103		KEYS GAS COM "G" #1	MT NEBO - FRUITLAND	94.0	EL PASO NATURAL G
8349396		3004500000		108-PB		MCCOY GAS COM C #1	FLORA VISTA	0.0	NORTHWEST PIPELIN
8349410		3004525562		103		STATE GAS COM "BC" #1E	BASIN - DAKOTA	35.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/15/83	JA: NM			
8349415		3002525537		103		WIMBERLY WN #11		9.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	08/15/83	JA: NM			
8349398		3002504659		108		SKELLY "B" STATE #1	EUNICE MONUMENT G-SA	6.6	PHILLIPS PETROLEU
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	08/15/83	JA: NM			
8349399		3002500000		103		GLENN CLEVELAND #1	MORTON - WOLFCAMP	161.3	TIPPERARY CORP
8349407		3002500000		103		STATE 82-1	MORTON WOLFCAMP	33.5	WARREN PETROLEUM

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HNG OIL COMPANY				RECEIVED:	08/15/83	JA: NM			
8349406		3001524429		103		LOVING 1 STATE #2	BLACK RIVER MORROW	300.0	TRANSWESTERN PIPE
-JACK HUPF				RECEIVED:	08/15/83	JA: NM			
8349404		3002500000		103		SHEARN-STATE	SCARBROUGH YATES - SE	18.0	EL PASO NATURAL G
-MANANA GAS INC				RECEIVED:	08/15/83	JA: NM			
8349403		3004525569		103		GALE #1-R	AZTEC-FRUITLAND	35.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	08/15/83	JA: NM			
8349400		3002528225		103		VACUUM STATE #3	UNDES SCHARB-WOLFCAMP	121.0	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/15/83	JA: NM			
8349408		3002527977		103		CHEM STATE #6	TULK WOLFCAMP	28.0	WARREN PETROLEUM
8349409		3002528153		103		LEA #30	VACUUM GRAYBURG - SAN	292.0	EL PASO NATURAL G
-S & I OIL CO				RECEIVED:	08/15/83	JA: NM			
8349402		3004500000		103		NIELSEN #1	MEADOWS-GALLUP	5.6	INTRASTATE GATHER
-TENNECO OIL COMPANY				RECEIVED:	08/15/83	JA: NM			
8349401		3004525575		103		BLANCETT COM 1	BLANCO MESAVERDE	110.0	NORTHWEST PIPELIN
8349397		3004523587		108		SHEETS COM 1	BASIN DAKOTA	19.3	EL PASO NATURAL G
8349414		3004525419		103		STATE N1M	BLANCO MESAVERDE	100.0	GAS CO OF NEW MEX
-TEXACO INC				RECEIVED:	08/15/83	JA: NM			
8349412		3002500000		103		NEW MEXICO "H" STATE NCT-2 #30	EUMONT-YATES SEVEN RI	1033.7	NORTHERN NATURAL
8349413		3002500000		103		NEW MEXICO "H" STATE NCT-2 #31	EUMONT YATES SEVEN RI	163.2	NORTHERN NATURAL
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	08/15/83	JA: WV			
8349419		4708703580		103		E HAWKINS #2	HARPER DISTRICT	36.0	ROARING FORK GAS
8349417		4708703643		103		J VINEYARD #1	HARPER DISTRICT	36.0	ROARING FORK GAS
8349421		4708703576		103		PARKER #2	WALTON DISTRICT	36.0	ROARING FORK GAS
8349420		4708703577		103		PARKER #3	WALTON DISTRICT	36.0	ROARING FORK GAS
8349418		4708703642		103		V KYLE	WALTON DISTRICT	36.0	ROARING FORK GAS
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	08/15/83	JA: WV			
8349478		4709701935		108		A-807	WASHINGTON	0.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	08/15/83	JA: WV			
8349439		4700121620		103		BRADSHAW #2	BARKER	42.0	CONSOLIDATED GAS
8349442		4700121652		103		DELAUDER #1	BARKER DISTRICT	15.0	BROOKLYN UNION GA
8349440		4700121628		103		N PRICE #1	VALLEY DISTRICT	7.0	CONSOLIDATED GAS
8349426		4700121763		103		NESTOR #1	GLADE	28.6	BROOKLYN UNION GA
8349441		4700121640		103		SFAMENI #1	VALLEY DISTRICT	19.0	CONSOLIDATED GAS
8349438		4700121584		103		W BOOTH #1	GLADE	65.0	CONSOLIDATED GAS
-BOW VALLEY PETROLEUM INC				RECEIVED:	08/15/83	JA: WV			
8349427		4710500943		103		CN WELCH #966	BURNING SPRINGS	0.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	08/15/83	JA: WV			
8349467		4707900748		108		A H MELTON 809545	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8349480		4705900380		108		COTIGA DEV CO #4 808142	W VA FIELD AREA B	67.0	COLUMBIA GAS TRAN
8349469		4705900419		108		COTIGA DEV CO #7 808222	W VA FIELD AREA B	3.3	COLUMBIA GAS TRAN
8349470		4705900513		108		COTIGA DEV CO #9 808383	W VA FIELD AREA B	21.0	COLUMBIA GAS TRAN
8349465		4705900890		108		HENRY MARCUM 804482	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349466		4703902594		108		KING LAND CO 809778	W VA FIELD AREA A	16.0	COLUMBIA GAS TRAN
8349462		4705900641		108		MINGO WY & COAL & LND #2 808881	W VA FIELD AREA B	3.5	COLUMBIA GAS TRAN
8349468		4705900759		108		MINGO WY COAL & LAND #8 809333	W VA FIELD AREA B	20.0	COLUMBIA GAS TRAN
8349454		4705900762		108		MINGO WY COAL & LAND 809350	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8349455		4705900785		108		MINGO WY COAL & LAND 809415	W VA FIELD AREA B	4.5	COLUMBIA GAS TRAN
8349463		4705900657		108		MINGO WY COAL & LND #3 808882	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8349458		4705900753		108		MINGO WY COAL & LND 7 809258	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8349460		4705900761		108		MINGO WY COAL & LND 809349	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349456		4705900786		108		MINGO WY COAL & LND 809416	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8349457		4705900798		108		MINGO WY COAL & LND 809466	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8349459		4705900758		108		MINGO WY COAL & LND 9 809343	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8349464		4705900708		108		MINGO WY LAND #5 809091	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8349461		4705900629		108		RUTH PETERS #1 808862	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8349447		4703901715		108		TCO FEE 808938	W VA FIELD AREA A	17.0	COLUMBIA GAS TRAN
8349444		4703901747		108		TCO FEE 809006	W VA FIELD AREA A	22.0	COLUMBIA GAS TRAN
8349446		4703901748		108		TCO FEE 809007	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8349443		4703901744		108		TCO FEE 809008	W VA FIELD AREA A	25.0	COLUMBIA GAS TRAN
8349445		4703901776		108		TCO FEE 809092	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8349477		4704301341		107-DV		TCO MINERAL TR #1 809173	WEST VIRGINIA FIELD A	41.0	COLUMBIA GAS TRAN
8349452		4704700211		108		W SIMPSON C & L #10 809067	W VA FIELD AREA C	4.0	COLUMBIA GAS TRAN
8349453		4704700226		108		W SIMPSON C&L #11 809128	W VA FIELD AREA C	9.0	COLUMBIA GAS TRAN
8349448		4704700168		108		W SIMPSON C&L #2 808319	W VA FIELD AREA C	11.0	COLUMBIA GAS TRAN
8349449		4704700195		108		W SIMPSON C&L #7 808867	W VA FIELD AREA C	24.0	COLUMBIA GAS TRAN
8349450		4704700219		108		W SIMPSON C&L #8 809065	W VA FIELD AREA C	2.0	COLUMBIA GAS TRAN
8349451		4704700210		108		W SIMPSON C&L #9 809066	W VA FIELD AREA C	6.6	COLUMBIA GAS TRAN
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	08/15/83	JA: WV			
8349473		4704132600		107-DV		BONVILLIAN #1	COURTHOUSE	24.0	COLUMBIA GAS TRAN
8349474		4704103215		107-DV		COPLEY #4	COURTHOUSE	30.0	COLUMBIA GAS TRAN
8349472		4704103213		107-DV		KENNEY HEIRS #1	COURTHOUSE	54.0	COLUMBIA GAS TRAN
8349471		4704103234		107-DV		MULLOOLY #6	COURTHOUSE	0.0	COLUMBIA GAS TRAN
8349475		4702103903		107-DV		WOLFE #8	GLENVILLE	10.0	
-JAMES F SCOTT				RECEIVED:	08/15/83	JA: WV			
8349479		4701703107		107-DV		HOSKINSON-EVANS #2 S-412	GRANT	0.9	COLUMBIA GAS TRAN
-NRM PETROLEUM CORPORATION				RECEIVED:	08/15/83	JA: WV			
8349422		4709702446		103		DAYWOOD FOUNDATION #1	ALEXANDER	0.0	COLUMBIA GAS TRAN
8349424		4708300599		103		L L MOSS C #1	CASSITY	0.0	COLUMBIA GAS TRAN
8349423		4708300601		103		L L MOSS D #1	CASSITY	0.0	COLUMBIA GAS TRAN
8349425		4700101722		103		ROHRBAUGH #1	BUCKHANNON-CENTURY	0.0	COLUMBIA GAS TRAN
-PACIFIC STATES GAS & OIL INC				RECEIVED:	08/15/83	JA: WV			
8349476		4702103904		107-DV		C P SNIDER #4	GLENVILLE	10.0	
-R & B PETROLEUM INC				RECEIVED:	08/15/83	JA: WV			
8349416		4700101683		107-DV		GENEVA WARE #1	VALLEY DISTRICT	10.0	COLUMBIA GAS TRAN
8349428		4708300258		107-DV		MORRIS #5	ROARING CREEK	36.0	COLUMBIA GAS TRAN
-STONEWALL GAS CO				RECEIVED:	08/15/83	JA: WV			
8349431		4700101493		103		CLARENCE BEHLING 68-B (SB-409)	GOWER RUN VALLEY DIST	10.0	CONSOLIDATED GAS
8349433		4703302441		103		ERNESTINE ALLEN 62-B (SB-337)	JONES CREEK EAGLE DIS	10.0	CONSOLIDATED GAS
8349436		4704102942		103		JOHN M PROBST 64-B (SB-384)	MAXWELL RUN HACKERS C	13.0	CONSOLIDATED GAS
8349429		4700101457		103		JOHN M REED JR 67-B (SB-387)	MITCHELL RUN PLEASANT	22.0	CONSOLIDATED GAS
8349430		4700101484		103		LONA R SMITH 69-B (SB-417)	FOXGRAPE RUN PLEASANT	24.0	CONSOLIDATED GAS
8349437		4709702405		103		M A MARPLE #2 117-SH (26 AC)	HACKERS CREEK WARREN	2.0	CONSOLIDATED GAS
8349432		4703302399		103		MARY A GERRARD 60-B (SB-332)	TENMILE CREEK SARDIS	20.0	CONSOLIDATED GAS
8349434		4703302509		103		PERRY L HALL 63-B (SB-380)	CUNINGHAM RUN EAGLE	12.0	CONSOLIDATED GAS
8349435		4703302663		103		RICHARD K BROWN 66-B (SB-435)	LOST CREEK GRANT DIST	15.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	08/12/83	JA: WY 5			
8349331	W 467-2	4903520670		102-4		RILEY RIDGE GAS UNIT #12-43	SEC 12 T29N R115W	0.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-AMOCO PRODUCTION CO				RECEIVED:	08/12/83	JA: WY 5			
8349347	W 463-2	4903721686		102-2		EMIGRANT TRAIL UNIT #2 (LANCE)	WILDCAT - LANCE	21.3	CITIES SERVICE GA
8349346	W 464-2	4903721686		102-2		EMIGRANT TRAIL UNIT #2 (LEWIS)	WILDCAT - LEWIS	63.9	CITIES SERVICE GA
8349341	W 465-2	4903721686		107-TF		EMIGRANT TRAIL UNIT #2 (LEWIS)	WILDCAT-LEWIS	63.9	CITIES SERVICE GA
8349358	W 450-2	4904120321		102-2		URROZ WI UNIT #1 (PHOSPHORIA)	WILDCAT - PHOSPHORIA	912.5	MOUNTAIN FUEL SUP
8349359	W 446-2	4904120321		102-2		URROZ WI UNIT #1 (WEBER)	WILDCAT-WEBER	647.9	MOUNTAIN FUEL SUP
8349338	W 474-2	4903721197		107-RT		USA AMOCO R #1 (LEWIS)	SIBERIA RIDGE LEWIS	40.0	CITIES SERVICE GA
-BELCO PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: WY 5			
8349340	W 476-2	4902320497		103		BNG 111-4	SOUTH HOGS BACK	0.0	NORTHWEST PIPELIN
-CIG EXPLORATION INC				RECEIVED:	08/12/83	JA: WY 5			
8349383	W 424-2	4901321161		103		QUINCY 2-34 (34-39-91)	BATTLE BUTTE	287.0	COLORADO INTERSTA
8349355	W 455-2	4901320890		103		VICTOR 1-14 (14-39-90)	MADDEN DEEP	125.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED:	08/12/83	JA: WY 5			
8349375	W 409-2	4900922042		102-2		FEDERAL "P" #1	GIBSON DRAW	383.0	
-CZAR RESOURCES INC				RECEIVED:	08/12/83	JA: WY 5			
8349333	W 503-2	4900526459		102-4		FEDERAL 29-1	PORCUPINE (DAKOTA)	325.0	PHILLIPS PETROLEU
-DAVIS OIL COMPANY				RECEIVED:	08/12/83	JA: WY 5			
8349334	W 484-2	4900921982		102-2		BITTERN FEDERAL #1	WILDCAT	26.6	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	08/12/83	JA: WY 5			
8349335	W 485-2	4900922015		103		SUSAN FEDERAL 44-6	KAY	4.0	
-EXXON CORPORATION				RECEIVED:	08/12/83	JA: WY 5			
8349354	W 456-2	4902521159		103		GRAHAM UNIT #1	FRENCHIE DRAW	783.0	KN ENERGY INC
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	08/12/83	JA: WY 5			
8349391	W-437-2	4900720726		102-2		FEDERAL 3-1	DUNES	500.0	NORTHERN NATURAL
8349369	W 436-2	4900720729		102-2		FEDERAL 7-14	SHERARD	200.0	NORTHERN NATURAL
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	08/12/83	JA: WY 5			
8349332	W 480-2	4900921912		102-4		VIRG FEDERAL #1-2	WILDCAT	64.0	
-GETTY OIL COMPANY				RECEIVED:	08/12/83	JA: WY 5			
8349365	W 440-2	4903721883		102-2		MCPHERSON SPRINGS "B" #26-2	MCPHERSON SPRINGS UNI	50.0	COLORADO INTERSTA
8349364	W 441-2	4903721883		107-TF		MCPHERSON SPRINGS "B" #26-2	MCPHERSON SPRINGS UNI	50.0	COLORADO INTERSTA
-HPC INC				RECEIVED:	08/12/83	JA: WY 5			
8349367	W 438-2	4903721768		102-2		GREAT DIVIDE UNIT #10	HAY RESERVOIR	110.2	PANHANDLE EASTERN
8349366	W 439-2	4903721768		107-TF		GREAT DIVIDE UNIT #10	HAY RESERVOIR	110.2	PANHANDLE EASTERN
8349357	W 453-2	4900922025		102-2		HEDGEHOG FEDERAL #1-25	WILDCAT	17.6	PHILLIPS PETROLEU
8349356	W 454-2	4900922025		103		HEDGEHOG FEDERAL #1-25	WILDCAT	17.6	PHILLIPS PETROLEU
-LOMAX EXPLORATION COMPANY				RECEIVED:	08/12/83	JA: WY 5			
8349368	W 435-2	4904521871		103		FROG CREEK FEDERAL #2-8	FROG CREEK	20.0	PHILLIPS PETROLEU
-MICHIGAN WISCONSIN PIPE LINE CO				RECEIVED:	08/12/83	JA: WY 5			
8349342	W 471-2	4901320655		108		BOYSEN TRIBAL #1-19	SAND MESA	1.2	MONTANA-DAKOTA UT
-MONSANTO COMPANY				RECEIVED:	08/12/83	JA: WY 5			
8349336	W 486-2	4901321025		107-DP		DOLIS #2-35	BATTLE BUTTE UNIT	600.0	COLORADO INTERSTA
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	08/12/83	JA: WY 5			
8349379	W 417-2	4902320372		107-TF		FEDERAL 13-34	FONTENELLE II	105.0	PACIFIC GAS TRANS
8349376	W 414-2	4902320416		107-TF		FEDERAL 14-32	FONTENELLE II	0.0	PACIFIC GAS TRANS
8349380	W 418-2	4902320392		107-TF		FEDERAL 14-6	FONTENELLE II	140.0	PACIFIC GAS TRANS
8349361	W 444-2	4902320442		107-TF		FEDERAL 23-25	FONTENELLE II	0.0	PACIFIC GAS TRANS
8349384	W 425-2	4902320338		107-TF		FEDERAL 23-33	FONTENELLE II	235.0	PACIFIC GAS TRANS
8349378	W 416-2	4902320375		107-TF		NGC 13-11 FEDERAL	FONTENELLE II	175.0	PACIFIC GAS TRANS
8349377	W 415-2	4902320409		107-TF		NGC 14-1 FEDERAL	FONTENELLE II	630.0	PACIFIC GAS TRANS
8349363	W 442-2	4902320468		107-TF		NGC 22-22B	FONTENELLE II	66.0	PACIFIC GAS TRANS
8349385	W 426-2	4902320387		107-TF		NGC 24-29 FEDERAL	FONTENELLE II	16.0	PACIFIC GAS TRANS
8349360	W 445-2	4902320469		107-TF		NGC 31-6F	FONTENELLE	214.0	PACIFIC GAS TRANS
8349386	W 428-2	4902320376		107-TF		NGC 33-24 FEDERAL	FONTENELLE II	19.5	PACIFIC GAS TRANS
8349387	W 429-2	4902320331		107-TF		NGC 34-3	FONTENELLE II	30.0	PACIFIC GAS TRANS
8349388	W 430-2	4902320410		107-TF		NGC 34-9 FEDERAL	FONTENELLE II	117.0	PACIFIC GAS TRANS
8349362	W 443-2	4902320450		107-TF		NGC 41-1 FEDERAL	FONTENELLE II	137.0	PACIFIC GAS TRANS
8349389	W 431-2	4902320434		107-TF		NGC 43-22 FEDERAL	FONTENELLE II	50.0	PACIFIC GAS TRANS
-NORTEX GAS & OIL CO				RECEIVED:	08/12/83	JA: WY 5			
8349339	W 475-2	4901321062		102-4		FEDERAL #2-19	FULLER RESERVOIR	20.0	NORTHERN NATURAL
8349373	W 407-2	4901321064		102-4		FEDERAL #4-20	FULLER RESERVOIR II	20.0	NORTHERN NATURAL
8349370	W 404-2	4901320930		102-4		FEDERAL 193 #2-18	FULLER RESERVOIR	180.0	NORTHERN NATURAL
8349372	W 406-2	4901321000		102-4		FEDERAL 193 #5-18	FULLER RESERVOIR	25.0	NORTHERN NATURAL
8349374	W 408-2	4901320993		102-4		FEDERAL 886 #1-17	FULLER RESERVOIR II	220.0	NORTHERN NATURAL
8349371	W 405-2	4901321057		102-4		FEDERAL 886 #7-18	FULLER RESERVOIR	40.0	NORTHERN NATURAL
8349390	W 434-2	4900921985		103		NORTEX-HART FEDERAL 1-25X	(WILDCAT)	360.0	NATURAL GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/12/83	JA: WY 5			
8349348	W 462-2	4900922142		102-2		THUNDER CREEK FED EE #1	SCHOOL CREEK	63.8	PANHANDLE EASTERN
8349382	W 423-2	4900526294		102-3		THUNDER CREEK FED K #1	SCHOOL CREEK	20.0	PANHANDLE EASTERN
8349343	W 472-2	4900922151		102-2		THUNDER CREEK FEDERAL DD #1	SCHOOL CREEK	50.3	PANHANDLE EASTERN
8349344	W 473-2	4900922157		102-2		THUNDER CREEK FEDERAL GG #1	SCHOOL CREEK	50.7	PANHANDLE EASTERN
8349349	W 461-2	4900922152		102-2		THUNDER CREEK FEDERAL GG #2	SCHOOL CREEK	12.7	PANHANDLE EASTERN
-THE ANSCHUTZ CORPORATION				RECEIVED:	08/12/83	JA: WY 5			
8349337	W 477-2	4902921067		102-4		USA 9613 #16-24	WILDCAT	1400.0	CODY GAS CO
-TURNER SMITH & ASSOCIATES				RECEIVED:	08/12/83	JA: WY 5			
8349381	W 421-2	4901321269		102-4		TRIBAL #16-3	SHELDON DOME	300.0	NORTHERN NATURAL
-WESTERN PRODUCTION CO				RECEIVED:	08/12/83	JA: WY 5			
8349350	W 460-2	4902720562		102-4		WESTERN FEDERAL 1-19-B	BOGGY CREEK	332.9	M G P C INC
8349353	W 457-2	4904521479		102-4		WESTERN FEDERAL 10-17	SHURLEY	536.7	M G P C INC
8349352	W 458-2	4904521484		102-4		WESTERN FEDERAL 8-17	SHURLEY	606.3	M G P C INC
8349351	W 459-2	4904521483		102-4		WESTERN FEDERAL 8-3-M	FINN	519.0	M G P C INC
-WOODS PETROLEUM CORPORATION				RECEIVED:	08/12/83	JA: WY 5			
8349345	W 479-2	4900526578		102-4		PINE TREE UNIT #29-50	PINE TREE	84.0	WESTERN GAS PROCE
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** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
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-G/O INTERNATIONAL INC				RECEIVED:	08/15/83	JA: OK 8			
8349481		3511300000		103		FREEMAN #2-A-113661105	FREEMAN	63.0	PHILLIPS PETROLEU
-INCLINE PRODUCTION CO				RECEIVED:	08/15/83	JA: OK 8			
8349482		3511300000		102-2		BARNARD 23-1		233.0	PHILLIPS PETROLEU
8349483		3511300000		102-2		BARNARD 23-2		55.0	PHILLIPS PETROLEU
8349484		3511300000		102-2		BARNARD 23-3		400.0	PHILLIPS PETROLEU
8349485		3511300000		102-2		BARNARD 23-4		27.0	PHILLIPS PETROLEU
-LAMB PRODUCTION CO				RECEIVED:	08/15/83	JA: OK 8			
8349486		3511300000		103		HUNT LEASE #86	HUNT LEASE	3.5	PHILLIPS PET CO

[FR Doc. 83-23886 Filed 8-30-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Wednesday
August 31, 1983

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.

SUMMARY: This notice proposes an interim network of highways on which commercial motor vehicles with dimensions authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), as amended, may operate in the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont.

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) 426-1993, 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). Section 411(e) of the STAA requires that an interim determination of "qualifying highways" be made 90 days after enactment of the STAA (April 6, 1983), and that a final designation be issued within 270 days of enactment (October 3, 1983). Pursuant to section 411(e) of the STAA, the FHWA published a notice on February 3, 1983 (48 FR 5210), which indicated that the FHWA was preparing to designate, on an interim basis, the Interstate System and, at a minimum, all 4-lane divided Federal-aid Primary System (FAP) highways with full control of access. That notice encouraged the States to propose additonal 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 STAA 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 February 3, 1983, notice. One of the allegations in these suits was that the States had not had an opportunity to comment on the primary system routes added by the FHWA in making the interim designations. Also, in the litigation challenging the April 5 designations it has been alleged that the FHWA February 3 notice had limited the definition of "qualifying primary highways" to four-lane divided highways with full control of access. This was never FHWA's intent. The four-lane divided, full control of access criteria were meant to serve as an initial point of reference for the States in proposing their designations. To the extent that there was any doubt, this notice serves to clarify that FHWA fully intended that "qualifying primary highways" within the meaning of sections 411 and 416 of the STAA include additional routes beyond four-land divided limited access highways.

On April 22, 1983 (48 FR 17347), and May 12, 1983 (48 FR 21317), the FHWA additions to the designated routes proposed by these five States were withdrawn. The purpose of this 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 interim designations in these five States as set out in the Appendix to the proposed rule. Until a complete interim system is designated as a result of the current process, the designated highway system in Alabama, Florida, Georgia, Pennsylvania, and Vermont will remain as indicated in the April and May 12 notices.

The truck size provisions in the STAA were intended to provide increased productivity for the commercial motor carrier industry which may ultimately result in lower transportation costs to consumers. FHWA has begun to implement these provisions to accommodate this objective without compromising safety on our Nation's highways. The legislative intent is underscored by the enactment of Pub. L. 98-17, 97 Stat. 59, April 5, 1983, which placed the truck width provision, formerly enacted as part of the Department of Transportation and Related Agencies Appropriations Act, 1983, Pub. L. 97-369, 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. This change reflects Congressional recognition that the need for a coherent system is imperative.

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

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 48 FR 20022 (May 3, 1983), 48 FR 21317 (May 12, 1983), 48 FR 24853 (June 2, 1983), 48 FR 31588 (July 8, 1983) and 48 FR 35388 (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 with 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 effects. Any information that will assist in an improved estimation of the effects of described above, and any suggestions of additional areas that should be considered in the draft regulatory evaluation, are welcome.

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 20.205, 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.

Issued on: August 29, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The Federal Highway Administration hereby proposes to amend Chapter I of Title 23, Code of Federal Regulations, by adding a new Part 658 to read as follows.

PART 658—TRUCK SIZE

Sec.

658.1 Purpose.

Appendix.—Proposed Interim Designated Truck Routes on the Federal-Aid Primary System.

Authority: Sec. 411 and 416, Pub. L. 97–424, 96 Stat. 2159, as amended by Pub. L. 98–17, 97 Stat. 59 (49 U.S.C. 2311); 23 U.S.C. 315; 49 CFR 1.48.

§ 658.1 Purpose.

The purpose of this part is to set out an interim designation of qualifying primary system routes available to vehicles authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982, as amended, for the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont.

APPENDIX.—Interim Designated Truck Routes on the Federal Aid Primary System

Posted route No.	From	To
	ALABAMA	
US 431	AL 210 in Dothan	US 431/AL 173 in Headland.
US 431	I-20 Anniston	I-59 Gadsden.
US 431	AL 77 Attalla	Tennessee St. Line.
US 72	Mississippi St. Line	Tennessee St. Line.
US 31	AL 152 Montgomery	AL 14 north of Prattville.
US 31	End of I-65 north of Birmingham.	I-65 north of Kimberly.
US 78	Mississippi St. Line	I-59 Birmingham.
US 78	End of I-20 in Irondale.	I-20 west of Leeds.
US 82	Coker (west of Northport).	Eoline(west of Brent).
US 82	AL 206 Prattville	US 31 Prattville
US 80	AL 14 west of Selma	AL 152 Montgomery.
US 84	AL 87 Elba	AL 134 Enterprise.
US 84	AL 92 (east of Daleville).	AL 210 Dothan.
US 84	AL 210 Dothan	End of 4 lane east of Dothan.
US 43	I-65 north of Mobile	AL 5 north of Thomasville.
US 43	AL 5 near Russellville.	US 72 Tuscumbia.
US 43	US 72 Florence	Tennessee St. Line.
US 29	Fairfax	Georgia St. Line.
AL 20	US 72 Tuscumbia	US 231 Huntsville.
AL 21	US 31 at Atmore	I-65 north of Atmore.
AL 21	US 431 Anniston	Jacksonville.
US 280	US 31 Mountain Brook.	Alexander City.
US 280	I-85 Opelike	Georgia St. Line.
US 98	I-10 Daphne	End of 4 lane near Fairhope.
US 231	Florida St. Line	AL 210 Dothan.
US 231	AL 210 Dothan	AL 152 Montgomery.
US 231	AL 152 Montgomery	End of 4 lane north of Wetumpka.
US 231	Arab	US 431 Huntsville.
AL 59	I-10 near Loxley	I-65 north of Bay Minette.
AL 67	I-65 near Priceville	AL 20 west of Decatur

APPENDIX.—Interim Designated Truck Routes on the Federal Aid Primary System—Continued

Posted route No.	From	To
AL 77	I-59 Gadsden	US 431 Attalla.
AL 79	I-59 Birmingham	Pinson.
AL 85	AL 92 near Daleville	Ft. Rucker.
AL 87	US 84 Elba	US 231 Troy.
AL 92	AL 85 west of Daleville.	US 84 near Wicksburg.
AL 134	US 84 Enterprise	AL 85 Daleville.
AL 152	US 31 (north of Montgomery).	I-65 north of Montgomery.
AL 210	Dothan Circle	
AL 248	US 84 Enterprise	Ft. Rucker.
AL 249	Ft. Rucker	US 231

FLORIDA

US 27	Fla Turnpike Extension.	SR 84 at Andytown
US 27	South Bay	Leesburg.
US 27/US 441.	Leesburg	Belleview.
US 27/US 301.	Belleview	Ocala.
US 27	US 301 in Ocala	I-75.
FL 80	South Bay	US 441 at Bell Glade.
US 301	SR 24 in Waldo	I-10.
FL 24	SR 331 in Gainesville.	US 301 in Waldo.
FL 60	US 301 near Tampa	Lake Wales.
FL 84	US 27 at Andytown	I-95 in Ft. Lauderdale.
FL 263	US 90 west of Tallahassee.	I-10.
US 301	FL 60 near Tampa	I-4.
SR 331	I-75 (south of Gainesville).	SR 24.
US 441	US 27 (Leesburg)	Apopka.
SR 436	Apopka	I-4.
US 92	I-4 near Lakeland	US 27 near Haines City.
SR 397	Entrance, Eglin AFB	SR 85.
SR 85	SR 397	I-10.
US 231	Panama City	Alabama St. Line.
US 41	US 301 near Palmetto.	I-4.
US 301	US 41 near Palmetto	I-75.
SR 202	In Jacksonville from I-95.	SR A-1-A.
Florida Tpk.	South end at Miami	I-75 at Wildwood.
SR 528/SR 407	I-4 at Orlando	Cape Canaveral.
20th Street Expressway	In Jacksonville at I-95.	Adams Street.

GEORGIA

GA 400	I-285, near Atlanta	GA 60.
GA 365/US 23.	I-85 Northeasterly	US 441 near Cornelia.
US 411/GA 20 US 41	US 27 at Rome	I-75 near Emerson.
US 129/GA 11.	I-16	North to Gray.
GA 25 Spur	US 17/80	Northerly to I-95.
US 280/SR 1	Alabama St. Line	Fort Benning.
US 82/SR 50	West of Albany	I-75.
GA 300	US 82 Albany	I-75 near Cordele.
US 25/SR 73	I-16	North of Statesboro.
GA 316	I-85 easterly toward Lawrenceville (5 miles).	
GA 21	US 17	GA 204.
GA 14 Spur	I-85/I-285 Interchange.	East to Welcome All Road.
GA 410	Valleybrook Rd	SR 10.
GA 411	End of I-185	South to US 280 near Columbus.
GA 85	I-85 South	Fayetteville.
GA 2	US 27	I-75.
US 76/SR 52	I-75	US 411.
GA 85	GA 411	Ellerslie.
US 41	I-75 South	Near Barnsville.
US 19	US 82 South	Near Pelham.
GA 247/US 129.	I-75 South	Warner Robins.
US 84	Waycross	I--95.
US 78/US 29	GA 138	SR 8 near Athens.
SR 138	I-20	US 78.

PENNSYLVANIA

Posted route No.	Route description
US 1	From Morrisville to US 13.
US 13	Controlled access segment south from US 1.
US 15	From Pennsylvania Turnpike (I-76) Interchange 17 northeast to Harrisburg Expressway South of Camp Hill.
US 15	From PA 642 in Milton to the White Deer Exit at White Deer.
US 15	Controlled access segment north of junction with US 220 at Williamsport.
US 22	From I-279 west to the Pennsylvania-West Virginia St. Line east of Steubenville, Ohio.
US 22	From west of PA 100 near Fogelsville east to the Pennsylvania-New Jersey St. Line at Easton.
US 30	Greensburg Bypass south of Greensburg.
US 30	From a junction with PA 462 west of York to a junction with PA 462 east of Lancaster, excluding the 4-mile uncontrolled access segment north of York.
US 119	Limited access Bypass west of Uniontown.
US 119	From Pennsville north of Pennsylvania Turnpike (I-76) Interchange 8 at New Stanton.
US 202	From the south terminus of the West Chester Bypass north and east to I-76 near King of Prussia.
US 219	From vicinity of Pennsylvania Turnpike southeast of Somerset north to US 422 west Ebensburg.
US 219	From the PA-New York St. Line to just south of Bradford.
US 220	From Pennsylvania Turnpike Interchange 11 north to King.
US 220	From PA 147 near Halls, north of Muncy, west to western terminus of controlled access segment at Linden.
US 220	From just south of Athens north to NY 17 at the Pennsylvania-New York St. Line.
US 222/422	Warren Street Bypass and Extension from Pricetown Road north of Reading west to Wyomissing.
US 322	Commodore Barry Bridge in Chester.
US 422	From eastern terminus of limited access segment southeast of Reading northwest to the Warren Street Bypass.
PA 9	Northeast Extension of Pennsylvania Turnpike from Exit 25 (I-276) southeast of Norristown to Exit 38 at I-81 north of Scranton.
PA 28	From PA 8 near Etna northeast to Creighton, east of the Pennsylvania Turnpike.
PA 33/US 209.	From US 22 near Wilson north to I-80 at Interchange 46 near Stroudsburg via US 209 at Snydersville.
PA 60/US 422.	From I-80 Interchange 1 southeast of Sharon south to including the New Castle Bypass.
PA 60	From PA 51 west of Beaver Falls south to US 22, excluding the uncontrolled access segment near the Greater Pittsburgh International Airport.
PA 147	From I-80 Interchange 31 near Milton north to a junction with US 220 at Halls north of Adamstown.
PA 222	From US northeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 21 near Adamstown.
PA 283	From junction of US 30 north of Lancaster west to I-283 near the Pennsylvania Turnpike Interchange 19.
	Harrisburg Expressway (LR 767) from I-83 west to US 11 west of Camp Hill.
	Airport Access Road (LR 1081 Spur A) from PA 283 south to the Harrisburg International Airport at Middletown.

PENNSYLVANIA—Continued

Posted route No.	Route description
	Reading Outer Loop (LR 1035) from PA 183 near Leinbachs northeast to US 222 near Tuckerton.
US 6	From the Borough of Conneaut Lake east to just north of Meadville at the terminus of the North-South Bypass.
US 11	From Pennsylvania Turnpike Interchange 16 east to the western terminus of the Harrisburg Expressway near Camp Hill.
US 20	From I-90 Interchange 12 west to Northwest (PA 89).
US 30	Uncontrolled access segment of York Bypass from North Mills Road west to a point one mile north of the junction of PA 74.
US 119	Uncontrolled access segment northeast of Uniontown to Pennsville.
US 119	Uncontrolled access segment from the Pennsylvania Turnpike (I-76) Interchange 8 to the Greensburg Bypass.
US 202	From the PA-Delaware St. Line north to West Chester Bypass.
US 322	From the junction of I-83 and I-283 east to the junction of US 422.
US 422	From the junction of US 322 east to the junction of LR 139 at the west end of Hershey.
PA 3	From West Chester Bypass (US 202) east to Garrett Road at Upper Darby.
PA 13	Uncontrolled access segment from PA 413 west of Bristol northeast to the limited access segment just south of US 1.
PA 42	From I-80 Interchange 34 south to Bloomsburg at US 11.
PA 51	From US 119 near Uniontown north to the Monongahela River at Elizabeth.
PA 54	From I-80 Interchange 33 south to Danville at US 11.
PA 60	Uncontrolled access segment in the vicinity of the Greater Pittsburgh International Airport.
PA 61	From US 222 near Tuckerton north to I-78 Interchange 9 at Hamburg.
PA 93	From I-81 Interchange 41 east and south to PA 924 at west end of Hazelton.
PA 114	From US 11 near Hogestown north to I-81 Interchange 18.
PA 132	From I-95 near Cornwells Heights northwest to Pennsylvania Turnpike Interchange 28 vis US 1 connection.
PA 924	From junction with PA 93 west to I-81 Interchange 40 near Hazelton.
PA 100	From 1.1 miles north of Pennsylvania Turnpike entrance Downingtown to US 202 near West Chester.

VERMONT

Posted route No.	From	To
VT 9	I-91 Interchange 3 north of Brattleboro.	New Hampshire St. Line.
US 7	Southern Terminus of the four lane divided highway in the town of Wallingford.	US 4 Rutland.
US 4	New York St. Line	East City Limit of Rutland City.
US 4	East City Limit of Rutland City.	VT 100 near Sherburne Center.
VT 100	US 4 near Sherburne Center.	VT 107.
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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 202-275-3030).

S. 1696/Pub. L. 98-80 Authorizing three additional Assistant Administrators of the Environmental Protection Agency. (Aug. 23, 1983; 97 Stat. 485) Price: $1.50

S. 1797/Pub. 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. 487) Price: $1.50

S.J. Res. 85/Pub. L. 98-82 To designate September 26, 1983, as "National Historically Black Colleges Day". (Aug. 23, 1983; 97 Stat. 488) Price: $1.50

S.J. Res. 98/Pub. L. 98-83 To designate October 2 through October 9, 1983, as "National Housing Week". (Aug. 23, 1983; 97 Stat. 489) Price: $1.50

S.J. Res. 116/Pub. L. 98-84 To designate the week of September 4, 1983, through September 10, 1983, as "Youth of America Week". (Aug. 23, 1983; 97 Stat. 490) Price: $1.50

H.R. 2895/Pub. L. 98-85 To designate the Federal Building and United States Courthouse at 450 Golden Gate Avenue, San Francisco, California, as the Phillip Burton Federal Building and United States Courthouse. (Aug. 26, 1983; 97 Stat. 491) Price: $1.50

H.R. 3232/Pub. L. 98-86 To amend title 28 of the United States Code to authorize payment of travel and transportation expenses of newly appointed special agents of the Department of Justice. (Aug. 26, 1983; 97 Stat. 492) Price: $1.50

H.J. Res. 297/Pub. L. 98-87 Providing for appointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution. (Aug. 26, 1983; 97 Stat. 493) Price: $1.50

H.R. 3190/Pub. L. 98-88 Extra Long Staple Cotton Act of 1983. (Aug. 26, 1983; 97 Stat. 494) Price: $1.75