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Pages 28145-28394

federal register

Tuesday
May 26, 1981

Highlights

28314 **Hazardous Waste Land Disposal Facilities** EPA issues supplemental information regarding a reproposal on performance standards applicable to owners and operators of hazardous waste treatment, storage and disposal facilities. (Part V of this issue).

28152 **Foreign Banks** Treasury/FS issues rules designating Federal branches of foreign banks to be Treasury Tax and Loan depositories that are authorized to transact business in the United States by the Comptroller of the Currency.

28308 **Native American Programs** HHS/HDSO announces availability of FY 1982 Financial Assistance for Native American Projects. (Part IV of this issue)

28330 **Farmers—Emergency Loans** USDA/FmHA amends its policies pertaining to insured emergency loans. This action is intended to correct deficiencies and to restore fiscal integrity to the program. (Part VI of this issue)

28224 **Upland Petroleum Leasing—Alaska** Interior/BLM is accepting applications for geophysical exploration permits for oil and gas assessments on certain lands in Alaska.

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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28163 **Veterans-Federal Procurement** VA revises rules to provide procedures and controls over the establishment of Qualified Products Lists for convenience/laborsaving foods for use within the VA medical districts.

28160 **Motor Vehicles** EPA revises motor vehicle exhaust emission standards for carbon monoxide for 1981 and 1982 model year light-duty vehicles.

28172 **Customs Bonds** Treasury/Customs proposes revision of the Customs bond structure.

28368-28381 **Foreign Air Carriers** CAB updates rules governing foreign air carrier charter rights. (7 documents) (Part VII of this issue)

28196 **Corn** USDA/Office of the Secretary issues determinations regarding the National program acreages, program allocation factors and payment rules for 1980 corn and sorghum crops.

28274 **Sunshine Act Meetings**

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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

Federal Grain Inspection Service

7 CFR Part 802

Delay Effective Date of Requirement for Change in Mode of Operation

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Affirmation of final rule.

SUMMARY: This action affirms an emergency final rule which delayed until January 1, 1983, for scales installed on or before January 1, 1981, the requirement in § 802.2(r) of the regulations promulgated under the United States Grain Standards Act (7 CFR 802.2(r)) which provided that all grain-weighing automatic hopper scales would be designed so that the mode of operation, and each change in mode of operation, would be indicated on the printed record in a prescribed manner. For scales installed after January 1, 1981, the January 1, 1981, effective date remained unchanged. No comments were received as a result of the emergency final rulemaking and the final rule is made effective without change.

DATE: Effective May 26, 1981.

FOR FURTHER INFORMATION CONTACT: George T. Lipscomb, Director, Weighing Division, USDA, FGIS, Room 3117 Auditors Building, Washington, D.C. 20250; telephone (202) 382-1731.

SUPPLEMENTARY INFORMATION: This action has been issued in conformance with Executive Order 12291, and has been determined to be "not major."

Emergency final rulemaking with a 60-day opportunity for public comment was published in the December 8, 1980, **Federal Register** (45 FR 80985).

The requirement in § 802.2(r) of the regulations under the United States Grain Standards Act (7 CFR 802.2(r)) which provided that effective January 1, 1981, all grain-weighing automatic hopper scales be designed so the mode of operation, and each change in mode of operation, be indicated, on the printed record in a prescribed manner was amended so that, for scales installed on or before January 1, 1981, the effective date would be delayed until January 1, 1983. For scales installed after January 1, 1981, the January 1, 1981 effective date remained the same.

As indicated in a December 8, 1980, **Federal Register** publication, FGIS had received several requests from the trade to delay implementation of the effective date in § 802.2(r) until January 1, 1983, for scales installed on or before January 1, 1981. These requests cited the unavailability of modified equipment or plans for the installation of new weighing equipment as justification for the delay.

No comments were received with respect to the emergency final rulemaking. Accordingly, the final rule amending § 802.2(r) of the regulations will remain effective without change, as published at 45 FR 80985.

(Sec. 9, Pub. L. 94-582, 90 Stat. 2875, (7 U.S.C. 79a))

Done in Washington, D.C., on May 19, 1981.

D. R. Galliart,
Acting Administrator.

[FR Doc. 81-15511 Filed 5-22-81; 8:45 am]
BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 1068

[Milk Order No. 68]

Milk in the Upper Midwest Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends a requirement under the Upper Midwest marketing order that handlers make a partial payment for milk received from producers for whom a cooperative association is not collecting payments by the 25th day of the month. Seven regulated handlers, two cooperative associations and a dairy farmer indicated that the suspension would accommodate producers in spacing payments for milk about 15 days apart. The suspension would be for the period May 1981 through April 1982.

DATE: May 26, 1981.

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of proposed suspension: Issued March 27, 1981; published April 2, 1981 (46 FR 19946).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. Such action will permit milk handlers to continue a customary payment practice in the area of having partial and final payments to certain producers spaced about two weeks apart. Otherwise, producer payments would be spaced on an uneven basis, to the dissatisfaction of the producers involved.

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

Notice of proposed rulemaking was published in the **Federal Register** (46 FR 19946) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. Four comments were received in response to the notice of proposed rulemaking. Also, at a public hearing held April 14-15, 1981, witnesses representing proprietary handlers and a cooperative association testified in support of the suspension pending any amendment resulting from the hearing. This testimony was in connection with a proposal to amend the order concerning the date of partial payment (46 FR 16689). In comments and testimony, a total of seven proprietary handlers, two cooperative associations and a dairy farmer requested continued suspension of the provision.

After consideration of all relevant material, including the proposal in the

notice, the comments received, the record of the public hearing and other available information, it is found and determined that for the months of May 1981 through April 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1068.73, paragraph (a)(4) in its entirety.

Statement of Consideration

The Upper Midwest milk order, which became effective June 1, 1976, initially required a partial payment to producers and cooperative associations on the 25th day of the month for milk received during the first 15 days of the month. Final payment was due, and still is, by the 18th day of the following month. These were the dates provided in the prior order for the Minneapolis-St. Paul area.

Many of the producers who were brought under the merged order, particularly those in Wisconsin, had been accustomed to receiving payments 15 days apart. They preferred such payments to being paid on the 18th and 25th of the month. To accommodate this, the pertinent provisions of the order have been suspended since November 1976 (41 FR 51389, 42 FR 22360, 42 FR 59747, 43 FR 14025, 43 FR 19341, 44 FR 23065 and 45 FR 23405). The suspensions were limited to payments to producers for whom a cooperative was not collecting payments.

Cooperative associations in the market follow the practice of making partial payments to their members about 15 days in advance of the final payment date, and the suspension would give proprietary handlers the opportunity to pay their producers on about the same schedule. Dairy farmers have financial commitments that are due more often than once a month and to meet those commitments dairy farmers should continue receiving two payments each month.

The suspension should be extended for an additional period of 12 months, pending any amendment of the order based on the April 14–15, hearing record. Unless this is done, a significant number of dairy farmers would receive a partial payment for their deliveries during the first 15 days of the current month only one week after receiving a final payment for their deliveries during the previous month. This kind of payment schedule has resulted in producer dissatisfaction, and the suspension action would help maintain orderly marketing.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date, and notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the suspension. Also, the suspension was considered at a public hearing held April 14–15, 1981, and there was no testimony in opposition.

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

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May 1981 through April 1982.

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

Effective date: May 26, 1981.

Signed at Washington, D.C., on May 19, 1981.

C. W. McMillan,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 81–15520 Filed 5–22–81; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–NW–52–AD; Amdt. 39–4121]

Airworthiness Directives: Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive, (AD) which requires inspection of the wing lower surface skins and adjacent stringers on Boeing Model 707/720 series airplanes. This AD is needed to detect cracks before they develop to a length which would prevent limit loads from being carried and thus seriously compromise the structural capability of the wing lower surfaces.

DATE: Effective date June 29, 1981.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. J. W. Hart, Jr., Airframe Branch, ANW–120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) to require repetitive inspections of the wing lower skin surface for cracks in the stringer/skin between wing stations 265 and 470 and stringers 5 and 7 of the 720 series airplanes was published in the **Federal Register** on November 24, 1980, (45 FR 77450).

The proposal was prompted by an extensive evaluation of the original crack data and the results of the one-time inspection required by AD 80–15–10 (45 FR 49910; July 28, 1980).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. The rule with respect to the 720 series, is therefore, adopted as proposed.

In February 1981, following publication of the NPRM, cracking similar to the 720 aircraft was reported for a 707–300C airplane. One operator reported a 2.5 inch long crack in the left wing lower skin and that stringer 7 was completely severed. This failure probably due to fatigue, results in the structure being unable to carry limit loads and potential serious consequences. AD–80–15–10 which was a one-time inspection in the B–720 is superseded by this new, more comprehensive AD.

Since this condition is likely to exist or develop on other 707 airplanes of the same type design, this AD requires an inspection program similar to that required for the 720 series. Further, since a situation exists for the 707 that requires immediate adoption of this regulation, it is found that notice and public procedure for that portion of the regulation are impracticable.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

Boeing: Applies to all 707/720 series airplanes, certificated in all categories.

A. Inspect stringers 5 and 7 and the adjacent lower wing skin from WS 265 through 470 for cracks using the specified methods at the times indicated. Skins/stringers found cracked must be repaired prior to further flight in a manner approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

1. For 720/720B series airplanes: Within 500 landings after the effective date of this Amendment and thereafter at intervals not to

exceed 2,860 landings, conduct a low frequency eddy current inspection of the wing lower surface for cracks in the stringer/skin between wing stations 265 and 470 and stringers 5 and 7 in accordance with Boeing Service Bulletin A3395, Revision 2, dated October 10, 1980, or later FAA approved revisions, or in a manner approved by the Chief, Seattle Area Aircraft Certification Office.

2. For 707 series airplanes: Inspect the wing skins and stringers for cracks using an inspection method approved by the Chief, Seattle Area Aircraft Certification Office, when airplanes reach or are beyond the thresholds noted, or within 500 landings thereafter, whichever is later, unless already accomplished as noted, and repeat the inspection in accordance with the following schedule.

Inspection Schedule

Airplane	Landings			
	Thresh-old	Within	Unless accom-plished within the last	Repet-itive inter-vals
707-100/200	26,000	500	5,500	6,000
707-300/400	21,000	500	4,500	5,000
707-300B	17,000	500	3,700	4,200
707-300C PAX	17,000	500	3,700	4,200
707-300C Cgo	17,000	500	1,600	2,100

B. Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197 and FAR 21.199.

Note.—This supersedes AD 80-15-10 (Amdt. 39-3852; 45 FR 49910, July 28, 1980).

Alternate methods of compliance may be used when approved by the Chief, Seattle Area Aircraft Certification Office, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to The Boeing Company, P.O. Box 3707, Seattle, Washington, 98124. These documents also may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

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

Note.—The FAA has determined that this document involves a regulation whch is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, small entities. A final regulatory evaluation has been prepared for this regulation, has been placed in the regulatory docket, and summarized earlier in this rule. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This regulation is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended. As such it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 15, 1981.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 81-15276 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-22-AD; Amdt. No. 39-4122]

Airworthiness Directives: Boeing Model 737 Series Airplanes (Prior to Line No. 316 Plus Line Nos. 323 and 324)

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an Airworthiness Directive (AD) which requires a one-time visual inspection for cracks on the horizontal stabilizer rear spar attach lugs on Boeing Model 737 series airplanes with 20,000 or more landings. This action is necessary because a cracked center section rear spar upper chord attach lug was found that, if left undetected, could result in the loss of the horizontal stabilizer.

DATE: Effective date June 4, 1981.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Anderson, Airframe Branch, ANW-120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, Telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: In April 1981, during accomplishment of Boeing Service Bulletin 737-55-1026 on a 737 series airplane with 28,704 landings, one operator detected a cracked center section rear spar upper chord attach lug. The crack was found on the forward face of the aft lug of the clevis extending from the lug hole at the 12 o'clock position. The chord was replaced. Subsequent analysis of the cracked lug indicated fatigue was the cause of cracking. A mandatory one-time inspection is therefore required, since continued operation of an airplane with undetected lug cracks may result in loss of the horizontal stabilizer.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires inspection and replacement or repair, as necessary, of horizontal stabilizer rear spar attach lugs on certain Boeing Model 737 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

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

Boeing: Applies to Boeing Model 737 series airplanes, certificated in all categories, prior to line number 316 plus line numbers 323 and 324. To insure continued structural integrity of the horizontal stabilizer, accomplish the following;

A. Unless an equivalent inspection has been accomplished within the last 2,000 landings, upon the accumulation of 20,000 landings or, within the next 200 landings after the effective date of this AD whichever comes later, perform a one-time visual inspection of the horizontal stabilizer rear spar attach lugs for cracks in accordance with Boeing Alert Service Bulletin 737-55A1029 dated April 30, 1981, or later revisions approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

B. Parts found cracked must be replaced or repaired before further flight in a manner approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

C. Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197 and 21.199 with prior approval of the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

This Airworthiness Directive may be revised to require repetitive inspections at a later date.

The manufacturer's specifications and procedures identified and described in this

directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received the above specified alert service bulletin from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or it may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective June 4, 1981.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

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

Issued in Seattle, Washington, on May 15, 1981.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 81-15275 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-CE-8-AD; Amendment 39-4120]

Airworthiness Directives; Cessna Models 402C and 414A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Model 402C and 414A airplanes. The AD requires initial and repetitive inspections of the engine mount support beams at the engine rear mounts for cracks and immediate reinforcement of both engine mount support beams, for the engine involved, if a beam is found cracked. This action will preclude failure of an engine mount support beam and possible separation of the engine from the airplane during flight.

DATES: Effective Date: June 1, 1981.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Customer Care Service Information Letter ME81-10, dated April 17, 1981, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685-9111. A copy of Service Information Letter is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Abbott, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION: Engines on Cessna Models 402C and 414A airplanes are secured to the airframe by beams that are cantilevered forward from the wing. There have been reports that cracks have developed at the engine mount rear attach points on the engine beam structure which could, if allowed to propagate, result in separation of the engine from the airplane during flight. Cessna issued Service Information Letter ME81-10 dated April 17, 1981, which specifies initial inspection, within the next 100 hours, of the engine rear mount beam hat section for cracks on airplanes with 500 to 1,000 hours time-in-service, and within 50 hours on airplanes with 1,000 hours or more time-in-service. In both instances, repetitive inspections are to be performed every 200 hours thereafter. If cracking is found in the beam hat section, Cessna Service Kit SK414-17 called out in Cessna Service Information Letter ME81-10 must be installed before further flight.

In addition, the Cessna Service Information Letter requires installation of the Service Kit SK414-17 modification whenever either engine is removed for normal maintenance or overhaul. Accordingly, since the unsafe condition described above is likely to exist or develop in engine mount support beams installed on other airplanes of the same type design, an AD is being issued applicable to certain Cessna Model 402C and 414A airplanes making compliance with only those provisions of Cessna Service Information Letter ME81-10, which specify repetitive inspections and modification if cracks are found, mandatory.

Furthermore, if an engine mount support beam crack exceeds 1¾ inches in length, owners/operators are required by the AD to contact the Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4285, for special repair disposition.

The approved Cessna Modification Kit SK414-17, improves the overall strength of the engine mount support beams. However, fatigue tests are in progress to determine long-term strength of the modification. These test results will determine the need for additional mandatory inspection requirements and/or mandatory installation of the modification kit on all affected airplanes, regardless of whether the engine mount support beams are cracked.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Cessna: Applies to Models 402C (S/N 402C0001 through 402C0468) and 414A (S/N 414A0001 through 414A0646) airplanes with over 500 hours time-in-service, certificated in any category.

Compliance: Required as indicated, unless already accomplished. To ensure structural integrity of the engine mount beams, accomplish the following in accordance with the provisions of Cessna Service Information Letter ME81-10, dated April 17, 1981, as applicable:

(A) On all airplanes with 500 to 1,000 hours time-in-service, within the next 100 hours time-in-service after the effective date of this AD and each 200 hours time-in-service thereafter, clean and visually inspect the engine mount beams at the rear fittings for cracks in the hat section. If cracks 1¾ inches in length or less are found, install Cessna Service Kit SK414-17 before further flight. If cracks in excess of 1¾ inches in length are found, contact the Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4285, for special repair disposition.

(B) On all airplanes with over 1,000 hours time-in-service, within the next 50 hours time-in-service after the effective date of this AD and each 200 hours time-in-service thereafter, clean and visually inspect the engine mount beam at the rear fittings for cracks in the hat section. If cracks 1¾ inches in length or less are found, install Cessna Service Kit SK414-17 before further flight. If cracks in excess of 1¾ inches in length are found, contact the Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4285, for special repair disposition.

(C) After Cessna Service Kit SK414-17 has been installed, the requirements of paragraphs A) and B) of this AD are no longer applicable.

Note.—The approved Cessna Modification Kit improves the overall strength of the engine mount support beams. Fatigue tests are in progress to determine the need for additional mandatory inspection requirements and/or mandatory installation of the modification kit. Upon satisfactory completion of the tests, we plan to consider amending this AD, as warranted, by the outcome of the fatigue tests.

(D) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the provisions of this AD can be accomplished.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4285.

This Amendment becomes effective June 1, 1981.

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

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

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

Issued in Kansas City, Missouri, on May 15, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-15539 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-WE-7-AD; Amdt. 39-4117]

Airworthiness Directives; General Dynamics Model 240 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, and repair if necessary, of the wing spar structure on General Dynamics Model 240 Series aircraft. This AD is needed because of reports of cracks and corrosion on the center wing to wing outer panel attach fittings which could result in failure of the wing.

DATES: Effective June 1, 1981.

Compliance schedule—As prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: General Dynamics, Attention: Larry Hayes, Manager Products Support, Convair Division, P.O. Box 80877, San Diego, California 92138.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D. C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive, Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the wing spar rails and lower TEE rail of Wing Station 15 bulkhead and corrosion of the center wing to wing outer panel attach fittings on General Dynamics Model 240 airplanes. This condition, if not corrected, could result in failure of the wing.

In order to prevent the corrosion or cracking from progressing to an unsafe condition, this AD requires an early initial visual external inspection and subsequent internal, repetitive inspections and repair as necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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 Airworthiness Directive:

General Dynamics: Applies to Model 240 Series Airplanes including those modified for turbo-propeller power certificated in all categories, and those equivalent military models submitted for civil certification under type certificate A-793.

Compliance required as indicated, unless already accomplished.

To prevent structural failure of the wing structure, which could result from corrosion and cracking at the wing outer panel/wing center section joint, accomplish the following:

(a) Within 50 hours' time in service or within 30 days from the effective date of this AD, whichever occurs earlier, conduct an external visual inspection of the wing in the area of the spar rails, both upper and lower, front and rear, from ten (10) inches inboard of bulkhead 15(WS323) to ten (10) inches outboard of bulkhead 17(WS346) in accordance with Figure 3 of General Dynamics Service Bulletin No. 57-4A dated February 13, 1973, hereinafter referred to as S.B. No. 57-4A for evidence of internal structural corrosion which may be indicated by some out-of-alignment or bulging of the external surface.

(b) If any indication of surface out-of-alignment, bulging, corrosion, cracks, or failed rivets is found, before further flight conduct an internal inspection in accordance with this AD, paragraph (c).

(c) Within 500 hours' time in service or within 90 days from the effective date of this AD, whichever occurs earlier, conduct an internal visual inspection of the wing in accordance with S.B. 57-4A paragraph 2 including spar rails (upper and lower, front and rear), center wing to outer panel attach fittings, upper and lower bulkhead rails, and associated structure for corrosion and/or cracks from bulkhead 14(WS300) to bulkhead 18(WS361), after cleaning all surfaces in accordance with the procedures shown in S.B. 57-4A Figures 1 through 4. In addition to the visual inspection required above, using a dye penetrant method, inspect for cracks in spar rails and chordwise bulkhead TEE rails, after removal of all dirt, paint and integral

fuel tank sealant, in the following areas at the specified stations.

1. Upper and lower spar rails. Six (6) inches spanwise inboard and outboard of station 15(WS323) and station 17(WS346) on the forward facing surface of the front spar rails and the aft facing surface of the rear spar rails. See AD paragraph (c)(3).

2. Upper and lower chordwise TEE rails. On the inboard facing surfaces at station 15(WS323), and the outboard facing surfaces at station 17(WS346), extending two (2) inches chordwise from the edges of the forward and aft fuel tank corner fittings. See AD paragraph (c)(3).

3. The above dye penetrant inspections at station 17(WS346) are required only for those aircraft with integral fuel tanks installed in the wing outer panels outboard of station 17.

(d) If corrosion or cracking is detected, repair in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

(e) Repeat the inspection required by paragraph (c) of this AD at intervals not to exceed 3000 hours' time in service or one year from the last such inspection, whichever occurs earlier.

(f) Prior to issuance of a Certificate of Airworthiness for military aircraft being converted for civil certification, the applicant shall; and prior to further flight for any aircraft that has been out of service for one (1) year, the operator shall; conduct an internal inspection in accordance with paragraph (c) of this AD.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(h) Alternate inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

The manufacturers' specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to: General Dynamics, Attention: Larry Hayes, Manager Products Support, Convair Division, P.O. Box 80877, San Diego, California 92130.

These documents may also be examined at:

FAA Western Region Office, Room 6W14, 15000 Aviation Boulevard, Hawthorne, California 90261

and at: FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

An historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C. and at FAA Western Region Office.

This amendment becomes effective June 1, 1981.

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

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

Issued in Los Angeles, California on May 13, 1981.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 81-15277 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWE-6]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adds a 700 foot transition area for the Twentynine Palms Airport, Twentynine Palms, California, so as to provide controlled airspace for aircraft executing an instrument approach procedure to the Twentynine Palms Airport utilizing the Twentynine Palms, California VORTAC. The need for the transition area was created when a VOR instrument approach procedure was established for the airport.

EFFECTIVE DATE: June 11, 1981.

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

SUPPLEMENTARY INFORMATION:

History

On March 23, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area for Twentynine Palms, California (46 FR 18050). The addition of this 700 foot transition area will provide continuous controlled airspace for protection of instrument operations at Twentynine Palms Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the transition area at Twentynine Palms, California. This transition area provides protection for instrument operations authorized for Twentynine Palms Airport, increases air traffic safety, and improves flow control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901, June 11, 1981, by adding the following:

§ 71.181 [Amended]

Twentynine Palms, California

Preceding "That airspace extending upward from 1200 feet . . ." insert "That airspace extending upward from 700 feet above the surface within a 4-mile radius of Twentynine Palms Airport (latitude 34°07'46" N, longitude 115°56'22" w) and within 4 miles each side of the Twentynine Palms VORTAC 279° (265°M) radials extending from the 4-mile radius area to the VORTAC, and . . ."

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

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

The FAA has determined that this regulation only involves an established

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

Issued in Los Angeles, California on May 14, 1981.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 81-15278 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AWE-7]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This rule alters the transition area at Cochise, Arizona, so as to provide additional controlled airspace for aircraft utilizing Instrument Flight Rules (IFR) departure procedures from Tucson International Airport and Davis-Monthan Air Force Base, Tucson, Arizona.

EFFECTIVE DATE: June 11, 1981.

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

SUPPLEMENTARY INFORMATION:

History

On March 16, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area for Cochise, Arizona (46 FR 16901). Redesignation of this transition area will provide controlled airspace for aircraft utilizing IFR departure routes from the Tucson area. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the transition area at Cochise, Arizona. This transition area provides protection for instrument operations authorized for the Tucson area, increases air traffic safety and improves flow control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended and redescribed, effective 0901 GMT, June 11, 1981, as follows:

§ 71.181 [Amended]

Cochise, Arizona

That airspace extending upward from 1200 feet above the surface beginning at latitude 32°22'30" N., longitude 110°00'00" W. latitude 32°22'00" N., longitude 109°57'00" W., latitude 32°15'00" N., longitude 109°27'55" W., latitude 32°10'00" N., longitude 109°37'55" W., latifude 32°08'50" N., longitude 109°23'05" W., latitude 31°54'00" N., longitude 109°25'25" W., latitude 31°57'05" N., longitude 109°55'00" W., latitude 32°07'00" N., longitude 109°54'00" W., latitude 32°07'30" N., longitude 110°00'00" W., to point of beginning.

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

The FAA has determined that this document involved a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

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

Issued in Los Angeles, California on May 14, 1981.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 81-15279 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2530

Rules and Regulations for Minimum Standards for Employee Benefit Plans; Suspension of Benefit Rules—Deferral of Effective Date

AGENCY: Department of Labor.

ACTION: Deferral of effective date of final rule.

SUMMARY: This document defers until July 1, 1981, the effective date of 29 CFR 2530.203-3 *Suspension of pension benefits upon reemployment of retirees.* This regulation had been due to take effect on May 27, 1981. This action is taken in order to permit further analysis of the regulation in accordance with Executive Order 12291.

DATE: The effective date of 29 CFR 2530.203-3 is deferred until July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Office of the Solicitor, 200 Constitution Avenue NW., Washington, D.C. 20216, Room C-4508; 202-523-8658.

SUPPLEMENTARY INFORMATION: On January 27, 1981, the Department of Labor published in the **Federal Register** (46 FR 8894) a final regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA) governing the circumstances under which it is permissible for a plan to suspend the payment of pension benefits (29 CFR 2530.203-3). As published, this regulation was due to take effect May 27, 1981.

This document announces the Department's decision to defer the effective date of the suspension of benefits regulation. This action is necessary in order to permit reconsideration of this regulation in accordance with Executive Order 12291. Such reconsideration is warranted

because of the many issues involved with respect to this regulation. In addition, the Department has received a number of comments in response to publication of the final rule. The Department is considering whether and to what extent these comments affect its analysis of the costs and benefits involved.

For these reasons, and because this regulation is scheduled to become effective very shortly, the Department finds, pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)), that additional notice and public procedure on this change of effective date would be impracticable, unnecessary and contrary to the public interest.

Accordingly, pursuant to the authority set forth in sections 203(a)(3)(B) and 505 of ERISA, the effective date of 29 CFR 2530.203-3 is hereby deferred until July 1, 1981.

Signed at Washington, D.C., this 21st day of May 1981.

Hilary M. Sheply,

Acting Deputy Assistant Secretary, Labor-Management Services Administration.

[FR Doc. 81-15741 Filed 5-21-81; 4:00 pm]

BILLING CODE 4510-29-M

DEPARTMENT OF TREASURY

Fiscal Service

31 CFR Parts 202 and 203

Panama Canal Zone and Federal Branches of Foreign Banks

AGENCY: Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This regulation (1) deletes a reference to the Panama Canal Zone and (2) authorizes Federal branches of foreign banks, i.e., foreign banks authorized to transact business in the United States by the Comptroller of the Currency, to be Treasury Tax and Loan (TT&L) depositaries. These changes are necessary (1) to delete a reference to a geographical area that is no longer leased to the United States, and (2) to provide express authority to be TT&L depositaries to foreign banks that are authorized to transact business in the United States by the Comptroller of the Currency. The regulation deletes an obsolete term and explicitly makes foreign banks that are authorized to transact business in the United States by the Comptroller of the Currency eligible to be TT&L depositaries.

EFFECTIVE DATE: June 25, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, 202-566-2553.

SUPPLEMENTARY INFORMATION:

Classification

The Bureau of Government Financial Operations, Department of Treasury, has determined that this regulation does not require a notice of proposed rulemaking since this matter relates to public contracts, i.e., designation of Treasury Tax and Loan Depositaries. The Bureau of Government Financial Operations, Department of Treasury, also has determined that this regulation is required to implement a statute and affords no substantial element of discretion, and is not significant for purposes of Executive Order 12291.

Authority

To be consistent with section 4(a) of the International Banking Act of 1978, sections of 31 CFR Parts 202 and 203 have been revised to include among eligible institutions to be Treasury Tax and Loan Depositaries every Federal branch of a foreign banking corporation, the establishment of which has been approved by the Comptroller of the Currency.

For the reasons set out in the preamble, 31 CFR Parts 202 and 203 are amended as follows:

PART 202—DEPOSITARIES AND FINANCIAL AGENTS OF THE GOVERNMENT

1. The authority citation for Part 202 is revised to read as follows:

Authority: Sec. 10, Pub. L. 77-603, 56 Stat. 356 (12 U.S.C. 265); sec. 2, Pub. L. 95-147, 91 Stat. 1227 (12 U.S.C. 266,12 U.S.C. 1464(k), 12 U.S.C 1725(d) and 12 U.S.C. 1709(a)); and sec. 4(a), Pub. L. 95-369, 92 Stat. 607 (12 U.S.C. 3101 and 3102).

2. In Part 202, § 202.1 is revised to read as follows:

§ 202.1 Scope of regulations.

The regulations in this part govern the designation of Depositaries and Financial Agents of the Government (hereinafter referred to as depositaries), and their authorization to accept deposits of public money and to perform other services as provided for in sec. 10, Pub. L. 77-603, 56 Stat. 356 (12 U.S.C. 265); sec. 2, Pub. L. 95-147, 91 Stat. 1227 (12 U.S.C. 266, 12 U.S.C. 1464(k), 12 U.S.C. 1725(d) and 12 U.S.C. 1709(a)); and sec. 4(a), Pub. L. 95-369, 92 Stat. 607 (12 U.S.C. 3101 and 3102). Public money includes, without being limited to, revenue and funds of the United States, and any funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees. The designation and authorization of Treasury Tax and Loan Depositaries for the receipt of deposits representing payments for certain United States obligations and of internal revenue taxes are governed by the regulations in Part 203 of this chapter.

3. In Part 202, paragraph (a)(4) of § 202.2 is revised to read as follows:

§ 202.2 Designations.

(a) * * *

(4) Banks, savings banks, savings and loan, building and loan, and homestead associations, credit unions created under the laws of any State, the deposits or accounts of which are insured by a State or agency thereof or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of such financial institutions, every United States branch of a foreign banking corporation authorized by the State in which it is located to transact commercial banking business, and every Federal branch of a foreign banking corporation, the establishment of which has been approved by the Comptroller of the Currency.

* * * * *

4. In Part 202, paragraph (c) of § 202.6 is revised to read as follows:

§ 202.6 Collateral security.

* * * * *

(c) Deposits of Securities. Unless the Secretary of the Treasury provides otherwise, collateral security under this part must be deposited with the Federal Reserve Bank or Branch of the district in which the depositary is located (depositaries located in Puerto Rico and the Virgin Islands will be considered as being located in the New York Federal Reserve district), or with a custodian or custodians within the United States designated by the Federal Reserve Bank, under terms and conditions prescribed by the Federal Reserve Bank. Securities deposited with a Federal Reserve Bank must be accompanied by a letter stating specifically the purpose for which the securities are being deposited.

* * * * *

PART 203—TREASURY TAX AND LOAN DEPOSITARIES

5. In Part 203, paragraph (b)(1)(i)(A) of § 203.3 is revised to read as follows:

§ 203.3 Designation of financial institutions as Treasury tax and loan depositaries.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) Every incorporated bank and trust company in the United States, Puerto Rico, the Virgin Islands, every United States branch of a foreign banking corporation authorized by the State in which it is located to transact commercial banking business, and every Federal branch of a foreign banking corporation, the establishment of which has been approved by the Comptroller of the Currency.

* * * * *

Dated: May 20, 1981.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-15518 Filed 5-22-81; 8:45 am]

BILLING CODE 4810-85-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Ch. I

[CGD 81-017]

Reorganization of Navigation Rules

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations reorganize the vessel navigation rules contained in Title 33 by renaming or deleting the headings of Subchapters D, DD, E, and F, and by renumbering the Parts in those Subchapters. No changes are being made to the text of any of the affected regulations. This reorganization is the first step toward revising the Coast Guard's navigation regulations, a task made necessary by the Inland Navigational Rules Act of 1980. The renumbering allows the planned revisions to proceed in a more orderly manner.

EFFECTIVE DATE: This regulation is effective June 25, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Llana, Project Manager, Office of Marine Environment and Systems, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: The Inland Navigational Rules Act of 1980 (Pub. L. 96-591, December 24, 1980) consolidates and modernizes the four basic sets of navigation rules presently in effect (International, Inland, Great Lakes, and Western Rivers). The effective date for the new Inland Rules is December 24, 1981, except for the Great Lakes. The effective date for the Great Lakes is being set in coordination with the Canadian Coast Guard.

Each set of the existing rules has had a separate Subchapter in Title 33. The Act repeals the authority for many of the regulations in these Subchapters, but those that were published under statutes not repealed by the Inland Navigational Rules Act will be retained. Several new Parts will be added in a separate rulemaking to implement the new Act.

The numbering accomplished by this rulemaking will facilitate the smooth transition from the existing navigation rules for United States inland waters to the new unified Inland Navigation Rules. Within the overall Title 33 organization there are a limited number of Parts available for navigation rule implementing regulations. The relatively inefficient organization of the existing regulations would have required that the Part numbers already assigned to those existing regulations be used for the new regulations. However, the new regulations must be published while the existing ones are still in effect. To escape this problem the new organization groups the existing international and inland regulations in separate Subchapters and clears another Subchapter for the regulations that will be proposed to implement the Inland Navigational Rules Act. Thus, Part numbers used for those rules will not duplicate Part numbers of existing regulations. The redesignated Subchapter containing the existing inland navigation regulations will be deleted from the *Code of Federal Regulations* when these rules are no longer effective.

The Part on the towing of barges is being moved to the more appropriate Subchapter P, Ports and Waterways Safety. Part 85, currently reserved for Interpretive Rulings—International Rules, will not be used for this subject matter.

Drafting Information. The prinicipal persons involved in drafting this rule are Mr. Chris Llana, Project Manager, Office of Marine Environment and Systems, and Lt. Michael Tagg, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation. This redesignation is considered to be a non-major regulation in accordance with guidelines set out in Executive Order 12991 of February 17, 1981, and is considered to be a nonsignificant regulation in accordance with guidelines set out in the "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 of 5-22-80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. No changes are being made in the affected regulations other than their renumbering. This regulation has no energy, environmental, or economic impacts.

Regulatory Flexibility Act. For rules requiring a general notice of proposed rulemaking under 5 U.S.C. 553, the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354, 5 U.S.C. 601) requires an analysis of the impact of proposed regulations on small businesses, organizations, and small governmental jurisdictions. This regulation does not require a general notice of proposed rulemaking since it does not change the substance of any regulation, but merely reorganizes a series of regulations by renumbering them. As there are no substantive changes and no rights or privileges are affected, there is no economic impact.

Effective date. Because this regulation contains no substantive rules, notice and opportunity for comment are unnecessary. The redesignations should be made promptly so that the substantive rulemaking needed to implement the Inland Navigational Rules Act of 1980 can proceed with a minimum of confusion. The implementing regulations must be established as soon as possible before the December 24, 1981, effective date of the new Inland Navigation Rules. Thus, the Coast Guard finds good cause for making the redesignation effective immediately. This renumbering will be reflected in the July 1981 edition of Title 33, *Code of Federal Regulations.*

Accordingly, Subchapters D, DD, E, F, and P, Title 33, Code of Federal Regulations, are amended as follows.

Subchapter D Heading [Revised] and Part 85 Heading [Removed]

1. Subchapter D is amended by removing the title "Navigation Requirements for Certain Inland Waters" and inserting in its place the title "International Navigation Rules", and by removing the title "Interpretive rulings—international rules" of Part 85.

Subchapter DD Heading [Removed] and Special Note [Transferred to Subchapter D]

2. The heading "Subchapter DD—Implementation and Interpretation of the 72 COLREGS" is removed. The special note at the beginning of Subchapter DD is transferred to the beginning of Subchapter D.

Subchapter E Heading [Revised]

3. Subchapter E is amended by removing the title "Navigation Requirements for the Great Lakes and St. Marys River" and inserting in its place "Inland Navigation Rules".

Subchapter F [Revised]

4. Subchapter F is amended by removing the title "Navigation

Requirements for Western Rivers" and inserting in its place "Interim Inland Navigation Rules".

5. Parts 80 through 96 inclusive, of Title 33 are redesignated as follows:

Redesignation Table

Old Part Number and Title—New Part Number and Subchapter

Subchapter D

80—Pilot rules for inland waters; 93—F
82—COLREGS demarcation lines; 80—D
84—Towing of barges; 163—P
85—Interpretive rulings—international rules [Reserved]; Removed
86—Interpretive rulings—inland rules; 94—F

Subchapter DD

87—72 COLREGS: Implementing Rules; 81—D
88—72 COLREGS: Interpretative Rules; 82—D

Subchapter E

90—Pilot rules for the Great Lakes; 97—F
91—Interpretive rulings; 98—F
92—Anchorage and navigation regulations; St. Marys River, Michigan; 92—F

Subchapter F

95—Pilot rules for Western Rivers; 95—F
96—Interpretive rulings; 96—F

Derivation Table

New Part Number and Title—Old Part Number and Subchapter

Subchapter D—International Navigation Rules

80—COLREGS demarcation lines; 82—D
81—72 COLREGS: Implementing Rules; 87—DD
82—72 COLREGS: Interpretative Rules; 88—DD

Subchapter E—Inland Navigation Rules

(Reserved)

Subchapter F—Interim Inland Navigation Rules

92—Anchorage and navigation regulations; St. Marys River, Michigan; 92—E
93—Pilot rules for inland waters; 80—D
94—Interpretive rulings—inland rules; 86—D
95—Pilot rules for Western Rivers; 95—F
96—Interpretive rulings; 96—F
97—Pilot rules for Great Lakes; 90—E
98—Interpretive rulings; 91—E

* * * * *

Subchapter P—Ports and Waterways Safety

* * * * *

163—Towing of barges; 84—D

* * * * *

(33 U.S.C. 180, 30 Stat. 98; 49 CFR 1.46(c)(2); 28 Stat. 647, 33 U.S.C. 258; 49 CFR 1.46(c)(3); section 4233 R.S., 33 U.S.C. 322)

Dated: April 20, 1981.

W. E. Caldwell,

Chief, Office of Marine Environment Systems.

[FR Doc. 81-15590 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 110

[CGD11-81-01]

Special Anchorage Areas; Mission Bay, San Diego, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes, as requested by the City of San Diego Park and Recreation Department, four Special Anchorage Areas within Mission Bay. The areas affected are presently utilized for the anchoring and mooring of pleasure vessels. Designation as Special Anchorage Areas under the control of the City of San Diego Park and Recreation Department Mission Bay Harbor Police allows for a more orderly and efficient utilization of the water areas. The designated areas are well removed from any fairway and are located where general navigation will not endanger or be endangered by unlighted vessels. Establishment of Special Anchorage Areas eliminates the necessity of displaying anchor lights or sounding fog signals on vessels of not more than sixty-five feet in length while anchored within the area.

EFFECTIVE DATES: This amendment is effective June 25, 1981.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James B. Morris, Marine Safety Division, Eleventh Coast Guard District, Union Bank Building, 400 Oceangate, Long Beach, CA 90822, (213) 590-2301.

SUPPLEMENTARY INFORMATION: On November 28, 1980, the Coast Guard published a Notice of Proposed Rulemaking (45 FR 79103) concerning this amendment. Interested parties were given until January 20, 1981, to submit comments and no comments were received.

Drafting Information

The principal persons involved in drafting the rule are: Lieutenant Commander James B. Morris, Project Officer, Marine Safety Division, Eleventh Coast Guard District; and Commander Rene N. Roussel, Project Attorney, District Legal Office, Eleventh Coast Guard District.

Discussion of the Final Rule

Article 11(c) of the Navigation Rules for Harbors, Rivers and Inland Waters (Inland Rules (33 U.S.C. 180)) provides for the establishment of "Special Anchorage Areas" by the Secretary of Transportation (delegated to the Coast Guard in 49 CFR 1.05-1(g)). The designation as a Special Anchorage Area exempts anchored vessels not more than sixty-five feet in length from displaying the required single anchor light or sounding the rapidly ringing bell fog signal.

Previously vessels have anchored in the areas with verbal permission from the Mission Bay Harbor Police to not display the required light when at anchor. Designation as a Special Anchorage Area allows for orderly and efficient management of the water areas.

An environmental evaluation has been completed and determination has been made that this proposed action would result in no adverse impact on the quality of the human environment.

Summary of Final Evaluation

This regulation is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation of the rule has not been conducted since its impact is expected to be minimal. The regulation imposes no economic burden and benefits all small vessel owners since they will not have to carry or display anchor lights or sound fog signals when anchored in the Special Anchorages.

Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by adding § 110.91 to read as follows:

PART 110—ANCHORAGE REGULATIONS

1. By adding a new § 110.91 in Subpart A to read as follows:

§ 110.91 Mission Bay, California.

(a) Area M-1. In San Juan Cove, the entire water area west of a line drawn from Santa Clara Point Light; latitude 32°46'53.6" N., longitude 117°14'52.5" W.; to El Carmel Point North Light; latitude 32°46'48.0" N., longitude 117°14'50.1" W.

Note.—Control over the anchoring of vessels and the placing of temporary moorings in this area is exercised by the City of San Diego Park and Recreation Department pursuant to local ordinances.

(b) Area M-2. In Santa Barbara Cove, the entire water area west of a line drawn from El Carmel Point South Light; latitude 32°46'40.0" N., longitude 117°14'47.0" W.; to Bahia Point Light; latitude 32°46'33.5" N., longitude 117°14'45.5" W.

Note.—Control over the anchoring of vessels and the placing of temporary moorings in this area is exercised by the City

of San Diego Park and Recreation Department pursuant to local ordinances.

(c) Area M-3. In Mariners Basin, the entire water area west of a line drawn from Mariners Point Light; latitude 32°45'49.2" N., longitude 117°14'42.9" W.; to Mission Point Light; latitude 32°45'43.7" N., longitude 117°14'41.9" W.

Note.—Control over the anchoring of vessels and the placing of temporary moorings in this area is exercised by the City of San Diego Park and Recreation Department pursuant to local ordinances.

(d) Area M-4. In Quivira Basin, the water area enclosed by that portion of a circle of 45 yard radious from Quivira Basin Light 2; latitude 32°45'42.8" N., longitude 117°14'25.6" W.; through the arc from 354° T to 088° T.

Note.—This area is reserved for vessels under impound or control of the City of San Diego Park and Recreation Department Mission Bay Harbor Police.

(77 Stat. 116 (33 U.S.C. 180); 49 CFR 1.46(c)(2); 33 CFR 1.05-1(g))

A. P. Manning,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 81-15591 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[A-7-FRL-1826-6]

40 CFR Part 52

Missouri; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act (CAA), as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979. On April 9, 1980, EPA conditionally approved certain elements of Missouri's plan. On April 14, 1981, the State submitted a revision to the regulations for the purpose of fulfilling one of these conditions. The condition involves the emission limit for volatile organic compounds (VOC) emissions during gasoline loading operations.

The purpose of this notice is to advise the public that the State of Missouri has made a submission involving this condition. EPA is reviewing the material submitted and intends to issue a notice of final rulemaking after the review is completed. Until final action is published in the Federal Register, the conditional approval of the SIP is being continued.

ADDRESSES: Copies of the State submission are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106

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

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101

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

SUPPLEMENTARY INFORMATION: On April 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of that action can be found in the Federal Register notice published on that date (45 FR 24140).

One of the conditions promulgated by the EPA requires the State to revise its regulation for VOC emissions during gasoline loading operations to be consistent with the emission limit recommended by the Control Techniques Guidelines (CTGs) or to provide adequate economic justification for accepting its regulation. This information was to be submitted to the EPA by March 15, 1981. On January 2, 1981, the State published in the Missouri Register a proposed revision to Section (3) of Missouri Rule 10 CSR 10-5.220, Control of Petroleum Liquid Storage and Transfer for the St. Louis ozone nonattainment area. This revision which changes the VOC emission limitation from 0.50 to 0.30 grams per gallon of gasoline loaded, was adopted by the State on March 25, 1981, after the public hearing on February 18, 1981, and submitted to the EPA as a revision to the Missouri SIP on April 14, 1981.

The public is advised that the State has submitted a revision to the regulations to meet this condition. EPA is reviewing the material to determine if it complies with the requirements of the Clean Air Act and the condition promulgated by EPA. EPA intends to issue a notice of final rulemaking after review of this submission is completed. EPA's conditional approval of the Missouri SIP is being continued until final action is published in the Federal Register.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The State submission, if approved, would constitute a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action would only approve State actions and would impose no additional substantive requirements. Moreover, due to the nature of the Federal-State relationship, Federal inquiry into the economic reasonableness of the State actions would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This State submission, if approved, would not be "major" because it would only approve State actions and would impose no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

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

Dated: May 1, 1981.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 81-15526 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-2-FRL 1820-1]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 21, 1980 (45 FR 33981), the Environmental Protection Agency (EPA) promulgated conditional approval of the New York State Implementation Plan (SIP) for the New York City metropolitan area with regard to its ability to meet the requirements of Part D of the Clean Air Act. Six of EPA's conditions on approval required the State to submit to EPA on or before August 1, 1980 certain documentation related to the SIP's transportation control provisions.

EPA received the required documentation under cover of a July 28,

1980 letter from the State and proposed its approval on November 21, 1980 (45 FR 77054). EPA is now taking action to finalize its proposal. EPA is also incorporating the provisions of the State's submission into the approved SIP and is revoking the applicable conditions on its approval of the plan. Until all conditions are met, conditional approval of the SIP will continue.

EFFECTIVE DATE: This action is effective on May 26, 1981.

ADDRESSES: Copies of the State's submission, comments received by EPA, and a technical support document to this notice are available for inspection during normal business hours at the following addresses:

Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, Room 1005, New York, New York 10278

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

Copies of the State's submission are also available for inspection during normal usiness hours at the following address: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On May 21, 1980, at 45 FR 33981, the Environmental Protection Agency (EPA) promulgated conditional approval of the New York State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Westchester and Rockland Counties) with regard to its ability to meet requirements of Part D of the Clean Air Act, as amended. Today's notice discusses six conditions of EPA's approval of the plan. These conditions required the State to submit to EPA by August 1, 1980:

1. Key milestones associated with projects relating to transportation control measures which are part of the SIP;

2. An improved program of study for the broader application of certain transportation control measures, and supplemental information on existing studies;

3. Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling;"

4. Criteria and procedures for making changes to transportation projects contained in the SIP;

5. Criteria and procedures for making changes to transportation studies contained in the SIP; and

6. The identification of the resources necessary to carry out the transportation planning process and certain transportation elements of the SIP.

In response to these requirements, on July 28, 1980, the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) provided documentation addressing the six conditions.

EPA published its proposed approval of this submission in the November 21, 1980 issue of the **Federal Register** at 45 FR 77054. EPA found the State's submission to be generally adequate. However, EPA also indicated that: The State's program for the study of transportation control measures should have been broader and better developed; additional documentation should have been provided with regard to determining the reasonableness of the measure, "Controls on Extended Vehicle Idling;" the State's criterion for a "significant" delay in project implementation should have been shorter than fifteen months; and the financial and personnel resources for developing the SIP should have been defined in greater detail. The reader is referred to EPA's November 21, 1980 proposal for a detailed discussion of the New York submission and EPA's findings.

EPA received three comments with respect to its November 21, 1980 proposal. Comments were received in a January 19, 1981 letter from the Federal Highway Administration (FHWA), a February 10, 1981 letter from the NYSDEC, and a February 20, 1981 letter from the Tri-State Regional Planning Commission (Tri-State). Generally, the comments provided clarifying information with regard to several of the issues identified by EPA in its notice of proposed rulemaking.

Certain important facts provided by the commentators will be discussed in today's notice. However, a complete summary of the comments received and EPA's response to them appears in a separate technical support document to today's notice. This document is available for public review at the locations identified in the "Addresses" section presented earlier.

1. *Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling" (Condition (e)(3)).*

In its February 10, 1981 letter the NYSDEC pointed out that in previous correspondence to EPA, dated November 6, 1980, the State provided additional information to reevaluate the classification of the measure, "Controls on Extended Vehicle Idling." Based on this documentation the State recategorizes the status of this measure to "reasonably available," subject to its implementation on a complaint basis throughout the New York City metropolitan area exclusive of Westchester County. Upon formal endorsement of the appropriate elected officials, transportation coordinating committees, and Tri-State, the State will incorporate this measure into the SIP. The State will also request Westchester County to provide further documentation to support its determination that this measure is not reasonably available in the County.

EPA accepts the State's approach and will continue to view "Controls on Extended Vehicle Idling" as a reasonably available transportation control measure in the New York City metropolitan area.

2. *Criteria and procedures for revising and making changes to transportation projects contained in the SIP (Condition (e)(4)).*

The State in its comments agrees with EPA's suggestion that a delay in a project's implementation is "significant" if it occurs within the annual period used to determine if "reasonable further progress" is achieved. However, the State believes that EPA's suggestion that a six-month delay is significant is overly restrictive. Instead, the State will change its criterion for significance from fifteen to twelve months.

Further, the State in considering EPA's suggestion that four months is a reasonable time period in which to prepare and submit any necessary SIP revision has decided not to set a specific time period for such an activity. Due to the complexities and uncertainties associated with the actions committed to in the SIP, the State does not intend to establish any specific time period, but will address each SIP revision individually and expeditiously in consultation with the appropriate transportation coordinating committee.

EPA accepts the State's commitment to use twelve months as the criterion for determining when a delay in project implementation is significant. However, it should be noted that any change to a SIP project, whether significant or not, requires the submittal of a SIP revision. Nonsignificant changes should not require detailed justification, while significant changes will require the

analysis of the change's impact on the clean air program. EPA accepts the State's commitment to give expeditious attention to such revisions.

Based on EPA's review of the submitted documents, the comments received, and discussions with affected agencies, EPA finds that the subject conditions on its approval of the New York SIP for the New York City metropolitan area have been substantively met. Therefore, EPA is incorporating the State's submission into the SIP and revoking the applicable conditions. This action is being made effective immediately since it provides no additional burden on the affected parties.

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

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 only approves actions taken by the State. It imposes no new regulatory requirements. Moreover, this action merely clarifies tasks already committed to in the SIP It will not cost the State or local government agencies additional financial resources to fulfill this requirement.

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

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, 7601))

Dated: May 15, 1981.

Walter C. Barber, Jr.,

Acting Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1980.

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670 is amended by adding a new paragraph (c)(60) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(60) A supplemental submittal, dated July 28, 1980 from the New York State Department of Environmental Conservation which includes:

—Key milestones associated with projects relating to transportation control measures which are part of the SIP;

—An improved program of study for the broader application of certain transportation control measures, and supplemental information on existing studies;

—Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling;"

—Criteria and procedures for making changes to transportation projects contained in the SIP;

—Criteria and procedures for making changes to transportation studies contained in the SIP; and

—The identification of the resources necessary to carry out the transportation planning process and certain transportation elements of the SIP

§ 52.1674 [Amended]

2. Section 52.1674 is amended by removing and reserving paragraph (e) in its entirety.

[FR Doc. 81-15515 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1821-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a revision to the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) for the Naval Weapons Industrial Reserve Plant (NWIRP) in Franklin County, Ohio. The revision adds an alternative emission limitation of 3.65 lbs SO_2/MMBTU that will become effective when proposed plant changes are operational. The existing regulation, 1.06 lbs SO_2/MMBTU, will remain effective and enforceable until that time.

EFFECTIVE DATE: June 25, 1981.

ADDRESSES: The docket #5A-80-15 for this revision is available for inspection and copying during normal business hours at the Central Docket Section, West Tower Lobby, Gallery 1, EPA, 401 M Street, SW., Washington, D.C. 20460 and by appointment at the Air Programs Branch Docket Room, 11th floor, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Susanne Karacki, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2211.

SUPPLEMENTARY INFORMATION:

Introduction

On August 27, 1976, EPA promulgated regulations for the control of sulfur dioxide in Ohio (41 FR 36323). On July 31, 1980, Rockwell International Corporation (Rockwell) petitioned the EPA to revise the federally promulgated emission limit for the Naval Weapons Industrial Reserve Plant (NWIRP) in Franklin County, Ohio, operated by Rockwell. The submittal was endorsed by the Department of the Navy on August 6, 1980 and August 7, 1980. Supplementary information was submitted by Rockwell on September 23, 1980 and endorsed by the Department of the Navy on September 29, 1980 and October 3, 1980. Rockwell requested that the emission limit be changed from 1.06 lbs SO_2/MMBTU to 3.65 lbs SO_2/MMBTU based on non-simultaneous operation of the boilers and two proposed physical changes at the plant; first, the installation of a lock-out system on the boiler coal-feeders to permanently derate the maximum design capacity of the boilers; and second, a stack height increase for the two existing stacks. EPA reviewed the petition and proposed to approve the SIP revision, subject to certain restrictions, on January 28, 1981 (46 FR 9127).

Control Strategy Evaluation

Rockwell presently operates five coal-fired boilers [1] with a combined design capacity of 414 MMBTU/hr which exhaust through two identical 23.8 meter stacks. Under these conditions, the existing emission limitation of 1.06 lbs SO_2/MMBTU is necessary to attain and maintain the National Ambient Air Quality Standards (NAAQS) for SO_2.

Rockwell requested that the emission limitation for the boilers at the NWIRP be increased based on three proposed changes at the facility. First Rockwell proposed that the five boilers be operated in only one of three possible combinations at any one time. They are as follows:

[1] Boilers 1, 2, 3, 5a, and 5b. For clarity, modules 5a and 5b of Boiler 5 will be considered as separate boilers in this approval.

a. Any two of boilers 1, 2, or 3 on; the remaining three boilers off.

b. Boilers 5a and 5b on; the remaining three boilers off.

c. Boiler 5b and any one of boilers 1, 2, or 3 on; the remaining three boilers off.

Second, Rockwell proposed that a lock-out system be installed on the boiler coal-feeders to permanently derate the powerhouse from a combined maximum design capacity of 414 MMBTU/hr to 177 MMBTU/hr. Third, Rockwell proposed to increase the height of each of the existing two stacks from 23.8 meters to 44.5 meters based on the Good Engineering Practice (GEP) stack height formula in EPA's proposed stack height regulations (44 FR 2610, January 12, 1979).

Rockwell's revision utilized the RAM urban multipoint dispersion model, with five years (1973–1977) of representative Columbus/Dayton meteorological data and incorporated the three above cited proposed operational and configurational changes at the facility.

EPA reviewed the modeling analysis and found that the revision will attain and maintain the NAAQS for SO_2. EPA also determined that the proposed lock-out system is an acceptable means to permanently derate the boilers and that the stack height increase is consistent with the stack height policy. A detailed discussion of the analysis can be found in the Technical Support Document in the docket.

However, since the Rockwell submittal is based, in part, on physical changes at the facility which have not yet been constructed, EPA is approving the 3.65 lbs SO_2/MMBTU as an alternative emission limitation that will become effective only when these changes are completed. NWIRP shall complete all changes that are necessary to comply with the alternate regulations specified in § 52.1881(b)(27)(ix)(B) within 30 weeks from June 25, 1981. Until that time, the existing regulation, 1.06 lbs SO_2/MMBTU, is effective and enforceable. Additionally, the revision does not affect the compliance schedule and attainment date previously promulgated for this facility on August 27, 1976 (41 FR 36323).

Since the alternative emission limitation is based on operating conditions that restrict the number of boilers that the source may operate at the same time (non-simultaneous operation), NWIRP is subject to the special monitoring and reporting provisions listed at 40 CFR 52.1882(d), (44 FR 47769, August 15, 1979) when it elects to meet the 3.65 lbs SO_2/MMBTU emission limitation.

Public Comments

USEPA proposed to approve the SIP revision for NWIRP on January 28, 1981 (46 FR 9127). No requests for a public hearing were received. The only comment in response to the Notice was submitted by Rockwell through the Department of the Navy. Rockwell commented that EPA's requirement of the special monitoring and reporting provisions specified in proposed § 52.1882(g), for sources with emission limitations based on reduced operating loads, is redundant for NWIRP in view of the nature of the tamper proof sealed lock-out system. Rockwell further stated that a permanent log will be maintained on the lock-out system, and should any problems develop, they will be appropriately recorded in the log. EPA agrees with Rockwell's comments and, accordingly, removes the requirements of proposed § 52.1882(g) from the final rulemaking for NWIRP.

Pursuant to the provisions of 5 U.S.C. Section 605(b) I hereby certify that this revised rule will not have a significant economic impact on a substantial number of small entities. This action applies to only one source and, in addition, represents a more economically feasible alternative emission limitation requested by the source itself.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. Today's action does not constitute a major regulation since it merely approves an alternative, more economically feasible emission limitation requested by NWIRP. The company may elect to use the alterative or the existing regulation. This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

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

This Notice of Final Rulemaking is issued under the authority of Sections 110 and 123 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7423).

Dated: May 18, 1981.

Walter C. Barber,

Acting Administrator.

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

Subpart KK—Ohio

1. Section 52.1881(b)(27)(ix) is revised as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(27) In Franklin County * * *

* * * * *

(ix)(A) The present or any subsequent owner or operator of the Naval Weapons Industrial Reserve Plant in Franklin County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.06 pounds of sulfur dioxide per million BTU actual heat input.

(B) In lieu of meeting § 52.1881(b)(27)(ix)(A), the present or any subsequent owner or operator of the Naval Weapons Industrial Reserve Plant may elect to comply with the alternate emission limitation and operating conditions specified below.

(*1*) The present or any subsequent owner or operator of the Naval Weapons Industrial Reserve Plant shall not cause or permit the emission of sulfur dioxide from any stack in excess of 3.65 pounds of sulfur dioxide per million BTU actual heat input provided that such stacks be greater than or equal to 44.5 meters in height and that the combined maximum boiler design capacity be limited to 177 million BTU per hour by installation of a lock-out system on the boiler coal-feeders. The present or any subsequent owner or operator of the Naval Weapons Industrial Reserve Plant shall keep a permanent log on the lock-out system and record any problems with the system in the log. This log shall be available for inspection by the EPA. This log shall be in lieu of the reporting and monitoring requirements of § 52.1882(g).

(*2*) The present or any subsequent owner or operator of the Naval Weapons Industrial Reserve Plant shall be permitted to operate its five boilers (#1, 2, 3, 5a or 5b) in only one of the following three configurations at any given time:

(*i*) Any two of boilers 1, 2, or 3 on; the remaining three boilers off.

(*ii*) Boilers 5a and 5b on; boilers 1, 2, and 3 off.

(*iii*) Boiler 5b and any one of boilers 1, 2, or 3 on; the remaining three boilers off.

(*3*) In the event that the Naval Weapons Industrial Reserve Plant elects to comply with the alternate emission limitation and operating configurations in § 52.1881(b)(27)(ix)(B) (*1*) and (*2*) and vents its boilers through stacks greater than or equal to 44.5 meters in height and installs a lock-out system on the boiler coal-feeders such that the combined maximum boiler design capacity is limited to 177 MMBTU/hr, all such action shall be taken within 30 weeks of (the effective date of promulgation). The Administrator must be notified in writing that all such action was taken within five working days of its completion.

[FR Doc. 81-15512 Filed 5-22-81; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-6-FRL 1822-5]

Approval and Promulgation of Implementation Plans; Approval of Oklahoma State Variance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the State of Oklahoma's request to revise its State Implementation Plan (SIP) to include a variance for the McAlester Army Ammunition Plant in McAlester, Oklahoma.

EFFECTIVE DATE: This rulemaking becomes effective June 25, 1981.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L St., N.W., Washington, D.C. Rm. 8401

Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 "M" Street, N.W., Washington, D.C. Rm. 2922

FOR FURTHER INFORMATION CONTACT: Estela S. Wackerbarth, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On September 21, 1979, the Oklahoma State Department of Health submitted to EPA Petition No. 79-2 (Bomb Plant "B") requesting a variance to State Regulations 7 and 8 (control of particulate matter and visible emissions) until August 1, 1981, for the McAlester Army Ammunition Plant located in McAlester, Oklahoma.

EPA has reviewed the variance request and finds it to be approvable. On December 1, 1980, at 45 FR 79514, EPA proposed to approve the variance in a notice of proposed rulemaking. Public comments were solicited but none were received. Therefore, EPA approves the variance granted by the State as a revision to the Oklahoma State Implementation Plan. Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available *only* by filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before July 27, 1981. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements. Incorporation by reference of the State Implementation Plan for the State of Oklahoma was approved by the Director of the Federal Register on July 1, 1980.

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 is merely approving a State action. It will impose no new regulatory action.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

Dated: May 15, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

Subpart LL of Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended by adding § 52.1920(c)(14) as follows:

§ 52.1920 Identification of Plan.

* * * * *

(c) * * *

(14) A variance to the State Regulations 7 and 8 for McAlester Army Ammunition Plant located in McAlester, Oklahoma was submitted by the State on September 21, 1979 and approved by the State Board of Health on September 8, 1979.

[FR Doc. 81-15524 Filed 5-22-81; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-1-FRL-1836-8]

Rhode Island; Approval and Promulgation of Implementation Plans; Receipt of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt of submittal to satisfy conditions of plan approval.

SUMMARY: This notice is to announce the receipt of a State Implementation Plan (SIP) revision for Rhode Island, concerning control of stationary sources of volatile organic compounds (VOCs). These revisions were submitted to EPA to satisfy conditions for approval of Rhode Island's Attainment Plan SIP revisions, which were required under Part D of the Clean Air Act, and which had been published in the **Federal Register** on May 7, 1981 (46 FR 25446). This material is available for public review and comment.

ADDRESSES: Copies of the Rhode Island SIP revisions are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region I, Air Branch, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 and the Department of Environmental Management, Division of Air Resources, Cannon Building, 75 Davis Street, Providence, Rhode Island 02908.

FOR FURTHER INFORMATION CONTACT: Harley Laing, Chief, Air Branch, Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: EPA published a Final Rulemaking Notice in the **Federal Register** on May 7, 1981 (46 FR 25446), conditionally approving Rhode Island's Attainment Plan SIP revisions.

The revision was submitted to comply with the requirements of Part D of the Clean Air Act by implementing new measures for controlling air pollution which are designed to achieve attainment of the primary and secondary National Ambient Air Quality Standards by December 31, 1982. However, EPA's conditional approval was based on a commitment by the State to meet several conditions, one of which specified that the State must amend its regulations governing the control of stationary VOC sources.

In particular, EPA requested revisions in the control regulations for Surface Coating of Paper and Fabrics, Solvent Metal Cleaning, Petroleum Storage and Marketing, and Cutback Asphalt, as well as a commitment from the State to adopt Reasonably Available Control Technology (RACT) for VOC sources for which Control Techniques Guidelines (CTG's) were published after January 1, 1978.

In response to the conditional approval notice, EPA received a revision to the Rhode Island SIP on January 9, 1981. EPA has not yet reviewed this submittal to determine whether these revisions comply with Clean Air Act requirements. The conditional approval will therefore be continued until final action is published in the **Federal Register.**

(Sec. 110(a) of the Clean Air Act (42 U.S.C. 7410(a)))

Dated: April 16, 1981.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 81-15527 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 86

[EN-FRL 1822-8(a)]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 and 1982 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes CO emission standards for several 1981 and 1982 model year light-duty vehicles belonging to engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. 7521(b)(5). The effect of this regulation is to allow the affected manufacturers to introduce into commerce the vehicles in question under the higher waived CO emission standard prescribed here.

EFFECTIVE DATE: June 25, 1981.

ADDRESS: Information relevant to this rule is contained in Public Docket EN-81-13 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Varela, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (g/mi).

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. Excalibur Automobiles, Inc. (Excalibur), Ford Motor Company (Ford), and Volkswagen of America (VW) each submitted applications for certain light-duty vehicle models for the 1981 and/or 1982 model year. The statutory criteria, my determinations regarding the criteira with respect to the vehicle models covered by waiver applications, and my decisions to grant the waiver applications appear in the decision along with this rule and are published elsewhere in this issue of the **Federal Register.** In that decision, I granted waivers covering the following vehicle models (engine families for purposes of that decision) for the model years in question:

Manufacturer	Engine family	Model year
Excalibur automobiles	305 CID	1981, 1982
Ford Motor Co	3.8L/V-6	1982
Volkswagen	1.7L/Feedback carburetor (FBC).	1982

Once I have decided to grant the waiver applications for these vehicle models, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from vehicles of these engine families to exceed 7.0 g/mi. Moreover, the Act further requires that I promulgate regulations establishing these standards no later than 60 days after I receive the waiver applications in question. The public has been afforded an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the decision which requires the promulgation of this amended rule.

For these reasons, I find that providing notice and an opportunity to comment before final promulgation of any of the amendments contained in this rulemaking is impracticable and unnecessary.

Note.—Because the decision accompanying this rulemaking already is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking as well.

Under Executive Order 12291, EPA must judge whether an action is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or,

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Ford and VW indicated that if EPA granted the waiver requests, consumers would realize a first cost reduction of $40 and $225, respectively, corresponding to a total first cost reduction to consumers of about $10 million. Excalibur provided no cost information but indicated it expects to sell only about 350 vehicles a year. Since this action has the effect of reducing the regulatory burden on these manufacturers, it is unlikely to have an adverse effect on employment, investment, or productivity. Finally, all of these applicants are predominately United States-based enterprises; therefore, this action should not adversely affect the ability of these manufacturers to compete with predominately foreign-based enterprises.

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

Finally, under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The interim CO emission standard clarified by this notice impacts directly only on Excalibur, Ford, and VW, which are not "small entities" under the Regulatory Flexibility Act. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

These amendments are issued pursuant to sections 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7501(a).

Dated: May 15, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

1. 40 CFR 86.081-8(a)(1)(ii) is revised to read as follows:

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

(a)(1) * * *

(i) * * *

(ii) *Carbon monoxide*—3.4 grams per vehicle mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer	Engine family
American Motors Corp	151 CID, 258 CID.
BL Cars, Ltd	215 CID, 326 CID.
Chrysler Corp	1.7 liter, 2.2 liter, 2.6 liter, 3.7 liter/5.2 liter/2-V, 5.2 liter/4-V.
Excalibur Motors, Ltd	305 CID.
Ford Motor Co	1.3 liter, 1.6L liter/2V overhead camshaft, 2.3 liter/turbocharged.
General Motors Corp	1.6 liter, 2.8 liter/173 CID-2V, 3.8 liter/231 CID-2V, 3.8 liter/231 CID-4V, turbocharged.
Lotus Cars, Ltd	2.0 liter.
Toyo Kogyo Co., Ltd	91 CID, 120 CID.
Toyota Motor Co., Ltd	88.6 CID.

* * * * *

(Sections 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7501(a))

2. 40 CFR 86.082-8(a)(1)(ii) is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 light-duty vehicles.

(a)(1) * * *

(i) * * *

(ii) *Carbon monoxide*—3.4 grams per vehicle mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1982 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer	Engine family
American Motors Corp	151 CID, 258 CID.
BL Cars, Ltd	215 CID, 326 CID.
Chrysler Corp	1.6 liter, 1.7 liter, 2.2 liter, 2.6 liter, 3.7 liter, 5.2 liter/2-V, 5.2 liter/4-V.
Excalibur Motors, Ltd	305 CID.
Ford Motor Co	1.6 liter, 2.3L/turbocharged, 3.8 liter/V-6.
General Motors Corp	1.6 liter, 1.8/2.0 liter, 2.8 liter/173 CID-2V, 3.8 liter/231 CID-2V.
Toyota Motor Co., Ltd	88.6 CID.
Volkswagen of America	1.7 liter/FBC.

* * * * *

(Sections 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7501(a))

[FR Doc. 81-15502 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-33-M

40 CFR Part 123

[SW-3-FRL 1824-6]

Hazardous Waste Management Program; Phase I Interim Authorization for Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Authorization of state hazardous waste programs.

SUMMARY: The Commonwealth of Pennsylvania has applied for interim authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act and EPA guidelines for the approval of state hazardous waste programs (40 CFR Part 123). EPA has determined that the Commonwealth's program meets all applicable statutory and regulatory requirements and is granting Phase I interim authorization to Pennsylvania to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

EFFECTIVE DATE: May 26, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Allen, Chief, Hazardous Materials, Toxics and Pesticides Branch, U.S. EPA, 6th and Walnut Street, Philadelphia, PA 19106, (215) 597-0980.

SUPPLEMENTARY INFORMATION:

I. Introduction

Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, requires EPA to establish a comprehensive Federal program to assure the safe management of hazardous waste. Once a Federal program is established, EPA is authorized under Section 3006 of RCRA to approve state hazardous waste programs to operate in lieu of the Federal program in their jurisdictions.

Two types of state program approvals are authorized under RCRA. The first, "final authorization," is a permanent approval which may be granted to states whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement. The second, "interim authorization," is a temporary approval for states which cannot meet the requirements of final authorization but whose programs are "substantially equivalent" to the Federal program. RCRA contemplates that states receiving interim authorization will use the interim authorization period to make the changes in their regulations and statutes necessary to qualify for final authorization.

On May 19, 1980, EPA published the first phase of the Federal hazardous waste program (40 CFR Parts 260-263 and 265) and guidelines for authorizing state hazardous waste programs under Section 3006 (40 CFR Part 123). These guidelines set forth the requirements for interim authorization and the procedures which EPA will follow in acting on state applications for interim authorization. They also provide that EPA will grant interim authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal Program.

The Commonwealth submitted its final application for Phase I interim authorization on November 19, 1980. A notice of public comment period and public hearing was published in the State's three major newspapers and was sent to those persons on the State and EPA mailing list 30 days prior to the hearing. A **Federal Register** notice announcing the public comment period and the public hearing was published on December 4, 1980 (45 FR 80317) and the public hearing was held on January 6, 1981. The comment period was held open until January 13, 1981.

II. Major Issues

A. Concerns of the Environmental Protection Agency

The Commonwealth of Pennsylvania submitted its final application for Phase I interim authorization on November 19, 1980. After reviewing it, EPA identified several areas of concern, namely:

1. Memorandum of Agreement (MOA)

The State did not indicate that it would notify the Regional Administrator prior to proposing any substantial amendment to statute, regulation, or program policy.

- The State has agreed to the above condition in the revised MOA.

In the case of any interstate shipment for which the manifest has not been returned to the generator, the State needed to assure that it would notify the

State in which the facility designated on the manifest is located or the Regional Administrator, if the facility designated on the manifest is in an unauthorized State.

- The State has agreed to the above condition in the revised MOA.

A method is needed to revise the Pennsylvania program when Federal regulations are revised.

- The State added the following provision to the MOA:

Any provisions of the State's program which require revision because of a modification of 40 CFR Parts 122, 123, 124, 261, 262, 263, 264, 265, or 266 shall be so revised within one year of the date of promulgation of such regulation, unless the State must amend or enact the statute in order to make the required revision, in which case such revision shall take place within two years.

2. Authorization Plan

The Pennsylvania regulations regarding international shipments (75 part 262(o)(1)) state that any "generator" exporting hazardous waste to a foreign country must meet certain requirements. Other "persons" (e.g., transporters, treatment, storage and disposal facilities, etc.) may also be exporters.

- Pennsylvania has modified its authorization plan by agreeing to modify its rules and regulations to cover all "persons" exporting hazardous waste.

B. Response to Public Comment

Nine comments were received, three at the hearing and six in writing. Three commentors favor granting Phase I interim authorization, two favor authorization with reservations about specific conditions, and four neither supported nor opposed authorization. All comments received during the comment period have been reviewed and considered.

A corporation expressed its concern about the two-part manifest form required by Pennsylvania because the generator retains only the top portion (Part "A"). The bottom portion (Part "B") is returned to the generator upon receipt of the shipment by the treatment, storage or disposal facility (TSDF). The commentor would prefer that the TSDF send a copy of both Parts A and B back to the generator.

- EPA considers Pennsylvania's manifest system to be substantially equivalent to the Federal manifest system. Since both Parts A and B contain a common document number, the generator should be able to match up both Parts A and B for the same shipment.

Another commentor stated that Pennsylvania's manifest requirements for railroads were not consistent with the interim final Federal requirements as published in the **Federal Register**, December 31, 1980 (45 FR 86970).

- The Commonwealth's program must be substantially equivalent to the Federal program as issued on May 19, 1980 (40 CFR 123.128). Revisions to State programs to conform to revisions in the Federal program need not occur until the Commonwealth applies for Phase II approval. In the Memorandum of Agreement the Commonwealth agrees to make changes as necessary to conform to the Federal program within one year after promulgation of changes to the Federal program.

A commentor objected to the requirement for small quantity generators (Pennsylvania Section 75.261(d)) to have written permission from DER to deposit hazardous waste at a municipal facility.

- Requirements placed on municipal facilities by the Commonwealth's program to have written permission from DER to accept small quantities of hazardous waste are allowed under the Federal program. The Commonwealth may impose standards more stringent than those in the Federal program (40 CFR 123.121(g)).

A commentor requested that the manifest designate an alternate treatment or disposal facility in the event delivery is rejected by the treatment, storage or disposal facility designated on the manifest.

- Pursuant to 40 CFR Part 262.20(c), the designation of an alternate facility is optional. Thus, the Pennsylvania manifest system is not required to contain this feature.

A commentor expressed concern over the adequacy of the budget to conduct the State Hazardous Waste Program, and the reduction in estimated expenses from fiscal year 1981 to 1982.

- The budget projected for the coming fiscal years (FY 81 & 82) is a best estimate by EPA and the Commonwealth of Pennsylvania of the cost of administering Phase I interim authorization. Some of these costs represent one-time program development costs that will not be needed in future years. Therefore, EPA believes that the funding level allocated to conduct the Phase I program is adequate.

A comment was made recommending public participation in administrative actions which are a part of the State's enforcement process, including citizen intervention in enforcement cases before the Environmental Hearing Board.

- Changes in 40 CFR 123.128(f)(2) were published in the **Federal Register** on January 19, 1981 (46 FR 5616). States are no longer required to allow intervention as a matter of right in administrative actions. However, the Attorney General has certified that the Commonwealth does provide for intervention in administrative proceedings.

III. Decision

EPA has reviewed the Commonwealth of Pennsylvania's complete application for Phase I interim authorization and determined that the State program is "substantially equivalent" to the Phase I Federal program as defined in 40 CFR Part 123. In accordance with Section 3006(c) of RCRA, the Commonwealth of Pennsylvania is hereby granted interim authorization to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this decision is that generators, transporters, and owners and operators of hazardous waste management facilities in Pennsylvania will be subject to the Commonwealth of Pennsylvania hazardous waste management program in lieu of the Phase I Federal hazardous waste management program (40 CFR Parts 260–263 and 265) and will not again be subject to the Phase I Federal program unless (1) the State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations or (2) authorization is withdrawn for cause by EPA.

IV. Compliance with Executive Order 12291

Under Executive Order 12291, EPA must prepare a Regulatory Impact Analysis on "major regulations." A "major regulation" is defined as:

Any regulation that is likely to result in (1) An annual effect on the economy of $100 million or more (2) A major increase in costs or price for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA's decision to approve Pennsylvania's Phase I hazardous waste program is not a major regulation because its effect is to suspend the applicability of certain Federal

regulations in the State of Pennsylvania. In the absence of this decision, persons handling hazardous waste in Pennsylvania would have to comply with Parts 260–263 and 265 of Title 40 of the Code of Federal Regulations in addition to all Pennsylvania hazardous waste management regulations. For these reasons, it is virtually inconceivable that this regulation would result in the significant impacts that characterize a "major rule."

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

V. Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 USC sections 6912(a), 6926 and 6974.

Dated: May 4, 1981.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81-15523 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-30-M

VETERANS ADMINISTRATION

41 CFR Part 8-1

Qualified Products List For Convenience/Labor Saving Foods

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: In order to eliminate unnecessary duplication and to promote consistency, VA medical districts are authorized to establish qualified product lists for convenience foods for use within the medical districts. Controls over the use and documentation requirements for the Qualified Products Lists are established. This revision to the VA Procurement Regulations provides procedures and controls over the establishment of Qualified Products Lists for convenience/labor-saving foods.

EFFECTIVE DATE: This rule is effective May 26, 1981.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service, Office of Supply Services, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: This proposed regulation has been reviewed pursuant to the requirements of the Regulatory Flexibility Act and it is determined that the regulation has no impact upon small business or State and local governments.

It is the general policy of the VA to allow time for interested parties to participate in the rule making process (38 CFR 1.12). Since this amendment only affects internal review procedures, the public rule making process is deemed unnecessary in this instance.

Approved: May 19, 1981.

Rufus H. Wilson,

Acting Administrator.

41 CFR 8-1.11 is revised to read as follows:

1. In § 8-1.1101, the introductory portion of paragraph (a) is revised by updating organizational titles so that the material reads as follows:

§ 8-1.1101 Procurement of qualified products.

(a) Federal Qualified Products Lists are lists of products qualified under the applicable Federal or interim Federal specification. Such lists may be used as authorized by the appropriate department or staff office. Requests to receive copies of existing Federal Qualified Products Lists will be submitted to the Assistant Administrator for Supply Services (93) for transmittal to General Services Administration. Requests to establish a Federal Qualified Products List for a commodity will be submitted to the Assistant Administrator for Supply Services (93) supported by one or more of the following justifications:

* * * * * *

2. A new § 8-1.1102 is added to read as follows:

§ 8-1.1102 Qualified products list for convenience/labor-saving foods.

(a) Each VA medical district's Dietetic Service representative is delegated authority to establish a common Qualified Products List for convenience/labor-saving foods for the use of medical centers within his/her respective district. The medical district Dietetic Service representative will notify the Director, Dietetic Service, VA Central Office, of the establishment of each Qualified Products List and amendments to each established list.

(b) Each medical center is authorized to use its district Qualified Products List. Each medical center may test food of its own choice, but will submit test results to the district Dietetic Service representative. The Dietetic Service representative will coordinate and consolidate the test results and recommendations of individual medical centers and with other medical centers within the district in order to avoid unnecessary duplication.

(c) The approved medical district Qualified Products List will be furnished each Supply office within the district. The Supply Services will have access to complete and accurate records of established Qualified Products Lists and all test results. These records will be made available to the Office of Supply Services (93C), VA Central Office, upon request.

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 81-15574 Filed 5-22-81; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5867

[C-23349]

Colorado; Partial Revocation of Reclamation Project Withdrawal Wagon Wheel Gap

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes the withdrawal of 21,993.30 acres of national forest lands, of which 324.38 acres are privately owned. The remaining 21,668.92 acres will be open to such forms of disposition as may by law be made of such lands.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Alvah Q. Whitledge, Colorado State Office, 303-837-2825.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is hereby ordered as follows:

1. The Secretary's Order of June 18, 1941, withdrawing lands for the San Luis Valley Project, is hereby revoked so far as it pertains to the following described national forest lands:

Rio Grande National Forest

New Mexico Principal Meridian

San Luis Valley Project

T. 41 N., R. 1 E.,

Sec. 2: Lots 1 thru 4, S½N½, S½.
Sec. 3: Lots 1 thru 4, S½N½, S½.
Sec. 4: Lots 1 thru 4, S½N½, N½S½, SE¼,SE¼.
Sec. 5: Lots 1 thru 4, S½NE¼.
Sec. 6: Lots 1, 2.
Sec. 7: Lots, 5 thru 8.
Sec. 8: S½SE¼NE¼, S½.
Sec. 9: E½NE¼, SW¼SW¼NW¼, W½SW¼.

Sec. 10: N½SE¼NE¼, SW¼SE¼NE¼, N½NE¼, SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼SE¼NE¼SE¼, W½NE¼NW¼SE¼, W½NW¼SE¼, W½SW¼SE¼, E½SE¼, E½SW¼ SE¼SE¼SE¼.
Sec. 11: E½, E½W½, NW¼NW¼, SW¼SW¼, E½SW¼NW¼, E½NW¼SW¼, SW¼NW¼SW¼, SW¼NW¼NW¼SW¼, E½NW¼ NW¼SW¼.
Sec. 12: Lots 1 thru 11
Sec. 13: E½, SE¼NW¼, E½SW¼, SW¼SW¼.
Sec. 14: W½NW¼.
Sec. 15: NE¼NE¼, W½SW¼, W½SE¼SW¼.
Sec. 16: S½NE¼, W½ SE¼.
Sec. 17: Lots 1 thru 12, NE¼.
Sec. 18: Lots 5 thru 20.
Sec. 22: W½NW¼, SW¼, W½SW¼SE¼.
Sec. 23: E½NE¼, SW¼NE¼, SE¼.
Sec. 24: All.
Sec. 25: All.
Sec. 26: E½NE¼.
Sec. 27: W½NE¼, SE¼NE¼, W½. SE¼
Sec. 36: E½NE¼, SW¼NE¼, S½NW¼, S½.
T. 42 N., R. 1 E.,
Sec. 31: All.
Sec. 32: All.
T. 41 N., R. 2 E.,
Sec. 7: Lots 1 thru 4, E½, E½W½.
Sec. 18: Lots 1 thru 4, E½, E½W½.
Sec. 29: All.
Sec. 30: Lots 1 thur 4, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.
Sec. 31: Lots 2, 3, 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
Sec. 32: NE¼, N½NW¼, W½SW¼, SE¼SW¼, E½SE¼, SW¼SE¼.
Sec. 33: All.
T. 41 N., R. 1 W.,
Sec. 1: Lots 1 thru 4, S½N½, N½SW¼, N½NW¼ SE¼, SW¼NW¼SE¼, SE¼SW¼SE¼.
Sec. 2: Lots 1, 2, NE¼NE¼SW¼NE¼, N½SE¼NE¼, N½S½SE¼NE¼, SE¼SW¼SE¼NE¼, S½SE¼SE¼NE¼, SW¼NW¼, NW¼SW¼.
Sec. 3: Lots 5 thru 17.
Sec. 9: Lots 1 thur 16.
Sec. 10: W½NW¼.
Sec. 11: S½NE¼SW¼, S½NW¼SE¼.
Sec. 13: All.
Sec. 14: NE¼NE¼, NW¼NW¼, S½N½, S½.
Sec. 15: All.
Sec. 16: NW¼NE¼, NW¼, N½SW¼, SW¼SW¼.
Sec. 20: Lots 1 thru 14.
Sec. 21: Lots 1 thru 16.
Sec. 28: E½, E½W½, W½SW¼.
Sec. 29: N½NW¼, NE¼NE¼SW¼, W½NE¼SW¼, NW¼ SW¼, W½SW¼SW¼, W½NE¼SW½SW¼, SE¼SW¼SW¼, W½SW¼SE¼SW¼, SE¼SE¼.
T. 42 N., R. 1 W.,
Sec. 36: All.

The areas described aggregate 21,939.30 acres in the Rio Grande National Forest in Mineral County.

2. Of the lands described above, the following 324.38 acres are patented:

New Mexico Principal Meridian

T. 41 N., R. 1 E.,
Sec. 9: W½SE¼NE¼, SE¼SE¼NE¼.
Sec. 10: SW¼SW¼NW¼, SW¼NE¼SW¼, NW¼SW¼, SE¼ SW¼, W½SW¼SE¼.
T. 42 N., R. 1 E.,
Sec. 31: Lots 2 thru 4, SE¼SW¼.

3. At 10 a.m. on June 20, 1981, the lands described in paragraph 1, except as provided in paragraph 2, shall be open to such forms of disposition as may by law be made of national forest lands.

Inquires concerning these lands should be directed to the State Director, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colordao 80228.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.
[FR Doc. 81-15544 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5868

[A-7793]

Arizona, Partial Revocation of Public Land Order No. 848

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes Public Land Order No. 848 which withdrew public lands for use of the Department of the Army in connection with the Yuma Test Station. This action will restore 32,245.51 acres to operation of the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 848 of July 1, 1952, is hereby revoked insofar as it affects the following described lands:

Gila and Salt River Meridian

T. 7 S., R. 15 W.,
Sec. 5.
T. 7 S., R. 16 W.,
Secs. 14 and 15.
T. 7 S., R. 17 W.,
Sec. 31, N½.
T. 6 S., R. 18 W.,
Secs. 31, 32 and 33;
Sec. 34, N½;
Sec. 35, N½.
T. 8 S., R. 18 W.,
Secs. 4 thru 9, inclusive;
Sec. 17, N½;
Sec. 18.
T. 7 S., R. 19 W.,
Secs. 32 thru 36, inclusive.
T. 8 S., R. 19 W.,
Secs. 1 thru 18, inclusive;
Sec. 19, N½, SE¼;
Secs. 20 thru 23, inclusive;
Sec. 24, W½;
Sec. 27, N½;
Sec. 28, N½.
T. 8 S., R. 20 W.,
Secs. 1 and 2;
Sec. 3, N½;
Sec. 11, N½, SE¼;
Sec. 12;
Sec. 13, N½, SE¼.
T. 5 S., R. 21 W.,
Sec. 32.
T. 6 S., R. 21 W.,
Sec. 5.

The areas described aggregate 32,245.51 acres in Yuma County.

2. At 10 a.m. on June 20, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 20, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 20, 1981, the lands will be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.
[FR Doc. 81-15542 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5870

[OR 20225]

Oregon; Partial Revocation of Public Water Reserve No. 77

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order in part as to 40 acres of land withdrawn as a public water reserve. This action will restore the land to nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of May 25, 1921, which withdrew certain lands for public water reserve purposes is hereby revoked insofar as it affects the following described land:

Willamette Meridian

Public Water Reserve No. 77

T. 32 S., R. 34 E.,
Sec. 28, NW¼NE¼.

The area described contains 40 acres in Harney County.

2. The land has been conveyed from Federal ownership with a reservation of all minerals to the United States. Therefore, the land will not be open to operation of the public land laws generally.

3. At 10 a.m. on June 20, 1981, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.

[FR Doc. 81-15545 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5873

[OR 20236]

Oregon; Partial Revocation of Public Water Reserve No. 91

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order in part as to 200 acres of public lands withdrawn as a public water reserve. This action will restore 40 acres to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws. The balance of 160 acres remains segregated from the public land laws generally, including the mining laws, for the Hart Mountain National Antelope Range.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of June 13, 1925, which withdrew certain lands for public water reserve purposes is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Public Water Reserve No. 91

T. 38 S., R. 23 E.,
Sec. 29, SW¼NW¼.
T. 36 S., R. 25 E.,
Sec. 27, SW¼.

The area described aggregates 200 acres in Lake County.

2. The land in T. 36 S., R. 25 E., is withdrawn for the Hart Mountain National Antelope Refuge and remains segregated from the public land laws generally, including the United States mining laws.

3. At 10 a.m. on June 20, 1981, the public land in T. 38 S., R. 23 E., shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 20, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on June 20, 1981, the public land in Paragraph 3, will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.

[FR Doc. 81-15546 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5877

[OR 12586]

Oregon; Partial Revocation of Public Land Order No. 3966

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order which withdrew lands for flood control purposes in connection with the Bonneville Dam Project. This action will restore the land to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, Jr., Oregon State Office 503-231-6905.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3966 of April 4, 1966, which withdrew public lands for use by the Department of the Army for flood control purposes in connection with the Bonneville Dam Project, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 2 N., R. 12 E.,
Sec. 3, Lot 3.

Containing 12.51 acres in Wasco County.

2. At 10 a.m. on June 20, 1981, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 20, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 20, 1981, the land will be open to location under the United States mining laws. It has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.

[FR Doc. 81-15547 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5878

[OR 20274]

Oregon; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in part as to 30 acres of land withdrawn for reclamation purposes. This action permits restoration of the lands to operation of the mining laws, provided appropriate rules and regulations are issued to allow mineral location on lands conveyed pursuant to the Recreation and Public Purposes Act.

EFFECTIVE DATE: May 26, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of August 16, 1905, which withdrew certain lands for use by the Water and Power Resources Service (formerly the Bureau of Reclamation) for reclamation purposes in connection with the Umatilla Project is hereby revoked so far as it affects the following described lands:

Willamette Meridian

T. 4 N., R 28 E.,
Sec. 10, W½E½NE¼NW¼ and W½NE¼NW¼.
The area described contains 30 acres in Umatilla County.

2. The surface estate of the lands has been conveyed to the City of Hermiston pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869-4); therefore, unless and until appropriate rules and regulations are issued, the lands will not be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.

[FR Doc. 81-15548 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5879

[AZ-10338]

Arizona; Revocation of Public Land Order No. 739

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will revoke a withdrawal which withdrew certain lands for the use of the Department of the Army in connection with the activities of the Arizona National Guard. This action will restore 1,280 acres to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 739 of July 28, 1951, which withdrew the following described public lands for use by the Department of the Army as a rifle range and in connection with the activities of the Arizona National Guard is hereby revoked in its entirety:

Gila and Salt River Meridian

T. 8 S., R. 21 W.,
Secs. 27 and 34.
Containing 1,280 acres in Yuma County.

2. At 10 a.m. on June 20, 1981, the lands shall be open to operation of the public land laws, generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 20, 1981, shall be considered simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 20, 1981, the lands described shall be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85703.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.

[FR Doc. 81-15543 Filed 5-22-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5880

[OR-20273]

Oregon; Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order which withdrew 11,124.03 acres of lands for reclamation purposes. This action will restore the lands to operation of the mining laws and will restore 5,657.11 acres to the operation of the public land laws generally.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of March 29, 1905, which withdrew the following described lands for use by the Water and Power Resources Service for reclamation purposes in connection with the Umatilla Project is hereby revoked:

Willamette Meridian

Umatilla Project

T. 3 S., R. 18 E.,
Sec. 14, SW¼;
Sec. 15, SE¼;
Secs. 22, 23, and 26;
Sec. 27, N½, E½SW¼, and SE¼;
Sec. 34, E½, E½W½, SW¼NW¼, and W½SW¼;
Sec. 35, N½, N½S½, and S½SE¼.
T. 4 S., R. 18 E.,
Sec. 2, Lots 1 and 2, S½N½, and S½;
Sec. 3, Lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 10;
Sec. 11, E½, E½W½, and NW¼NW¼;
Sec. 13, N½N½, SW¼NE¼, S½NW¼, and S½;
Sec. 14, N½NE¼, SE¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼, and S½S½;
Sec. 15, 23, 24, and 25.
T. 4 S., R. 19 E.,
Sec. 19, Lots 1, 2, 3, and 4, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 30, Lots 1, 2, 3, and 4, E½, and E½W½.
The area described aggregates 11,124.03 acres in Sherman and Gilliam Counties.

2. The following described lands are withdrawn for Power Site Reserve No. 24 of July 2, 1910; Power Site Reserve No. 145 of July 2, 1910; and Power Site Reserve No. 556 of November 24, 1916, and remain segregated from operation of the public land laws generally;

Willamette Meridian

T. 3 S., R. 18 E.,
Sec. 14, SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, NE¼, N½SE¼, and SE¼SE¼;
Sec. 23, N½, SW¼, and NW¼SE¼;
Sec. 26, W½;
Sec. 27, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 34, NE¼NE¼, S½NE¼, and SE¼;
Sec. 35, N½NW¼, SW¼NW¼, N½SW¼, and W½SE¼.
T. 4 S., R. 18 E.,
Sec. 2, Lot 2, SW¼NE¼, and S½NW¼;

Sec. 3, Lots 1 and 2, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 10, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 13, SW¼NW¼ and W½SW¼;
Sec. 14, N½NE¼, SE¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼, and S½S½;
Sec. 15, E½E½;
Sec. 23, NW¼NE¼, S½NE¼, NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 24, SW¼ and SW¼SE¼;
Sec. 25, N½.
T. 4 S., R. 19 E.,
Sec. 19, SW¼SE¼;
Sec. 30, Lots 1, 2, and 3, NE¼, E½NW¼, and E½SE¼.

The area described aggregates 5,466.92 acres in Sherman and Gilliam Counties.

3. At 10 a.m. on June 20, 1981, the lands described in paragraph 1, except as provided in paragraph 2, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 20, 1981, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 10 a.m. on June 20, 1981, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 15, 1981.

[FR Doc. 81-15549 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5881

[OR 20228]

Oregon; Partial Revocation of Public Water Reserve No. 81

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order in part as to 80 acres of public land withdrawn as a public water reserve. This action will restore the land to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: June 23, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of November 26, 1921, which withdrew certain lands for public water reserve purposes, is hereby revoked so far as it affects the following described public land:

Willamette Meridian

Public Water Reserve No. 81

T. 17 S., R. 38 E., Sec. 9, W½NW¼

The area described contains 80 acres in Malheur County.

2. At 10 a.m., on June 23, 1981, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on June 23, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on June 23, 1981, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 18, 1981.

[FR Doc. 81-15550 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5893

[U-15158]

Utah; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order which withdrew lands for the Green River, Gunnison Project. This action involves a total of 2,543.45 acres of which 594.50 acres are in State ownership. The remaining 1,948.95 acres will be restored to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: June 23, 1981.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 30, 1921, which withdrew lands for the Green River, Gunnison Project, is hereby revoked insofar as it affects the following described lands;

Salt Lake Meridian

T. 20 S., R. 15 E. (partially surveyed)
Secs. 33, 34, 35, and 36.

The area described contains a total of 2,543.45 acres of which 1,948.95 acres are public lands described as Secs. 33, 34, 35 and lot 5, Sec. 36 in Emery County. The remaining 594.50 acres are in State ownership.

2. At 10 a.m. on June 23, 1981, the public lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 23, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands described above will be open to location under the United States mining laws at 10 a.m. on June 23, 1981. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 18, 1981.

[FR Doc. 81-15551 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33, 94, and 192

[CGD 79-072]

Stowage of Lifeboats and Liferafts

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations require that certain vessels having widely separated accommodation or working spaces must have at least one liferaft, of sufficient

aggregate capacity to accommodate at least 50 percent of the persons on board, in each such location. These regulations will improve the probability of survival for crew members in cases where a ship has to be abandoned.

EFFECTIVE DATE: June 25, 1981.

FOR FURTHER INFORMATION CONTACT: Commander John P. Deleonardis (G-MVI-2/TP24), Room 2612, U.S. Coast Guard Headquarters, Washington, D.C. 20593, 202-426-2190.

SUPPLEMENTARY INFORMATION: On December 3, 1979, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** concerning these amendments (44 FR 69312). A supplemental notice of proposed rulemaking was also published in the **Federal Register** of May 27, 1980 (45 FR 35366). The supplemental notice proposed certain additions and revisions to the December 3 notice. The comment period on the rulemaking closed on July 11, 1980, and a total of six (6) written comments were received.

The final rule has been evaluated in accordance with DOT "Regulatory Policies and Procedures," 44 FR 11033 (February 26, 1979). A copy of the final evaluation may be obtained from the Commandant (G-CMC/TP24), U.S. Coast Guard, Washington, D.C. 20593, 202-426-1477.

The Coast Guard has assessed the environmental effects of these amendments and found that these amendments will have no significant impact on the human environment. This assessment is available for review.

Drafting Information

The principal persons involved in drafting this proposal are: Lt. Daniel J. Zedan, Project Manager, Office of Merchant Marine Safety and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Comments

All changes to the proposed regulations have been made to improve clarity without changing the substance of the regulations. The changes reflect and are a direct result of comments received and subsequent Coast Guard review of the proposal.

General Comment

Of the six comments received, four were addressed, and appropriate action initiated, in the supplemental notice of proposed rulemaking.

One of the remaining two comments favored the proposal as written. The other comment requested that for Great Lakes vessels and seagoing barges, the determination as to the location of the raft should be left to the local OCMI. In order to ensure uniform industry wide implementation and enforcement, the Coast Guard rejects this idea.

Accordingly, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

PART 33—LIFESAVING EQUIPMENT

1. 46 CFR Part 33 is amended by revising § 33.05-1(f) to read as follows:

§ 33.05-1 Lifeboats and liferafts for tankships; ocean and coastwise; construction or conversion of which was started before November 19, 1952-T/OC.

* * * * *

(f) Each tankship certificated for ocean or coastwise service, and each tankship of less than 1,600 gross tons on an international voyage must carry inflatable liferafts of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board. Those tankships that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

2. 46 CFR Part 33 is amended by revising § 33.05-2(f) to read as follows:

§ 33.05-2 Lifeboats and liferafts for tankships; ocean and coastwise; construction or conversion of which was started after November 18, 1952, and before May 26, 1965-T/OC.

* * * * *

(f) Each tankship certificated for ocean or coastwise service, and each tankship of less than 1,600 gross tons on an international voyage must carry inflatable liferafts of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board. Those tankships that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

3. 46 CFR Part 33 is amended by revising § 33.05-3(f) to read as follows:

§ 33.05-3 Lifeboats and liferafts for tankships; ocean and coastwise; construction or conversion of which was started after May 25, 1965-T/OC.

* * * * *

(f) Each tankship certificated for ocean or coastwise service, and each tankship of less than 1,600 gross tons on an international voyage must carry inflatable liferafts of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board. Those tankships that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

* * * * *

4. 46 CFR Part 33 is amended by revising § 33.05-20(c) to read as follows:

§ 33.05-20 Lifeboats and liferafts for tank vessels; Great Lakes—TB/L.

* * * * *

(c) All tankships of 300 gross tons and over in Great Lakes service shall carry, in addition to the lifeboats required by paragraph (a) of this section, approved inflatable liferafts of such aggregate capacity to accommodate all persons on board: Provided, that such tankships, which are equipped with lifeboats in accordance with § 33.05-1, shall carry additional approved inflatable liferafts of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board. Those tankships that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

* * * * *

PART 94—LIFESAVING EQUIPMENT

5. 46 CFR Part 94 is amended by revising § 94.10-10(e) to read as follows:

§ 94.10-10 Requirements for vessels in ocean or coastwise service other than barges; towing, fishing, and wrecking vessels; pilot boats; and yachts.

* * * * *

(e) In addition to the lifeboats required by paragraph (a) of this section, each vessel on an international voyage and each vessel in ocean or coastwise service must carry liferafts of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board. Those vessels that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

* * * * *

6. A new paragraph (c) is added to § 94.10-15 to read as follows:

§ 94.10-15 Requirements for seagoing barges in ocean or coastwise service.

* * * * *

(c) All manned seagoing barges of 100 gross tons and over in ocean or coastwise service, having widely separated accommodation or working spaces, must have at least one liferaft, of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board, in each such location.

7. 46 CFR Part 94 is amended by

revising footnote 3 to Table 94.10-40(a) to read as follows:

§ 94.10-40 Requirements for vessels in Great Lakes; Lakes, Bays and Sounds; or River Service other than fireboats, wrecking and fishing vessels, pilot boats and yachts.

(a) * * *

[3] Every vessel of 300 gross tons and over, having widely separated accommodation or working spaces, must have at least one liferaft, of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board, in each such location.

PART 192—LIFESAVING EQUIPMENT

8. 46 CFR Part 192 is amended by revising § 192.10-10(d) to read as follows:

§ 192.10-10 Requirements for vessels in ocean or coastwise service.

* * * * *

(d) In addition to the lifeboats required by paragraph (a) of this section, each vessel on an international voyage and each vessel in ocean or coastwise service must carry liferafts of sufficient aggregate capacity to accommodate at least 50 percent of the persons on board. Those vessels that have widely separated accommodation or working spaces must have at least one liferaft in each such location.

* * * * *

(46 U.S.C. 391a, 481; 49 U.S.C. 1655(b); 49 CFR 1.46(b) and (n)(4)).

Dated: May 19, 1981.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 81-15589 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register
Vol. 46, No. 100
Tuesday, May 26, 1981

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

Federal Grain Inspection Service

7 CFR Part 57

United States Standards for Hay and Straw; Review of Standards

AGENCY: Federal Grain Inspection Service,[1] USDA.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Grain Inspection Service (FGIS) has reviewed the United States Standards for Hay and Straw in accordance with the specific criteria established in Executive Order 12291. FGIS proposes that no changes be made to the standards.

DATE: Comments must be submitted on or before July 27, 1981.

ADDRESS: Comments must be submitted in writing, in duplicate, to USDA, FGIS, Director, Issuance and Coordination Staff, 1400 Independence Ave., SW, Washington, D.C. 20250, telephone (202) 447-3910. All comments received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James L. Driscoll, Director Standardization Division, FGIS, USDA, Richards-Gebaur AFB, Bldg. 221, Grandview, Missouri 64030, telephone (816) 348-2861.

SUPPLEMENTARY INFORMATION: This action is being taken as a part of FGIS' review of regulations under Executive Order 12291. D. R. Galliart, Acting Administrator, has determined that this action is classified as nonmajor and that it will not have a significant economic impact on a substantial number of small entities because no changes in standards for hay and straw are being proposed. Also, the official inspections of hay and straw are performed on a voluntary basis.

Hay and straw inspections are authorized by the Agricultural Marketing Act of 1946 (Act), as amended (7 U.S.C. 1621-1627), and performed according to the Official United States Standards for Hay (7 CFR 57.1-57.13) and the United States Standards for Straw (7 CFR 57.50-57.52). The standards were used frequently until the early 1950's, but the number of official inspections has steadily declined since that time. The decline in the number of official inspections has resulted in part from a decrease in the amount of hay and straw purchased by government agencies. The inability of the standards to accurately reflect nutrient quality also has been suggested by interested parties as a reason for the limited use of the inspection service.

FGIS had indicated in a December 28, 1979 **Federal Register** Notice (44 FR 76835) that it intended to study the feasibility of incorporating objective testing procedures into the hay standards to better indicate quality. These tests would have supplemented the completely subjective analysis procedure used in the present hay inspection system, but the necessary instrumentation for performing such tests has not yet been perfected. FGIS determined that it would defer further study on objective testing procedures for hay until the instrumentation to perform these procedures is perfected and acceptable correlations have been established between instrument values and approved reference methods.

Incorporating objective testing procedures into the straw standards is also impractical at this time, because the necessary instrumentation for performance of such tests has not yet been perfected.

Accordingly, FGIS proposes to make no changes to the United States Standards for Hay (7 CFR 57.1-57.13) and to the United States Standards for Straw (7 CFR 57.50-57.52) at this time. comments are solicited from the public regarding this action.

(Sec. 202, Act of August 14, 1946, ch. 966, Tit. II, 60 Stat. 1087 (7 U.S.C. 1622))

Done in Washington, D.C. on May 8, 1981.

D. R. Galliart,
Deputy Administrator for Program Operations and Federal Grain Inspection.

[FR Doc. 81-15606 Filed 5-22-81; 8:45 am]
BILLING CODE 3410-02-M

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins, Specification for Filled Telephone Cables With Expanded Insulation, PE-89

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A by issuing a new Bulletin 345-89, Specification for Filled Telephone Cables with Expanded Insulation, PE-89. This specification, which supplements but does not replace PE-39, Specification for Filled Telephone Cable, will permit the use of more cost-effective cables and result in the conservation of petrochemical derived insulating materials.

DATE: Public comments must be received by REA no later than July 27, 1981.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3827. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A by issuing a new Bulletin 345-89, Specification for Filled Telephone Cables with Expanded Insulation, PE-89. This proposal action has been issued

in conformance with Executive Order 12291, Federal Regulation, and has been determined to be "not major."

(Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees)

REA, in its effort to assure the best, most cost-effective telecommunications for rural America, proposes to issue PE-39. This specification supplements PE-89, and permits the use of lower cost petrochemical conserving insulation in cables of 200 pair and larger. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: May 11, 1981.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 81-15596 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Ch. VI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Ch. I

Water Resources Project Type Activities; Channel Modification Guidelines

AGENCY: Fish and Wildlife Service, Department of the Interior, Soil Conservation Service, Department of Agriculture.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: On December 26, 1979, the Fish and Wildlife Service (FWS) and the Soil Conservation Service (SCS) published in the **Federal Register** (44 FR 76299) advance notice of their intent to convert the Channel Modification Guidelines to rules and regulations. Since that time, FWS and SCS have been carefully assessing the use and effectiveness of the guidelines. This assessment shows that the existing guidelines are being applied effectively in new projects and in projects authorized before their publication. For example, the existing guidelines have been applied to 106 projects in 29 States and resulted in the deletion of over 708 miles of channel work. In addition, construction methods were modified on 24 projects and mitigating measures on 60 acres were added in another project.

Because of demonstrated acceptability and effectiveness of the guidelines, SCS and FWS jointly agree that the guidelines should not be converted to rules and regulations at this time. This decision is consistent with Executive Order 12291, **Federal Register** February 17, 1981, which directs that administrative decisions shall be based on adequate information concerning the need for and consequences of proposed government action.

FOR FURTHER INFORMATION CONTACT:

Michael J. Spear, Associate Director, Environment, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4767)

Joseph W. Haas, Deputy Chief for Natural Resource Projects, Soil Conservation Service, P.O. Box 2890, U.S. Department of Agriculture, Washington, D.C. 20013 (202-447-4527).

Dated: May 5, 1981.

F. Eugene Hester,

Associate Director-Research, Fish and Wildlife Service, U.S. Department of the Interior.

Dated: May 15, 1981.

Norman A. Berg,

Chief, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 81-15595 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 81-AAL-6]

Proposed Establishment of Transition Area Sparrevohn, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would designate the Sparrevohn, Alaska, transition area. The need for a transition area was created when the prescribed instrument approach procedure to Sparrevohn was established. The FAA is also proposing to establish a Standard Terminal Arrival Route (the AMOTT ONE STAR) from Sparrevohn NDB to Amott Intersection. The proposed transition area would provide controlled airspace for these procedures.

DATE: Comments must be received on or before June 25, 1981.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 81-AAL-6; 701 C Street, Box 14, Anchorage, Alaska 99513.

Comments may be examined in the Rules Docket, weekdays except Federal holidays, between 8:00 a.m. and 4:30 p.m. The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513.

An informal docket may be examined at the office of the Chief Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT:

Jerry M. Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AAL-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments wil be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures, and Airspace Branch, Air Traffic Division, Alaska Region, Federal Aviation

Administration, 701C Street, Box 14, Anchorage, Alaska 99513, or by calling (907) 271-5903. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Sparrevohn, Alaska. This proposal would provide protected controlled airspace for aircraft conducting prescribed instrument approaches to Sparrevohn AFS and for a proposed Standard Terminal Arrival Route to Anchorage.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished, (46 FR 540), by adding the following:

Sparrevohn, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles southeast of and 9.5 miles northwest of the 208° bearing from the Sparrevohn NDB (Lat. 61°06.0′ N. Long. 155°33.0′ W.), extending from the NDB to 24 miles southwest of the NDB; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles each side of the 101° bearing from the Sparrevohn NDB, extending from the NDB to 20 miles east of the NDB.

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

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Anchorage, Alaska, on May 14, 1981.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 81-15562 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Proposed Revision of the Customs Bond Structure and Solicitation of Comments

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of proposed revision of the Customs bond structure and solicitation of comments.

SUMMARY: Customs is considering an extensive revision of its bond structure to consolidate and reduce the number of bond forms now in use. The purpose of the proposal is to simplify transactions between Customs and the importing public and to facilitate establishment of an efficient computerized bond control system. If the proposal is adopted, numerous amendments to the Customs Regulations will be necessary and will be the subject of a notice of proposed rulemaking published in the **Federal Register.** The public is invited to comment on the merits of the proposal and to suggest alternatives to the proposed bond format, coverages, and conversion approaches.

DATES: Comments must be received on or before (60 days from the date of publication in the **Federal Register**).

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations and Information Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joseph C. Goody, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5307).

SUPPLEMENTARY INFORMATION:

Background

When merchandise other than noncommercial merchandise accompanying a traveler arrives in the United States, it ordinarily remains in Customs custody until the importer, consignee, or the authorized agent of either establishes ownership and complies with the applicable Customs laws and regulations or laws and regulations enforced by Customs for other Federal and State agencies. In some instances, especially in the case of duty-free noncommercial importations, the merchandise may be released to the importer, consignee, or an authorized agent merely upon furnishing proof of ownership, and no formal documentation is required. However, in most cases involving commercial importations, formal documentation is required to obtain release of the merchandise. The Customs transaction releasing the merchandise to the importer is referred to as an "entry".

As a part of the entry documentation, the importer, consignee, or an authorized agent usually is required to file a bond with Customs. The bond, among other things, quarantees that proper entry summary, with payment of estimated duties and taxes when due, will be made for imported merchandise and that any additional duties and taxes subsequently found to be due will be paid. The bond also guarantees redelivery of imported merchandise to Customs custody for examination or inspection if found not to comply with applicable laws and regulations. Redelivery may be required as a result of a failure to properly mark, label, clean, or fumigate the imported merchandise; or a failure to destroy or export the imported merchandise, if appropriate.

A bond also may provide, as a condition of its satisfaction, for the production of any missing invoices, declarations, certificates, or other documents required in connection with the entry of imported merchandise, in the form and within the time required.

Bonds are used to secure other Customs transactions besides those of importers. For example, carriage of imported merchandise that has not been examined or appraised by Customs must be secured by a Customs bond to guarantee performance of various Customs obligations. Those performance bonds are required from bonded carriers, bonded cartage and lighterage operators, and persons who are authorized to carry merchandise when bonded carrier facilities are not reasonably available. Among other things, those persons are contractually bound to safely deliver that merchandise to Customs at the destination. They are bound to report arrival of the merchandise of Customs at the destination so that it can be examined for Customs purposes. They are bound not to deliver that merchandise to the ultimate consignee

until Customs determines that it can be released. If the bond principal fails to perform as agreed, the principal and surety become liable for payment of liquidated damages.

A similar situation exists for persons who operate Customs bonded warehouses, container stations, and foreign-trade zones. A bond from these people is needed to protect the Government from loss. Generally, imported merchandise is placed in such places before the amount of duty due has been determined. Moreover, until that merchandise is withdrawn for consumption, no duty is paid by the importer. The bond given by such persons serves as a guarantee that the stored merchandise will be kept safely and that it will be released only when authorized to do so by Customs.

Other bonds are required in special instances. For example, persons who use the accelerated drawback program are required to file a bond to guarantee repayment of any money erroneously paid. Another special bond is that required of copyright owners who claim that an imported article infringes their copyright and request Customs to detain that article pending a final determination on the infringement claim. That bond insures that any damage caused to the importer by detention will be corrected.

Presently, there are approximately 50 different forms of Customs bonds in use. Part 113, Customs Regulations (19 CFR Part 113), sets forth a description of the various bonds and the general requirements applicable to Customs bonds. It contains the general authority and powers of the Commissioner of Customs to require bonds, the classes of bonds, procedures for their approval and execution, general and special bond requirements, requirements which must be met to be either a principal or a surety, requirements concerning the production of documents, and the authority and manner of assessing damages and of cancelling the bond or charges against a bond.

Customs is considering an extensive revision of its existing bond structure to consolidate the number of bond forms and to establish an efficient computerizd bond control system. As part of the revision process, discussions have been held with representative segments of the importing community. A number of suggestions received during these discussions have been incorporated into this document.

The purpose of this notice is to afford the public a further meaningful opportunity to participate at an early stage in the revision process by submitting comments on the merits of the proposal and by suggesting alternatives to the proposed bond format, coverages, and conversion approaches.

Types of Bonds

Under the proposal, two types of Customs bonds, designated "single transaction" and "multi-transaction" would be established.

1. *Single Transaction:* The single transaction bond would be used for one transaction at a specific port under the same conditions as a single entry bond currently is being used and would require the approval of the district director at the port where filed.

2. *Multi-Transaction:* The multi-transaction bond would replace present term, blanket, and consolidated bonds and be used for many transactions over a definite period of time. It also would replace the continual type bonds which cover conditions of a continuing nature, such as, carriage of merchandise and establishment of warehouses. This would be similar to, but a more general type application of, the existing Consolidated Aircraft Bond, Customs Form 7605.

An amount associated with each condition referred to on the multi-transaction bond would represent the liability limit for that specific condition. It is anticipated that each condition would be self-contained and appear in a separate section or subsection of the Customs regulations.

The bond contract would remain in full force and effect for one year commencing on the effective date shown on the bond and for each succeeding annual period, or until terminated. Current Customs policy prohibiting the discontinuance of bond coverage before the end of the initial term unless good cause is shown and Customs concurs would not be changed.

At least 60 days before the bond anniversary date, Customs would issue a courtesy notice advising the principal that the bond would terminate on the anniversary date unless the principal notifies Customs by returning the notice, or othewise advises Customs in writing, at least 30 days before the bond expiration date, of its intent to continue the contract. Thus, notification of premium payment on the bond would be sufficient to renew a bond contract for another term.

If a party to the bond contract intends to terminate the contract, that party would be required to notify the other parties to the contract and Customs in writing at least 30 days before the effective date of the termination.

In order that small importers will not be required to purchase more coverage than necessary, it is proposed to create two classes of coverage within the multi-transaction type bonds, the *national class* and the *district class*. The *national class*, at the option of the principal, would include all or specific transactions of a particular principal on a nationwide basis. The *district class*, at the option of the principal, would include all or specific transactions of a particular principal within one district. For example, term bonds which currently are filed on a port level would be consolidated into one district bond. The conditions of this class of bond could be the same as those of a national bond except that the scope of coverage would be limited to one district and the minimum amount of bond required could be less than the minimum amount required on a national bond. In keeping with existing Treasury Department directives and Customs policy, customhouse brokers would not be approved as principals on a national class bond to be used in their capacity as brokers. In addition, this would not change current policy which permits a licensed customhouse broker to be approved as a principal on a national class bond to cover the entry of merchandise actually owned by the broker.

Appendix A to this document lists the Customs bonds currently in use. Whenever possible it is intended to eliminate unnecessary conditions in the proposed bond structure.

Bond Forms

Under the proposal, there would be one standardized bond form for the single transaction and multi-transaction bonds. This standardized bond form, as it might appear, is set forth as Appendix B to this document. A space would be provided on the bond form where the conditions covered by the bond and the related surety liability limit would be indicated. Standardized conditions would be enumerated in the Customs Regulations (19 CFR Chapter I). This procedure would eliminate repeating the similar conditions currently contained in the various Customs bonds. If the proposal is adopted, the Customs Regulations would be revised to incorporate all bonding requirements into the same part in 19 CFR Chapter I. In conjunction with this revision, the bond conditions will be clarified and the language modernized and simplified. Appendix C contains some specific examples of conditions which currently appear in Customs bonds and how they may be written in more modern and simplified language.

Customs Form 53, "Bond Transcript", would continue to be required, but the form might be revised as illustrated in Appendix D to this document. Customs Form 53 would be filed with each bond submitted for approval whether the bond is supported by surety, cash, or other acceptable security.

Based on the comments received and if our continuing analysis indicates it is feasible, the specific information unique to the Customs Form 53 will be incorporated into the proposed standardized bond form. Thus, the "Bond Transcript" would be discontinued. The standardized bond form, as it might appear under these circumstances, is set forth as Appendix E to this document.

Bond Modification

Current Customs policy permitting the addition of principals to bonds and name and address changes after bond approval would not change. Any other bond contract change would require the termination of the old bond and filing of a new bond, as currently prescribed in section 113.23(d), Customs Regulations (19 CFR 113.23)(d)).

Bond Control

A computerized bond control system would be implemented in conjuction with the Customs bond proposal. The proposal would reduce the number of bonds required by a principal to conduct Customs business and thus facilitate the efficient operation of the computerized system.

Under the computerized system, data would be verified and validated, and computer files would be updated, soon after a transaction is entered into the system via a terminal. Routine, time consuming tasks which are a necessary part of the bond approval procedure would be automated to speed up the approval process. For example, the lead time currently required for filing a bond and related transcript before its efffective date would be reduced significantly.

To improve querying and locating bonds, each bond would be assigned a nine digit control number. The first two digits would identify the district where the bond is filed. The last seven digits would be a serial number control uniquely identifying the bond within the district plus a check digit. This bond number would appear on all copies of the bond, whether it is a Customs bond form or a privately printed bond form. Thus, just by knowing the bond number, interested individuals would be able to determine where the bond contract is located physically.

The computerized system would provide increased revenue protection and improve the timely availability of information to authorized officials on a "need to know" basis. In addition, the computerized system would allow bonding procedures to be standardized nationwide. Through the interaction between the bond processing system and other Customs computer processing systems, bond and bond related information would be available to authorized officials on a consolidated basis.

Conversion to the New Bond Structure

To fulfill the Customs objective of establishing the new bond structure and related control system with the least adverse impact on Customs and affected parties, two conversion approaches are being considered.

The first approach would provide for a 90 or 120-day transition period during which all bonds would be terminated and replaced by bonds utilizing the new format. Existing term-type or continual-type bonds not replaced by bonds utilizing the new format would not be considered valid by Customs at the end of the 90 or 120-day transition period.

The second approach would consist of the following alternatives:

1. If a party has only a continual-type bond filed with Customs, a transition period would be provided during which a bond utilizing the new format would be filed in accordance with the procedure stated in the first approach.

2. If a party has more than one term-type bond in effect, the expiration date of the existing bond with the latest termination date would become the replacement control date. Customs would announce the date principals would be required to determine the replacement control date. Applicable replacement control dates thus would be established for the entire importing community at the same time.

Once a replacement control date has been established for an individual or firm, Customs would not approve any bond submitted under the old bond format when the term of that bond would be effective beyond the replacement control date.

3. If a party has a term and continual-type bond in effect, the continual-type bond would be terminated as of the replacement control date established for the term-type bond. A bond in the new format would be filed after the replacement control date.

Comments

Customs invites written comment (preferably in triplicate) from all interested parties on the bond revision proposal.

Commenters should address themselves, among other things, to (1) the proposed format for the bond form, (2) the proposed format for consolidating the bond conditions in the regulations, as well as recommendations for alternative formats, (3) the proposed approaches for conversion to the new system as well as suggestions for additional approaches and (4) the advantages or disadvantages of the new system as it impacts on their operation.

Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), on regular business days between 9:00 a.m. and 4:30 p.m. at the Regulations and Information Division, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

It appears that the rule, if promulgated, may have a significant economic impact on a substantial number of small entities, and thus require an initial regulatory flexibility analysis in accordance with the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 603). The Customs Office of Economic Analysis is in the process of determining whether such an analysis is indeed necessary. Accordingly, if it is decided to proceed with this matter, the notice of proposed rulemaking will have as an attachment (1) the initial regulatory flexibility analysis or (2) a certification by the Secretary of the Treasury that the analysis is not, in fact, required by the Act.

Authority

This document is issued under the authority of R.S. 251, as amended (19 U.S.C. 66), and sectios 623, as amended, 624, 46 Stat. 759 (19 U.S.C. 1623, 1624).

Drafting Information

The principal author of this document was John Elkins, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other

Customs offices participated in its development.

William T. Archey,

Acting Commissioner of Customs.

Approved: May 4, 1981.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

Appendix A

The purpose of this appendix is to aid interested parties to compare the bond forms they presently use with the proposed new bond structure formats and concepts embodied in Appendix B, C, and E. The following list indicates the various activities, conditions, and obligations of Customs bonds currently in use. This appendix is for example purposes and subject to change.

Single transaction	Multitransaction
1. CF 4615, Bond of Claimant of Seized Goods for Costs of Court.	1. CF 3583 Proprietor's Manufacturing Warehouse Bond (Class 6).
2. CF 7303, Bond to Produce Manifest and Shipper's Export Declaration for Goods Exported to Canada.	2. Blanket Smelting and Refining Bond.
3. CF 7547, Special Single Entry Carpet Wool and Camel's Hair Bond.	3. Public Gauger's Bond.
4. CF 7551, Immediate Delivery and Consumption Entry Bond (Single Entry).	4. CF 3851, proprietor's Warehouse Bond.
5. CF 7555, Warehouse Entry Bond.	5. CF 3587, Carriers Bond.
6. CF 7557, Bond for Exportation or Transportation or for Transportation and Exportation (Single Entry).	6. CF 3588, Private Carrier's Bond.
7. CF 7561, Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty.	7. CF 3855, Bond of Customs Cartman or Lighterman.
8. CF 7563, Bond for Temporary Importations.	8. CF 7303, Bond to Produce Manifest and Shipper's Export Declaration for Goods Exported to Canada.
9. CF 7565, Exhibition Bond	9. CF 7549, Special Bond-Wool or Hair of the Camel (Term).
10. CF 7567, Vessel, Vehicle or Aircraft Bond (Single Entry).	10. CF 7553, Immediate Delivery and Consumption Entry Bond (Term).
11. CF 7571, Bond on Entry for or Withdrawal from Manufacturing Warehouse.	11. CF 7559, Bond for Exportation or Transportation or for Transportation and Exportation (Term).
12. CF 7581, Bond to Produce Bill of Lading (Single Entry).	12. CF 7587, Bond for the Control of Certain Instruments of International Traffic.
13. CF 7593, Landing Bond	13. Bond for the Control of Identified Shipping Containers.
14. CF 7597, Bond for Use in Connection with Requests for Overtime Services Made by or on Behalf of Owners or Consignees of Merchandise (Single Entry).	14. CF 7563-A, Bond for Temporary Importations (Term).
15. CF 7601, Bond of Actual Owner to Cover the Payment of Increased and Additional Duties and Taxes, the Redelivery of Prohibited Merchandise, the Marking of Merchandise under Customs and Related Laws, and for other Purposes.	15. CF 7569, Vessel, Vehicle, or Aircraft Bond (Term).
16. CF 7603, Bond for Conditionally-Free Withdrawal of Distilled Spirits (Including Alcohol) Wines, or Beer, for Supplies of Fishing Vessels (Single Entry or Term).	16. CF 7595, General Term Bond for Entry of Merchandise.
17. CF 7609, Bond for Accelerated Payment of Drawback (Single Entry).	17. CF 7599, Bond for Use in Connection with Request for Overtime Services Made By or on Behalf of parties in Interest (Term).
18. Special Bond for Entry Merchandise Believed to Involve Unfair Practices.	18. CF 7603, Bond for Conditionally-Free Withdrawal of Distilled Spirits, (Including Alcohol) Wines, or Beer, for Supplies, of Fishing Vessles (Single Entry of Term).
19. Special Bond, for the Clearance of Vessels Penalized for Carrying Narcotics.	19. CF 7605, Air Carrier Blanket Bond.
20. Special Bond for the Observance of Neutrality.	20. CF 7611, Bond for Accelerated Payment of Drawback (Term).
21. Copyright Bond	21. CF 7613 Drawback Export Bond.
22. Special Bond for the Importation of Flammable Fabrics.	22. Containerized Cargo Bond (Term).
23. Special performance Bond	23. Trade Fair Bond.
24. Bond of Customers Cartman for Issuance of Temporary Identification Card.	24. Special Performance Bond.
	25. Foreign Trade Zone Operator's Bond.

Appendix B

This is an example of the form a bond might take under the new bond structure. This bond would be a two page single sheet, 8½x11 form.

Customs Bond

Bond Number ———

In order to secure payment of duty, tax or charge and compliance with law or regulation as a result of activity covered by any condition referenced below, ———, as principal, and ———, as surety bind themselves to the United States in an amount, or amounts as set forth below.

Section I (Check one box and fill the applicable blank spaces)

☐ Single Transaction Bond—Date of Arrival ———— Place of Arrival ———— Entry No. ————

Date of Entry ————

☐ District Class—Principal expects to conduct business in District of ————

☐ National Class—Applicable at all Customs locations

A multi-transaction bond remains in force for one year beginning ———— 19 —. For each succeeding annual period, or until terminated, it constitutes a separate bond for each period at the amounts listed below for any liability that accrues in each period.

A Multi-Transaction bond cannot be unilaterally terminated before the first anniversary date of the bond unless a party thereto can show sufficient cause and Customs concurs. The intention to terminate or renew this bond coverage must be conveyed within the time period and manner prescribed in the Customs Regulations.

Activity code	Activity name	Conditions codified in customs regulations	Limit of liability
Section II (fill in as indicated—see Customs Regulations for Coverage Available*)			
Section III (coverages in addition to the minimum coverage in Section II)			

Witness our hands and seals this ——— day of ————, 19 —.

Principal and Surety agree that they are bound to the same extent as if they executed a separate bond covering each of the set(s) of conditions set forth herein.

In no event shall the liability of the Surety for any and all claims under one set of bond conditions exceed the limit of liability specified for that particular set of bond conditions.

If surety fails to appoint an agent under section 7, title 6, U.S. Code, surety consents to service on the clerk of any U.S. District Court or the U.S. Court of International Trade, where suit is brought on the bond. That clerk is to send notice of the service to surety at

.....

(mailing address requested by the surety).

Signed, sealed, and delivered in the presence of—

Name ———— Address ———— (Witness) ————

Name ———— Address ———— (Witness) ————

(Seal) ————

Name ———— Address ———— (Principal) ————

Name ———— Address ———— (Surety) ————

(Seal) ————

Certificate as to Corporate Principal

I, ————, certify that I am the ———— secretary of the corporation named as principal in the within bond, that ————, who signed the said bond on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto, is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of

said corporation by authority of its governing body.

(Corporate Seal) _____

Note.—The above certificate to be used when no power of attorney has been filed with the district director of customs.

Schedule of Specific Activities and Minimum Coverage for the Principals

Code	Name	Activity
The conditions set forth in the Customs Regulation sections shown are required for the related activity [1]		
1	Importer (Brokers).	113.71
2	Internat'l Carriers.	113.72, 113.98, 113.103
3	Bonded Carrier.	113.73, 113.98, 113.104, 113.105, 113.106, and 113.108
4	Cartmen & Lighterman.	113.74, 113.98, 113.104
5	Private Carrier.	113.73, 113.98, 113.104, 113.105, 113.107, and 113.108
6	Class 2,3,4,5, and 8 Warehouse Operator.	113.75, 113.109, 113.110
7	Class 6 Warehouse Operator.	113.76, 113.109, 113.110, and 113.112
8	Class 7 Warehouse Operator.	113.71, 113.77, 113.84, 113.110, and 113.112
9	Container Station Operator.	113.87, 113.98, and 113.108
10	Foreign Trade Zone Operator.	113.79

[1] For additional bond coverage available, refer to Part 113, Customs Regulations.

NOTE.—The section numbers shown are for illustration purpose only.

Examples of modernized and simplified bond conditions as they currently appear on customs bonds and as they might appear under the proposal.

1. Condition 1 of CF 7553, Immediate Delivery and Consumption Entry Bond.

The above-bounden principal, in consideration of the release of all or any part of such shipments as may be charged against this bond before the full amount of duties and taxes imposed upon or by reason of importation has been finally determined, and notwithstanding section 485(d), Tariff Act of 1930, or any other provisions of law, voluntarily undertakes and agrees to pay any and all such duties and taxes found to be due on each entry in question, but not in excess of the amount of this bond, upon condition that no other provision of this bond shall be invoked for the purpose of enforcing the collection of such duties and taxes and upon the further condition that this obligation to pay any and all such duties and taxes found to be due on the shipment (not exceeding the amount of this bond) shall become null and void and of no force and effect as to any entry on and after the date on which the above-bounden principal files with the district director in the manner and within the time prescribed by the regulations a supereding bond on Customs Form 7601 of the owner whose declaration has been filed in accordance with the provisions of section 485(d), in which bond the owner undertakes and agrees to apy any and all such duties and taxes found due on the shipment covered by the above-mentioned entry.

Proposed Language

Agreement To Pay Duties

If principal enters merchandise at any port during the bond period and gets release of all or part of the merchandise before Customs determines the quantity and value of the merchandise and the full amount of duties and taxes due, obligors (principal and surety), on demand by the notice of liquidation, agree to pay any duty and tax, due on any entry charged against this bond. This obligation to pay ends as to any entry on the date when principal timely files with the district director a superseding bond of the owner whose declaration has been properly filed, in which superseding bond the owner agrees to pay any duty and tax due on that entry.

2. Conditions 4, 5 and 6 of CF 7553, Immediate Delivery and Consumption Entry Bond.

And if in any case the above-bounden principal shall redeliver or cause to be redelivered to the order of the district director of Customs, on demand by him, in accordance with the law and regulations in effect on the date of the release of said articles, any and all merchandise found not to comply with the law and regulations governing its admission into the commerce of the United States, unless before such demand the said principal shall have filed with the district director of Customs a superseding bond on Customs Form 7601 in which the actual owner whose declaration has been filed pursuant to section 485(d), Tariff Act of 1930, shall have undertaken upon proper demand on such owner the effect such redelivery; or, in default of redelivery after a proper demand on him, the above-bounden principal shall pay to the said district director such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations, not exceeding the amount of this obligation, for any breach or breaches thereof;

And if in any case the above-bounden principal, in respect of any of the merchandise released from Customs custody, shall redeliver or cause to be redelivered to the order of the district director of Customs such additional packages or quantities of merchandise pursuant to section 499, Tariff Act of 1930, as amended, for the purpose of examination, inspection, or appraisement, upon a demand made at any time before the report of appraisement, unless before that time the said principal shall have filed with the district director of Customs a superseding bond on Customs Form 7601 in which the actual owner whose declaration has been filed pursuant to section 485(d), Tariff Act of 1930, shall have undertaken upon proper demand on such owner to effect redelivery for such purposes; or, in default of redelivery after a proper demand on him, the above-bounden principal shall pay to the said district director such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations, not exceeding the amount of this obligation, for any breach or breaches thereof;

And if in any case the above-bounden principal shall redeliver or cause to be redelivered to the order of the district director of Customs for marking pursuant to the provisions of paragraph 367 or 368, or section 304, Tariff Act of 1930, as amended, upon a demand made not later than twenty (20) days after the report of appraisement, such of the merchandise as may have been released from Customs custody, unless before that time the said principal shall have filed with the district director of Customs and bond on Customs Form 7601 in which the actual owner whose declaration has been filed pursuant to said section 485(d) shall have undertaken upon proper demand on such owner to effect redelivery for such purposes; or, in default of redelivery after a proper demand on him, the above-bounden principal shall pay to the said district director such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations, not exceeding the amount of this obligation, for any breach or breaches thereof.

Proposed Language

Agreement To Redeliver Merchandise

If merchandise is released conditionally to principal before all required evidence is produced, before its quantity and value are determined, or

before its right of admission into the United States is determined, principal agrees to redeliver timely the merchandise released to the principal on demand by Customs if the merchandise—

(i) fails to comply with the laws or regulations governing admission to the United States;

(ii) must be examined, inspected, or appraised as required by section 449, Tariff Act of 1930, as amended; or

(iii) must be marked as required by Headnote 4, Part 2E, Schedule 7, Tariff Schedules of the United States, or by section 304, Tariff Act of 1930, as amended.

If principal defaults obligors agree to pay liquidated damages as may be demanded by Customs. This obligation to redeliver ends as to any entry on the date when principal timely files a superseding bond of the owner whose declaration to so redeliver has been properly filed.

BILLING CODE 0972-73-M

APPENDIX D

BOND TRANSCRIPT
(Proposed)

PAGE: OF:

1. PRINCIPAL'S NAME AND ADDRESS	2. CARRIER DESIGNATION	3. BOND NUMBER
		4. PRINCIPAL'S IMPORTER NUMBER

5. SURETY NUMBER	6. SURETY AGENT SOC. SEC. NO.	7. SURETY AGENT NAME

8. BOND EFFECTIVE DATE	9. BOND EXECUTION DATE	10. BOND CLASS (DIST/NAT'L)	11. DISTRICT/PORT NAME

12. TERMINATION (Complete Blocks 1 thru 13)

☐ CHECK HERE TO APPLY FOR TERMINATION OF A BOND ON FILE. SUBMIT SIGNED REQUEST, PROPERLY DOCUMENTED, TO DISTRICT DIRECTOR WHERE BOND WAS FILED. SHOW REQUESTED DATE OF TERMINATION.

Requested Date of Termination: M M D D Y Y

13. BOND TYPE

14. CONDITIONS/ AMOUNTS:	COND.	AMOUNT	COND.	AMOUNT	COND.	AMOUNT	COND.	AMOUNT	COND.	AMOUNT
	COND.	AMOUNT	COND.	AMOUNT	COND.	AMOUNT	COND.	AMOUNT	COND.	AMOUNT

LIST BELOW ALL ADDITIONAL NAMES ON THE BOND OF PRINCIPALS AND THOSE UNDER WHICH THE PRINCIPALS DO BUSINESS INCLUDING THEIR ACCOUNT NUMBER(S).

15. TOTAL IMPORTERS LISTED:

16. IMPORTER NUMBER	17. IMPORTER NAME	16. IMPORTER NUMBER	17. IMPORTER NAME

18. CODE(S) OF RIDER(S) ATTACHED TO BOND

☐ NO RIDERS INCLUDES RIDERS: ☐☐☐

19. BOND HOLDER'S SIGNATURE DATE

20. CERTIFICATION BY U.S. CUSTOMS:

APPROVED BY:

DISTRICT

Proposed Customs Form 53 (12-14-79)

BILLING CODE 0972-73-C

Appendix E

This is an example of the form a bond might take under the new bond structure. This bond would be a four page, single sheet, 8½ x 22 folded to 8½ x 11 form.

Customs Bond

Bond Number————

In order to secure payment of duty, tax or charge and compliance with law or regulation as a result of activity coverage by any condition referenced below

(Principal's Name and Importer No.) as principal, and

(Surety Name and No.), as surety bind themselves to the United States in the amount or amounts, as set forth below.

Section I (Check one box and fill the applicable blank (spaces)

☐ Single Transaction Bond—Date of Arrival ———— Place of Arrival ———— Entry No. ———— Date of Entry ————

☐ District Class—Principal expects to conduct business in District of ————

☐ National Class—Applicable at all Customs locations

A Multi-Transaction bond remains in force for one year beginning ————, 19—. For each succeeding annual period, or until terminated, it constitutes a separate bond for each period at the amounts listed below for liability that accrues in each period.

A Multi-Transaction bond cannot be unilaterally terminated before the first anniversary date of the bond unless a party thereto can show sufficient cause and Customs concurs. The intention to terminate or renew this bond coverage must be conveyed within the time period and manner prescribed in the Customs Regulations.

Activity code	Activity name	Conditions codified in Customs regulations	Limit of liability
Section II (fill in as indicated—see Customs regulations for coverage available *			
Section III (coverages in addition to the minimum coverage in Section II)			

15. Total Importers Listed:

Importer No.	Importer name	Importer No.	Importer name
Section IV (List below all tradenames or unincorporated divisions including their account number(s)			

Principal and surety agree that any charge against the bond in any of the listed names is as though it was made by the principals.

Witness our hands and seals this ——— day of ————, 19— (Execution date).

Principal and Surety agree that they are bound to the same extent as if they executed a separate bond covering each of the set(s) of conditions set forth herein.

In no event shall the liability of the Surety for any and all claims under one set of bond conditions exceed the limit of liability specified for that particular set of bond conditions.

If the surety fails to appoint an agent under section 7, Title 6, United States Code, surety consents to service on the Clerk of any United States District Court or the U.S. Court of International Trade, where suit is brought on this bond. That clerk is to send notice of the service to surety at:

(mailing address requested by the surety).

Signed, sealed, and delivered in the presences of—

Name ———— Address ———— (Witness) ————

Name ———— Address ———— (Witness) ————

Name ———— Address ———— (Principal) ————

(Seal) ————

Name ———— Address ———— (Surety) ————

(Seal) ————

Name ———— Surety Agent ———— Agent Social Security No. ————

Certificate as to Corporate Principal

I, ————, certify that I am the ———— secretary of the corporation named as principal in the within bond, that ————, who signed the said bond on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto, is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal) ————

Note.—The above certificate to be used when no power of attorney has been filed with the district director of customs.

Schedule of Specific Activities and Minimum Coverage for the Principals

Code	Name	Activity
The conditions set forth in the Customs Regulation sections shown are required for the related activity[1]		
1	Importer (Brokers)	113.71.
2	Internat'l Carriers	113.72, 113.98, and 113.103.
3	Bonded Carrier	113.73, 113.98, 113.104, 113.105, 113.106, and 113.108.
4	Cartmen & Lighterman.	113 74, 113.98, and 113.104.
5	Private Carrier	113.73, 113.98, 113.104, 113.105, 113.107, and 113.108.
6	Class 2,3,4,5, and 8 Warehouse operator.	113.75, 113.109, and 113.110.
7	Class 6 Warehouse Operator.	113.76, 113.109, 113.110, and 113.112.
8	Class 7 Warehouse Operator.	113.71, 113.77, 113.110, and 113.112.
9	Container Station Operator.	113.87, 113.98, and 113.108.
10	Foreign Trade Zone Operator.	113.79.
For additional bond coverae available, refer to Part 113, Customs Regulations.		

[1] Note.—The section numbers shown are for illustration purposes only.

Instructions

This part of the form will contain a detailed explanation of how to fill out the form.

[FR Doc. 81-15597 Filed 5-22-81; 8:45 am]

BILLING CODE 0972-73-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1823-4]

Promulgation of Michigan State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On May 6, 1980 (45 FR 29790), the U.S. Environmental Protection Agency (EPA) announced final rulemaking to approve, and, in part, conditionally approve certain Michigan Air Pollution Control Commission rules as a part of the Michigan State Implementation Plan (SIP). The State is relying on these rules as part of its control strategy for nonattainment areas. On July 28, 1980, the State submitted to EPA amendments to Rules 283 and 610 as revisions to its SIP. The purpose of this notice is to propose EPA rulemaking action and solicit public comment on these revisions to the Michigan SIP.

DATE: Comments on the revision and on EPA's proposed rulemaking are due by June 25, 1981.

ADDRESSES: Copies of these SIP revisions are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Michigan Department of Natural Resources, Air Quality Divison, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written comments should be sent to: Mr. Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act, as amended in 1977, requires each State to revise its SIP to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). These SIP revisions must demonstrate attainment of the NAAQS by December 31, 1982, and in certain circumstances, no later than December 31, 1987, for ozone and/or carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182).

On May 6, 1980 (45 FR 29790), EPA announced final rulemaking to approve, and, in part, to conditionally approve, Michigan Air Pollution Control Commission rules as a part of the Michigan SIP. In that notice (45 FR 29790, 29791), EPA approved those rules which had not been previously approved by EPA and on which the State is relying as part of its control strategy for nonattainment areas.

On July 28, 1980, Michigan submitted to EPA revisions to its State Implementation Plan (SIP). The revisions were amendments to Commission Rules 283 and 610. The amendments became effective on July 17, 1980. The following sections discuss these amendments and EPA's proposed rulemaking actions.

Rule 283

The amendment to Rule 283 would exempt equipment used for hydraulic or hydrostatic testing from the requirement for a permit. Since there are no emissions of any significance related to this type of testing, EPA proposes to approve the amendment to Rule 283 as a revision to the Michigan SIP.

Rule 610

The amendment to Rule 610 consists of revisions to Table 62 which lists minimum coating transfer efficiencies for several emission limitations for automobile and light duty truck coating operations. These changes are found in the footnotes to Table 62. Changes in footnotes 2 and 4 apply to the entire Table; changes in footnotes 5 and 7 apply only to specified facilities.

Footnote No. (facility)	Minimum coating transfer efficiency	
	EPA approved regulation	Amendment
2		
4		
5 (Wayne assembly and Wixon assembly)	60% on and after 12/31/82; 55% on and after 12/31/86.	50% on and after 12/31/86.
5 (Michigan truck and Dearborn assembly)	65% on and after 12/31/84	50% on and after 12/31/84.
7 (Jefferson truck)	55% on and after 12/31/79; 65% on and after 12/31/81.	50% on and after 12/31/81.
7 (Lynch Road)	65% on and after 12/31/82	50% on and after 12/31/82.
7 (Hamtramck and Warren Main)	65% on and after 12/31/83	50% on and after 12/31/83.
7 (Warren Compact)	65% on and after 12/31/84	50% on and after 12/31/84.

EPA has reviewed the proposed amendments to the minimum coating transfer efficiencies in Rule 610. These amendments do not impact the attainment demonstrations since there were no changes to the approved emission limitations. The revision changes only the technique employed to achieve equivalence with the limitations. The changes in the coating efficiencies are consistent with the July 3, 1979, policy memorandum from Richard G. Rhoads, Director, Control Programs Development Division, entitled "Appropriate Transfer Efficiency for Waterborne Equivalence". EPA proposes to approve as a revision to the Michigan SIP the amendments to Rule 610.

All interested persons are invited to comment on these revisions to the Michigan SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before June 25, 1981, will be considered in USEPA's final rulemaking. All comments received will be available for inspection at the Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. section 605(b), the Administrator has certified 46 FR 8709 that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The action only approves State actions.

Under Executive Order 12291 (Order), EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. Today's action does not constitute a major regulation because it merely approves regulations which were developed by the State and are currently effective in the area and exempts certain sources from compliance with the State regulation while providing other sources with alternate methods for compliance. This proposed rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

This notice of proposed rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410, 7502).

Dated: April 10, 1981

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-15514 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 60

[AD-FRL 1803-2]

Standards of Performance for New Stationary Sources; Asphalt Processing and Asphalt Roofing Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendment and clarification.

SUMMARY: On November 18, 1980, "Standards of Performance for New Stationary Sources: Asphalt Processing and Asphalt Roofing Manufacture" were proposed in the **Federal Register** (45 FR

76404). During the public comment period, clarification was requested regarding the applicability of the standards to asphalt processing facilities that prepare blown asphalts used for nonroofing purposes. The amendments are being published to clarify the applicability of the proposed standards and to provide an opportunity for comments from processors of nonroofing asphalts who may be subject to the amended proposed standards.

This notice also pertains to the Amendment to the Priority List (45 FR 76427). It clarifies that asphalt processing refers to blowing stills and storage tanks for roofing and/or nonroofing asphalts that are located at asphalt processing plants, petroleum refineries, and asphalt roofing plants.

DATES: *Comments:* Comments on this amendment must be received by July 10, 1981.

PUBLIC HEARING: A public hearing will be held, if requested. Persons wishing to request a public hearing must contact EPA by June 9, 1981. If a hearing is requested, an announcement of the date and place will appear in a separate **Federal Register** notice.

ADDRESSES: *Comments:* Comments relating to this amendment only should be submitted (with one duplicate copy) to: Central Docket Section (A-130), Attention: Docket No. OAQPS A-79-39. U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. Persons wishing to request a public hearing on the amendment should notify Ms. Naomi Durkee, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5631.

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 (919) 541-2777. Please refer to "Asphalt Roofing Manufacturing Industry, Background Information for Proposed Standards," EPA-450/3-80-021a.

Docket. A docket, number OAQPS A-79-39, containing information used by EPA in development of the proposed standards, is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Amendments to Proposed Standards

"Standards of Performance for New Stationary Sources: Asphalt Processing and Asphalt Roofing Manufacture" were proposed in the November 18, 1980, **Federal Register** (45 FR 76404). These proposed standards limit particulate emissions from asphalt roofing facilities and from two asphalt processing facilities: blowing stills and storage tanks. The definition of asphalt processing in the proposed regulations referred to the storage and blowing of asphalt "for use in the manufacture of asphalt roofing products." Blowing stills were defined as equipment "in which air is blown through hot asphalt flux to produce different grades of asphalt for the manufacture of asphalt roofing." The asphalt storage tank was defined as a tank storing hot asphalt "for roofing manufacture or asphalt processing." When considered together, these definitions restrict the applicability of the proposed standards to equipment used to produce or store roofing asphalts.

Half of the blown asphalts currently being produced is used in the roofing industry.(*1-3*) The other half includes predominantly those asphalts used for paving but also includes asphalts used for pipe wrapping, pond liners, and mopping grade asphalts. EPA and industry growth projections indicated the necessity for three to seven stills and 21 to about 50 storage tanks respectively, by 1985 to supply the demand for roofing asphalts. However, the market for blown nonroofing asphalts is not expected to grow in the next five years.(*3*) Therefore, construction of new stills and storage tanks subject to the proposed standards of performance is expected to take place only to meet the demand for roofing asphalts.

Comments received after proposal have indicated that even though growth will occur only due to the increased demand for roofing asphalts, the applicability of the proposed standards should include blowing stills and storage tanks that process or store any type of asphalt. The same still and storage tank may be used for nonroofing as well as roofing asphalts. If the applicability of the standards depended on the eventual use of the product, a still or storage tank could be subject to the regulation on one day (while blowing or storing roofing asphalt) but not subject to the regulation on another day (while blowing or storing nonroofing asphalt). Even if the same still or storage tank were not used for more than one type of asphalt, there could be one unit devoted to roofing asphalts and subject to the regulation while another identical unit devoted to nonroofing asphalts would not be subject to the regulation. Furthermore, to meet the increased demand for roofing asphalt, a manufacturer could increase capacity by constructing new stills or storage tanks, but then limit the use of the new facilities to nonroofing asphalts while devoting a larger number of existing facilities to roofing asphalts.

The fluxes from which nonroofing blown asphalts are prepared may vary in physical characteristics, such as volatility, but such variation also exists with roofing asphalt fluxes. Industry supplied information on the range of volatility found among asphalt fluxes that are air blown. It was determined that the standard was achievable for all fluxes within this range as noted in the November 18, 1980 **Federal Register** notice (45 FR 76410). The size and operating parameters (such as temperature and residence time) of a control device required to achieve the emission limits for the highest volatility fluxes were determined, and costs were calculated accordingly. These costs have been determined to be reasonable for asphalt processing plants, petroleum refineries, and asphalt roofing plants, the same plants that could have blowing stills used for nonroofing blown asphalts. An asphalt storage tank containing asphalt to be used in roofing manufacture is no different from a storage tank containing asphalt that will be used for some other purpose. The number of new stills and storage tanks constructed in the asphalt processing and asphalt roofing industries remains the same as was projected in the proposed regulations since such construction will be due to growth in the asphalt roofing market. Therefore, the environmental, energy, and economic impacts of the proposed standards are not changed as a result of these amendments.

In summary, the same blowing stills and storage tanks are, or may be, used to process or store either nonroofing or roofing asphalts, and the emission limits remain achievable independent of the type of asphalt blown. The costs and the economic, energy, and environmental impacts projected in the November 18, 1980 **Federal Register** (45 FR 76404) apply to all asphalt blowing stills and storage tanks regardless of how the asphalts will be used. These costs and

impacts were determined to be reasonable. EPA has determined that the proposed emission limits for blowing stills and storage tanks used for roofing asphalts should apply to blowing stills and storage tanks for any type of asphalt except asphalt mixtures referred to as cutback and emulsified asphalts which are not included in this regulation. These proposed amendments would change the definitions of "asphalt processing," "asphalt storage tanks," and "blowing still" to include asphalts used for any purpose. The amendments would also add definitions for "asphalt processing plant" and "asphalt roofing plant" to be consistent with the proposed regulation. The regulation refers to the plants where process operations occur rather than to the processes themselves.

Because there may be some asphalt processing plants or petroleum refineries blowing and/or storing asphalts used for purposes other than roofing, which were not included in the proposed standards but which may be inlcuded in the amended proposed standards, the date used to determine if facilities at these locations are subject to the standards is the proposal date of this amendment rather than the proposal date of the standard. A paragraph has been added to the proposed standards to indicate this.

Minor amendments were made to the performance test procedures to clarify the duration of the tests when stills are being used to process nonroofing asphalts.

Clarification of the Amendment to the Priority List. The Priority List was amended (45 FR 76427) to add "asphalt processing" to the source category previously listed as "asphalt roofing." The amendment was necessary because the processing of asphalt for roofing manufacture takes place at petroleum refineries and asphalt processing plants as well as at roofing plants, and the process is essentially the same at any of the locations. Since "asphalt processing" has been added to the Priority List, no additional changes to the list or to the amendment are necessary; however, the new, broader definition of asphalt processing applies to the Priority List source category.

Applicability of Proposed Standards to Storage Tanks. During the public comment period that followed publication of the proposed standards in the Federal Register (45 FR 76404), several comments were received regarding the applicability of the proposed standards to asphalt storage tanks which may exist at petroleum refineries that do not process asphalt (i.e., that do not have blowing stills). These tanks are covered by the proposed standards. The revised definitions make this clearer. They also expand the applicability to include storage tanks that store asphalt to be used for any purpose, not only roofing products. Cutback asphalts (asphalts diluted with solvents to reduce viscosity so that asphalts can be used at lower temperatures) and emulsified asphalts (asphalts dispersed in water with an emulsifying agent) are not included in the proposed standards. If asphalt is stored at relatively low temperatures and tanks exhibit zero percent opacity without controls, they would meet the proposed standards. Otherwise, controls are available for meeting the proposed standards.

Environmental Energy, and Economic Impacts. The environmental, energy, and economic impacts discussed in the November 18, 1980 Federal Register notice (45 FR 76404) for the proposed standards are not projected to change as a result of these amendments. These impacts were based on the construction of three to seven new stills and 21 to about 50 new storage tanks to meet the growth in the asphalt roofing market. Since there is no growth projected for the use of other blown asphalt products, the number of affected facilities remains the same. Changes to existing stills and storage tanks that would qualify as a modification or reconstruction would be very rare. Any increases in capacity would be met by the addition of a new unit or by replacing a small still or storage tank with a new, larger one. Stills and storage tanks used for nonroofing asphalt may be the same ones used for roofing asphalt or they may be additional units. Either way, they will be located at the same locations (asphalt processing plants, petroleum refineries, and asphalt roofing plants) and will require the same control devices. Since the economic impacts were based on conditions which are applicable to blowing or storing nonroofing asphalts as well as roofing asphalts, these impacts remain unchanged.

"Major Rule" Determination. Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation, both as proposed and as amended, 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 a "major rule." Fifth-year annualized costs of the proposed standard would be $450,000. The product wholesale price could increase about 0.5 percent, which could increase the price for a roof on a typical 3-bedroom house by about $3.00. If the costs were absorbed, the resulting drop in net profit after taxes could be about 0.4 percent. The Agency has also concluded that this rule is not "major" under either of the other criteria established in the Executive Order. The proposed amendment does not change the economic impacts of the standard. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Regulatory Flexibility Analysis Certification. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached amendments to the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The amendments will not affect any small entities since additional stills and storage tanks used for nonroofing asphalts would not exist at these locations.

Dated: May 19, 1981.

Walter C. Barber,

Acting Administrator.

References

(*1*) Background Information for Proposed Standards—Asphalt Roofing Manufacturing Industry, EPA 450/3-80-021a. June 1980, p. 8-26.

(*2*) Memo to Docket A-79-39, Calculations for Amount of Asphalt Blown for Roofing, Paving and All Other Uses. Docket No. A-79-39-IV-B-001.

(*3*) Letter from V. P. Puzinauskas, the Asphalt Institute to R. C. Cooper, MRI. January 1981. Blown asphalt products. Docket No. A-79-39-IV-E-004.

It is proposed to amend 40 CFR Part 60 by amending §§ 60.470, 60.471, and 60.474 to read as follows.

1. Section 60.470 (a) and (b) is revised to read as follows:

§ 60.470 Applicability and designation of affected facilities.

(a) The affected facilities to which this subpart applies are saturators and mineral handling and storage facilities at asphalt roofing plants; and asphalt storage tanks and blowing stills at asphalt processing plants, petroleum refineries, and asphalt roofing plants.

(b) Any saturator or mineral handling and storage facility under paragraph (a) of this section that commences construction or modification on or after November 18, 1980, is subject to the requirements of this subpart. Any asphalt storage tank or blowing still located at an asphalt processing plant, petroleum refinery, or asphalt roofing plant that processes and/or stores

asphalt used for roofing only or for roofing and other purposes, and that commences construction or modification on or after November 18, 1980, is subject to the requirements of this subpart. Any asphalt storage tank or blowing still located at an asphalt processing plant, petroleum refinery, or asphalt roofing plant that processes and/or stores only nonroofing asphalts and that commences construction or modification on or after May 26, 1981 is subject to the requirements of this subpart.

* * * * *

2. Section 60.471 is revised by changing the definitions of "asphalt processing," "aspahlt storage tank," and "blowing still" and by adding the definitions of "asphalt processing plant" and "asphalt roofing plant":

§ 60.741 Definitions.

* * * * *

"Asphalt processing" means the storage and blowing of asphalt.

"Asphalt processing plant" means a plant which blows asphalt for use in the manufacture of asphalt products.

* * * * *

"Asphalt roofing plant" means a plant which produces asphalt roofing products (shingles, roll roofing, siding, or saturated felt).

"Asphalt storage tank" means any tank used to store asphalt at an asphalt roofing plant, a petroleum refinery, and an asphalt processing plant. Storage tanks containing cutback asphalts (asphalts diluted with solvents to reduce viscosity for low temperature applications) and emulsified asphalts (asphalts dispersed in water with an emulsifying agent) are not subject to this regulation.

"Blowing still" means the equipment in which air is blown through asphalt flux to produce different grades of asphalt.

* * * * *

3. Section 60.474 is amended by revising paragraphs (b) and (e) to read as follows:

§ 60.474 Test methods and procedures.

* * * * *

(b) For Method 26 the sampling time for each run on a saturator shall be at least 120 minutes, and the sampling volume shall be at least 3 dscm. Method 26 shall be used to measure the emissions from each saturator while the asphalt roofing plant is making 106.6-kg (125-lb) asphalt shingle if the final product is shingle or mineral-surfaced roll roofing or while the asphalt roofing plant is making 6.8-kg (15-lb) saturated felt if the final product is saturated felt or smooth-surfaced roll roofing. Method 26 shall be used to measure emissions from the blowing still for at least 90 minutes or for the duration of the coating blow, whichever is greater. If the blowing still is not used to blow coating asphalt, Method 26 shall be used to measure emissions from the blowing still for at least 90 minutes or for the duration of the blow, whichever is greater.

* * * * *

(e) The production rate of asphalt from the blowing still, P_s (Mg/h), shall be determined by dividing the weight of asphalt charged to the still by the time required for the performance test during a blow. The weight of asphalt charged to the still shall be determined at the starting temperature of the blow. The weight of asphalt shall be converted from the volume measurement as follows:

$M = Vd/c$

M = weight of asphalt in megagrams

V = volume of asphalt in cubic meters

d = density of asphalt in kilograms per cubic meter

c = conversion factor 1,000 kilograms per megagram

The density of asphalt at any measured temperature is calculated by using the following equation:

$d = 1056.1 - 0.6176 \times °C$

The method of measurement shall have an accuracy of ±10 percent.

* * * * *

[FR Doc. 81-15513 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 79-245; FCC 81-224]

American Telephone & Telegraph Co.; Manual and Procedures for the Allocation of Costs

AGENCY: Federal Communications Commission.

ACTION: Petitions for reconsideration, and a petition for reconsideration and clarification.

SUMMARY: The Commission adopted an Interim Cost Allocation Manual on December 19, 1980. The Manual was contained in a Report and Order in Docket 79-245, *In the Matter of American Telephone and Telegraph Co. Manual and Procedures for the Allocation of Costs* (Published January 22, 1981, 46 FR 6951). This Memorandum Opinion and Order grants in part and denies in part Petitions for Reconsideration, and a Petition for Reconsideration and Clarification of the Report and Order. Proposed changes to the Report and Order cost manual were for the most part accepted. Proposals to abandon the Report and Order cost manual were rejected because of a timetable established by the courts calling for prompt resolution of cost manual issues.

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

FOR FURTHER INFORMATION CONTACT: Bert Halprin, Policy and Program Planning Division, Common Carrier Bureau, Room 544, (202) 632-9342.

SUPPLEMENTARY INFORMATION:

Order on Reconsideration

Adopted: May 7, 1981.

Released: May 15, 1981.

In the matter of American Telephone and Telegraph Co., manual and procedures for the allocation of costs, CC Docket No. 79-245, 46 FR 15326; 3-5-81.

I. Summary

1. On January 6, 1981, we released a *Report and Order (AT&T Manual and Procedures for the Allocation of Costs,* 84 FCC 2d 384, adopted December 19, 1980) in which we adopted an Interim Cost Allocation Manual (ICAM) to be used by the American Telephone and Telegraph Company to allocate interstate revenues, investments and expenses to four designated reporting categories: MTS, WATS, Private Line and ENFIA. This action represented the first time this Commission has adopted a cost allocation manual. Although AT&T developed and used several cost manuals subsequent to the issuance of our Memorandum Opinion and Order in Docket 18128,[1] none of these manuals had been approved by the Commission. The interim manual was adopted after completion of Notice of Inquiry [2] and Notice of Proposed Rulemaking [3] proceedings.

2. Before us are *Petitions for Reconsideration* filed by the Independent Data Communications Manufacturers Association, Inc. (IDCMA), the Tele-Communications Association (TCA), and the American Telephone and Telegraph Company (AT&T). The American Broadcasting Companies, Inc., CBS Inc. and National Broadcasting Company, Inc. (collectively, the Networks), filed a

[1] AT&T Private Line rate Case, 16 FCC 2d 587, on reconsideration, 64 FCC 2d 971 (1977), on further reconsideration, 64 FCC 2d 1441 (1978).

[2] 73 FCC 2d 629. Notice of Inquiry.

[3] 78 FCC 2d 1296. Notice of Proposed Rulemaking. Paragraphs 12-30 review the history of this proceeding.

Petition for Reconsideration and Clarification. An *Opposition* was filed by AT&T. Aeronautical Radio, Inc. (ARINC) filed a *Response to Petitions for Reconsideration.* The Ad Hoc Telecommunications Users Committee (Ad Hoc) filed *Comments on Petitions for Reconsideration. Reply* comments were filed by IDCMA, TCA and the Networks.[4]

3. Briefly, the interim manual sets forth procedures for the allocation of AT&T's interstate investment between message and private line in accordance with separations results. Further disaggregation between MTS and WATS interstate investment is based upon message minute miles (viz. messages × time × distance)—the factor used by separations to assign MTS and WATS costs to the interstate jurisdiction. A complete count of message minute miles is obtained from AT&T's Centralized Message Data System (CMDS) data base. The investment associated with ENFIA service—presently a far smaller category then MTS, WATS or Private Line—is obtained separately. Where expenses are specifically identifiable with a particular service or reporting category, they are assigned directly. Nonattributable expenses are assigned pursuant to the various allocations specified in the FCC–NARUC Jurisdictional Separations Manual and are, in general, to be allocated in the "reasonably proportionate manner" to the four reporting categories.

4. The interim manual does not assign costs to individual private line services, but rather to the private line category as a whole. The only specific instruction given AT&T in making further assignments of plant and investment to specific private line services for tariff purposes is that all allocations must be based upon fully distributed costs. Apart from this, AT&T is left with the discretion to choose a reasonable means of allocating costs. However, the *Report and Order* makes clear that the burden remains upon AT&T to fully justify its tariff rates and any underlying cost assignments in individual tariff proceedings.

5. Under the interim cost manual, each reporting category (except ENFIA, whose rates were set after negotiations) is required to earn the full interstate rate of return. Since private line services are aggregated into a single reporting category, there is no requirement that individual private line services within this category earn the interstate rate of return. The requirement is only that private line services do so as a whole.

[4] These pleadings are summarized in Appendix A.

6. The criticisms raised against the interim manual in the Petitions for Reconsideration are basically of two types. First, there are general objections on both legal and policy grounds to the adoption of the interim manual itself. These objections are essentially restatements of arguments raised by the parties in their earlier comments and fully considered by the Commission in issuing its Memorandum Opinion and Order. Upon Reconsideration, we affirm the essential validity of the interim cost manual for AT&T contained therein. Second, several rather modest changes, of a technical nature, are suggested which might be described as proposed "improvements" to the manual. We have agreed to adopt, in essence, the proposed changes for the allocation of switchboard investment and associated expense. We consider below, separately, both groups of contentions.

II. Contentions Previously Raised

7. In analyzing the general challenges raised by the parties as to the overall validity of the manual, we believe it would be helpful to first review the framework in which this proceeding arose. The Commission was obligated by an order of the Circuit Court of the District of Columbia (*MCI Telecommunications* v. *F.C.C.,* Case No. 79–1119, April 2, 1980) to promulgate a manual on an expedited schedule. There was no way to accomplish this except through the adoption of simplified procedures. As the *Report and Order* recites, the Commission has already spend years trying to implement Method 7 without success and it had become clear that this goal could not be accomplished in the near future. Acceptable, reliable, auditable data was simply not available, and could only be made available, if ever, over a period measured in years. Alternative approaches suggested by other parties likewise lacked the underlying data and allocative information necessary to their implementation in the short-run. Contrary to the contentions raised by TCA (Petition, pp. 9–10) and the Network Parties (Petition, p. 24), we continue to believe that the Commission was required to adopt an immediate cost allocation solution on an interim basis and that given this constraint, the interim cost manual adopted in our *Report and Order* which divides AT&T's revenues and costs into four aggregate categories was the best, or perhaps more correctly, the only alternative available to us.

8. TCA argues, however, that the compulsion of the Commission was not as great as believed: That the schedule adopted by the D.C. Circuit "did not bind the Commission to prescribing a cost allocation manual in December 1980"; that the "Commission could have sought an extension"; and, that "indeed (the Commission had) previously done so." (TCA Petition, p. 9). It is true that the Commission had sought, and the Court had granted, a brief extension of two months to December 1980 for the prescription of a cost manual. It is also true that perhaps a further short extension could have been obtained. This was not the problem here. There was no way that the Commission could guarantee the Court that verifiable Method 7 data sufficient for regulatory purposes could have been available within a few months. The theoretical difficulties plaguing Method 7 (which are described at length in our Notice of Proposed Rulemaking and Report and Order) and the vast amounts of data, as yet unavailable, required to implement this methodology made it self-evident that implementation, if at all possible, was a task which would take at least several years to complete. It would have been foolhardy to the point of irresponsibility for the Commission to have sought to try the Court's patience by requesting the extensive delay necessary to implement Method 7. Moreover, as inadvisable as such a request would have been in the first instance, it is even less acceptable for the Commission now to renounce the interim manual, to go back to the Court, to inform the Court that its schedule has not been met and to request a new schedule. Such a course would evince the kind of indecision and delay complained of by the Court in *MCI* v. *FCC.*

9. We would emphasize that in prescribing an interim manual, we have not discarded Method 7.[5] Nor have we enshrined Method 1.[6] The long-term solution as to the appropriate means of allocating AT&T costs has been left to further proceedings. We expect these proceedings to begin shortly and would like to reassure the parties (See IDCMA's Petition, pp. 6–7 and the Network Parties Petition p. 24) that the

[5] At the same time, we continue to adhere, of course, to our tentative views as to the difficulties—both theoretical and practical—of implementing Method 7. We would also note—and this was pointed out in the Report and Order (para. 16)—that Method 7 was not the central focus during much of the 18128 proceeding, that the "revised Method 7" methodology was left to working sessions to develop, and that it was never, in fact, promulgated.

[6] Although the interim cost manual is based upon relative use, it is not identical with Method 1. Indeed, it differs in several respects complained of by the parties. Thus, the interim manual does not attempt to allocate costs to all AT&T's private line services or to prescribe individual rates of return for these services.

search for long-term solution will be pressed with all the vigor and expedition that our available resources allow. A public notice calling for suggested topics for these proceedings was issued on February 23, 1981. Comments were received from a number of parties. We anticipate that these sessions will commence in the very near future. The interim manual is simply that: An interim arrangement pending the adoption of more refined allocative mechanisms which will be developed through future proceedings.

10. Again, we have not made any final decisions for the long term. The parties will have a full opportunity to argue the virtues of Method 1, Method 7, the "Hinchman proposal," the need to include FAFFG (facilities available for future growth) in any acceptable methodology, or any other allocative scheme in the further proceedings which will soon be commenced for that purpose.

11. The fact that we are unable to develop an "ideal" manual (assuming, as we do not, that this is theoretically possible) at this time does not condemn the Commission to total inaction. A perceived need to accomplish perfection, or to accomplish all goals or improvements at once, would become a prescription for regulatory paralysis making it impossible for us to meet our obligations under the statute generally, and in this specific case, the mandate of the Court of Appeals. We continue to believe as we stated in our Report and Order that the proposal for an interim manual must be judged by two standards. "First, it is an improvement over existing procedures and, second, it is superior to alternative proposals which can be implemented at this time." (para 8).

12. The Petitions for Reconsideration and subsequent pleadings filed herein contain descriptions of the history of this proceeding, the bases for the Commission's adoption of the interim manual, the Commission's intent in adopting an interim manual, etc. with which, in some instances, we do not agree and which, in some instances, we regard s less than fully accurate. No purpose would be served, however, by an attempt on our part to refute, correct, or embellish, upon each statement in the pleadings and we will focus instead upon what we perceive to be the major issues raised. It is to these issues that we now turn.

A. The Use of Separations Based Procedures

13. TCA and the Network Parties raise a number of objections to the interim manual's reliance on jusisdicational separations procedures (see TCA's petition, pp. 4–7; Network Petition, pp. 15–21). Arguments virtually identical to those raised here were considered and rejected by the Commission in a lengthy discussion in our Report and Order (see paras. 19–33). It would appear unnecessary to repeat the discussion in the Report and Order and would direct the parties to our earlier reasoning. We regard the discussion in our Report and Order as completely dispositive of all the various separations related challenges raised on reconsideration. We would, nevertheless, take this opportunity to reiterate, briefly, several points:

1. The purpose of a separations manual is to allocate to the interstate jurisdiction the total revenues, investment and expenses associated with that jurisdiction pursuant to jurisdictional separations procedures which can only be revised after an initial determination is made by a Joint Board composed of state and federal regulators. This assignment to interstate—regardless of whether it is considered fair or unfair, just or unjust, reasonable or unreasonable—must be the starting point for a manual. The whole purpose of the kind of cost allocation procedure we are dealing with here is to further subdivide the amounts already assigned interstate by jurisdictional separations since the sum of the parts (e.g., the amounts assigned to individual interstate servicces) must equal the whole (e.g., the total amount assigned by separations to the interstate jurisdiction) reliance upon jurisdictional separations is unavoidable. Any manual allocating costs or revenues to different interstate services must begin with jusisdictional separations. And this is true regardless of whether we are using Method 7, Method 1, the interim manual, or any other method. all service allocation procedures must begin with jurisdictional separations.

2. The only further use of jurisdictional separations in the interim manual is to make the split between private line and message services. We recognized in our Report and Order that, in all likelihood, the use of jurisdictional separations results in an overassignment of cost to MTS and under assignment to Privat Line. Nevertheless, since the interim manual increased the assignment of costs to private line, we believed we were moving in the right direction and that the results were acceptable for an interim period until more refined costs allocation techniques could be made available.

3. Any cost allocation scheme will have to be implemented by AT&T, and will, as a consequence, give AT&T some flexibility in the implementation process. In our view, this result cannot be completely avoided. We would also agree that it is important to seek to improve jurisdictional separations to make results easier to audit and to give careful scrutiny to AT&T's allocations. This need for improvement—which would almost certainly be inherent in any cost allocation scheme—does not of course, invalidate the procedures we have adopted.

14. Moreover, as we have already noted, the need to adopt a short-run solution left us with no real choice here. The use of jurisdictional separations to allocate cost between the message services and private line was the best alternative available. As we stated in our Report and Order (para. 28):

> While parties continue to attack the validity of the division between private line and message services made by separations, they have not demonstrated, or indeed attempted to demonstrate, that a superior alternative exists at this time. AT&T, which had earlier urged the continuation of its FDC 7 approach, with improvements, has indicated that the Notice "provides a basic framework with which (AT&T) can work to arrive at a cost allocation solution for the present." No other party has suggested how any system other than separations will produce, e.g., a 1980 central submission that is more understandable, more auditable and less subject to management discretion, than does the interim manual.

B. The use of Aggregated Reporting Categories

15. TCA and the network parties argue that the interim cost manual is defective in that it does not prescribe the assignment of costs to all private line services (TCA petition, pp. 11–13; network petition, pp. 20–23). Here again, this matter was discussed fully in our Report and Order (paras. 34–45) and, here again, we will rely upon our earlier discussion as dispositive except for a few brief remarks.

16. The Network Parties argue (Petition, p. 23) that if jurisdictional separations results are used—

> * * * Then AT&T should appropriately calculate the revenues and costs of the program transmission services as a threshold matter. These costs and revenues should be directly attributed to, and separately reported in, the private line aggregate category, and uniquely traceable throughout the ratemaking process in determining the rates for these services.

The costs and revenues attributable to program transmission services are not separately reported or broken out from other private line information for jurisdictional separations purposes. Consequently, we have no better way of reviewing AT&T's computation of these costs than would be the case for other private line services. We are also uncertain that the kind of breakdown that would result from an allocation of private line costs and revenues among interstate services directly from jurisdictional separations would be equitable or yield just and reasonable rates. The Network Parties are free, however, to raise this suggestion at the tariff implementation stage and to insist

that AT&T show program transmission costs obtained through computations based directly on jurisdictional separations. We would consider the merits of such a request at that time.

17. The reason for our failure to assign costs to individual private line services is quite simple. We do not *at this time* have any accurate means of assigning private line costs to individual private line services. We therefore had no choice in prescribing an interim manual for the immediate future, but to go ahead without assigning costs to specific private line services and to leave this step for further proceedings. We noted in our Report and Order (para. 34) that—

> Because we continue to believe that no proposal is before us which will properly, or even adequately, allocate cost to individual services or service elements we are declining to issue a prescription on how to achieve that end at this time.

18. As we have already stated, we will make a concerted effort to develop means of assigning cost to individual private line services and meetings have already been scheduled which seek to accomplish this result.

19. Further, because we have no way of assigning cost to individual private line services, we believe that it would be of little use to require that each private line service earn precisely the interstate rate of return. We had no effective means of enforcing such a constraint even if it were deemed to be desirable. Rather, we thought that under the circumstances the better course was to leave the situation fluid and to determine the justness and reasonableness of individual private line rates in the context of individual tariff filings. With the development of better cost information it is possible that we will review this matter and decide that it is necessary that each private line service earns the precise rate of return. However, we must leave this for the future. Moreover, we continue to believe that the development of a simplified, "building block" private line tariff—a goal we are pursuing in the Private Line Rate Structure Proceeding, CC Docket No. 79-246—is an important and, perhaps, necessary precondition to prescribing a reasonable and auditable methodology for allocating costs to individual private line services.

III. Specific Proposals for Modification

20. We now turn to consideration of the TCA and AT&T request that changes be made to specific proposals for modification of the ICAM contained in the Petitions the ICAM regarding the allocation procedures for switchboard investment and related expenses, and "other" investment.[7] AT&T correctly explains (*Petition for Reconsideration*, p. 4) that it has not previously had the opportunity to comment on the appropriateness of the Commission's prescribed methods since they were presented for the first time in the *Report and Order*.

21. Although AT&T recognizes that WATS users must share in the responsibility for these costs to a greater extent than was the case under prior cost allocation methodologies, it maintains in effect that the method selected by the Commission does not recognize that switchboard investment and expense can be broken into three categories with each category allocated on an appropriate basis. TCA points out that the ICAM methods for allocating switchboard costs to MTS and WATS incorrectly assumes that WATS customers make person-to-person, collect, conference, credit card and third number-billing calls (TCA Petition for Reconsideration, p. 13).

22. AT&T presents a method for allocating these costs which is based on jurisdictional separations procedures data and on routine reports filed with the Commission (Petition for Reconsideration, pp. 6–14). We view their proposal as representing an improvement which is comprehensive in scope and consistent with the ICAM approach of relying on JSP results, including direct assignment of costs wherever appropriate (*Report and Order*, para. 5). Thus we are persuaded to adopt their proposal for allocating these costs, as explained below.[8]

23. Long Lines switchboard investment (with the exception of switchboard investment used for and assigned to private line services) will be directly assigned to the MTS reporting category, as recommended by AT&T. Bell Operating Company switchboard investment will be developed for three categories: (1) "Single-purpose" switchboards (e.g., switchboards used to provide 800 Service information or international MTS service); (2) switchboards used to complete billed messages (revenue producing switchboards); and (3) switchboards used to service non-billed messages (network service switchboards). Investment amounts for each of these categories will be developed through use of JSP data. Single purpose switchboard investment amounts will be directly assigned to the appropriate reporting category. Investment amounts in revenue producing switchboards will be allocated to MTS and WATS based on the relative number of MTS and WATS messages served by such switchboards (i.e., operator assisted or completed). Investment amounts in network service switchboards will be allocated to reporting categories on the basis of the relative number of total MTS and Outwards WATS messages.

24. We view these modifications as being appropriate for the following reasons. First, "single-purpose" switchboards are in fact used exclusively either by WATS or MTS and that JSP data can directly identify these investment amounts by reporting category. Second, rates for billed messages such as person-to-person calls are compensatory (or will be in the near future) on a fully distributed cost basis with all revenues generated by such calls going directly to the appropriate category. Third, AT&T will separately identify investment amounts associated with billed and non-billed messages for switchboards which handle both types of messages (derived on the basis of traffic units).

25. Traffic operator expenses will be separately identified for Long Lines and Bell Operating Companies. Long Lines message switchboard services are provided exclusively for MTS International service. Therefore traffic operator expenses for these switchboards will be assigned to MTS. For the Bell Operating Companies, traffic operator expenses will be identified (using JSP data) and directly assigned to reporting categories where possible. The remaining traffic operator expenses will be broken down into either expenses incurred in connection with serving non-billed messages (e.g. rate and route, information, intercept and miscellaneous services) or expenses incurred to served billed messages. Traffic operator work units will be used to make this identification. Expenses associated with billed messages will be allocated to MTS and WATS based on the relative number of MTS and WATS messages served by such switchboards. Expenses associated with non-billed messages will be allocated to MTS, WATS and ENFIA based on the relative number of total MTS, Outward WATS and ENFIA messages.

26. The provisions of the General Services and Licenses subsection of the ICAM that allocate expenses related to operator services will be changed to

[7] The investments and reserves in the "other" category are: Land and Buildings; Furniture and Office Equipment; Vehicles and Other Work Equipment; Telephone Plant Under Construction; Property Held for Future Telephone Use; Material and Supplies: Customer Deposits; Organization, Franchize and Patent Rights; Depreciation Reserve and Accumulated Deferred Income Tax Reserve; Amortization Reserve; and Cash Working Capital.

[8] AT&T may incorporate these changes into its upcoming Central Submission if time permits.

conform with the above approach for allocating the costs of switchboard services. Expenses in these subsections will be allocated on the basis of switchboard plant in service derived as explained above.

27. AT&T and TCA also petition the Commission to reverse the method adopted in the ICAM for allocating "other" investments and reserves between the MTS and WATS reporting categories. This investment was allocated by a composite ratio based on combined allocations of Account 100.1 interexchange, exchange and switching equipment investments and international satellite earth stations. AT&T claims that JSP data can be used to achieve a more detailed and cost related allocation of this investment to MTS and WATS. Furthermore, AT&T argues that many of the investment items in this category are more casually related to expense allocations than to the major plant category investment allocations.

28. In our *Report and Order* (para. 64), we explained that while many of the allocation factors suggested by AT&T in Appendix B of its Comments to the Notice of Proposed Rulemaking did not appear intrinsically unreasonable, we preferred to adopt a different approach. To elaborate on this, it is our view that the subject accounts can be characterized as an investment overhead, unlike plant used directly to provide service (e.g., switchboards). As such, attempting to apply refined techniques seems to imply a degree of causation which does not appear to exist, especially when the proposed allocators are themselves several steps removed from the direct provision of service (e.g., "related function, by space category"). Use of the composite ratio allows these overhead investment amounts to be added proportionately as a "mark-up" to the directly assigned investment amounts. In addition the composite ratio introduced in the Report and Order incorporates all of the allocation factors used to develop investment for MTS and WATS (i.e., SLU, DEM, MMM, switched MM and International Satellite Rent Expense). Thus, the composite ratio reflects relative use throughout the public switched network, improving the quality of the allocation results.

29. We note that with the exception of Land and Buildings, and Furniture and Office Equipment, the allocation basis AT&T recommends be used for "other" investment and reserve accounts is generally either total Account 100.1 or Account 100.1 by corresponding plant class. Thus in order for use of the composite ratio to have caused the transfer of about $145 million (see AT&T *Petition for Reconsideration*, p. 15), the allocation factors chosen by AT&T for Land and Buildings, and Furniture and Office Equipment must have been heavily weighted towards allocating plant to MTS. This is due to the fact that the composite ratio itself allocates "other" investment and reserve amounts primarily on the basis of Account 100.1. The inclusion of International Earth Stations, however, causes a slightly higher proportion of investment to be allocated to MTS. We believe that utilizing a composite ratio representing plant used directly to provide common carrier service is a preferable method of determining the allocation of "overhead" investment. Therefore, we will continue to require use of the composite ratio at this time.[9]

IV. Conclusion

30. This proceeding was instituted for the purpose of adopting cost allocation rules for AT&T's interstate investment, expenses and revenues. After issuing a Notice of Inquiry and a Notice of Proposed Rulemaking, we concluded that a fully distributed cost standard was preferred over a marginal cost standard, consistent with our finding in Docket 18128, but that changing circumstances in the telecommunications industry required substitution of a relative use approach for a historical cost causation approach. Also important was the recognition that extensive, inflexible costing rules would not work in an industry characterized by emerging competition and rapidly changing services and technology. In this context, the ICAM was offered as a pragmatic response to problems which required prompt resolutions.

31. Another important factor which led to the development and adoption of the ICAM was a judicial mandate which required timely resolution of this proceeding. We therefore made limited use of immediately available data from the Jurisdictional Separations Process to aid in making cost allocations to four reporting categories. Because the Jurisdictional Separations Process is used by and subject to outside scrutiny by several parties with differing interests, we viewed the data resulting from that process, if used only for an interim period, to have a higher degree of reliability than data produced by AT&T's FDC Method 7 Special Studies. Recognizing, however, that JSP data are nonetheless subject to criticism, that conceptually superior cost allocation methods may be available, and that an extended investigation may produce such methods, we have remained committed to establishing a proceeding to explore and possibly adopt a long-term solution to cost allocation problems.

32. TCA and the Networks have requested that we immediately abandon the ICAM and renew efforts to develop a workable FDC Method 7 approach. This request is made in spite of our extensive discussion in both the Notice of Proposed Rulemaking and the Report and Order on the difficulties with that approach. Any effort to correct the deficiencies of FDC Method 7 would require a period of time of perhaps up to a year, during which all current and future AT&T tariff filings would either be held in abeyance, or automatically become effective without a Commission ruling on their lawfulness. Such a result is clearly not in the public interest. We prefer to examine such contentions in the context of the long-term phase of this docket, which will be initiated in the near future.

33. Accordingly, it is ordered, that the Petitions for Reconsideration and Petitions for Reconsideration and Clarification are granted in part to the extent indicated herein and othewise denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Summary of Comments

AT&T

AT&T considers the ICAM to provide a reasonable framework within which it can work in the near term. It recommends changes in two areas, however. First, AT&T recommends changes in the allocation of Bell Operating Company and Long Lines switchboard investments and related traffic operator expenses and General Services and Licenses expenses. Second, AT&T recommends an alternative to use of a "composite ratio" to allocate message "other" investments and reserves between the MTS and WATS reporting categories. These changes, according to AT&T, would provide for a more direct allocation of costs to MTS and WATS.

In its Opposition to Petitions for Reconsideration, AT&T states that with the exception of an issue raised by TCA, the petitions filed by other parties raised no substantive issues, facts or arguments which had not been previously raised by the parties in this and other proceedings, and fully considered and disposed of by the

[9] Appendix B to this Memorandum Opinion and Order is an updated version of the Interim Cost Allocation Manual. Revisions have been made which incorporate the change discussed herein. In addition, miscellaneous editorial changes have been made, primarily to the Expenses and Income section. We have modified the term "attributable" to mean the sum of allocated and directly assigned expenses by reporting category.

Commission. The one issue raised by TCA concerned the provisions of the ICAM governing the allocation of switchboard investments and traffic expenses, and the use of a "composite ratio" to allocate message "other" investments and reserves between the MTS and WATS reporting categories. TCA supported AT&T's position on this issue.

IDCMA

IDCMA emphasizes that the Commission should not lose sight of cost allocation problems which the ICAM was not designed to resolve. Specifically, IDCMA is concerned that the ICAM does not allocate costs within reporting categories, and thereby cannot be used to detect possible cross-subsidization among private line services. IDCMA claims that the cost manual must permit the ascertainment of costs to the rate element level in order to assure that rates are cost-based. Furthermore, it requests that the Commission reaffirm its commitment to address there issues by issuing a Supplemental Notice of Proposed Rulemaking immediately.

With respect to the rate of return which the Commission should allow individual services offered by AT&T to earn, IDCMA takes the view that competitive services should earn a higher rate of retrun than the return for the basic services for which substitutes do not readily exist. At a minimum, IDCMA would have the Commission require that the rate of return for any competitive service offered by AT&T be at least as high as the return level earned on its non-competitive services.

IDCMA requests that the Commission address the inadequacies of AT&T's data bases when it addresses the proper long term cost allocation procedures to be used by AT&T.

In its Reply filing, IDCMA criticizes arguments contained in AT&T's Opposition. With respect to the argument that no viable or easily implementable manual exists which would assign costs to the rate element level, IDCMA counters that AT&T has overlooked the manual adopted by the Administrative Law Judge in Docket No. 20814, and the proposal by Walter Hinchman Associates. Concerning AT&T's claim that the Commission will rely upon other regulatory approaches (in addition to the ICAM) to fulfull its statutory responsibilities, IDCMA argues that the alternative approaches are predicated upon establishment of effective cost allocation principles.

IDCMA restates its request that the Commission establish a proceeding to address long term cost allocation procedures and that it require any "competitive" service offered by AT&T to be at least as high as the return level earned on its non-competitive services.

TCA

TCA urges the Commission to modify its Report and Order based on the following points: (1) Terminate the use of Separations and Settlements procedures for the allocation of AT&T's costs among its various services; (2) prescribe cost allocation procedures to govern the allocation of AT&T's costs to rate elements and individual private line services; (3) require each private line service not to earn in excess of AT&T's system-wide authorized rate of return; and (4) revise the methodology for allocating switchboard and operator associated investment and expenses and all Account 100.1 investment and reserve accounts other than exchange, interexchange, international satellite and switching telephone plant among MTS and WATS.

In its Reply to AT&T's Opposition, TCA states that the three matters it raised in its Petition for Reconsideration which AT&T opposed were incorrectly characterized by AT&T as issues previously considered and disposed of by the Commission. TCA claims those issues pinpointed deficiencies in the reasoning and factual bases set forth in the Report and Order.

TCA points out that the Commission has an obligation to review in a public proceeding AT&T's implementation of the Separations Manual before relying on AT&T's procedures for rate regulation purposes. According to TCA, the serious deficiencies of the ICAM, which AT&T attempts to excuse by pointing out that the ICAM is only a temporary measure, are not sanctioned by Sections 201 and 205 of the Communications Act. TCA renews its request that the Commission correct the errors set forth in TCA's Petition for Reconsideration.

The Networks

The Networks assert that FDC Method 7 is the only cost methodology which has been determined to meet the Commission's statutory mandate under the Communications Act. Rather than abandon FDC Method 7, the Networks advise the Commission to expend its efforts expeditiously to formulate workable FDC Method 7 implementation procedures.

The Networks consider a cost allocation methodology which is based on jurisdictional separations principles to be arbitrary and unfair because, according to them, it assigns burdensome and unrelated costs to the program transmission services categories. The Networks claim that a separations-based cost allocation methodology does not properly account for actual use of facilities nor does it appropriately account for growth plant. In addition, the Networks argue that the cost manual contained in the Report and Order would give AT&T too much discretion to shift costs among services vis a vis FDC Method 7. They maintain further that the ICAM will deny parties and the staff the ability to review meaningfully the tariff support material provided by AT&T.

In the event the Commission decides to continue using a separations type methodology in allocating costs to the private line services category, the Networks request that the cost alloction manual be clarified. According to the Networks, the manual must include sufficient detail to assure that AT&T follows the assignment concepts described in the February, 1971 NARUC–FCC Separations Manual. They claim this detail is necessary to assure that the Cost Allocations Manual appropriately makes provision for the allocation, on a direct assignment basis, of costs to and revenues from the program transmission services categories.

Finally, the Networks urge the Commission to act expeditiously to prescribe a permanent manual.

In its Reply to AT&T's Opposition, the Networks points out that AT&T does not attempt to refute its position that program transmission services should not bear any of the subsidy that is used to support exchange service because the program transmission services do not share in the use of common exchange plant.

The Networks claim that AT&T is incorrect in claiming that it will be held accountable for its allocation of costs, and thus for rates, under the ICAM. As evidence, the Networks point to AT&T's recent proposal to raise private line rates which, according to the Networks, lacks documentation on the allocation of costs and revenues to individual services or rate elements. AT&T is also incorrect, the Networks claim, in suggesting that the Commission explained its reasoning for rejecting the concept of FAFFG in the Report and Order.

The Networks oppose the explanation that rates developed in conjunction with the ICAM can be acceptable because they are only temporary. Nor do they agree with the contention that the ICAM will bring "certainty" to the cost allocation process. Finally, the Networks oppose the argument that the ICAM represents the only manual that can be implemented now. The Networks explain that the other manuals, such as the one recommended by the Administrative Law Judge in Docket 20814, could be implemented (with "minor" modification).

Ad Hoc

In its Comments on Petitions for Reconsideration, Ad Hoc claims that the ICAM will not be auditable, will not further the Commission's objectives established in Docket 18128, and will not represent an improvement over existing cost manuals used by AT&T.

Ad Hoc believes the ICAM to be a "dramatic" reversal of the Commission's "commitment" to historical cost causation as the primary allocative principle controlling AT&T cost allocations. Problem areas, according to Ad Hoc, are AT&T's administration of the Separations procedures which gives rise to discretion and flexibility leading to inauditability, and the lack of standards in the Report and Order for controlling AT&T's assignment of costs to individual private line services and rate elements.

ARINC

Aeronautical Radio, Inc., in its Response to Petitions for Reconsideration, supports those petitioners who request that the Commission reconsider its choice of utilizing jurisdictional separations procedures for interstate retemaking purpose. ARINC would prefer a cost manual based on FDC Method 7 procedures.

Appendix B—Cost Allocation Manual

This manual contains general instructions for allocating the annual investment and expense costs to the following reporting categories for AT&T.

Exchange Network Facilities for Interstate Access (ENFIA)
Private Line

Message Telecommunications Service (MTS)
Outward WATS and 800 Service
(collectively, WATS)

For each of the reporting categories, an earnings ratio will be developed according to this formula:

Earnings Ratio =

$$\frac{\text{Revenues minus (expenses and taxes)}}{\text{Gross investment minus reserves}}$$

These earnings ratios, plus supporting documents, will be filed with the Commission during June following the reporting year ("central submission"). These earnings ratios will be subject to final interpretation by the Commission.

The process for making changes to this manual shall be determined by the Chief, Common Carrier Bureau. Minor changes (such as changes in account names) may be made providing these changes are approved by the Chief, Common Carrier Bureau prior to filing of the central submission. Substantive changes, which may be requested by any party, will require appropriate procedures.

I. Investments and Reserves

Instructions in this section are to be used to allocate interstate investments and reserves to the reporting categories.

A. *Bell Operating Companies (BOCs).* The final output of the Jurisdictional Separations Process (JSP) will be used as the definition of total BOC interstate private line investment and reserves and total BOC interstate message investment and reserves.[1] Investment and reserve amounts for ENFIA and other facilities provided to OCCs are derived from JSP data. Message investment will be grouped into exchange, interexchange and "other" categories, and allocated to MTS and WATS according to instructions described below. Those portions of exchange and interexchange investment associated with the switching function (Toll Dial Switching, Switchboards and Local Dial Switching) will be allocated separately as described below.

B. *Long Lines Department.* Using JSP principles, and Long Lines accounting records, investment and reserves for the Long Lines Department will be divided between private line and message categories. Message investments will be grouped into exchange, interexchange and "other" categories, to be used in further allocation to MTS and WATS. As with BOC investment, exchange and interexchange investment associated with the switching function will be allocated separately as described below.

C. *Reporting Categories. ENFIA.*—This category will include investments and reserves for ENFIA (rate elements 2 and 3). Investments and reserves are developed at this time from JSP data. Further delineation of service categories to be included in this reporting category (to be called Exchange Access in the future), and of the definition of investment used for exchange access, will result from CC Docket No. 78-72.

Private Line

Private Line investments and reserves from the BOCs and Long Lines Department are to be added together to establish total private line investment and reserve amounts.

MTS and WATS

Investment and reserve amounts for the BOC and Long Lines message category, as developed above, will be added together and then allocated to MTS and WATS. Message telephone plant (defined here as Account 100.1 less private line investment, land, buildings, furniture and office equipment, and vehicles and other work equipment) will be identified as either exchange or interexchange. Toll Dial Switching, Switchboard and Local Dial Switching investment associated with exchange and interexchange will also be separately identified. Exchange plant amounts will be allocated to MTS and WATS on the basis of relative subscriber line minutes of use.[2] Interexchange plant amounts will be allocated between MTS and WATS based on network message minute miles. Toll Dial Switching investment will be allocated on the basis of switched message-minutes. The determination of investment in the various switchboard types will be based on JSP data. Investment in Long Lines message switchboards will be directly assigned to the MTS reporting category. BOC investment in switchboards used exclusively to provide 800 Service information will be assigned to the WATS category. BOC network service switchboards (rate and route, information, intercept and miscellaneous) will be allocated between the MTS and WATS reporting categories based on the relative number of total MTS and Outward WATS messages. Investment in other BOC switchboards (revenue producing) will be determined on the basis of whether billed or non-billed messages are being served, using traffic unit data. Investment serving billed messages will be allocated between MTS and WATS based on the relative number of MTS and WATS messages served by such investment. Investment serving non-billed messages will be allocated based on the relative number of total MTS and Outward WATS messages. Local Dial Switching investment will be allocated on the basis of dial equipment minutes. International satellite associated earth station investment (Account 100.5) and its associated depreciation and amortization account (Account 175) will be allocated on the basis of international satellite rents.

Exchange, interexchange, international satellite and switching telephone plant developed separately for MTS and WATS will be added together to form total message telephone plant amounts for MTS and WATS. The percentage which MTS and WATS telephone plant each makes of total message telephone plant (as defined above) will be used as a distributive ratio to allocate all remaining investment ("other") and reserve accounts between MTS and WATS.[3]

II. Expenses and Income—Description of FDC Methodologies

Procedures in this section are to be used to distribute all interstate expenses (600 series accounts) and income to the reporting categories. Expenses are directly assigned where applicable or allocated on the basis of the procedures described below. Certain accounts are allocated on the basis of "total attributable expenses," which represents the ratio of expenses by reporting category (total reporting category expenses derived through direct assignment and allocation procedures) to total assigned and allocated expenses.

Expenses and Revenues—FDC Methods

Operating expense accounts	Allocation procedures
602.1-602.8 Repairs of Outside Plant (OSP).	Allocate to reporting categories based on associated OSP in service (Accounts 214 through 244). Allocate maintenance of overseas facilities to reporting categories based on the number of associated circuits in service.
603-01 Subscriber Line Testing.	Subdivides into 3 parts (Station, OSP, and COE) in proportion to troubles found. (1) Allocate the station portion to reporting categories in proportion to station repair expense (See 605-01). (2) Allocate the OSP portion to reporting categories based on exchange OSP investment. (3) Allocate the COE portion to reporting categories based on the exchange COE investment.
603-02 Service Order Testing.	Allocate to the public switched network (PSN) and private line reporting categories in proportion to service order activity subsequent to the initial installation. Then allocate the total amount for PSN services to the PSN reporting categories based on the distribution of exchange outside plant and exchange central office equipment investment.
603-04 Trunk Testing.....	Allocate circuit testing to reporting categories using an analysis of reported testing hours. Overseas testing allocated to reporting categories based on number of circuits in service. Allocate facilities testing to reporting categories based on associated interexchange (IX) plant in service.
604 COE Repairs.....	Directly assign the Long Lines Service Engineering portions of Account 604 to the private line reporting category. Directly assign #4ESS international generic program costs to MTS.

[1] The primary source for this information is currently provided by AT&T's Interstate Settlement Information System (ISIS) report. JSP results are adjusted for changes required in Docket 19129 Phase II. Additional adjustments are currently made (but subject to final determination by the Joint Board) for facilities provided to Other Common Carriers under contractual agreement and for facilities used to provide ENFIA.

[2] In developing the count of minutes of use for the allocation of exchange "non-traffic sensitive" plant, both the interstate originating and terminating WATS minutes of use shall be counted. The usage measures specified herein (SLU, MMM, MM, DEM) are based on total day volumes.

[3] Included in this remaining investment and reserves portions are the following accounts: Land and Buildings; Furniture and Office Equipment; Vehicles and Other Work Equipment; Telephone Plant under Construction; Property Held For Future Telephone Use; Materials and Supplies; Customer Deposits; Organization, Franchise and Patent Rights; Depreciation Reserve and Accumulated Deferred Income Tax Reserve; Amortization Reserve; Earth Station Depreciation and Amortization Reserve; and, Cash Working Capital.

Expenses and Revenues—FDC Methods—Continued

Operating expense accounts	Allocation procedures
	Allocate the circuit rearrangements and change portions of Account 604-07 and Account 604-08 (less Long Lines Service Engineering) to reporting categories based on number of IX circuit sections.
	Allocate overseas facility terminal equipment maintenance to reporting categories based on associated number of circuits.
	Allocate the remainder of Account 604 to reporting categories based on associated COE plant in service.
605 Station Equipment Maintenance.	Allocate Associated Company Account 605 to reporting categories based on the station equipment plant in service. Allocate Long Lines Account 605 to reporting categories based on Long Lines station equipment plant in service (Account 231, 232, and 234).
606 Buildings and Grounds.	Allocate to reporting categories based on investment in buildings (less general office and garage and storeroom space).
610 Maintaining Transmission Power.	Allocate to reporting categories based on COE plant (Account 221) separately for domestic and overseas.
612 Other Maintenance..	Allocate to reporting categories based on combined Accounts 602 through 606 and 610.
608 Depreciation.....	Allocate to reporting categories based on the depreciable classes of plant in service using composite Associated Company and Long Lines depreciation rates. (Ocean cable depreciation is allocated separately based on the ocean plant in service in each category).
609 Extraordinary Retirements.	Allocate to reporting categories based on special analysis of accounting records.
613 Amortization of Intangible Property.	Allocate to reporting categories based on total attributable expenses.
614 Amortization of Plant Acquisition Adjustments.	Directly assign to reporting categories based on special analysis of accounting records.
NOTE.—Accounts 621 through 633 are treated separately for the Associated Companies and Long Lines; except accounts allocated based on investment.	
621-01 General Traffic Supervision (Except Accounts 621-311 and 316).	Allocate to reporting categories based on Account 624 less 624-22 and 624-25.
621-311/316/05, 622-02/03, 624-25/629-08, 631-38 and 631-48 Business Services.	Allocate to reporting categories using data from a Business Service time reporting system.
621-03, 624-22, 629-07, 631-37/47 Network Administration.	Allocate Accounts 621-431, 624-222, 624-422 and 624-622 (switching and line and number administration) to reporting categories based on toll dial switching equipment plant in service.
	Allocate Accounts 621-331 and 624-322 (traffic loan data administration) to reporting categories based on toll dial switching and switched services IX central office equipment and OSP plant in service, excluding dedicated overseas IX central office equipment and outside plant.

Expenses and Revenues—FDC Methods—Continued

Operating expense accounts	Allocation procedures
	Allocate Accounts 624-722 (Trunk Administration) to reporting categories based on switched services IX central office equipment plant and OSP plant in service, *excluding* dedicated overseas IX central office equipment and outside plant.
	Allocate Accounts 621-231 (network administration staff) to reporting categories based on the combined attribution of Accounts 624-222, -622 and-722.
	Allocate the remainder (training and other staff) of Account 621-03 based on the combined attribution of Accounts 621-231, -331 and -431.
	Allocate the remainder (supervision, training and other) of Accounts 624-22, 629-07, 631-37 and 631-47 based on the combined attribution of Accounts 624-222, -322, -422, -622 and -722.
622-01 Service Observing.	Allocate to reporting categories based on Account 624 less 624-22, and 624-25.
624 (Except Accounts 624-22 and 624-25) Operators Wages less Network Administration and Business Services.	Directly assign Long Lines expenses to Private Line and MTS. Determine BOC expenses by switchboard type based on JSP traffic unit data. Directly assign expenses incurred at 800 Service Switchboards to WATS. Allocate expenses incurred at network service switchboards (rate and route information, intercept and miscellaneous) to MTS, WATS and ENFIA based on the relative number of MTS, outward WATS and ENFIA messages. Determine expenses incurred at other switchboards associated with billed messages on the basis of traffic units. Allocate expenses associated with billed messages based on the relative number of MTS and WATS messages served by such switchboards. Allocate expenses allocated with non-billed messages based on the relative number of total MTS and Outward WATS messages.
626 Rest and Lunch Rooms.	Allocate to reporting categories based on Account 624 less 624-22, and 624-25. (Network Administration and Business Service portions of these accounts are treated above).
627 Operator's Employment and Training.	Same as Account 626.
629 less -07 and -08 Co Stationery and Printing.	Same as Account 626.
630 Co House Service...	Same as Account 626.
631 less -37, -38, -47, and -48 Miscellaneous Co Expenses.	Same as Account 626.
632 Public Telephone Expenses.	Allocate Associated Company expenses to reporting categories based on traffic units.
633 Other.....	Same as Account 626.
640 General Commercial Administration.	Allocate Associated Company expenses to reporting categories based on Associated Company Account 645.
	Directly assign Long Lines Produce Management expense to reporting categories. Allocate remainder of Long Lines Account 640 to service categories based on Long Lines Account 643.

Expenses and Revenues—FDC Methods—Continued

Operating expense accounts	Allocation procedures
642 Advertising.....	Directly assign Residence Sales, Long Distance Residence Sales and Long Distance Business Sales to MTS. Allocate Business Sales and the remainder based on total attributable expenses.
643 Sales.....	Allocate to reporting categories using the results from a sales time reporting system.
644 Connecting Company Relations.	Allocate to reporting categories based on allocation of Independent Company Settlements.
645 Local Commercial Operations.	Directly assign Associated Company coin telephone collection (645-181/381) to MTS.
	Allocate remainder of Associated Company expenses to reporting categories using results of an analysis of commercial work measurement plan.
	Allocate Long Lines expenses to reporting categories using results from a sales time reporting system.
648 Public Telephone Commission.	Directly assign to MTS.
649 Directory.....	Allocate to MTS, WATS, and ENFIA based on a count of MTS, Outward WATS, and ENFIA messages.
650 Other Commercial Expenses.	Allocate Associated Company expenses to reporting categories based on Associated Company Account 645.
	Allocate Long Lines expenses based on Long Lines Account 643.
661 Executive Department.	Allocate based on total attributable expenses.
662 Accounting Department.	Allocate Revenue Accounting to reporting categories based on analysis of work hours and functions from Associated Company work measurement plan and analysis of Long Lines Revenues Accounting Offices. Allocate remainder to reporting categories based on total attributable expenses.
663 Treasury Department.	Allocate to reporting categories based on assigned plant in service.
664 Law Department.....	Directly assign overseas legal expenses to overseas services based on analysis of records.
	Directly assign outside legal consultant fees and associated costs based on analysis of AT&T Form M Schedule 39.
	Allocate remainder to reporting categories based on total attributable expenses.
665 Other General Office Salaries and Expenses.	Allocate Personnel, Account 665-03, to reporting categories based on Maintenance, Traffic, Commercial and Revenue Accounting salaries.
	Directly assign Long Lines Service Engineering expenses (Portion of 665-09) to the private line category.
	Allocate Account 665-29, Customer Services, to categories based on reported hours.
	Allocate Account 665-149, Central Office Planning and Engineering, based on toll dial switching equipment plant in service.
	Allocate remainder based on total attributable expenses.
668-669 Insurance and Accidents and Damages.	Allocate to reporting categories based on plant in service.
670 Earth Station Expenses.	Allocate to reporting categories based on Account 100.5.

Expenses and Revenues—FDC Methods—Continued

Operating expense accounts	Allocation procedures
671 Operating Rents	Allocate circuit and miscellaneous rents to reporting categories based on interexchange OSP and circuit equipment and toll switching equipment plant in service. Allocate Long Lines rents paid to affiliates to reporting categories based on number of circuits. Directly assign international satellite rents incurred for services that can only be provided on satellite facilities directly to reporting categories. Allocate remaining international satellite rents to reporting categories based on total international voice-grade circuits in use. Allocate domestic satellite rents to reporting categories based on domestic satellite circuits in use. Allocate building space rents to reporting categories based on the combined Accounts 643, 645 and Revenue Accounting portion of 662.
672 Relief and Pensions.	Allocate to reporting categories based on Maintenance, Traffic, Commercial, and Revenue Accounting Salaries.
673 Telephone Franchise Requirement (dr).	Allocate based on the total investment in Account 100..1
674 (and Long Lines Account 691) General Services and Licenses.	Allocate to reporting categories on bases consistent with the nature of the items of expense.
675 Other Expenses	Allocate to reporting categories based on plant in service.
676 Telephone Franchise Requirements (cr).	Allocate based on the total investment in Account 100.1.
677 Expenses Charged Construction (cr).	Same as Account 675.

Income Accounts—FDC Methods Subsection

Income accounts	Allocation procedures
Gross Operating Revenues (Accounts 500-516, 524).	Directly assign to reporting categories based on accounting records.
Earth Station Revenue (Account 522).	Allocate to reporting categories based on the allocation of international satellite rent expense.
Long Lines Directory Advertising and Sales (Account 523).	Directly assign to MTS.
Other Operating Revenues (Account 526).	Allocate based on gross operating revenues.
Uncollectibles (Account 530).	Allocate to reporting categories based on an analysis of accounting records.
Independent Company Settlements.	Allocate based on the revenue account charged.
LL Settlements except Division of Revenue.	Allocate based on the revenue account charged.
Miscellaneous Income Charges (Account 323).	Allocate based on plant in service (Account 100.1).
Interest on Customer Deposits (Account 336).	Allocate based on the total investment in Account 100.1.

Taxes—FDC Methods

Type of tax	Allocation procedures
Gross Receipts Taxes	Allocate based on the allocation of reporting category revenues.
Social Security Taxes (Account 307-05).	Allocate based on the apportionment of Maintenance, Traffic, Commercial, and Revenue Accounting salaries.
Ad Valorem Taxes (Account 307-01).	Allocate based on the allocation of plant in service.
Income Adjustments for Income Tax Determination.	Allocate depreciation of capitalized items, Relief and Pensions, and Social Security Taxes capitalized based on plant in service. Allocate Operating Fixed Charges based on the allocation of net investment.
State and Local Income Taxes (Account 307-02).	Allocate the actual tax incurred based on the state and local taxable income for each reporting category (net revenue less expenses, income charges, taxes excluding Federal Income Taxes, and income adjustments).
Amortization of Investment Credits.	Allocate based on the allocation of plant in service.
Federal Income Tax	Allocate to reporting categories by multiplying the statutory rate times the Federal taxable income for each reporting category (net revenue less expenses, income charges, other taxes, and income adjustments).

General Services and Licenses

[Account 674 and LL Account 691]

Expense categories	Allocation basis
(1) Bell Telephone Laboratories Billing for Research and Systems Engineering:	
(A) Switching:	
(1) Business Communications Systems.	PBX plant in service (Account 234).
(2) All other	COE switching plant in service.
(B) Transmission:	
(1) Ocean Cable	Ocean cable and associated COE Plant in service.
(2) Satellite Communications.	Domsat rents.
(3) Waveguide Systems.	IX plant in service.
(4) Other toll transmission.	IX plant in service.
(5) Exchange transmission.	Exchange plant in service.
(C) Station	Station equipment plant in service (Accounts 231 and 232).
(D) Outside plant	OSP in service, less ocean cable.
(E) General:	
(1) BIS	Total attributable expenses.
(2) Other	Total attributable expenses.
(F) Associated Work	Total attributable expenses.
(2) Network Planning and Design:	
(A) Central Office Planning and Design.	COE plant in service.
(B) Distribution Services Planning and Design.	Exchange OSP in service.
(C) Toll transmission and Design.	IX OSP+IX COE plant in service, excluding Overseas.
(D) Operator Services Planning and Design.	Switchboard plant in service.
(E) All other	Plant in service.
(3) Network Services:	
(A) Central Office Operations and Engineering.	COE plant in service.

General Services and Licenses—Continued

[Account 674 and LL Account 691]

Expense categories	Allocation basis
(B) Distribution Operations and Engineering.	Exchange OSP in service.
(C) Toll Transmission Operations and Engineering.	IX OSP+IX COE plant in service, excluding Overseas.
(D) Operator Services Operations and Engineering.	Switchboard plant in service.
(E) All other	Plant in service.
(4) Residence Marketing:	
(A) Customer Facilities	Station equipment plant in service (Accounts 231, 232, and 234).
(B) Customer Services	Accounts 640 and 643.
(5) Information Systems	Total attributable expenses.
(6) Directory & Public Services.	Count of MTS and Outward Wats, and ENFIA messages.
(7) Staff	Total attributable expenses.
(8) Business Marketing	Accounts 640 and 643.
(9) Business Services:	
(A) Business Services Strategy Division:	
(1) Customer Facilities.	Station equipment plant in service (Accounts 231, 232, and 234).
(2) Customer Assistance.	Account 640.
(B) Business Services Operations Division:	
(1) Customer Facilities.	Station equipment plant in service (Accounts 231, 232, and 234).
(2) Customer Assistance.	Account 640.
(10) Planning and Administration D.	Total attributable expenses.
(11) Public Relations and Employee Information.	Total attributable expenses.
(12) Human Resources	Maintenance, Traffic, Commercial, and Revenue Accounting salaries, combined.
(13) Labor Relations	Maintenance, Traffic, Commercial, and Revenue Accounting salaries, combined.
(14) Comptrollers	Total attributable expenses.
(15) Treasury	Plant in service.
(16) Tariffs and Costs	Gross revenues.
(17) Public Affairs	Total attributable expenses.
(18) State Regulatory Matters.	Total attributable expenses.
(19) Federal Regulatory Matters.	Total attributable expenses.
(20) Legal:	
(A) General Legal and Tax.	Total attributable expenses.
(B) Patent Matters	Bell Laboratories Billing (see Item 1 above).
(C) Antitrust and MCI Docket.	Total attributable expenses.
(21) Secretary	Total attributable expenses.
(22) Administrative Services.	Total attributable expenses.
(23) Executive	Total attributable expenses.
(24) Operations Planning	Total attributable expenses.
(25) Provision for Service Pensions and Death Benefits.	Results of 2 through 24 above.
(26) Other expenses	Results of 2 through 24 above.
(27) Taxes other than F.I.T.	Results of 2 through 24 above.
(28) Return Requirement (including related F.I.T. on net investment in the General Departments Account 101.1).	Results of 1 through 27 above.

[FR Doc. 81-15598 Filed 5-22-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC-137]

No Suspend Zone; Motor Common Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: In our notices in this proceeding (45 FR 6974, January 31, 1980; 45 FR 12273, February 25, 1980; 45 FR 39316, June 10, 1980; and 45 FR 45932, July 8, 1980), we proposed upward and downward rate flexibility by creating a "no suspend zone" for motor carrier freight rates. We sought comments on this as well as a "no notice zone" and possible methods of implementing these concepts. The Motor Carrier Act of 1980 (Pub. L. No. 96-296) authorized a no suspend zone. The other actions proposed in the notice should not be considered until after the effects of the legislative changes contained in Pub. L. No. 96-296 can be studied.

DATES: This proceeding is discontinued effective June 25, 1981.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In our notices, we proposed a number of methods to increase carrier ratemaking flexibility. We suggested development of a no suspend zone within which rates would not be suspended or investigated on the grounds that the rates appeared too high or too low. No suspend zone rate changes were proposed only for carriers acting independently; no rate bureau could use the zone. We proposed either to develop a "base rate" or to use present rates from which to compute increases or decreases allowable under a no suspend zone. Further expansion of the zone (downward or upward) for particular types of carriers was proposed to be considered in the sub proceedings established in Ex Parte No. MC-135, *Master Certificates and Permits.* We also proposed the possibility of a no notice zone within the no suspend zone.

Section 10708(d), added by the Motor Carrier Act, established a 10-percent zone of rate freedom. Increases are judged from the rate in effect on July 1, 1980[1] These rates must be set independently. See Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus-Implementation of Pub. L. 96-296,* 364 I.C.C. 464, (45 FR 86736, December 31, 1980). For two years, general increases applied to rates for which a zone increase is proposed are to be counted towards the allowable zone to the extent they exceed 5 percent.

The zone is now available and we have issued rules (49 CFR 1309.8 and 1310.1(c)) for zone filings. No. 37416, *Identification of Rates filed Under Zone of Rate Freedom by Motor Common Carriers of Property and Freight Forwarders* (decided July 15, 1980), 45 FR 52161, August 6, 1980.

This new provision resolves most of the issues raised in our notice, i.e., jurisdiction, rationale, costing techniques, and extent of a no suspend zone. Moreover, expansion of the zone based on cost and market considerations for particular types of motor carrier services may no longer be considered as we had originally proposed. Ex Parte No. MC-135, *supra,* has been discontinued. See, § 10922(b)(3).

The Motor Carrier Act does not provide a no notice zone. While we could nonetheless proceed to consider adopting one, we will not do so now. We think it more appropriate for the time being to refrain from this action. We intend to monitor and study the use of § 10708(d) and will consider this and other actions to the extent there is a need for them.

The Motor Carrier Act raises new issues related to the zone, i.e., an increase in the zone under § 10708(d)(2) and application of the Producers Price Index after July 1, 1982 (§ 10708(d)(3)(B)). A question has also been raised concerning the proper definition of "general increase" used in § 10708(d)(3)(A). These subjects are under study.

We recognize that a number of parties disagreed with our earlier conclusion (45 FR 39316, June 10, 1980) to develop a record in this case prior to the passage of motor carrier reform legislation. We continue to believe the record was helpful. Continuing the proceeding in order to receive comments focussed the issues, encouraged interested persons to analyze them and formulate positions and, we believe ultimately assisted the legislative process. Furthermore, one issue that has not been discussed in depth here—the relationship between independent pricing under the zone and collective ratemaking based on a rate of return standard—remains. (See Question 18 in the notice, 45 FR 6974, January 31, 1980.) This issue has also been raised in Ex Parte No. MC-128, *Revenue Need Standards in Motor Carrier General Increase Proceedings,* and can be addressed there, rather than in this proceeding.

This decision does not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321, 10708(d), and 5 U.S.C. 553)

Dated: May 18, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15577 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

[1] Or one year prior, whichever is less.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Bobcat, Lynx, River Otter, Alaskan Gray Wolf, Alaskan Brown Bear, American Alligator, and American Ginseng Taken in 1981-82 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a 67-nation treaty regulating the international shipment of certain wildlife and plant species. Exports of wildlife or plants listed in Appendix II of CITES may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the wildlife or plants were not obtained in violation of laws for its protection.

The Service must make such decisions on the bobcat, lynx, river otter, Alaskan gray wolf, Alaskan brown bear, American alligator, and American ginseng, which are all included in Appendix II. These decisions are made on a state-by-state basis for all specimens taken in a particular season. This notice announces the Service's intent to develop findings on export of specimens of these species taken in the 1981-82 season. The Service solicits comments on criteria to be used in the findings. The Service also requests information on environmental and economic impacts and effects on small business, organizational, or governmental entities, that might result from the findings.

DATES: All information and comments received by the following dates will be considered: June 15, 1981, for American alligator and American ginseng, and July 1, 1981, for bobcat, lynx, river otter, Alaskan gray wolf, and Alaskan brown bear.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: *Scientific Authority Findings*—Dr. Richard L. Jackowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.

Management Authority Findings—Mr. S Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-2418.

Export Permits—Mr. Robert J. Batky, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-1903.

SUPPLEMENTARY INFORMATION: This is the first of three notices concerning the Service's findings on export of bobcat, lynx, river otter, Alaskan gray wolf, Alaskan brown bear, American alligator, and American ginseng, taken in the 1981-82 season. It proposes criteria for Scientific Authority findings on whether export will not be detrimental to the survival of the species, and for Management Authority findings on whether the wildlife was not obtained in violation of laws for its protection.

Scientific Authority Findings

The Service published a notice on July 10, 1980, (45 FR 46464) summarizing criteria used by the Scientific Authority in advising on whether export will not be detrimental to the survival of the species. The general criteria for such findings are as follows:

1. Whether similar export has occurred in the past, and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem.

2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

3. Whether such export is expected to increase, decrease, or remain constant in frequency.

In using these general criteria, the Service established specific requirements for advising on the export of certain species. Last year, the Service followed the practice of the former Endangered Species Scientific Authority (ESSA) in advising on export of the species discussed in the present notice, based on an annual review of state programs for their conservation. The Service adopted minimum requirements, previously used by the ESSA, in giving such advice on export of bobcat, lynx, and river otter. These requirements were recommended by a working group of wildlife biologists convened by the ESSA in 1977.

A. Minimum requirements for biological information:

(1) Population trend information, the method of determination to be a matter of state choice.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of state choice.

(2) All pelts should be registered and marked.

(3) Harvest level objective should be determined annually.

Bobcat

Defenders of Wildlife, Inc., challlenged the validity of these specific requirements for bobcat exports in a suit brought against the ESSA and the Department of the Interior. On February 3, 1981, the United States Court of Appeals for the District of Columbia Circuit held that the requirements set forth above are invalid, and that they are to be set aside to the extent they authorize findings, that export of bobcats would not be detrimental to the survival of the species, when such findings are not based on reliable estimates of the bobcat population and data showing the total number of bobcats to be killed, in each of the states involved.

Although the suit focused on the 1979-1980 harvest season, the court made it clear that the revised requirements also should apply to subsequent seasons. The court's requirements are obviously a departure from wildlife management as it has traditionally been practiced in almost all states. The court's requirements have not been used in managing elusive, widespread species such as the bobcat, which are very difficult to census. The Service believes that findings based solely on the court's requirements would not be meaningful, and that it is important to consider certain other types of information that the Service has sought in the past.

The court offered very little guidance with respect to its requirement of a reliable population estimate. The court stated that "The Scientific Authority has considerable discretion to determine the method by which that estimate may be made and in evaluating its reliability." Accordingly, the Service intends to allow individual states the greatest possible latitude in selecting methods of estimating their bobcat populations, to the extent they are able to make such estimates. The Service suggests that any such estimates should be accompanied by an assessment of their reliability (confidence limits).

The court's second requirement was that there must be information concerning the total number of animals to be harvested in the particular season. While the court gave no guidance on this requirement, the Service views it as very similar to the previous minimum requirements for a management program, particularly the requirement that individual states should determine their harvest level objective annually.

In order for the Service to determine if a particular export level will not be detrimental to the survival of the species in a given state, it will still need evidence of the ability of the bobcat population to sustain the harvest. Accordingly, the Service requests certain of the same types of information this year as in previous years. In addition, in view of the court's order, the Service requests that each state submit an estimate of its current total bobcat population, to the extent it is able make such an estimate.

The Service has asked each state to provide the following types of information.

1. Biological Information:

a. An estimate of the size of the statewide population, including a description of: (i) how it is calculated, with an indication of the geographic areas where data used in the calculations were gathered, (ii) how it accommodates differences in abundance over the range of habitat occupied by the species, and (iii) the confidence limits on the estimate.

b. A description of any research being conducted to assess the distribution, abundance, or general condition of the species in the state. Please briefly

summarize results so far obtained, including results of any analyses of age structure or reproductive parameters.

c. A description of any population models being used in the state to evaluate the status of the species.

d. An assessment of long-term population trends of the species in the state, and the relationship of these trends to habitat condition, management practices, harvesting pressure, prey abundance, or other factors.

2. Management Program:

a. Harvest level objective for the 1981–82 season (anticipated total statewide harvest of the species). Please describe: (i) how this figure is derived, and (ii) how biological information is used in setting the harvest level objective.

b. A description of methods used to insure that the actual harvest will not substantially exceed the harvest level objective.

c. A copy of current state regulations governing harvest, possession, transport, and sale of the species. Please indicate any changes to be made for the 1981–82 season.

3. Harvest Information for the previous 1980–81 Season:

a. Number of animals (listed by county or game management unit, if data are available at these local levels) that were: (i) harvested, (ii) tagged, and (iii) bought by dealers operating in the state. Please also give the total number of animals that were harvested and tagged in the 1979–80 season in the state.

b. Number of licensed trappers in the state, and number of these trappers setting for the species in question. Please provide any available information on harvest per unit effort.

c. Prices paid to trappers for pelts of the species, including the average price and the range of extremes.

4. Name, address, and telephone number of the state staff person the Service should contact concerning these information needs.

The approach toward Scientific Authority advice outlined in this notice is an interim measure. The Department of the Interior has strongly recommended to the Department of Justice that the appellate court's decision should be appealed to the Supreme Court. Because there might be no resolution of this legal issue before the next bobcat harvest season, the Service believes it is necessary to attempt to address the appellate court's requirements. Information requested in items 1a and 2a above is related to requirements of that court. At present, the Service's intention is to integrate its previous requirements and those of the court.

Lynx, River Otter and Alligator

Although the court's decision concerns only bobcats, Scientific Authority findings on lynx, river otter, and American alligator could be subject to legal challenge if they do not address the court's requirements. Therefore, the Service is requesting that each state also submit the same types of information on these species, to the extent it is able to do so.

Requirements discussed above are for Scientific Authority decisions on whether export of bobcat, lynx, river otter, or American alligator will not be detrimental to the survival of the species. The Service recognizes that the listing of these species in Appendix II is also for the purpose of effectively controlling international trade in other species of cats, otters, or crocodilians, respectively. Accordingly, the Service will consider the impact of trade in these species on the effectiveness of CITES in controlling trade in other related species, when determining conditions under which export may be allowed.

Gray Wolf and Brown Bear

Nations participating in CITES agreed that the Alaskan gray wolf and Alaskan brown bear are included in Appendix II under the provisions of Article II.2(b) to effectively control international trade in other populations of these species that are included in Appendix I or II. Scientific Authority advice on non-detriment for export of Alaskan wolves and brown bears will, therefore, be based on consideration of the impact of that trade on the effectiveness of CITES in controlling trade in other subspecies or geographically separate populations that they were listed to protect.

American Ginseng

American ginseng *(Panax quinquefolius)* was listed in Appendix II when the Convention became effective on July 1, 1975. Last year, the Service followed the practice of the former Endangered Species Scientific Authority (ESSA) in advising on the export of American ginseng based on an annual review of state programs for the conservation of the species. The Service adopted the following specific requirements, previously used by the ESSA, in giving such advice:

The ESSA proposes to approve export of wild American ginseng from those states that have implemented substantial programs to conserve the species whose populations can support the harvest. Acceptable conservation programs generally must include some form of research and regulations designed to monitor the status of the state's wild populations to provide annual harvest estimates, and to control exploitation. The ESSA recognizes the recency of wild plant management in many states, and the frequent lack of management authority in state agencies. Consequently, we propose to approve export from certain states whose management agencies lack authority to limit exploitation provided those states have substantial plans for 1979 under existing authority and provided available information indicates that populations of the state can support the harvest.

This year the Service plans to refine those specific requirements in advising on whether exports of ginseng will not be detrimental to the survival of the species by evaluating: (1) information from each state on past, present, and potential distribution, relative frequency, local abundance, population trends, and harvest intensities on a county-by-county basis, and (2) state research and management programs for this species, including a limited harvest season to conserve the species.

Management Authority Findings

In addition to advice from the Scientific Authority, export of Appendix II species requires that the Management Authority is satisfied that specimens were not obtained in violation of state of Federal law. The Service, in meeting this responsibility, is contacting each state by letter, outlining specific requirements to satisfy export requirements of CITES.

The Service considers the following ongoing program to be necessary to qualify a state's bobcat, lynx, river otter, gray wolf, brown bear or alligator for export:

A tagging system must exist as proof of legal taking. Tags must:

1. Be made of metal or some other permanent material;
2. Be permanently attached to each skin, preferably by state personnel;
3. Accompany finished products to the port where the state tags will be collected by Service officers (tags are necessary to show source and numbers of pelts used in the manufacture of the product);
4. Be applied within a specified time of taking that is set by the state;
5. Show state of origin;
6. Show year of taking;
7. Show species; and
8. Be serially unique.

This year, the Service is considering the feasibility of supplyiing tags meeting these requirements to the states for use in exporting bobcat, lynx, and river otter.

In addition, the Service considers the following ongoing program to be necessary to ensure that ginseng to be exported was not obtained in violation of state or Federal law:

1. State certification or registration of dealers and exporters;

2. A requirement that dealers and exporters maintain a record of their commerce in ginseng; and

3. A certificate of legal taking identifying origin, year of taking, whether wild or artifically propagated, and weight of the shipment, attached to each export from the state. (Please note: this is required only for each export, not each transaction within the state.) This certificate is the only proof of legal taking that will be accepted by Federal officials at the point of export from the United States.

Schedule

The Service intends to develop final findings on export in advance of the 1981–82 harvest season. The planned schedule is as follows:

Late-April, 1981—Communicate requests for biological and management information to states.

Early May, 1981—Publish **Federal Register** notice of requirements for allowing export of certain Appendix II species, and invite public comment.

June 15, 1981—Deadline for receipt of information from states on alligator and ginseng.

June 26, 1981—Publish **Federal Register** notice of proposed findings on the export of alligator and ginseng, and invite public comment.

July 1, 1981—Deadline for receipt of information from states on furbearing species (bobcat, lynx, river otter, Alaskan gray wolf, and Alaskan brown bear).

July 20, 1981—Publish **Federal Register** notice of proposed findings on the export of furbearing species, and invite public comment.

July 24, 1981—Publish **Federal Register** notice of final findings on the export of alligator and ginseng.

August 18, 1981—Publish **Federal Register** notice of final findings on the export of furbearing species.

Request for Information

The Service requests information and comments concerning the criteria to be used in Scientific Authority and Management Authority findings for the export of species discussed in this notice. The Service also requests information on environmental and economic impacts, as well as any effects on small entities (including small businesses, small organizations and small governmental jurisdictions) that would result from such findings, either in favor of export or against it. This information will aid the Service in preparing any required analysis of effects to comply with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act.

Dated: May 20, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-15532 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 100
Tuesday, May 26, 1981

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

Forest Service

Forest Land and Resource Management Plan; Targhee National Forest, Bonneville, Butte, Clark, Fremont, Lemhi, Madison, and Teton Counties, Idaho, Lincoln and Teton Counties, Wyoming; Revised Intent To Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the Targhee National Forest Land and Resource Management Plan was published in the **Federal Register**, Volume 45, No. 17, p. 5784, January 24, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in September 1981, and the Final Environmental Impact Statement is proposed for release in April 1982.

All other conditions of the original Notice of Intent remain the same.

Dated: May 12, 1981.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 81-15528 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

1980 Corn and Sorghum Crops: Determinations Regarding the National Program Acreages, Program Allocation Factors and Payment Rates

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of Revision of National Program Acreages and Announcement of the Program Allocation Factors and Payment Rates for 1980 Crops of Corn and Sorghum.

SUMMARY: The purpose of this notice is to announce the revised national program acreages (NPA's), program allocation factors and deficiency payment rates for the 1980 crops of corn and sorghum. These actions are required to be made in accordance with the provisions of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: May 22, 1981.

ADDRESS: Production Adjustment Division, ASCS/USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Lois G. Moe, Agricultural Program Specialist, Production Adjustment Division, ASCS/USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-6688. The Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with the provisions of Executive Order 12291 and has been classified "not major."

The title and number of the Federal Assistance program that this notice applies to are: Feed Grains Production Stabilization: 10.056, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

Section 105A of the Agricultural Act of 1949, as amended (referred to as the "Act") provides that the 1980-crop NPA's first proclaimed may be revised for the purpose of determining the allocation factor if the Secretary determines that such revision is necessary based upon the latest available information. The Secretary has determined that the NPA's for the 1980 crop of corn and sorghum shall be revised because of higher than anticipated domestic use and exports for corn and lower than anticipated domestic use for sorghum.

In addition, section 105A of the Act requires that the Secretary of Agriculture determine an allocation factor for the 1980 crop of corn and sorghum. The allocation factor shall be determined by dividing the NPA for the crop by the number of acres which the Secretary estimates will be harvested for each crop, but in no event shall the allocation factor be more than 100 percent nor less than 80 percent.

Section 105A of the Act also provides that deficiency payments be computed for the 1980 crops of corn and sorghum at a rate equal to the amount by which the higher of (1) the national weighted average market price received by farmers during the first five months of the marketing year (October through February) or (2) the loan level is less than the established "target" price per bushel.

A notice was published in the **Federal Register** (45 FR 1648) on January 8, 1980, proclaiming NPA's for the 1980 crops of corn and sorgum. It was noted that section 105A of the Act provides that the Secretary of Agriculture may revise the NPA's if the Secretary determines it necessary based upon the latest information. It was also noted that the program allocation factors would be determined in April 1981 for corn and sorghum.

The purpose of this notice is (1) to revise the 1980-crop corn and sorghum NPA's, (2) to determine the program allocation factors for these commodities, and (3) to announce the payment rates for corn and sorghum. These provisions are authorized by sections 105A(b)(1) (B) and (D) and sections 105A(d) (1) and (2) of the Act.

It is essential that these revisions be made effective as soon as possible since the Act requires the proclamation of the revised NPA's as soon as such determinations are made.

The Secretary has made the following determinations with respect to the 1980 crops of corn and sorghum.

Determinations

1. *Revised National Program Acreages.*

It is hereby proclaimed that the revised national program acreages (NPA's) for the 1980 crops of corn and sorghum shall be 84.1 and 12.8 million acres, respectively. The revised NPA's are based on the following data:

	Corn	Sorghum
(a) Estimated domestic use, 1980–81	5,100	407
(b) Plus estimated silage use, 1980–81	611	39
(c) Plus estimated exports, 1980–81	2,550	250
(d) Minus estimated imports, 1980–81	−1	0
(e) Plus or minus adjustment for carryover to desired level [1]	−167	+33
(f) Divided by national weighted average farm program yield (Bushels/acre)	96.2	57.1
(g) Equals: 1980 national program acreage (million acres)	84.1	12.8

[1] An appropriate carrover level of U.S. feed grain stocks has been determined to be equal to 6.7 percent of world consumption of coarse grains. Such consumption during the 1979–80 marketing year is estimated to be 727.2 million metric tons (MMT) (727.2 × 0.067 = 48.7 MMT (maximum level of U.S. feed grain carryover stocks)). The corn componet of the feed grain total has been determined to be 1,450 million bushels (36.6 MMT × 39.368). 1980–81 carryin corn stocks were 1,617 million bushels resulting in a 167 million bushel stock adjustment. The sorghum component of the feed grain total has been determined to be 180 million bushels (4.6 MMt). 1980–81 carrying sorghum stocks were 147 million bushels resulting in a 33 million bushel stock adjustment.

2. *Program Allocation Factors.*

It is hereby proclaimed that the 1980 crop program allocation factors shall be 100 percent for corn and 94.8 percent for sorghum, based on the following data:

	Corn	Sorghum
(a) 1980 NPA (million acres)	84.1	12.8
(b) Divided by estimated 1980 national harvested acreage (million acres) [1]	82.3	13.5
(c) Equals 1980 program allocation factor (percentage) [2]	100.0	94.8

[1] Based on corn and sorghum harvested acreage as reported in "Corp Production" dated January 14, 1981.
[2] Allocation factor may not exceed 100 percent. Actual factor is 102.2 percent for corn.

3. *Deficiency Payment Rates.*

It is hereby proclaimed that the deficiency payment rates for the 1980-crop corn and sorghum are zero; therefore, there will be no deficiency payments for 1980-crop corn and sorghum.

The national weighted average prices received by farmers for the first five months of the 1980–81 marketing year (October through February) are $3.11 per bushel for corn and $3.04 per bushel for sorghum. The official USDA price determination was published on page 22 of "Agricultural Prices" dated March 1981.

Since the weighted average prices received by farmers ($3.11 per bushel for corn; $3.04 per bushel for sorghum) are higher than the national loan rates ($2.25 per bushel for corn; $2.14 per bushel for sorghum), the weighted average prices become the determining factors in the establishment of the 1980-crop corn and sorghum deficiency payment rates.

The determination of the deficiency payment rates is based on the following data:

	Corn	Sorghum
(a) 1980 national established "target" prices (dollars per bushel)	[1] $2.05/2.35	[1] $2.45/2.50
(b) Minus higher of weighted five-month average price or loan rate (dollars per bushel) [2]	3.11	3.04
(c) Equals 1980 deficiency payment rate (dollars per bushel)	0	0

[1] The first entry is the target price applicable to those producers who planted in excess of the farm normal crop acreage (NCA). The second is for those who planted within the farm NCA.
[2] 1980 price support (loan) rates for corn and sorghum are $2.25 per bushel and $2.14 per bushel respectively. National weighted average market prices received by farmers during the first five months (October-February) of the 1980–81 marketing year are $3.11 and $3.04 per bushel for corn and sorghum, respectively. Consequently, these levels are higher than the respective loan rates and will be used in the determination of the deficiency payment level.

Signed at Washington, D.C. on May 5, 1981.

John R. Block,

Secretary.

[FR Doc. 81-15508 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Augustine Beach R.C. & D. Measure, Delaware; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, Treadway Towers, Suite 204, 9 East Loockerman Street, Dover, Delaware 11901, telephone 302–678–0750.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Augustine Beach R.C. & D. Measure, New Castle County, Delaware.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns installation of a double bay reinforced concrete boat launching ramp 220 feet long by 30 feet wide which will extend 170 feet toward the channel from the mean high waterline; 210 feet of timber approach pier attached to 160 feet of a steel pile breakwater/pier system with a timber sheet pile curtain wall; 40 feet of gangway and a 20 foot by 8 foot floating courtesy dock attached to the breakwater/pier system. The planned work will be installed along the Delaware River 1 mile south of Port Penn, Delaware, and will provide safe public access to the waterways for recreational use.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Otis D. Fincher. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15565 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Clove Brook Watershed, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Plater T. Cambell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, P.O. Box 219, Somerset, New Jersey 08873, telephone (201) 246–1205.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, Guidelines (7 CFR

Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clove Brook Watershed, Sussex County, New Jersey.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Plater T. Campbell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project involves the installation of agricultural waste management systems to reduce nonpoint pollution loadings to Clove Acres lake and the streams in the watershed.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Plater T. Campbell, State Conservationist. The FNSI has been sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15567 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Goldsboro Watershed, Maryland; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, Room 522, College Park, Maryland 20740, telephone (301) 344-4180.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Goldsboro Watershed, Caroline County, Maryland.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection, flood damage reduction, and adequate agricultural drainage. Alternatives under consideration include systems for conservation land treatment, nonstructural measures, and channel modification.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation by agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Gerald R. Calhoun, State Conservationist. A meeting will be held at 7:30 p.m. on June 25, 1981, at the Public Library at Denton, Maryland, corner of First Street and Market Street, to determine the scope of evaluation of the proposed action. Further information on the proposed action or on the scoping meeting may be obtained from Mr. Calhoun at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15566 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Graham County Schools R.C. & D. Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Norris, Acting State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611; telephone 919-755-4210.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Graham County Schools RC. & D. Measure, Graham County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Norris, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion on approximately 6.8 acres of critically eroding land and draining approximately 4.7 acres of general play area. The planned works of improvement include two grassed waterways, tile drains, and the seeding of the eroding areas with adapted perennial vegetation. Areas of existing vegetation destroyed during installation will be reestablished.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Norris. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15568 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Highland and Queensborough Parks Critical Area Treatment R.C. & D. Measure, Louisiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71301, telephone 318-473-7751.

Notice: Pursuant to Section 102 (2) (C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Highland and Queensborough Parks Critical Area Treatment R.C. & D. Measure, Caddo Parish, Louisiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Alton Mangum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the stabilization of critically eroding land on a 10-acre and 6-acre park. Some of the area will be shaped, filled, and revegetated. Planned structural measures include a concrete drop structure, splash basin, traffic barricades, and parking area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Alton Mangum. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 18, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15563 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Lake Townsend Wildlife R.C & D. Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Norris, Acting State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919-755-4201.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Townsend Wildlife R.C. & D. Measure, Guilford County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Norris, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the construction of approximately 1,200 linear feet of low earthen dike along with a flash board riser for water control. In addition, a pump will be used to flood the 14 acre marsh area during low water and drought periods. Approximately 40 wood duck nesting boxes will be erected in the marsh and bottom land area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Norris. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 12, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15569 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

McClellanville Flood Prevention R.C. & D. Measure, South Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone 803-765-5681.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the McClellanville Flood Prevention R.C. & D. Measure, Charleston County, South Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George E. Huey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a proposal to reduce flooding and improve flow conditions on 6.1 miles of ephemeral streams in and adjacent to the town of McClellanville through channel enlargement. Spoil will be spread adjacent to the channel. All areas disturbed will be vegetated. Several culvert systems at roads and street will be altered.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental

assessment are on file and may be reviewed by contacting Mr. George E. Huey. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15572 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Mercer County Schools Critical Area Treatment and Land Drainage R.C. & D. Measure, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304-599-7151.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mercer County Schools Critical Area Treatment and Land Drainage R.C. & D. Measure, Mercer County, West Virginia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure is designed to stabilize and revegetate approximately 3.0 acres of land at five schools in Mercer County which are subject to erosion and drainage problems. Included in the planned works of improvement are land shaping and smoothing, about 3,000 feet of subsurface drainage, vegetative practices necessary to establish adequate ground cover, 120 feet of grassed waterway, 250 feet of drainage field ditch, and one drop inlet.

The Notice of a Finding of No Significant Impact (FNSI) has been forewarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15573 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Northeast Camden Flood Prevention RC&D Measure, South Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone 803-765-5681.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northeast Camden Flood Prevention RC&D Measure, Kershaw County, South Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George E. Huey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a proposal to reduce flooding and improve flow conditions on a 0.5 mile ephemeral stream. The existing stream will be enlarged and lined with rock riprap to prevent erosion. Spoil will be spread adjacent to the channel and disposed of properly. All areas disturbed will be vegetated. Several culvert systems at roads and streets will be altered.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George E. Huey. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 18, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15564 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Triad School RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an

environmental impact statement is not being prepared for the Triad School RC&D Measure, Champaign County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention on open space areas of the Triad School property. The planned works of improvement include grading and shaping, construction of a diversion and collection basins to concentrate surface runoff, and the installation of subsurface drains to convey runoff to a stable outlet. Critical area seeding will be applied on all areas distrubed by construction.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15570 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

Union County Fairgrounds RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Union County Fairgrounds RC&D Measure, Marysville, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage on open space areas of the fairgrounds. The planned works of improvement include constructing a grassed waterway, grading and shaping, and installation of subsurface drains to safely collect and dispose of excess surface and subsurface water. Critical area seeding will be applied on all areas disturbed by construction.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until June 25, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-15571 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 81-5-104; Docket 39643]

Application of Air Chicago for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81-5-104 application of Air Chicago under Subpart Q for a certificate of public convenience and necessity Docket 39628.

SUMMARY: The Board is instituting the *Air Chicago Fitness Investigation* Docket 39643, and setting it for a hearing before an Administrative Law Judge of the Board on an expedited basis, at a time and place to be determined later, to consider whether Air Chicago is fit, willing, and able to provide service in the Chicago (Midway Airport) markets listed in its application. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board instituting the fitness investigation shall file, and serve upon all persons listed below no later than June 1, 1981, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 39643, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION: CONTACT Thomas G. Chew, Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5056.

SUPPLEMENTARY INFORMATION: Objections should be served upon Air Chicago, the Illinois Department of Transportation, the Louisiana Department of Transportation, the Michigan Aeronautics Commission, the New York State Department of Transportation, the Oklahoma Aeronautics Commission, the Ohio Department of Transportation, the Tennessee Department of Transportation, and the Texas Aeronautics Commission; the Mayors of Chicago, Illinois, Atlanta, Georgia, Baltimore, Maryland, Boston, Massachusetts, Buffalo, New York, Cincinnati, Ohio, Cleveland, Ohio, Columbus, Ohio, Dallas/Ft. Worth, Texas, Dayton, Ohio, Denver, Colorado, Des Moines, Iowa, Detroit, Michigan, Hartford, Connecticut, Houston, Texas, Indianapolis, Indiana, Long Island, New York, Kansas City, Missouri, Lincoln, Nebraska, Louisville, Kentucky, Memphis, Tennessee, Milwaukee, Wisconsin, Minneapolis/St. Paul, Minnesota, Nashville, Tennessee, New Orleans, Louisiana, New York, New York, Newark, New Jersey, Oklahoma City, Oklahoma, Omaha, Nebraska, Peoria, Illinois, Philadelphia,

Pennsylvania, Pittsburgh, Pennsylvania, Moline, Illinois, Rockford, Illinois, Rochester, New York, St. Louis, Missouri, Sioux Falls, South Dakota, Syracuse, New York, Toledo, Ohio, Tulsa, Oklahoma, Washington, D.C., and White Plains, New York; and the managers of these cities' airports. The complete text of Order 81-5-104 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 81-5-104 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15537 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Week Ended May 15, 1981.

Subpart Q—Applications

The due date for answers, conforming application or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show cause order, a tentative order, or in appropriate cases a final order without further proceeding.

Date filed	Docket No.	Description
May 11, 1981	39620	Air Nauru, c/o Andrew T.A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Application of Air Nauru pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment to its temporary foreign air carrier permit so as (1) to delete existing Segments 3, 4 and 5, and (2) to authorize it to engage in foreign air transportation of persons, property and mail over a new and revised segment 3 and a new Segment 4 as follows: *Segment 3:* Between a point or points in the Republic of Nauru; the intermediate points Ponape and Truk, Trust Territory of the Pacific Islands; Guam; Saipan, Commonwealth of the Northern Marianas; and (a) beyond Saipan, the intermediate points Palau (Belau), Trust Territory of the Pacific Islands; Manila, Philippines; Taipei, Taiwan; and the terminal point Hong Kong; and (b) beyond Saipan, the intermediate points Palau (Belau), Trust Territory of the Pacific Islands; Manila, Philippines; Taipei, Taiwan; and the terminal point Singapore. *Segment 4:* Between a point or points in the Republic of Nauru; the intermediate points Tarawa and Canton Island, Kiribati; Apia, Western Samoa; Pago Pago, American Samoa; Rarotonga, Cook Islands; and the terminal point Papeete, Society Islands. Answers may be filed by June 8, 1981.
May 13, 1981	39628	Air Chicago, Inc., c/o paul M. Ruden, Wilner & Scheiner, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036. Application of Air Chicago, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, seeks issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property and mail as follows: Between and among the terminal point Chicago, Illinois, and the following alternate terminal points: Atlanta, GA, Baltimore, MD, Boston, MA, Buffalo, NY, Cincinnati, OH, Cleveland, OH, Columbus, OH, Dallas/Ft. Worth, TX, Dayton, OH, Denver, CO, Des Moines, IA, Detroit, MI, Hartford, CT, Houston, TX, Indianapolis, IN, Long Island-MacArthur, NY, Kansas City, MO, Lincoln, NE, Louisville, KY, Memphis, TN, Milwaukee, WI, Minneapolis/St. Paul, MN, Nashville, TN, New Orleans, LA, New York, NY, Newark, NJ, Oklahoma City, OK, Omaha, ME, Peoria, IL, Philadelphia, PA, Pittsburgh, PA, Moline, IL, Rockford, IL, Rochester, NY, St. Louis, MO, Sioux Falls, SD, Syracuse, NY, Toledo, OH, Tulsa, OK, Washington, D.C., White Plains, NY. Conforming Applications, motions to modify scope, and Answers may be filed by June 5, 1981.
May 13, 1981	39631	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Conforming Application of Eastern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its certificate of public convenience and necessity for Route 165 so as to authorize nonstop service as follows: Between points in the U.S. and coterminal points in Switzerland, Israel and Jordan. Answers may be filed by May 27, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15541 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33363, 39103, 39104]

Former Large Irregular Air Service Investigation and Applications of Zantop Airlines, Inc.; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on June 3, 1981 (46 FR 23508, April 27, 1981) is postponed until June 16, 1981 at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C. May 19, 1981.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 81-15535 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 36595 and 38746]

Investigation Into the Competitive Marketing of Air Transportation; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding will be held before the Board on Monday, June 15, 1981, at 10:00 a.m., in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each person that wishes to participate in the oral argument should so advise the Secretary, in writing, on or before Tuesday, June 9, 1981, together with the name of the person who will make the presentation.

Dated at Washington, D.C. May 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15458 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38747]

United Air Lines, Inc; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Pope, II. Future communications should be addressed to Judge Pope.

Dated at Washington, D.C., May 18, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-15536 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New Hampshire Advisory Committee; Cancelled Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Hampshire Advisory Committee of the Commission originally scheduled for May 27, 1981, at Manchester, New Hampshire, (FR Doc. 81-14414, page 26517) has been cancelled.

Dated at Washington, D.C., May 20, 1981.

John Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-15641 Filed 5-22-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 81-00189. Applicant: Wesley Medical School, 550 North Hillside, Wichita, Kansas 67214. Article: Teletherapy Treatment Planning Simulator, Therasim 750. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used for the study of malignancy in humans. The phenomena to be investigated is the relevancy of the localization of the site of the occurrence of the disease with the result of treatment. Studies will be conducted which compare cure vs. complications of treatment with previous methods of tumor localization, i.e., ordinary x-ray films, and the more exact method using a treatment simulator. In addition, the article will be used for training students in the following courses:

1. Medical Nuclear Physics II.
2. Radiologic Technology Training Program.
3. Radiology Elective for Medical Students.

Application received by Commissioner of Customs: April 14, 1981.

Docket Number 81-00190. Applicant: The Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street, 16, Philadelphia, PA 19104. Article: Ultra-High Vacuum 3-Axis Goniometer. Manufacturer: Panmure Instruments, United Kingdom. Intended use of article: The article is intended to be used to perform high resolution (sub0.1A) surface studies using a medium energy ion scattering with channeling and blocking (C/B) complemented with angle resolved ultraviolet photoelectron spectroscopy on reconstructed metal surfaces (Tungsten), rearranged semiconductors (Gallium Antimony and Cadmium Selenium) and reactions on metal surfaces (Nickel) which will be constrasted with Low Energy Electron Diffraction (LEED) results. The techniques used involve: (A) low energy ion scattering (0.5-10 keV), (B) medium energy scattering (50-500 keV) and (C) high energy scattering (> 1 MeV). The possibility of performing high-resolution structural studies of clean and adsorbate covered surfaces, using non-destructive techniques opens up new and fascinating possibilities, particularly a number of outstanding problems and obtaining information about phenomena that have so far been beyond reach. Application received by Commissioner of Customs: April 14, 1981.

Docket Number 81-00191. Applicant: Massachusetts Institute of Technology, Room E18-360, Cambridge, MA 02139. Article: Dye Laser, Model FL-2002. Manufacturer: Lambda Physics Inc., France. Intended use of article: The article will provide light of a precise wavelength to excite molecules to energy levels necessary for chemical reaction. The article will also be used by undergraduate and graduate students to learn the fundamentals of laser techniques in Physical Chemistry and Molecules Spectroscopy. Application received by Commissioner of Customs: April 14, 1981.

Docket Number 81-00192. Applicant: University of Cincinnati, Department of Chemistry, Cincinnati, Ohio 45221. Article: High Performance Mass Spectrometer System, MS-80. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of article: The article is intended to be used for a broad range of research topics from studies on the molecular aspects necessary to provide an understanding of basic metabolism and the adverse effects of toxic compounds, to studies on statistics employed in epidemiology, to clinical research involving occupational exposures to chemicals, noise and stress, to the development of methods to safeguard public health and the integrity of the ecosystem under study. Specific projects being carried out include:

(1) Investigation of the pulmonary metabolism of carcinogenic polynuclear aromatic hydrocarbons and N-heterocyclic aromatics in an isolated perfused lung system under various conditions that influence their carcinogenic potential.

2. Mutagenesis and carcinogenesis characterization of organics in drinking water.

(3) Analysis for pesticides and their metabolites.

Application received by Commissioner of Customs: April 14, 1981.

Docket Number 81-00193. Applicant: The Pennsylvania State University, Department of Meteorology, 503 Walker Building, University Park, PA 16802. Article: Sodar SR 101A including WPU-3 Wind Processing Unit. Manufacturer: Sensitron ab, Sweden. Intended use of article: The article is intended to be used for studying the turbulent sensible heat flux in the atmosphere's planetary boundary layer. There is to be a intercomparison study with units of U.S. manufacture. The article will also be used for educational purposes in the course Indirect Atmospheric Probing, Meteorology 520 for familiarization with sodar technology and systems. Application received by Commissioner of Customs: April 14, 1981.

Docket Number 81-00194. Applicant: Southeast Missouri State University, 900 Normal, Cape Girardeau, MO 63701. Article: Microscope Photometer, TM 3-C and Accessories. Manufacturer: Indumess, Austria. Intended use of article: The article is intended to be used for studies of polished sections of ore (opaque crystalline substances). Experiments to be conducted will involve the measurement of dispersion of reflectance for known and unknown opaque minerals occurring in tin-tungsten bearing ore veins in southeastern Missouri. In addition, the

article will be used in the course Ore Deposits (BL420) which is the study of the origin, character and description of metallic ore deposits. The objectives of the course are (i) to introduce the student to the study of ore deposits; (ii) introduce the student to the ore microscope, (iii) provide the student with means to identify opaque minerals by optical-chemical methods and to increase the students' opportunity for employment. Application received by Commissioner of Customs: April 14, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-15586 Filed 5-22-81; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 81-00180. Applicant: Northwestern University Medical School, Department of Pathology, 745 N. Fairbanks Court, Chicago, IL 60611. Article: Election Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological materials from a variety of organs including heart, kidney, brain and microorganisms. The objectives of these studies will be to provide morphological correlations with biological and physiological phenomena. Studies will localize abnormal proteins in basement membranes, and identify abnormal cells and cellular organelles in injured tissues. Other studies will be conducted to determine membrane structural alterations, cell hormonal receptor sites in normal and chemically induced carcinogenesis. Viruses will be localized and identified in neural tissues. Application received by Commissioner of Customs: April 3, 1981.

Docket Number 81-00181. Applicant: Syracuse University, Department of Chemistry, 108 Bowne Hall, Syracuse, NY 13210. Article: Excimer Laser, Model TE 861S with Unstable Resarator Optics, Models 504RX and 504FX. Manufacturer: Lumonics, Inc., Canada. Intended use of article: The article is intended to be used for the following studies: photo dissociation and kinetics of polyatomic molecules, particularly aldehydes including glyoxal, formaldehyde, acetaldehyde, butyraldehyde, into transient species and determination of the lowest concentrations of these individual aldehydes and the transient species. Each of the species being studied will be selectively excited to a higher energy level and each has particular radiative and nonradiative decay mechanisms. Many of these species formed by dissociation of the aldehydes are very short-lived molecules and are known to be intermediates in the production of atmospheric pollutants. Application received by Commissioner of Customs: April 3, 1981.

Docket Number 81-00183. Applicant: Western Washington University, Bureau for Faculty Research, 430 Old Main, Billingham, Washington 98225. Article: Accessories for Underwater Communication System. Manufacturer: U.D.I. Group Ltd., United Kingdom. Intended use of article: The article is intended to be used in a diving investigation of a unique arctic kelp (biological) community off the northern coast of Alaska. The objective of the study is to learn as much as possible about the biological, ecological, and physical characteristics of the community. Experiments conducted will include growth measurements of biological organisms and observations of the abiotic environment e.g., measurements of turbidity, sedimentation, ice growth, etc. Underwater communications are used exclusively in the collection of this data (which is transmitted directly to the surface and recorded), as well as communication between the divers for safety purposes. The above research program is used in thesis work by graduate students and in "special topic" courses for undergraduate students in the field of marine biology. Application received by Commissioner of Customs: April 6, 1981.

Docket Number 81-00185. Applicant: University of Illinois Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Article: Excimer Laser-Pumped Dye Laser System consisting of EMG 101, FL 2002 and FL 52. Manufacturer: Lambda-Physik GMbH., West Germany. Intended use of article: The article is intended to be used for photodissociation of organic molecules in single revibronic excited states and quantum beat spectroscopy. The article will also be used to teach graduate students working towards the Ph.D. degree in Chemistry some of the techniques for applying lasers to atomic and molecular research. Application received by Commissioner of Customs: April 8, 1981.

Docket Number 81-00186. Applicant: Temple University School of Medicine, Department of Microbiology & Immunology, 3400 North Broad Street, Philadelphia, Pennsylvania 19104. Article: Bulk Specimen Holder Accessory, Model H-5001B. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is an accessory to an existing electron microscope that will be used in the study of the structure and synthesis of bacterial cell walls and membranes; the division of bacteria; the morphogenetic process that is involved in converting the yeast, Candida albicans, into a human pathogen; the role of cyclic nucleotides in the mitogenic response in lymphoblastoid cell-lines produced by transforming isolated blood lymphocytes with Epstein-Barr Virus. The specimens to be examined with the article will be examined in the secondary scanning mode. The article will also be used in the training of graduate students in the use of electron microscopy. Application received by Commissioner of Customs: April 10, 1981.

Docket Number 81-00187. Applicant: University of Maryland, Baltimore County, 5401 Wilkens Avenue, Catonsville, Maryland 21228. Article: 35mm Camera, Model JEM 100CX-A35-4 for Electron Microscope Model 100CX. Manufacturer: Japan Electron Optics Laboratory, Japan. Intended use of article: The article is an accessory to an existing electron microscope that will be used to record electron microscopic images on 35mm photograhic films.

Several investigators in a variety of biological and biochemical fields will use the article. In general, DNAs and RNAs isolated from phages, bacteria, algae, and higher organisms will be studied under the electron microscope. In all cases, statistical data have to be collected and analyzed. In addition, the article will be used in the training of graduate and undergraduate students. Application received by Commissioner of Customs: April 10, 1981.

Docket Number 81-00188. Applicant: Vanderbilt University, Department of Electrical Eng., P.O. 1631B, Nashville, TN 37235. Article: Visual Display Generator. Manufacturer: Joyce Electronics, United Kingdom. Intended use of article: The article is intended to be used to generate visual stimuli for testing the behavior of cells in the brain which are responsible for vision. In particular, it is to suport work on a research project entitled "Spatial adaptation of neurons in cat striate cortex." Stimuli produced on the screen will elicit responses in the brains of experimental animals (cats). These responses, either in the form of slow waves (the visually-evoked potential) or nerve spikes, will be stored in digital form on a computer. The work is intended to clarify the mechanisms which support the capacity of cells in the visual cortex to act as spatial filters. In addition, the article will be used as a training tool for the graduate students working on research projects in the laboratory. Application received by Commissioner of Customs: April 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-15587 Filed 5-22-81; 8:45 am]

BILLING CODE 3510-25-M

Canned Tomato Paste From France; Preliminary Results of Administrative Review of Countervailing Duty Order and of Tentative Determination To Revoke

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order and of Tentative Determination To Revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on canned tomato paste from France. As a result, the Department has tentatively determined to revoke such order on the grounds that the subsidy practices which resulted in the final determination have been terminated. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: May 26, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph Black or Josephine Russo, Office of Compliance, Room 1126, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1774 or 377-2786).

SUPPLEMENTARY INFORMATION:

Procedural Background

A notice of "Final Countervailing Duty Determination," T.D. 68-111, was published in the **Federal Register** of April 19, 1968 (33 FR 6010).

The notice stated that the Treasury Department had determined that exports of canned tomato paste from France were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act"). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On August 22, 1979 a notice of "Final Countervailing Duty Determination" was published in the **Federal Register** (44 FR 49248) regarding exports of tomato products from the European Communities ("the EC"). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on canned tomato paste from France.

Scope of the Review

Imports covered by this review are canned tomato pastes, currently classifiable under item number 141.65 of the Tariff Schedules of the United States (TSUS).

Preliminary Results of Review

As a result of our review, we preliminarily conclude that the imported merchandise no longer benefits from subsidies from the Government of France. The Department has received official confirmation from the Government of France that the government has ended all subsidy programs on this merchandise. The French subsidy programs were replaced by the EC subsidies. The International Trade Commission found no injury by reason of the EC subsidies and we revoked the order on tomato products from the EC on October 24, 1980.

Therefore, in accordance with § 355.42(c)(2) of the Commerce Regulations, the Department has tentatively determined to revoke the countervailing duty order concerning canned tomato paste. If this order is revoked, it shall apply with respect to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Department is not aware of any unliquidated entries prior to August 22, 1979, the effective date of the order on tomato products from the EC. Since any entries of French tomato paste only received subsidies under the programs of the EC since that date, entries made on or after August 22, 1979, through December 31, 1979, shall be liquidated in accordance with the EC order. The revocation on tomato products from the EC required liquidation of all entries made on or after January 1, 1980 without regard to countervailing duties. Consequently, the Department intends to instruct Customs offers to proceed with liquidation of all such entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 without regard to countervailing duties.

Interested parties may submit written comments on or before June 25, 1981 and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in written comments or at a hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1), (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 355.42 of the Commerce Regulations (19 CFR 355.42).

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

May 19, 1981.

[FR Doc. 81-15576 Filed 5-22-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Cotton and Manmade Fiber Textile Products from the Dominican Republic, Effective on June 1, 1981

May 20, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and manmade fiber textile products, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period beginning on June 1, 1981.

SUMMARY: The Bilateral Cotton, Wool and Manmade Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Government of the United States and the Dominican Republic established specific levels of restraint for Categories 340 (men's and boys' woven cotton shirts), 351 (cotton nightwear), 639 (women's, girls' and infants manmade fiber knit shirts and blouses), and 649 (manmade fiber brassieres and other body supporting garments) during the agreement year which begins on June 1, 1981 and extends through May 31, 1982. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, under the terms fo the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in the Dominican Republic and exported during the twelve-month period which begins on June 1, 1981 and extends through May 31, 1982, in excess of the designated levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506) and December 24, 1980 (45 FR 85142), and May 5, 1981 (46 FR 25121))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 20, 1981.

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

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 1, 1981 and for the twelve-month period extending through May 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 351, 639, and 649, produced or manufactured in the Dominican Republic, in excess of the following levels of restraint:

Category	Twelve-month level of restraint (dozen)
340	139,678
351	324,167
639	314,848
649	1,500,000

In carrying out this directive entries of textile products in the foregoing categories, produced or manufactured in the Dominican Republic, which have been exported to the United States on and after June 1, 1980, and extending through May 31, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on June 1, 1980 and extending through May 31, 1981. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic which provide, in part, that: (1) specific limits may be exceeded by designated percentages to account for swing; (2) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506) and December 24, 1980 (45 FR 85142), and May 5, 1981 (46 FR 25121).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-15525 Filed 5-22-81; 8:45 am]

BILLING CODE 3510-25-M

DELAWARE RIVER BASIN COMMISSION

Pennsylvania Department of Environmental Resources and the Delaware River Basin Commission; Joint Hearing

Notice is hereby given that the Pennsylvania Department of Environmental Resources and the Delaware River Basin Commission will jointly hold a public hearing on Wednesday, June 10, 1981, commencing at 3:00 p.m. The hearing will be held at the Boyertown Area High School Auditorium, 4th and Monroe Street, Boyertown, Pennsylvania 19512.

The subject of the hearing will be an application by the Borough of Boyertown (100 South Washington Street, Boyertown, Pennsylvania 19512) to increase the existing water supply allocation from Trout Run Reservior (about 1.3 miles upstream from the confluence of Trout Run with Manatawny Creek in Earl Township, Berks County) from 900,000 gallons per day to 961,000 gallons per day. The Borough also seeks to acquire new water rights to withdraw 836,000 gallons per day from Ironstone Creek at a point about seven-tenths (0.7) mile northwest of Boyertown and to withdrawn 203,000 gallons per day from the existing Boyertown Reservoir located on Popodickon Creek which is a tributary to Ironstone Creek in Earl Township, Berks County. The requested allocation of all three sources totals 2.0 million gallons of water per day.

The application was filed with the Pennsylvania Department of Environmental Resources under the 1939 Water Rights Act (P.L. 842) as amended

(32 P.S. § 691 et. seq.). It was referred to the Delaware River Basin Commission on October 8, 1980 for review in accordance with the Delaware River Basin Compact and the Commission's Rules of Practice and Procedure. The hearing will be to assist the Commission in determining whether the application by the Borough of Boyertown should be included in the Comprehensive Plan for the Delaware River Basin and approved pursuant to Section 3.8 of the Compact.

Section 7 of the Water Rights Act outlines the duties of the Department of Environmental Resources to investigate water allocation requests and consider conflicts of interest. Approval of the requested allocation shall be given where it is determined that the proposed sources of supply:

1. Will not conflict with the water rights held by any other public water supply agency.
2. Are reasonably necessary for the present purposes and future needs of the public water supplier making application.
3. Will not interfere with navigation.
4. Will not jeopardize public safety.
5. Will not cause substantial injury to the Commonwealth.
6. Will be utilized in conjunction with water conservation measures.

The Department of Environmental Resources has received numerous letters and a petition objecting to the proposed withdrawal from Ironstone Creek on the grounds that it will interfere with public safety and downstream users. The Pennsylvania Fish Commission has recommended that no more than 15 percent of the average daily flow or about 850,000 gallons per day be taken from Ironstone Creek by the Borough of Boyertown. The Fish Commission also has recommended that at least 15 percent of the average daily flow of Ironstone Creek or about 850,000 gallons per day be allowed to pass the intake at all times. Under this proposal, the Borough of Boyertown would not be able to utilize Ironstone Creek if the flow were less than 850,000 gallons per day. The Department will hear and receive testimony on all issues to aid in its determination of the conditions that should be imposed to protect public safety and downstream users.

The hearing will be held from 3:00 p.m. to 5:30 p.m. and will resume with an evening session at 7:00 p.m. Interested parties are invited to attend the June 10th hearing and to participate by making oral or written statements presenting their data, views and comments on the subject. Persons wishing to testify are requested to register with W. Brinton Whitall, Secretary to the Commission, P.O. Box 7360, West Trenton, New Jersey 08628, (609-883-9500), prior to the hearing.

The application and documents relating thereto may be examined at the Department of Environmental Resources office, Third and Reily Street, Harrisburg, Pennsylvania or at the Delaware River Basin Commission office, 25 State Police Drive, West Trenton, New Jersey.

W. Brinton Whitall,

Secretary.

May 20, 1981.

[FR Doc. 81-15529 Filed 5-22-81; 8:45 am]

BILLING CODE 6360-1-M

DEPARTMENT OF ENERGY

National Petroleum Council, Water Quality Task Group of the Committee on Environmental Conservation; Rescheduled Meeting

This notice is given to advise of the rescheduling of the sixth meeting of the Water Quality Task Group of the Committee on Environmental Conservation. The meeting will be on Thursday, May 28, 1981, in lieu of the date announced in the April 2, 1981, issue of the **Federal Register** (46 FR 19971).

Issued at Washington, D.C. on May 15, 1981.

Roger W. A. LeGassie,

Acting Assistant Secretary for Fossil Energy.

May 15, 1981.

[FR Doc. 81-15475 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of aTomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the conversion of Long-Term, Fixed Commitment Uranium Enrichment contracts to the Adjustable, Fixed Commitment contracts at the customers option as shown below:

Contract No.	Customer	Facility
EU-128	COGEMA	Fessenheim-2
EU-130	COGEMA	Bugey-3

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the conversion of these contracts to the Adjustable, Fixed Commitment contract form will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than June 10, 1981.

For the Department of Energy.

Dated: May 19, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-15473 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, the Agreements for Cooperation Between the United States of America and the Governments of Japan, Spain, Sweden, and Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangements to be carrier out under the above mentioned agreements involves contractual arrangements under which DOE will consent, if requested, to the assignments of portions of various uranium enrichment services contracts held by U.S. and foreign utilities to various European and Japanese utilities as shown below:

Company	Separative work units	Fiscal year
COGEMA	40,000	1985
COGEMA	60,000	1986
COGEMA	400,000	1987
Tokyo Electric Power Co	180,000	1985
Tokyo Electric Power Co	150,000	1986
Tokyo Electric Power Co	1,000,000	1987
Japan Atomic Power Co	150,000	1987
Kyushu Electric Co.	15,000	1985
Kyushu Electric Co.	150,000	1986
Kyushu Electric Co.	400,000	1987

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into these subsequent arrangements will not be inimical to the common defense and security. It has furthermore been determined that the assignment of these

enrichment services complies with the provisions of Pub. L. 96-280 permitting the supply of additional low-enriched uranium under international agreements for cooperation in the civil uses of atomic energy.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: May 19, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-15474 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-012; (OFC Case No. 50180-6464-01-77)]

Basin Electric Power Cooperative; Classification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Classification—Basin Electric Power Cooperative.

SUMMARY: On January 23, 1980, the Basin Electric Power Cooperative filed a request with the Economic Regulatory Administration (ERA) to classify an auxiliary boiler being installed at its Antelope Valley Station in rural Mercer County approximately seven miles northwest of Beulah, North Dakota, as an existing installation pursuant to 10 CFR Part 515 (44 FR 60690, October 19, 1979, as amended, 44 FR 69919, December 5, 1979) and the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.*, (FUA). A summary of Basin Electric Power Cooperative's request was published in the **Federal Register** on May 13, 1980, at 45 FR 31461. The public comment period provided in the notice expired on May 29, 1980. No comments were received.

Pursuant to 10 CFR § 515.13(b), ERA has determined that the auxiliary boiler being installed is an existing installation and is therefore subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128-K, Washington, D.C. 20461, (202) 653-4237

Edward Jiran, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: The MFBI for which the request for classification was filed is a package boiler, designated "Auxiliary Boiler" by the Basin Electric Power Cooperative, and is being installed at the Antelope Valley Station. The boiler has a design capability to consume fuel at a heat input rate of 137.7 million Btu's per hour and will be used for startup of the main lignite-fired generators and for emergency heat for plant facilities when the main generating units are not operating. The auxiliary boiler will use No. 2 fuel oil as its primary energy source. Basin Electric Power Cooperative established eligibility to request classification of its Auxiliary Boiler by satisfactorily demonstrating, pursuant to 10 CFR § 515.10, that it had executed a contract for the construction or acquisition of its auxiliary boiler prior to November 9, 1978. Basin Electric Power Cooperative claims that its auxiliary boiler should be classified as existing pursuant to 10 CFR § 515.13(b) on the basis that cancellation, rescheduling or modification of the unit at November 9, 1978, would have resulted in significant operational detriment.

Based upon its review of Basin Electric Power Cooperative's request, ERA has determined that Basin Electric Power Coopeative has satisfactorily demonstrated that the modification of its construction plans for the Antelope Valley Station on November 9, 1978, in order to use an alternate fuel, would have resulted in significant operational detriment. Accordingly, Basin Electric Power Cooperative's auxiliary boiler at the Antelope Valley Station is classified as an existing installation pursuant to 10 CFR § 515.13(b), and is therefore subject to the provisions of Title III of FUA.

The public file containing documents of these proceedings, including ERA's analyses of Basin Electric Power Cooperative's request, is available for inspection upon request at: Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C. on May 18, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-15469 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-043 (ERA Case No. 51209-1393-27-22)]

Gulf States Utilities Co.; Roy S. Nelson Unit No. 7; Decision and Order Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order to Gulf States Utilities Company (GSU) granting a permanent peakload exemption from the prohibitions against (1) the use of petroleum or natural gas as a primary energy source by new powerplants and (2) the construction of new powerplants without the capability to use an alternate fuel as a primary energy source, which are contained in Section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et. seq.* (FUA or the Act).

Background

On December 9, 1980, GSU filed a petition with ERA for a permanent peakload powerplant exemption to enable it to use oil or natural gas as a primary energy source in a 114,828 kW oil or natural gas-fired combustion turbine powerplant to be known as Roy S. Nelson Unit No. 7 and which is to be located in West Lake, Louisiana. ERA accepted the petition on February 2, 1980, and published a Notice of Acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on February 6, 1981 (46 FR 11337).

Publication of the notice of acceptance commenced a 45-day public comment period pursuant to section 701 of FUA. During this period, which ended on March 23, 1981, interested parties were also afforded an opportunity to request a public hearing. No comments or requests for a public hearing were received.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis (TSA) recommended that ERA issue an order granting GSU a permanent peakload powerplant exemption to use oil or natural gas in Roy S. Nelson Unit No. 7, subject to certain terms and conditions. A notice of availability of the TSA was published in the **Federal Register** on April 17, 1981 (46 FR 22425). The publication of the notice of availability opened a 14-day public comment period which ended May 1, 1981, during which no comments were received.

On the basis of ERA's review of the entire record of this proceeding, ERA has determined to grant the exemption requested by GSU to use oil or natural gas in Roy S. Nelson Unit No. 7, subject to the terms and conditions enumerated below.

On August 11, 1980, DOE published in the **Federal Register** (45 FR 53199) a notice of proposed amendments to the guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption by certification for a peakload powerplant, was identified as an action which normally does not require an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. GSU has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. The Environmental Checklist completed and certified to by GSU pursuant to 10 CFR § 503.15(b) has been reviewed by DOE's Office of Environment, in consultation with the Office of the General Counsel. GSU's responses to the questions contained therein indicate that the operation of the peakload powerplant will have no impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirm the applicability of the categorical exclusion to this FUA action. ERA has not received any public comments relating to this action which raise a substantial question regarding the categorical exclusion status in this case. Therefore, no additional environmental review is deemed to be required.

DATE: This order will take effect on July 25, 1981.

ADDRESSES: FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3012 B, Washington, D.C. 20461, Phone (202) 653-4208

Christina Simmons, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted by ERA.

Gulf States Utilities (GSU) plans to install a 114,828 KW natural gas/oil-fired combustion turbine unit to be called Roy S. Nelson Unit No. 7 located in West Lake, Louisiana. Based upon estimates by GSU, the proposed unit is expected to consume approximately 313,000 barrels of No. 2 fuel oil per year. The unit is scheduled for commercial operation in May 1982.

GSU submitted a sworn statement with the petition signed by Mr. J. H. Derr, Jr., Vice President of GSU, as required by 10 CFR § 503.41(b)(1). In his statement, Mr. Derr certified that Roy S. Nelson Unit No. 7 will be operated solely as a peakload powerplant only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 114,828 KW and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 172,242,000 Kwh.

Order

ERA hereby grants to GSU a permanent exemption from the prohibitions of FUA with respect to the use of oil or natural gas in Roy S. Nelson Unit No. 7 provided that the powerplant is operated solely as a peakload powerplant and to meet peakload demand subject to the following terms and conditions imposed pursuant to the authority granted to ERA by section 214(a) of the Act:

Terms and Conditions

A. GSU shall not produce more than 172,242,000 Kwh during any 12-month period with the proposed unit. GSU shall provide annual estimates of the expected periods (hours during specific months) of operation of Roy S. Nelson Unit No. 7 for peakload purposes (e.g., 8:00-10:00 a.m. and 3:00-6:00 p.m. during the June-September period, etc.). Estimates of the hours during which GSU expects to operate Unit No. 7 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. GSU shall comply with the reporting requirements set forth in 10 CFR 503.41(d).

c. The quality of any petroleum to be burned in this unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. This order shall take effect July 25, 1981.

Issued in Washington, D.C. on May 18, 1981.

Robert I. Davies,

Office Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-15470 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-039 (ERA Case No. 51892-2092-23-22)]

Missouri Public Service Co., Ralph Green Unit No. 3; Decision and Order Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order to Missouri Public Service Company (MPS) granting a permanent peakload exemption from the prohibitions against (1) the use of natural gas as a primary energy source by new powerplants and (2) the construction of new powerplants without the capability to use an alternate fuel as a primary energy source, which are contained in section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.* (FUA or the Act).

Background

On November 7, 1980, MPS filed a petition with ERA for a permanent peakload powerplant exemption to enable it to use natural gas as a primary energy source in a 77,885 kilowatt natural gas-fired combustion turbine powerplant to be known as Ralph Green Unit No. 3, which is to be located in Pleasant Hill, Missouri. ERA accepted the petition on January 11, 1981, and published a Notice of Acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on January 19, 1981 (46 FR 5043). Publication of the notice of acceptance commenced at 45-day public comment period pursuant to section 701 of FUA. During this period, which ended on March 5, 1981, interested parties were also afforded an opportunity to request a public hearing.

Comments on MPS's petition were received from the Missouri Department of Natural Resources. No public hearing was requested.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis (TSA) recommended that ERA issue an order granting MPS a permanent peakload powerplant exemption to use natural gas in Ralph Green Unit No. 3 subject to certain terms and conditions. A notice of availability of the TSA was published in the **Federal Register** on April 14, 1981 (46 FR 21802). The publication of the notice of availability opened a 14-day public comment period which ended April 28, 1981, during which no comments were received.

On the basis of ERA's review of the entire record of this proceeding, including a review of the public comments received after publication of the notice of acceptance, ERA has determined to grant the exemption requested by MPS to use natural gas in Ralph Green Unit No. 3, subject to the terms and conditions enumerated below.

On August 11, 1980, DOE published in the **Federal Register** (45 FR 53199) a notice of proposed amendments to the guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption by certification for a peakload powerplant, was identified as an action which normally does not require an Environmental Impact Statement or an Environmental assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. MPS has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.The Environmental Checklist completed and certified to by MPS pursuant to 10 CFR § 503.15(b) has been reviewed by DOE's Office of Environment, in consultation with the Offices of the General Counsel. MPS's responses to the questions contained therein indicate that the operation of the peakload powerplant will have no impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirm the applicability of the categorical exclusion to this FUA action. ERA has not received any public comments relating to this action which raise a substantial question regarding the categorical exclusion status in this case. Therefore, no additional environmental review is deemed to be required.

DATES: This order will take effect on July 25, 1981.

ADDRESSES: FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3012 B, Washington, D.C. 20461, Phone (202) 653-4208

Christina Simmons, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.* (FUA or the Act), prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted by ERA.

Missouri Public Service Company (MPS) plans to install a 77,885 KW natural gas combustion turbine unit to be called Ralph Green Unit No. 3 located in Pleasant Hill, Missouri. The unit is scheduled for commercial operation in May 1981. MPS submitted a sworn statement with the petition signed by Mr. Richard Green, President of MPS, as required by 10 CFR § 503.41(b)(1). In his statement, Mr. Green certified that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand fot the life of the plant. He also certified that the maximum design capacity of the unit is 77,885 KW and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 116,827,500 Kwh.

On February 10, 1981, the Missouri Department of Natural Resources (MDNR) advised ERA that after reviewing MPS's petition submitted to ERA, MDNR should have no problems issuing environmental permits for Ralph Green Unit No. 3 and encourage granting MPS's exemption request.

Order

ERA hereby grants to MPS a permanent exemption from the prohibitions of FUA with respect to the use of natural gas in Ralph Green Unit No. 3 provided that the powerplant is operated solely as a peakload powerplant and to meet peakload demand subject to the following terms and conditions imposed pursuant to the authority granted to ERA by section 214(a) of the Act:

Terms and Conditions

A. MPS shall not produce more than 116,827,500 Kwh during any 12-month period with the proposed unit. MPS shall provide annual estimates of the expected periods (hours during specific months) of operation of Ralph Green Unit No. 3 for peakload purposes (e.g., 8:00-10:00 a.m. and 3:00-6:00 p.m. during the June-September period, etc.). Estimates of the hours during which MPS expects to operate Ralph Green Unit No. 3 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. MPS shall comply with the reporting requirements set forth in 10 CFR § 503.41(d).

C. this order shall not take effect earlier than July 25, 1981.

Issued in Washington, D.C. on May 18, 1981.

Robert L. Davies,

Office Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-15471 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No 52970-9039-01, 02, 03, 04-82]

Tucson Electric Power Co.; Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it will hold a public hearing concerning pending prohibition order proceedings under section 301(c) of the the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) relating to Tucson Electric Power Company's (TEP) Irvington Generating Station Units 1, 2, 3 and 4 (Irvington), located in Tucson, Arizona.

DATE: The hearing will be held beginning at 9:30 a.m. on June 22, 1981.

ADDRESS: Tucson Community Center, Greenley Room, 260 South Church Street, Tucson, Arizona.

FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461 (202) 653-4055

Kathleen J. Ewing, FUA Public Hearings Staff, Economic Regulatory Administration, Case Control unit, Box 4629, Room 3009, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-4258

Marilyn Ross, Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6B-178, Washington, D.C. 20585 (202) 252-2967

SUPPLEMENTARY INFORMATION: On December 31, 1980, ERA issued proposed prohibition orders pursuant to section 301(c) of RUA, to TEP's Irvington Station (46 FR 1769, January 7, 1981). The proposed orders, if finalized, would prohibit the units from burning petroleum (or natural gas) in a mixture with an alternate fuel (coal) in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency.

In accordance with 10 CFR 501.51(b), the publication of the proposed orders commenced an initial public comment period of three months, during which period interested parties, including the utility, were given the opportunity to challenge ERA's initial finding that it is technically feasible for the Irvington units to use a mixture of petroleum or natural gas and coal, alternately burned, as a primary energy source. During this period, the proposed order recipient and any other interested parties were required to furnish ERA with any evidence bearing upon the other statutory findings which section 301(c) of FUA requires ERA to make prior to the issuance of final prohibition orders. The recipient of the proposed orders was also required, during this period, to identify any exemptions for which the Irvington units might qualify. The initial public comment period on the Irvington proposed prohibition orders expired on April 7, 1981. No comments were received nor did the proposed order recipient assert qualifications for any exemption from the prohibition of the proposed orders.

on May 4, 1981, a public meeting was held in Tucson, Arizona for the purpose of identifying key issues, including environmental issues, associated with the issuance of the proposed orders. Presentations were made by ERA, TEP, the Southwest Gas Corporation and the Sierra Club, Grand Canyon Chapter. A copy of the transcript of the meeting is contained in the public record of the proceeding, available through the Office of Public Information at the address above. In addition, a copy of the public record will be available for inspection at the Tucson Public Library, Main Library, at 200 South 6th Avenue, Tucson, Arizona.

On the basis of all of the evidence available to it, ERA determined to continue with the order proceeding, and on May 15, 1981, issued a combined Notice of Intention to Proceed (NOIP), pursuant to 10 CFR 501.51(b)(4) and Notice of Availability of Tentative Staff Analysis pursuant to 10 CFR 501.51(b)(6) (46 FR 27155, May 18, 1981). The NOIP normally would begin a second three-month comment period. However, TEP requested that the remaining public comment periods provided for by 10 CFR 501.51 be combine and reduced to a single comment period of 145 days, as permitted by 10 CFR 501.51(b)(8). ERA granted this request and gave notice that a 45-day public comment period would commence with publication of the NOIP and Notice of Availability of the Tentative Staff Analysis (46 FR 27155, May 18, 1981).

The ERA staff prepared a Tentative Staff Analysis in which it concluded that the findings required by section 301(c) of FUA can be made, and it recommended that final prohibition orders should be issued to TEP.

A copy of the Tentative Staff Analysis is available from the Office of Public Information at the address listed above. Following the publication of the NOIP and notice of Availability of the Tentative Staff Analysis, ERA received requests for a public hearing from Southern Arizonans for Fair Energy Rates and the Phoenix Building and Construction Trades Council. ERA has determined to grant these requests, and has appointed Lawrence A. Gollomp, Esq., Acting Assistant General Counsel for Regulatory Interventions, as the Presiding Officer in the proceeding.

At the public hearing, ERA will provide interested persons an opportunity to present oral or written data, views and arguments on the petitions for exemption. In addition, in accordance with 10 CFR 501.34(f), interested persons will be given an opportunity to question (1) other interested persons who make oral presentations, (2) employees and contractors of the United States who have made written or oral presentations or who have participated in the prohibition order proceedings, and (3) experts and consultants who have provided information to any person who makes an oral presentation and which information is contained in or referred to in such presentation.

Persons who wish to participate in the hearing or who wish to be included on the service list, must submit their names to the Presiding Officer, c/o FUA Public Hearing Staff, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3009, 2000 M Street, N.W., Washington, D.C. 20461. ERA encourages persons who wish to participate in the hearing to submit this information at the earliest possible date; in any case, their submission must be received by the Presiding Officer no later than June 10, 1981. In accordance with the provisions of 10 CFR 501.33 and 501.34, the request to participate in the hearing shall include (1) a description of that party's interest in the issue or issues involved in the proceeding and (2) an outline of the anticipated content of the presentation, identifying any witnesses that are intended to be called at the hearing, a summary of their anticipated testimony and/or questions to be asked and a list of exhibits to be presented and a list of government and/or utility personnel which the parties wish to examine.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

May 20, 1981.

[FR Doc. 81-15712 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objections to Proposed Remedial Orders Filed; Period of April 13 Through April 24, 1981

During the period of April 13 through April 24, 1981, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before June 15, 1981. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals,

Department of Energy, Washington, D.C. 20461

George B. Breznay,

Director, Office of Hearings and Appeals.

May 18, 1981.

Marinas of the Future, Inc., Flushing, New York, BRO-1431, motor gasoline

On April 20, 1981, Marinas of the Future, Inc., Northern Blvd. & 125th Street, Flushing, New York 11368 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on February 25, 1981. In the Proposed Remedial Order the Northeast District found that during April 1, 1980 to October 10, 1980, Marinas of the Future, Inc. committed pricing violations in its sales of motor gasoline in the State of New York.

According to the Proposed Remedial Order, the Marinas of the Future, Inc. violation resulted in $22,581.52 of overcharges. This Notice of Objection has been transferred to the Northeast Regional Center of the Office of Hearings and Appeals for analysis.

Placid Oil Co., Dallas, Texas, BRO-1433, crude oil

On April 24, 1981, Placid Oil Company of Dallas, Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on March 30, 1981. In the PRO the Southwest District found that during 1973 to 1977, Placid sold crude oil in excess of the ceiling price regulations governing first sales of crude oil.

According to the PRO the Placid Oil Company violation resulted in $1,988,919.06 of overcharges.

R.L. Burns Corporation, Denver, Colorado, BRO-1432, crude oil

On April 21, 1981, R.L. Burns Corporation, 1860 Lincoln Street, Suite 1310, Denver, Colorado 80295 filed a Notice of Objection to a Proposed Remedial Order which the San Antonio Audit Group of the Economic Regulatory Administration (ERA) issued to the firm on March 26, 1981. In the PRO the ERA found that during the period September 1973 through January 1976, the firm overcharged its customers in sales of domestic crude oil.

According to the PRO the R.L. Burns Corporation violation resulted in $3,121,041 of overcharges.

[FR Doc. 81-15472 Filed 5-22-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[EN FRL 1822-8(b)]

Application for Waiver of Effective Date of the 1981 and 1982 Model Year Carbon Monoxide Standard for Light-Duty Motor Vehicles; Thirteenth Decision of the Administrator

I. Introduction

This is the thirteenth decision the Environmental Protection Agency (EPA) has issued under section (202)(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (g/mi) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As the introductions to the previous decisions explain, section 2029b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later model year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, however, included a new provision allowing the Administrator of EPA under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 g/mi CO standard scheduled to take effect for the 1981 and 1982 model years.[3] However, these amendments require the Administrator to promulgate interim standards in such cases which do not permit CO emission over 7.0 g/mi.[4]

EPA received CO waiver applications from Excalibur Motors, Ltd. (Excalibur) on February 4, 1981, Ford Motor Company (Ford) on February 11, 1981, and Volkswagen of America, Inc. (VW) on February 17, 1981. The Agency issued a **Federal Register** notice on February 13, 1981,[5] announcing the opportunity to comment and scheduling a public hearing on pending applications. EPA received no comments at the public hearing and consequently has relied on written information submitted to the public record by the applicants and other interested parties.

In response to waiver applications received prior to the one under consideration, EPA held eight sets of public hearings and issued 12 decisions pursuant to section 202(b)(5)(A).[6]

This decision will address the waiver requests from these manufacturers on the basis of information from these manufacturers and from other sources.[7] All of the information upon which I have based my decision on these waiver requests is included in EPA Public Docket EN-81-13.[8]

II. Summary

I am granting these waiver requests from Excalibur, Ford and VW for the model years requested for each of the engine families [9] in question in these

[1] The preceding decisions were published as follows: 44 FR 53376 (September 13, 1979); 44 FR 69417 (December 3, 1979); 45 FR 7122 (January 31, 1980); 45 FR 17914 (March 19, 1980); 45 FR 37360 (June 2, 1980); 45 FR 40030 (June 12, 1980); 45 FR 49876 (July 25, 1980); 45 FR 53400 (August 11, 1980); 45 FR 59396 (September 9, 1980); 45 FR 67753 (October 14, 1980); 46 FR 1590 (January 6, 1981); 46 FR 15689, 15768 (March 10, 1981).

[2] Regulations were promulgated on August 24, 1978, setting a CO standard of 3.4 g/mi for 1981 and later model year vehicles. 40 CFR 86.081-8(a)(1)(ii). This standard represents at least a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(C) of the Act provides, in part: The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if determines that—

(i) such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) all good faith efforts have been made to meet the standards established by this subsection;

(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii) to meet such standards.

[4] As noted in previous decisions, section 202(b)(5) of the Act requires that I make a separate assessment for each vehicle model covered by a waiver request. See, e.g., 44 FR 53376 (September 13, 1979); 44 FR 69416 (December 3, 1979); 45 FR 7122 (January 31, 1980). Thus, these earlier consolidated decisions generally have included separate decisions for individual engine families. I have distinguished among engine families primarily on the basis of engine displacement. See note 17, second consolidated decision, 44 FR 69416, 69418 (December 3, 1979).

[5] 46 FR 12326. This notice was issued in response to a letter of intent to file an application submitted by VW on January 20, 1981.

[6] EPA has included testimony received at these seven hearings, as well as all other information considered in deciding these seven groups of waiver applications, in EPA Public Dockets EN-79-4, EN-79-17, EN-79-19, EN-80-1, EN-80-9, EN-80-13, EN-80-14, and EN-80-16. These dockets have been incorporated be reference into EPA Public Docket EN-81-13 for this decision. EPA Public Docket 81-13 can be found in EPA's Central Docket Section, Gallery I, 401 M St., S.W., Washington, D.C. 20460. Copies of materials in the docket may be obtained by writing to this address at Mail Code (A-130).

[7] See the discussion on my considerations of other information in the previous waiver decisions, e.g., section III(B)(C), 44 FR 69416, 69422 (December 3, 1979).

[8] This decision uses the following abbreviation:

Ford App.—Ford Application for Waiver of 1982 Carbon Monoxide Emission Standard dated February 11, 1980, for its 3.8 liter engine family.

VW App.—Volkswagen of America Application for Waiver of 1982 Carbon Monoxide Emission standard, dated February 1981, for its 1.7L/FBC engine family.

Excalibur App.—Excalibur Automobiles Application for Waiver of the 1981 and 1982 Carbon Monoxide Emission standard, dated February 4, 1981, for its 305 CID engine family.

[9] As was the case in the earlier consolidated decisions, I am using the term in this decision to encompass the statutory language "technology processes, operating methods, or other alternatives"

Continued

proceedings. I am therefore prescribing an interim CO emission standard of 7.0 g/mi for the 1982 model year for the Ford 3.8L/V-6 and VW 1.7L feedback carburetor (FBC) engine families and 1981 and 1982 model years for the Excalibur 305 CID engine family.

I have determined that the public interest benefits from granting these waiver requests from manufacturers with substantial economic problems for models which have never been produced under the statutory CO standard outweigh the potential environmental benefits from denying these waivers.[10] I have made these decisions because each of the applications has established that it is essential to provide these manufacturers with sufficient production flexibility to improve the competitiveness of these three models under current market conditions by waiving the 3.4 g/mi statutory CO standard for the model years in question. Having made these determinations as well as all other requisite findings, I have therefore determined that these manufacturers' CO waiver applications have established that the engine families in question meet all of the statutory criteria.

III. Discussion

A. Available Technology and Public Interest

The decisions I have made here on whether to grant or deny the requested waivers turn primarily on public interest considerations involved in marketing these engine families and what technology most likely would be available to enable the engine families in question to meet the 3.4 g/mi CO standard for the model year in question. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into account costs, driveability, and fuel economy.

As was the case in the previous CO waiver decisions, this decision relies on information contained in the waiver applications and other information found in the public record.[11] I conclude on the basis of this information that the applicants have adequately established that the risks that could arise were I to deny these waiver requests at issue are significant enough that I must conclude that the requisite technology, considering costs, driveability, and fuel economy, is not available for the engine families in question, the Ford 3.8L/V-6 and VW 1.7L/FBC engine families for the 1982 model year and the Excalibur 305 CID for the 1981 and 1982 model years.

As section 202(b)(5)(C)(iv) of the Act requires, I have considered the results of NAS studies and investigations conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. The findings of the available NAS studies do not contradict my assessment regarding the availability of technology for these engine families.[12]

1. *Applicants' Positions Summarized.* Excalibur is a small manufacturer producing about 300 to 350 vehicles a year and purchasing its engines and emission control systems from General Motors Corporation (GM).[13] Excalibur stated that effective technology was unavailable because emission data from its 1981 model year certification vehicle indicated that its 1981 emissions control system was incapable of meeting the statutory standard and that Excalibur has insufficient lead time to obtain and calibrate a newer model engine/emissions control system from GM.[14] Information submitted by Excalibur indicated that it suffered large losses relative to gross sales[15] for the 1980 fiscal year. Finally, Excalibur contended that it has made continuous good faith efforts to meet emissions standards[16] and that granting this waiver request would have an insignificant effect on air quality.[17]

Ford contended that effective technology is not available to enable its new 3.8L/V-6 engine family to meet the statutory standard without unreasonable risks that production vehicles will not meet emission requirements[18] or unreasonable cost penalties.[19] Specifically, Ford stated that certification durability test data using its prototype 49-state[20] emissions system produced a deterioration factor[21] which is too high to allow Ford to meet assembly line and in-use emission requirements with an acceptable risk.[22] Ford stated that its emissions control system designed to comply with California emission requirements[23] could be recalibrated to meet the Federal statutory CO standard but only with lead time and cost penalties compared to a system it could produce under a waived standard.[24] Ford contended that it continues to suffer severe problems in sales, unemployment and profitability and that successful marketing of this engine family, which is intended to eventually replace its less fuel-efficient V-8 engine families, is essential to its rapid recovery from these problems.[25] Finally, Ford contends that, based upon the June 1980 study by the National Academy of Sciences[26] and other sources, an industry-wide waiver of the 1982 statutory CO emission standard would not be injurious to the public health.[27]

VW filed a CO waiver application for its 1982 1.7L/FBC model after withdrawing a request for reconsideration for its 1.46L model.[28] VW noted that its 1.7L fuel-injected engine family is capable of meeting the statutory standard[29] but that it needs to market the less-expensive 1.7L/FBC engine family in order to recapture lost sales of its gasoline-powered Rabbit models.[30] VW also contended that it needed a CO waiver for the 1.7L/FBC engine family in order to provide it the flexibility to improve marketability by improving driveability.[31] VW also indicated that it has experienced some economic problems in 1980 and that its sales, especially of gasoline-powered models, have recently declined.[32] VW contended that it needed to improve its

included as part of section 202(b)(5)(C)(iii) of the Act, and using the term "engine families" to encompass the statutory language "models" as in previous decisions (see, e.g., 44 FR 53376, (September 13, 1979)).

[10] Compare EPA's 4th, 8th, 11th and 12th CO waiver decisions, 46 FR 1590 (January 6, 1981); 45 FR 17914 (March 19, 1980); 45 FR 53400 (June 12, 1980); 46 FR 15689, 15768 (March 13, 1981).

[11] See note 7, *supra*.

[12] Report by the Committee on Motor Vehicle Emissions by the National Research Council of the National Academy of Sciences, dated June 30, 1980. See also discussions of the applicability of earlier NAS studies in previous CO waiver decisions; e.g., 44 FR 53376, 53386 (September 13, 1979) and 44 FR 69416, 69423, 69428 (December 3, 1979). For further discussion of how the NAS findings are consistent with my determinations relating to section 202(b)(5)(c)(iii) of the Act, see, e.g., 45 FR 67753, 67756 (October 14, 1980) and 46 FR 1590 (January 6, 1981).

[13] Excalibur App., section 1(b)(iii).

[14] Excalibur App., section 1(b)(iii).

[15] Excalibur App., section 3. Excalibur noted a 1979-1980 fiscal year loss of $2.4 million.

[16] Excalibur App., section 1(b)(iii).

[17] Excalibur App., section 1(b)(i).

[18] Ford App., section III.

[19] Ford App., sections I, III.

[20] Ford App., section III.

[21] Ford App., section III. For a discussion of "deterioration factors," see, e.g., 45 FR 7122, 7125 (January 31, 1980).

[22] Ford App., section III.

[23] California has adopted emissions standards different from those applying to the rest of the country consistent with section 209 of the Act.

[24] Ford App., section III.

[25] Ford App., section II.

[26] Ford App., sections I, IV, see also note 12.

[27] Ford App., sections I, IV.

[28] Notes, meeting between representatives from Volkswagen of America and EPA at EPA, January 13, 1981 (hereinafter VW-EPA meeting).

[29] VW App., section 3.1.

[30] VW App., sections 3.1, 3.3, 3.6.

[31] VW App., sections 4.2, 5.4.

[32] VW App., sections 3.1, 3.3, 5.6. Notes, VW-EPA meeting, January 13, 1981.

sales figures to justify current investment levels.[33] Finally, VW projected an insignificant air quality impact from granting this waiver request because sales of this vehicle model would account for only about 0.05 percent of 1982 U.S. automobile sales.[34]

2. *Waiver Applications Granted.* After due consideration of these arguments and the information submitted in support of them, I have concluded that each of the applicants has established that the applications covering the three engine families in question meet the necessary statutory requirements for receiving a waiver of the 3.4 g/mi statutory CO emission standard for the applicable model years. I have reached this determination primarily on the basis of my conclusion that it is essential to the public interest to grant waivers to allow these manufacturers, which are experiencing significant economic difficulties, additional flexibility to improve the competitiveness of these models which have never been marketed subject to the statutory standard [35] even though in some of these cases marginally marketable technology may be available even considering costs, driveability, and fuel economy. My decision to grant these waivers also stems from the risk that waiver denials may turn out to be partially erroneous;[36] that is, waiver denials might result in reducing the competitive market position, and therefore the sales levels, that these particular models (which are vital to these manufacturers' future viability at a time when these manufacturers are attempting to recover from their recent economic problems) could attain if these applicants were able to take advantage of the added flexibility a waiver might provide.[37] None of these engine families has been previously marketed under the 3.4 g/mi statutory CO emission standard.[38] For this reason, these manufacturers have not had the opportunity to use production and in-use experience to improve the competitive features (specifically, cost, driveability, and fuel economy) of any of the subject engine families produced in compliance with the 3.4 g/mi standard. Hence, without waivers they may have insufficient lead time or flexibility to optimize competitive features of these engine families for the 1981 or 1982 model years.[39]

The flexibility which temporarily relaxing the 3.4 g/mi CO standard would afford manufacturers of these particular engine families does not by itself necessarily justify granting these waivers, particularly in those cases in which it appears that technology may be available to permit a manufacturer to market an engine family with marginally acceptable cost, driveability, and fuel ecomony.[40] With the waiver applications at hand, however, all of the engine families at issue are aimed at specific market segments which are extraordinarily important to the overall marketing plans of the respective manufacturers and essential to their economic recovery.[41] The manufacturers before me have provided information that indicates that each manufacturer is suffering substantial economic problems at the present time.[42] Ford and VW especially have experienced significant sales losses during the 1980 model year and substantial financial losses for the 1980 fiscal year.[43] These problems have resulted in significant adverse social and economic reperecussions for the country, including extensive layoffs, increasing trade deficits and effects on suppliers and related industries.[44]

Granting waiver requests for the engine families at issue could allow these manufacturers the flexibility to improve the competitive marketability of some features [45] at a time when these financially troubled manufacturers are depending on successful marketing of these particular engine families in order to achieve economic recovery. Each of these manufacturers has already

[33] Notes, VW-EPA meeting, January 13, 1981.

[34] VW App., section II.

[35] The Ford 3.8L/V-6 and VW 1.7L/FBC models are being produced for the first time in the 1982 model year. Ford App., section I, II. VW App., section IV. Excalibur is just starting its 1981 model year and has not yet certified or sold 1981 model year vehicles subject to the statutory standard. Excalibur supplemental submission, March 24, 1981.

[36] See, *International Harvester* v. *Ruckelshaus*, 487 F. 2d 615, 641, (D.C. Cir., 1973). See also, 45 FR 53400 (August 11, 1980).

[37] For example, a waiver could provide VW and Ford the flexibility to offer a less costly model and VW the flexibility to improve driveability. Ford App., section III, VW App., section 3.1, 4.2. A waiver could also allow Excalibur the lead time necessary to market in the 1981 model year and spare it the expense of certifying a new engine family. Excalibur supplemental submission, March 24, 1981.

[38] Specifically, Ford and VW are marketing new engine families for the 1982 model year. Ford is introducing an innovative cast aluminum 3.8L/V-6 engine which will replace less fuel-efficient V-8 engine families and VW will produce a new 1.7L Carter feedback carburetor fuel-efficient inexpensive Rabbit model. (Ford App., sections I, II; VW App., section 3). Excalibur is applying for a waiver for its 1981 and 1982 model years for which it has not started marketing. (See notes 35, 37, *supra*).

[39] Manufacturers that have successfully certified and marketed vehicle models under the statutory 3.4 g/mi CO standard have the flexibility to "carry over" 1981 certification results for the 1982 model year and avoid incurring the engineering expense and effort necessary for a separate certification program. See also, note 37, *supra*. In addition, those manufacturers could apply their engineering efforts toward improving competitive features of these vehicles meeting the 3.4 g/mi standard using the production and marketing experience. Accord, 46 FR 1590, 1593 (January 6, 1981).

[40] For example, in previous decisions, EPA determined that marketable technology could be available to permit this VW model using an alternative engine family, the 1.7L fuel injected engine family, to meet the 3.4 g/mi CO standard, even considering cost, driveability and fuel economy. See my earlier decisions on these engine families. 44 FR 53376 (September 13, 1979); 45 FR 59396 (September 9, 1980). However, in this application VW provided new information regarding the potential risks and consequences to VW from current sales trends. Cf. VW App., section 3, Notes, VW meeting with EPA January 13, 1981.

[41] Ford App., section II. VW App., section 3. Excalibur App., section III.

[42] Ford App., section II. VW App., section 3. Notes of VW-EPA meeting, January 13, 1981. Excalibur App., III.

[43] Ford reported 12-month losses of $1.5 billion and Ford sales are down about 8 percent from the same 12-month period last year. VW of America announced 1980 losses of more than $30 million and VW's sales are down from last year. See, e.g., Wall Street Journal, March 12, 1981, sec. 1, p. 18. "VW of America Says It Had 1980 Deficit of Over $30 Million", Wall Street Journal, Feb. 23, 1981, sec. 1, p. 2, "GM Is Intensifying Cost-Cutting Drive, More Salaried Staff Could be Laid Off" (predicted that Ford is studing cuts of 8–15 percent); Wall Street Journal, Feb. 23, 1981, sec. 2, p. 26, "AMC Posts Loss of $29 Million For 4th Quarter," (Ford may lay off 15–28,000 salaried employees); Wall Street Journal, Feb. 27, 1981, sec. 1, p. 6, "GM Will Increase 2 Units' Output; Ford Plans Cuts," "Ford Sets 2 Temporary Closedowns" (total of 8,950 Ford workers idled); New York Times, Feb. 25, 1981, "Feb. 11–20 Car Sales Down 23.7 percent at Big 3", by John Holusha. (Sales running at seasonably adjusted rate of 8.4 million, well below forecasts of 10 million; Ford fell to 24 percent share); Wall Street Journal, Feb. 25, 1981, sec. 1, p. 2. "New-Car Sales Declined by 23 Percent In Mid February," (VW reported 1.3 percent increase, Ford sales declined 24 percent); New York Times, March 4, 1981, Sec. D, p. 4, "VW of America Says Sales Rose by 4.6 percent" (in February compared to February 1980 sales, 1.8 percent decline over year-to-date period compared to 1980); New York Times, March 2, 1981, sec. 1, p. 3, "Auto Makers Again Reduce Output", Leonard Apcar, (1st quarter production of 13 percent from last year: Ford down 6.6 percent, VW down .1 percent (quarter), Ford down 13.3 percent, VW down 8.6 percent (March); Wall Street Journal, March 3, 1981, Sec. 1, p. 6, "U.S. Auto Output During February Fell by Nearly 22 percent;" *Wards Automotive Reports*, Vol. 56, No. 9, p. 66, March 2, 1981, "Industry Workforce Shrinks as Automakers Change Production Strategy," (Indefinite layoffs stand at 192,950 for 4 U.S. makers, 1/4 of workforce out); "Wards Production Estimates and Statistics", p. 72, Ford production slipped from 2.0 million to 1.3 million for 23-month period.

[44] See, e.g., Ford App., section II. See, also e.g., United States International Trade Commission Decision on Certain Motor Vehicles, Publication 1110, December 1980, pp. A17–76. Automotive News, February 23, 1981, "1607 U.S.-line dealerships vanish in 1980", John K. Teahen, Jr., p. 1, (Ford lost 8.5 percent of its dealers); Wall Street Journal, March 5, 1981, sec. 1, p. 2, "Ford Tapes German Units for Loan of Over $1.2 Billion for U.S. Operations", Leonard Apcar.

[45] A waiver to 7.0 g/mi may allow a manufacturer flexibility to design an engine family to achieve better fuel economy, driveability or costs or allow a manufacturer to market alternative technology where more effective technology may be delayed. See, e.g., the eleventh CO waiver decision, 46 FR 1590, 1593 (January 6, 1981). See also, Excalibur letter, March 24, 1981; note 20, *supra*.

expended a considerable amount of cost and effort in attempting to meet the 3.4 g/mi CO emission standard [46] and to retool for these new models, thereby further limiting the resources they have available to otherwise improve the competitiveness of these models.[47] In light of these circumstances, I have determined that it is in the public interest to grant the waiver requests for these particular engine families because of the risk that denial of these waivers could limit the manufacturers' flexibility to improve the competitiveness of these important engine families and ultimately interfere with the future of these automobile manufacturers.[48]

In *International Harvester Co.* v. *Ruckelshaus*,[49] the United States Court of Appeals for the District of Columbia Circuit reviewed the Administrator's decision to deny manufacturers' requests for a one-year suspension (from 1975 to 1976) of the effective date of the statutory hydrocarbon (HC) and CO standards mandated by the 1970 version of the Act. The Court stated, among other things, that the Administrator should have considered the risks associated with the possibility of erroneously granting or denying those requests. The Court indicated that the Administrator should balance the economic costs (in terms of jobs lost and misallocated resources) possibly associated with an erroneous or only partially accurate denial versus the possible environmental benefits lost through an erroneous grant.

Under the current section 202(b)(5) of the Act, the gravity of the economic and other risks which both a waiver applicant and the public face from the possibility of an erroneous denial depends on the following two factors: (1) the likelihood that the denial, in fact, will turn out to be either erroneous or only partially accurate and (2) the severity of the adverse economic consequences which could occur as the result of an erroneous or partially accurate denial.[50]

In this case, I find that there is a significant likelihood that a decision denying any one of these waiver requests could turn out to be only partially accurate.[51] At a time when these manufacturers need to be as competitive as possible to effect an economic recovery, a partially accurate denial would risk diminishing their ability to adequately compete in market segments which are important to these manufacturers [52] thereby potentially delaying planned recovery, continuing unemployment problems, increasing economic stagnation, and limiting the increase in the number and diversity of new vehicles in use.

Alternatively, the environmental benefits from denying waiver requests for any one or all of these engine families would be insignificant.[53] Vehicles using these engine families are projected to account for less than 3 percent of total 1982 model year domestic sales.[54] Adding the number of engine families which already have waivers for the 1982 model year increases this total to only about 38 percent of projected 1982 model year U.S. sales. This is consistent with my previous findings that the CO waiver proceedings to date have shown that the 3.4 g/mi CO emission standard is generally achievable with marketable cost, driveability and fuel economy, and that waivers are appropriate only in extenuating circumstances, such as those identified here. In addition, many manufacturers, including those considered here, have made significant efforts to reduce emissions even from those engine families which have received waivers for the 1981 model year while preserving the ability of those families to maintain strong competitive positions in the domestic market. For example, serveral engine families which already had waivers at an alternative 7.0 g/mi CO emission standard generally exhibited CO emissions in certification and production which were close to or marginally below 3.4 g/mi.[55]

In addition, the air quality effect of granting waivers for other engine families, if any, which may share similar public interest considerations and incur similar adverse risks comparable to these engine families which have never been marketed in the statutory standard is also quite likely to be insignificant.[56] Finally, these engine families will continue to have to meet other regulatory requirements designed to control emissions of in-use vehicles and for which Congress provided no such flexibility to discriminately relax requirements.[57]

While Congress might not have envisioned the waiver process as a mechanism which could permit applicants to attain more competitive technology (as opposed to reasonably marketable technology considering cost, driveability and fuel economy characteristics) when it prescribed the criteria under which I may grant a waiver request, the current economic circumstances and business realities for many automobile manufacturers are significantly different from what they were when Congress adopted the CO

[46] Compare section III C of my eleventh decision. Many of the engines are already achieving emission levels close to or under 3.4 g/mi standard. See note 43, 46 FR 1590, 1593 (January 6, 1981). Specifically, Ford, VW and Excalibur have employed or attempted to employ closed-loop feed-back emission control systems. See note 65, *infra*.

[47] See e.g. Ford's contention regarding competitive disadvantage. Ford App., p. 7. See also *International Harvester*, 478 F. 2d 615, 637–638 (D.C. Cir., 1973).

[48] See generally, *International Harvester, 478 F. 2d 615, 633, 641 (D.C. Cir., 1973); 45 FR 53401, 53403 (August 1980).*

[49] 478 F. 2d 615 (D.C. Cir., 1973).

[50] *Cf. Ethyl Corp.* v. *Environmental Protection Agency*, 541 F. 2d 1, 18 (D.C. Cir., 1976) (stating that the Administrator's finding under section 211 of the Act that lead particulates "will endanger the public health and welfare" is composed of reciprocal elements of probability and severity). For example, EPA discussed the consequences of a partially accurate decision in the eighth CO waiver decision. See, e.g., 45 FR 53400, 53404. (January 31, 1981). See also, note 36, *supra*, note 51, *infra*.

[51] *Cf. International Harvester, supra*, 478 F.2d at 641: "[A] partially accurate decision would allow companies to produce but at a significantly reduced level of output." Here, companies are already producing at a lower output due to market conditions, and a waiver denial at this time could likely limit the flexibility these companies need to improve marketability (by improving cost, driveability, or fuel economy, for example) and sales. For example, a finding that technology is available may be only partially accurate if these three manufacturers believed that technology currently being developed and tested at the statutory standard faced unreasonable risks of failing assembly-line and in-use requirements and consequently delayed marketing or declined to market these models. See, e.g. Ford App., section III A. Similarly, a finding that technology is available could also be partially accurate if, in order to reduce the risks of failing to comply with the statutory standard, these manufacturers attemped to market technology which exhibited only marginally acceptable cost, driveability or fuel economy features. See e.g., Ford App., sections I, III; VW App., section 3. See also, e.g., 45 FR 17914 (March 19, 1980), 45 FR 53400 (August 11, 1980), and 46 FR 1560 (January 6, 1981).

[52] VW noted that it was particularly important for it to market a lower priced (than its 1.7L/fuel-injected model) gasoline model in the inexpensive fuel-efficient compact car market. VW App., section 3. Notes from VW meeting of January 13, 1981. Excalibur makes only two models, both using the same engine family, and claimed that it woud be unable to certify its family and continue any production without a waiver. Excalibur App., section 1. Ford stated that its 3.8L/V-6 is intended to eventually replace all of its V-8 engine familes. Ford App., sections II, III.

[53] See also section III B.

[54] Se, e.g., VW App., section 2.1; Excalibur App., section 1.6. Automotive News, November 3, 1980, p. 1, "80 V-8 output cut in half; sixes lead, but fours gain." This projection assumes 1982 model year domestic sales of about ten million vehicles.

[55] See generally, e.g., 45 FR 49876, Appendix A (July 25, 1980). 46 FR 1590 (January 6, 1980). Ford supp. submission, pp. 4–7, March 16, 1981; Ford App., section III B.

[56] *Cf.*, discussion of a similar concern in my 8th and 11th CO waiver decisions. 45 FR 53401, 43404 (August 11, 1980), and 46 FR 1590, 1594 (January 7, 1981). Most of the engine families granted waivers for the 1981 model year already have waivers for the 1982 model year. See 40 CFR 86.081–8(a)(1) and 86.082–8(a)(1). At this time manufacturers have only filed applications for three engine families which are new for the 1982 model year. See also, 46 FR 15768 (March 9, 1981).

[57] See, e.g., 45 FR 66984 (October 8, 1980).

waiver provision.[58] Under these circumstances, I find it unlikely that Congress intended me to deny applications where the benefits to the public of a waiver grant would outweigh the benefits of a waiver denial.[59] I believe the language of section 202(b)(5)(A) gives me the flexibility to provide the relief granted here.[60]

B. Protection of Public Health

Section 202(b)(5)(C) of the Act requires that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 g/mi CO standard by the vehicles of the engine family receiving the waiver. I have already examined this issue with respect to the relative consequences and risks involved in granting or denying the waiver requests for the families at issued here.[61]

I have found as a result of this examination that any adverse health effects resulting from waiving the 3.4 g/mi standard for the 1981 and 1982 model year engine families discussed in this consolidated decision would be insignificant. The same statement is true regarding the combined health effects resulting from emissions from engine families receiving waivers under the previous consolidated CO waiver decisions. As a result, protection of the public health does not require attainment of the 3.4 g/mi CO standard by the engine families here, for which I have determined that effective control technology is not available for the applicable model years.[62]

While waiving the statutory CO standards for these engine families arguably would not significantly affect public health, noticeable increases in ambient CO levels could result from granting waivers industry-wide.[63] In light of the fact that industry-wide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry consisting of engine families for which I have determined, given the relative risks at stake, that effective control technology, considering costs, driveability, and fuel economy, is not available and which I have determined are essential to the public interest (presuming these families also meet the remaining statutory criteria).[64]

C. Good Faith

In order for me to grant a waiver to any applicant, section 202(b)(5)(C)(ii) of the Act requires that I determine that the applicant in question has made all good faith efforts to meet the established emission standards. As a result, I have examined information regarding these applicants' previous and projected efforts toward meeting a 3.4 g/mi CO emission standard for the engine families in question.[65]

Each of the applicants has provided engineering, financial and technical information to support the contention that its has acted in good faith in trying to meet the 3.4 g/mi CO standard. In general, information in the record provides support for determining that each has made good faith efforts in developing emission control technology to meet the 3.4 g/mi CO standard.

As I mentioned earlier, these applicants generally have already made significant progress in developing the technological capabilities of these engine families to meet the 3.4 g/mi CO emission standard.[66] Evidence of such improved CO emissions control capabilities[67] substantiate these applicants' claims that they have generally exercised good faith efforts toward meeting the statutory standard and are therefore not benefitting from a potentially inequitable competitive advantage they migh achieve by avoiding the good faith effort requirement of the act and being unjustifiably granted a waiver.[68]

IV. Conclusion and Interim Standards

Each of the three engine families which were the subject of this decision are covered by waiver applications which met the requirements for receiving a waiver under section 202(b)(5)(C) of the Act. As a result, I am granting a waiver of the effective date of the statutory CO emission standard for the Ford 3.8L/V-6 and VW 1.7L/FBC engine families for the 1982 model year and for the Excalibur 305 CID engine family for the 1981 and 1982 model years.

Pursuant to section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations prescribing an interim CO emission standard for 1981 and 1982 model year vehicles of 7.0 g/mi for the engine families receiving a waiver. For these engine families, this action continues in effect through the 1982 model year the CO emission standard applicable to all 1980 model year light-duty vehicles.

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[58] The Court in *International Harvester* adopted a similar approach in interpreting Congress' intent:

> The Court must seek to discern and reconstruct what the legislature that enacted the statute would have contemplated for the court's action if it could have been able to foresee the precise situation. It is in this perspective that we have not flinched from our discussion of the economic and ecological risks inherent in a wrong decision by the Administrator.

478 F. 2d 615, 648 citing *Montana Power Co. v. FPC*, 144 U.S. App., D.C. 263, 270, 445 F. 2d 739, 746 (*en banc, 1970), cert.* denied 400 U.S. 1013, 91 S. Ct. 566, 27 L. Ed. 2d 627 (1971).

[59] The flexibility which Congress explicitly afforded me through the waiver provision (which is similar to its legislative predecessor, the suspension provision) in implementing the 3.4 g/mi CO standard, gives me a unique opportunity to accommodate these concerns which waiver applicants have raised here. See, e.g., the legislative history for the suspension provision in the 1970 Act: 116 Cong. Rec. 33120, (Senator Baker); 33081 (Senator Griffin); 32905 (Senator Muskie) (1970).

[60] Cf., 45 FR 17914 (March 19, 1980); 45 FR 53400 (August 11, 1980); 46 FR 1590 (January 6, 1981); 46 FR 15798 (March 13, 1980).

[61] See section III A(2).

[62] See, e.g., my discussion of ambient air quality effects in my first consolidated CO waiver decision. App. B, 44 FR 53376, 53402, 53407 (September 13, 1979) and 44 FR 69416, 69146, 69458–69462 (December 3, 1979). The engine families receiving waivers under my previous CO waiver decisions constitute less than 34 percent of the total projected 1982 model year light-duty vehicle sales in the United States. 46 FR 1590, 1597, n.83 (January 6, 1980). These manufacturers projected sales of about 3 percent of all vehicle sales in the 1982 model year. See e.g., 46 FR 15768, 15770 (March 13, 1981).

[63] For further discussion concerning this issue see the first decision, 44 FR 53376, 53381 and Appendix B at 44 FR 54402–53047 (September 13, 1979).

[64] I discussed the ambient air quality effect of granting CO waivers in each Appendix B in two previous decisions, 44 FR 53376, 53402–53407 (September 13, 1979) and 44 FR 69416, 69456–69462 (December 3, 1979).

The National Automobile Dealers Association (NADA) suggested that I grant industry-wide waivers (NADA submission, March 6, 1981) based, in part, upon the recent report "To Breathe Clean Air" by the National Commission on Air Quality (February 1981). Since I am granting all of the waiver requests at issue here, I need not reach the question posed by NADA's submission.

[65] See, e.g., 45 FR 49876, 49881 (July 25, 1980) and 45 FR 53400, 53404, 53405 (August 11, 1980). VW noted that it had developed and is marketing more costly technology capable of meeting the statutory standard. VW App., sections 1, 3. Certification durability emissions data from one of the Ford 3.8L/V-6 test vehicles indicate that this system had some potential to meet the statutory standard except for the risks associated with the relatively high deterioration factor. Ford App., section III.

Excalibur indicated that its new 1981 model year engine emissions system might be able at least to certify to a CO standard of 3.47 g/mi. Excalibur App., section 1(a).

[66] See section IIIB(1).

[67] See note 46, *supra*. See generally, e.g., 46 FR 1590, 1594 (January 6, 1981).

[68] *International Harvester, supra*. 478 F. 2d 615, 637, 638 (D.C. Cir, 1973). See also Ford App., section 2. Each of these applicants had developed or attempted to develop or utilized electronic feedback control fuel systems for the models in question. Excalibur App., p. section 1(b)(iii); Ford App., section 1(b)(iii); VW App., section 4.

Dated: May 15, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

[FR Doc. 81-15503 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-33-M

[AD-FRL-1836-5]

Assessments of Human Exposure to Atmospheric Concentration of Selected Chemicals; Public Comment Period.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: This notice extends the period from May 11, 1981 through June 15, 1981 for public comment of the adequacy of the Systems Applications, Inc. (SAI) and SRI, International (SRI) exposure methodologies and the accuracy of the exposure assessments.

DATES: Comments on the above reports should be postmarked no later than June 15, 1981.

ADDRESSES: A copy of the above reports may be obtained from the U.S. Department of Commerce, National Technical Information Service, Springfield, Virginia 22161, telephone number 703-487-4650. Please request publication numbers PB-81-193252 (cost $33.50) and PB-81-193260 (cost $30.50) when ordering the two Systems Applications, Inc. reports, and publication number PB-81-193278 (cost $21.50) for the SRI, International report. Those interested in obtaining copies of all three volumes should request publication number PB-81-193245 (total cost $83.50). Those previously requesting reports from the U.S. Environmental Protection Agency library and not receiving copies before EPA's supply was distributed, will be notified by the library to submit their request to the National Technical Information Service.

Comments should be sent in duplicate to Mrs Nancy Riley, Strategies and Air Standards Division, (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number 919-541-5502 (FTS 629-5502).

FOR FURTHER INFORMATION CONTACT: Mrs. Nancy Riley, (919) 541-5502 (FTS 629-5502).

SUPPLEMENTARY INFORMATION: On March 10, 1981, the Environmental Protection Agency announced in the **Federal Register** (46 FR 15938) the availability of two reports estimating public exposure to selected chemicals of concern that are emitted into the atmosphere. Interested individuals were invited to comment on the adequacy of the exposure methodologies and the accuracy of the assessments.

Due to the unexpected number of requests for the Systems Applications, Inc. report and the delay in making more copies available for distribution, EPA is extending the comment period by five weeks through June 15, 1981. In addition, because of the high duplicating costs, EPA can no longer supply copies. Copies of both exposure reports will only be available, for a fee to cover printing and distribution costs, from the National Technical Information Service.

Dated: April 23, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 81-15509 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL COMMUNICATIONS COMMISSION

FM Translator Applications Accepted for Filing and Notification of CutOff Date

Released: May 18, 1981.

Cutoff Date: July 6, 1981.

Notice is hereby given that the applications listed in the attached appendix below are accepted for filing. They will be considered to be ready and available for processing after July 6, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 6, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than the close of business on July 6, 1981.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on July 6, 1981.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

FM Translator Applications

BPFT-810121IF (new), Casper, Wyoming, John C. Learned, Req: Channel 269, 101.7 MHz, 10 watts, Primary: KKAZ-FM, Cheyenne, Wyoming

BPFT-810123IA (new), Pullman, Washington & Moscow, Idaho, Fine Arts Radio, Req: Channel 210, 89.9 MHz, 10 watts, Primary: BPED-801114AB, Richland, Washington

BPFT-810123IB (new), Wenatchee, Washington, Fine Arts Radio, Req: Channel 211, 90.1 MHz, 10 watts, Primary: BPED-801114AB, Richland, Washington

BPFT-810123IC (new), Clarkston, Washington & Lewiston, Idaho, Fine Arts Radio, Req: Channel 212, 90.3 MHz, 10 watts, Primary: BPED-801114AB, Richland, Washington

BPFT-810123ID (new), Yakima & Cowiche, Washington, Fine Arts Radio, Req: Channel 212, 90.3 MHz, 10 watts, Primary: BPED-801114AB, Richland, Washington

BPFT-810123IE (new), Ellensburg & Kittitas, Washington, Fine Arts Radio, Req: Channel 212, 90.3 MHz, 10 watts, Primary: BPED-801114AB, Richland, Washington

BPFT-810123IF (new), Moses Lake, Washington, Fine Arts Radio, Req: Channel 212, 90.3 MHz, 10 watts, Primary: BPED-801114AB, Richland, Washington

BPFT-810123JH (new), Lemon & Switzer Creek Basins and East Twin Lakes areas of Juneau, Alaska, Capital Community Broadcasting, Inc., Req: Channel 269, 101.7 MHz, 10 watts, Primary: KTOO-FM, Juneau, Alaska

BPFT-810203KK (new), Randolph & Woodruff, Utah, Rich County, Req: Channel 257, 99.3 MHz, 10 watts, Primary: KALL-FM, Salt Lake City, Utah

BPFT-810203KL (new), Randolph & Woodruff, Utah, Rich County, Req: Channel 288, 105.5 MHz, 10 watts, Primary: KISN-FM, Salt Lake City, Utah

BPFT-810203KM (new), Laketown & Garden, Utah, Rich County, Req: Channel 221, 92.1 MHz, 10 watts, Primary: KSOP-FM, Salt Lake City, Utah

BPFT-810203KN (new), Laketown & Garden City, Utah, Rich County, Req: Channel 272, 102.3 MHz, 10 watts, Primary: KISN-FM, Salt Lake City, Utah

BPFT-810203KO (new), Laketown & Garden City, Utah, Rich County, Req: Channel 285, 99.3 MHz, 10 watts, Primary: KALL-FM, Salt Lake City, Utah

BPFT-810203KP (new), Randolph & Woodruff, Utah, Rich County, Req: Channel 244, 96.7 MHz, 10 watts, Primary: KSOP-FM, Salt Lake City, Utah

BPFT-810210KG (new), Grand Rapids, Minnesota, Tower Comms, Inc., Req: Channel 280, 103.9 MHz, 10 watts, Primary: WAKX-FM, Duluth, Minnesota

BPFT-810210KH (new), Waldron and Rural areas, Arkansas, Chuck Crisler, d.b.a. Mid-South Translators, Req: Channel 232, 94.3 MHz, 10 watts, Primary: KACJ-FM, New Greenwood, Arkansas

BPFT-810213KG (new) Havana, Arkansas, Chuck Crisler, d.b.z. Mid-South Translators, Req: Channel 285, 104.9 MHz, 10 watts, Primary: KACJ-FM, New Greenwood, Arkansas

BPFT-810217KQ (new), Jenny Lind & Greenwood, Arkansas, Chuck Crisler d.b.a. Mid-South Translators, Req: Channel 269, 101.7 MHz, 10 watts, Primary: KLAZ-FM, Little Rock, Arkansas

BPFT-810218KE (new), A portion of Oklahoma City and Moore, Oklahoma, G.F. Abendroth et al., d.b.a. Mid America Media

Co., Req: Channel 296, 107.1 MHz, 10 watts, Primary: KKLR-FM, Edmond, Oklahoma
BPFT-810220KG (new), Flagstaff, Arizona, Michael Newton Ferguson, Req: Channel 221A 92.1 MHz, 10 watts, Primary: KDKB-FM, Flagstaff, Arizona
BPFT-810223KF (new), Boulder, Utah, Town of Boulder, Req: Channel 280, 103.9 MHz, 10 watts, Primary: KSFI-FM, Salt Lake City, Utah
BPFT-810224KE (new), Kamiah, Idaho, 4-K Radio, Inc., Req: Channel 221 92.1 MHz, 10 watts, Primary: KORT-FM, Grangeville, Idaho
BPFT-810224KF (new), Livingston, Montana, Yellowstone Broadcasting Services, Inc., Req: Channel 265A, 100.9 MHz, 10 watts, Primary: KYBS-FM, Livingston, Montana
BPFT-810224KG (new), Opheim, Montana, KVCK, Inc., Req: Channel 269, 101.7 MHz, 10 watts, Primary: KYZZ-FM, Wolf Point, Montana
BPFT-810226KE (W244AC), Erie, Pennsylvania, The Cornerston of Erie County, Req: Change frequency to Channel 252, 983 MHz
BPFT-810302IA (K228AE), Mason City, Iowa, Grace Baptist Church, Req: Change the primary station to the Moody Bible Institute
BPFT-810309IB (new), Parachute, Colorado, Parachute Committee for FM, Req: Channel 261, 100.1 MHz, 10 watts. Primary: KQIX-FM, Grand Junction, Colorado
BPFT-810312IA (new), Astoria, Oregon, Astoria Gospel Echo, Inc., Req: Channel 244, 96.7 MHz, 10 watts, Primary: KPBQ-FM, Portland, Oregon
BPFT-810313IB (new), Pierce, Idaho, 4-K Radio, Inc., Req: Channel 240, 95.9 MHz, 10 watts, Primary: KLER-FM, Orofino, Idaho
BPFT-810313IC (new), Eureka and Diamond Valley, Nevada, Eureka Television District, Req: Channel 271, 102.1 MHz, 10 watts, Primary: KSFI-FM, Salt Lake City, Utah
BPFT-810326IB (new), Colstrip, Montana, Colstrip Television District, Req: Channel 280, 103.9 MHz, 10 watts, Primary: KOOK-FM, Billings, Montana
BPFT-810330IC (new), Glenwood Springs, Colorado, Recreation Broadcasting of Aspen, Inc., Req: Channel 288, 105.5 MHz, 10 watts, Primary: KSPN-FM, Aspen, Colorado
BPFT-810331IA (new), Pine Bluffs, Wyoming, Kermit G. Kath, d.b.a. Kath Broadcasting Company, Req: Channel 244, 96.7 MHz, 10 watts, Primary: KERM-FM, Torrington, Wyoming
BPFT-810331IB (new), Clinton, Iowa, Clinton Media Association, Req: Channel 224,92.7 MHz, 10 watts, Primary: KEAR-FM, San Francisco, California
BPFT-810331IC (new), Catskill, Cairo, New York, Castskill Christian Media Committee, Req: Channel 244, 96.7 MHz, 1 watt, Primary: WFME-FM, Newark, New Jersey
BPFT-810331ID (new), Urbana, Homer, Illinois, Urbana Media Association, Req: Channel 244, 96.7 MHz, 1 watt, Primary: KEAR-FM, San Francisco, California
BPFT-810331KD (new), Menard, Texas, Sonora Broadcasting Co., Inc., Req: Channel 272, 102.3 MHz, 10 watts, Primary: KVRN-FM, Sonora, Texas
BPFT-810331KE (new), Elgin, Sycamore, Illinois, Elgin Media Association, Req: Channel 220, 91.9 MHz, 1 watt, Primary: KEAR-FM, San Francisco, California
BPFT-810331KF (new), Bettendorf, Iowa, Bettndorf Media Association, Req: Channel 228, 93.5 MHz, 10 watts, Primary: KEAR-FM, San Francisco, California
BPFT-810406IC (new), Eldridge, Iowa, University of Northern Iowa, Req: Channel 274, 102.7 MHz, 10 watts, Primary: KUNI-FM, Cedar Falls, Iowa
BPFT-810406ID (new), Parachute, Colorado, Colorado West Broadcasting, Inc., Req: Channel 244, 96.7 MHz, 10 watts, Primary: KMTS-FM, Glenwood Springs, Colorado
BPFT-810406IE (new), Thermopolis, Wyoming, KWOR, Inc. Req: Channel 288, 93.5 MHz, 10 watts, Primary: KENB-FM, Worland, Wyoming
BPFT-810409IA (new), Redlands-Loma Linda, California, Lincoln and Sylvia Deliar, Req: Channel 255, 98.9 MHz, 10 watts, Primary: KGGI-FM, Riverside, California
BPFT-810413IF (new), Stariski Creek, Alaska, Alaska Village Missions, Inc., Req: Channel 265, 100.9 MHz, 10 watts, Primary: KHVN-FM, Anchorage, Alaska
BPFT-810413IG (new), Kenai-Soldotna, Alaska, Alaska Village Missions, Inc., Req: Channel 296, 107.1 MHz, 10 watts, Primary: KHVN-FM, Anchorage, Alaska
BPFT-810413IH (new), Clam Gulch, Alaska, Alaska Village Missions, Inc., Req: Channel 285, 104.9 MHz, 10 watts, Primary: KHVN-FM, Anchorage, Alaska
BPFT-810413IJ (new), Pine Ridge, Oglala, South Dakota, Red Cloud Indian School, Inc., Req: Channel 288, 105.5 MHz, 10 watts, Primary: KINI-FM, St. Francis, South Dakota
BPFT-810413IK (new), Rehinbeck Hyde Park, Red Hook, New York, Media Associates of the First Baptist Church, Req: Channel 237, 95.3 MHz, 1 watt, Primary: WFME-FM, Newark, New Jersey
BPFT-810416IA (new), Archbold, Ohio, Archbold Evangelical Mennonite Church, Req: Channel 221, 92.1 MHz, 1 watt, Primary: WPOS-FM, Holland, Ohio
BPFT-810309IA (K237AP), Richfield, Utah, Sanpete County Broadcasting, Co., Req: Change frequency to Channel 257, 99.3 MHz
BPFT-810422IB (new), Victoria, Texas, James L. Barnhouse, Req: Channel 288, 105.5 MHz, 10 watts, Primary: KIOU-FM, Corpus Christi, Texas

[FR Doc. 81-15467 Filed 5-22-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-22]

TV Broadcast Application Accepted for Filing and Notification of Cutoff Date

Released: May 14, 1981.

Cutoff Date: June 25, 1981.

Notice is hereby given that the application listed below is accepted for filing. Because the application listed below is in conflict with an application which was accepted for filing and listed previously as subject to a cutoff date for conflicting applications, no application which would be in conflict with the below-listed application will be accepted for filing.

Petitions to deny the application listed below and minor amendments thereto must be on file with the Commission not later than the close of business on June 25, 1981. The application previously accepted for filing and in conflict with the below-listed application may also be amended as a matter of right not later than the close of business on June 25, 1981. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's rules.

BPCT-810302KF (new), Reno, Nevada, High Country Broadcasting, Inc., Channel 27, ERP: Vis. 877 kW; HAAT: 2930 feet.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15466 Filed 5-22-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Allied Bancshares, Inc.; Formation of Bank Holding Company

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Jetero Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15486 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Ashland Capital Corp., Inc.; Formation of Bank Holding Company

Ashland Capital Corporation, Inc., Ashland, Alabama, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Ashland, Ashland, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15477 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 13, 1981.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106:

1. Industrial National Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Kansas: to engage *de novo* through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages, the servicing of residential mortgage loans and insurance agency activities for the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office to be located in Wichita, Kansas, serving the following Kansas counties: Butler, Cowley, Harper, Harvey, Kingman, Reno, Sedgwick and Sumner.

2. Industrial National Corporation, Providence, Rhode Island (consumer finance and insurance activities; Wisconsin): to engage *de novo* through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance and insurance agency activities for the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office located in Racine, Wisconsin, serving the following Wisconsin counties: Kenosha, Racine and Walworth.

3. Industrial National Corporation, Providence, Rhode Island (financing; Missouri): to engage *de novo* through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance. This activity would be conducted from an existing office located in Clayton, Missouri, serving the Missouri counties of Jefferson, St. Charles and St. Louis.

4. Industrial National Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Wisconsin): to engage *de novo* through its indirect subsidiary, Amortized Mortgages, Inc., in the origination and sale of residential mortgages, the servicing of residential mortgage loans and insurance agency activities for the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office to be located in Janesville, Wisconsin, serving the following Wisconsin counties: Adams, Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Lafayette, Richland, Rock, Sauk and Vernon.

5. Industrial National Corporation, Providence, Rhode Island (financing and insurance activities; Idaho, Colorado, Wyoming, Nevada, and Utah): to engage *de novo* through its indirect subsidiary, Kensington Mortgage and Finance Corp., in the origination, sale and servicing of mobile home loans, insurance agency activities for the sale of credit life and credit accident and health insurance sold in connection with extensions of credit and insurance agency activities for the sale of property and casualty insurance sold in connection with extensions of credit. These activities would be conducted from a new office in Murray, Utah serving the states of Utah, southern Idaho, western Colorado, western Wyoming and Elko, Eureka, Lincoln and White Pine Counties in Nevada, except for the sale of property and casualty insurance which will be provided only in Utah and southern Idaho.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

Omaha National Corporation, Omaha, Nebraska (mortgage banking activities; Kansas): to engage through its subsidiary, Realbank, Inc., in mortgage banking activities, including soliciting and processing residential mortgage loans for sale to permanent investors, loans will be primarily FHA insured or VA guaranteed loans, conventional loans would be processed only when take-out commitments are available. These activities would be conducted from an office in Wichita, Kansas, serving a one hundred mile radius of Wichita, Kansas, excluding any area of the State of Oklahoma. Comments on this application must be received not later than June 15, 1981.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15483 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Nova Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 18, 1981.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. Bankamerica Corporation, San Francisco, California (industrial loan activities; Utah): to engage through its indirect subsidiary, FinanceAmerica Thrift Corporation, a Utah corporation, in the activities of an industrial loan corporation under the Utah Industrial Loan Law. Such activities will include, but not be limited to, issuing investment certificates and accepting savings accounts; making consumer installment loans; making loans and other extensions of credit to small businesses; making loans secured by real and personal property. These activities will be conducted from a *de novo* office in Orem, Utah, serving the state of Utah.

2. Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; Wisconsin): to engage, through its indirect subsidiary, Financeamerica Corporation, a Wisconsin corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing such loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance and credit-related property insurance. Such activities will include, but will not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property, and offering credit-related life, accident and health and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation.

These activities will be conducted from a *de novo* office located in Madison, Wisconsin, serving the state of Wisconsin.

U.S. Bancorp, Portland, Oregon (commercial finance and leasing; Alaska, Arizona, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington and Wyoming): to engage through its subsidiary, U.S. Bancorp Financial, Inc., in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including but not limited to, commercial, rediscount, installment sales contracts and other forms of receivables, and leasing of personal property and equipment. These activities will be performed from an office in Bellevue, Washington, serving Alaska, Idaho, Montana, Oregon, and Washington; and from an office in Denver, Colorado, serving Arizona, Colorado, Nevada, Utah and Wyoming.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15495 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Cen-La Bancshares, Inc.; Formation of Bank Holding Company

Cen-La Bancshares, Inc., Marksville, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Central Louisiana Bank & Trust Company, Marksville, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15485 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Cozad Elevators, Inc.; Acquisition of Bank

Cazad Elevators, Inc., Cozad, Nebraska, has applied for the Board's approval under section 3(a) of the Bank Holding Company Act (12 U.S.C. 1842(a)) to acquire 80 percent or more of the nonvoting shares of Wilber State Company, Wilber, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15478 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Harrisonville Bancshares, Inc.; Formation of Bank Holding Company

Harrisonville Bancshares, Inc., Harrisonville, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 91.3 percent of the voting shares of Allen Bank and Trust Company, Harrisonville, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15479 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Hawkeye Bancorporation; Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Jackson State Bank and Trust Company, Maquoketa, Iowa. The factors that the considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 17, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15491 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Hilltop Bancshares, Inc.; Formation of Bank Holding Company

Hilltop Bancshares, Inc., Bennington, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Bank of Bennington, Bennington, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifially any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15493 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Mansfield Bancshares, Inc.; Formation of Bank Holding Company

Mansfield Bancshares, Inc., Mansfield, Louisiana, has applied for the Board's approval under secton 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Mansfield Bank and Trust Company, Mansfield, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15492 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Metro Bancorp, Inc.; Formation of Bank Holding Company

Metro Bancorp, Inc., Farmington Hills, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to Metropolitan National Bank of Farmington, Farmington Hills, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15480 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Minnehaha Bancshares, Inc.; Formation of Bank Holding Company

Minnehaha Bancshares, Inc., Sioux Falls, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank in Sioux Falls, Sioux Falls, South Dakota. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15481 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Padgett Agency, Inc.; Proposed Acquisition of Greenleaf Development Company, Inc.

Padgett Agency, Inc., Greenleaf, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Greenleaf Development Company, Inc., Greenleaf, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of promoting, fostering, stimulating, developing, encouraging and advancing the sound business, industrial and economic development, prosperity, welfare and expansion of Greenleaf, Kansas and vicinity; of encouraging and assisting through loans, investments or other business transactions the location of new business and industry in Greenleaf, Kansas and vicinity; of rehabilitating and assisting existing business and industry in Greenleaf, Kansas and vicinity; of stimulating and assisting in the expansion of any kind of business activity which would tend to promote the business development and maintain the economic stability of Greenleaf, Kansas and vicinity, provide maximum opportunities for employment, encourage thrift and improve the standard of living of the citizens of Greenleaf, Kansas and vicinity; of cooperating and acting in conjunction with other organizations, public or private, including the Small Business Administration, an agency of the United States Government, in the promotion and advancement of industrial, commercial, agricultural and recreational development in Greenleaf, Kansas and vicinity; and of providing financing for the promotion, development and conduct of all kinds of business activity in Greenleaf, Kansas and vicinity; provided, however, that the primary objective is to benefit the community of Greenleaf, Kansas and vicinity as measured by increased employment, payroll, business volume and corresponding factors and indirect benefits rather than monetary profits or a return of an investment in the shares of the capital stock of Greenleaf Development Company, Inc. These activities would be performed from offices of Applicant's subsidiary in Greenleaf, Kansas, and the geographic areas to be served are Greenleaf, Kansas, and vicinity. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 18, 1981.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15487 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Remer Bancorporation, Inc.; Formation of Bank Holding Company

Remer Bancorporation, Inc., Remer, Minnsota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.9 percent or more of the voting shares of Security State Bank of Remer, Remer, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15489 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Steele BanCorp; Formation of Bank Holding Company

Steele BanCorp, Cherokee, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 percent or more of the voting shares of The Steele State Bank, Cherokee, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15482 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Shidler Bancshares, Inc.; Formation of Bank Holding Company

Shidler Bancshares, Inc., Shidler, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Shidler State Bank, Shidler, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 11, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15484 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Texas American Bancshares, Inc.; Acquisition of Bank

Texas American Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Empire Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15488 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Walker Ban Co.; Formation of Bank Holding Company

Walker Ban Co., Walker, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.05 percent of the voting shares of The First National Bank of Walker, Walker, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 18, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15490 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

Wood Lake Bancorporation; Formation of Bank Holding Company

Wood Lake Bancorporation, Wood Lake, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Wood Lake Corporation, Wood Lake, Wood Lake, Minnesota, and thereby, its subsidiary bank, State Bank of Wood Lake, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Wood Lake Bancorporation, Wood Lake, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of a general insurance agency in a town of less than 5,000 population. These activities would be performed from offices located in Wood Lake, Minnesota, and the geographic area to be served is the 100 square mile area immediately surrounding and including the town of Wood Lake, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than June 18, 1981.

Board of Governors of the Federal Reserve System, May 18, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-15494 Filed 5-22-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0097]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

Correction

In FR Doc. 81-11880 appearing at page 22810 in the issue of Tuesday, April 21, 1981, please make the following change:

On page 22812, under the column entitled "Other information", item #1,

first line, the word "Insolex" should be corrected to read "Inolex".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 44219]

New Mexico; Application

May 18, 1981.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 10-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 17S., R. 32 E., NMPM
Sec. 21: SE¼SW¼;
Sec. 28: N½NW¼;
Sec. 29: SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 31: SE¼NE¼, N½SE¼, SW¼SE¼;
T. 18 S., R. 31 E., NMPM
Sec. 1: NE¼SE¼;
Sec. 11: E½SE¼;
Sec. 12A NW¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼:
Sec. 14: N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 15: SE¼SE¼;
Sec. 22: N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼;
Sec. 27: N½NW¼, SW¼NW¼, NW¼SW¼;
T. 18S., R. 32 E., NMPM
Sec. 6: Lots 2, 3, 5, 6, SE¼NW¼.

These pipelines will convey natural gas across 7.802 miles of public land in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Richard Bastin,

District Manager.

[FR Doc. 81-15534 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 44227]

New Mexico; Application

May 18, 1981.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc. has applied for one 6-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 22 S., R. 31 E., NMPM
Sec. 24: S½NE¼.
T. 22 S., R. 32 E., NMPM
Sec. 13: S½SW¼, N½SE¼, SW½SE¼;
Sec. 14: S½S½;
Sec. 15: S½S½;
Sec. 19: N½NE¼, E½NW¼;
Sec. 20: N½N½;
Sec. 21: N½N½;
Sec. 22: NW¼NW¼.

These pipelines will convey natural gas across 6.799 miles of public land in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Richard W. Bastin,

District Manager.

[FR Doc. 81-15538 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

[A-8927]

Public Lands in Graham County, Ariz.

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Township 6 South, Range 26 East, G&SRM
Sec. 1: Lot 17, 18;
Sec. 18: Lot 6, 7, 8, 9, 10, 11, 12, 13, W½NE¼NW¼, W½NW¼, SE¼NW¼.
Township 6 South, Range 27 East, G&SRM
Sec. 7: Lot 9, 12;
Sec. 18: Lot 5, 6, 7, 8, 9.

Containing 502.38 acres more or less.

In exchange for these lands, the Federal Government will acquire non-Federal land in the Apache-Sitgreaves National Forest in Coconino County, Arizona, from Kennecott Copper Corporation. The description of the non-Federal land is as follows:

Township 13 North, Range 12 East, G&SRM
Sec. 1: N½SW¼, SW¼SW¼, NW¼SE¼SW¼;
Township 13 North, Range 13 East, G&SRM
Sec. 7: Lot 9, 10.

The purpose of the exchange is to acquire non-Federal lands within the forest for Federal programs and better land management. The exchange is consistant with the Bureau's planning for the lands involved. The exchange has been discussed with Graham and Coconino County officials. The public interest will be weell served by making the exchange.

The value of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States of funds in the amount not to exceed 25% of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: There will be reserved to the United States rights-of-way for ditches and canals pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945. There are no reservations concerning the mineral estate. The non-Federal land to be acquired will be subject to the following reservations, terms and comditions: There will be reserved to Southwest Forest Industries, its successors and assigns, the right to cut and remove from the property until May 20, 1987, all timber located thereon more than twelve inches (12") in diameter, breast high at the time of cutting, together with the right to build and maintain ingress and egress as necessary.

Detailed information concerning the exchange, including the environmental assessment and the record of public input, is available for review at the Safford District office, 425 East 4th Street, Safford, Arizona 85546.

For a period of 45 days, interested parties may submit comments to the District Manager, Safford District office, 425 East 4th Street, Safford, Arizona 85546.

Dated: May 13, 1981.

Fritz V. Rennebaum,

Acting District Manager.

[FR Doc. 81-15533 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

Upland Petroleum Leasing-Alaska; Invitation Geophysical Permit Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation to submit applications.

SUMMARY: The Department of the Interior is accepting applications from industry and the public for permits to conduct geophysical exploration on applicable Federal lands, pursuant to Section 1008 of the Alaska National

Interest Lands Conservation Act (ANILCA).

ADDRESS: Applications should be submitted to the following address:

For BLM-administered lands: District Manager, Anchorage District Office, 4700 E. 72nd Avenue, Anchorage, Alaska 99507

or

District Manager, Fairbanks District Office, Post Fort Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707

For National Forest lands: Regional Forester, U.S. Forest Service, Federal Office Building, Box 1628, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management at (907) 271-5069 in Alaska, or (202) 343-7722 in Washington, D.C.; or the U.S. Forest Service at (907) 586-7247 in Alaska or (703) 235-8105 in Washington, D.C.

SUPPLEMENTARY INFORMATION: The Department of the Interior invites interested parties to submit applications for geophysical exploration permits for oil and gas assessment on certain lands in Alaska. These lands are public lands administered by the Bureau of Land Management and lands in the National Forest System with the exception of designated wilderness areas and national monuments. These lands are situated generally south of the Brooks Range and are described in more detail in the notice published at 46 FR 24307 (April 30, 1981). Units of the National Park System and the National Wilderness Preservation System are excluded as are certain other lands which are legally withdrawn from mineral leasing. This invitation is made as part of the implementation of Section 1008 of the Alaska National Interest Lands Conservation Act. Information gained from activities undertaken through these permits must be made available to the U.S. Geological Survey (USGS) upon request.

All information will be considered proprietary and will not be made public. The USGS will use the information as part of their resource assessment program and in further evaluating areas as favorable petroleum geological provinces.

Each application will be reviewed and a determination made to assure that the proposed action is consistent with the land management emphasis for the area.

For lands in the National Wildlife Refuge System to be studied under Section 1008 of ANILCA, a request for applications similar to these will be published within 120 days.

Applications should include the location of the work proposed, the dates in which the work will be performed, and a description of the methods to be used including support requirements. Prospective applicants should contact the appropriate agency prior to submitting an application to be apprised of any additional information that may be required.

Ed Hastey,

Director, Bureau of Land Management.

[FR Doc. 81-15137 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 15, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by June 10, 1981.

Carol Shull,

Chief, Registration Branch.

ILLINOIS

Coles County

Charleston, *Old Main (Livingston C. Lord Administration Building)* Lincoln Ave. and 7th St.

Cumberland County

Toledo, *Cumberland County Courthouse,* Court House Sq.

INDIANA

Wayne County

Richmond, *Richmond Gas Company Building,* 100 E. Main St.

MASSACHUSETTS

Barnstable County

Barnstable, *Barnstable County Courthouse,* Main St.

Bristol County

Fall River, *Durfee, B. M. C., High School,* 289 Rock St.

Essex County

Lynn, *Old Post Office Building,* 360 Washington St.

Norfolk County

Weymouth, *Fogg Library,* 1 Columbian St.

Plymouth County

Hull, *Point Allerton Lifesaving Station,* Nantasket Ave. at Spring St.

MINNESOTA

Wabasha County

Lake City, *Lake City City Hall,* 205 W. Center St.

TEXAS

Cameron County

South Padre Island, *USCG Port Isabel Administration Barracks Building,* Wallace L. Reed Rd.

[FR Doc. 81-15345 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Gateway National Recreation Area; Gateway Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, that a meeting of the Gateway National Recreation Area Advisory Commission will be held commencing at 3 p.m., Monday, June 15, 1981, at Federal Hall, lower level, 26 Wall Street, New York.

The Commission was established by Pub. L. 92-592 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area.

The matters to be discussed at this meeting include:

1. Status of Park—

(a) Response from Secretary to Resolution.

(b) Latest developments.

2. Budget Fiscal Year 1981. (a) Status of Funds, Construction/Planning/Operations.

3. Transportation—

(a) Status of one-way tolls.

(b) Status of ferry service.

4. Floyd Bennett Field Phase II—(a) Planning and alternatives.

5. Breezy Point Co-operative—(a) Status

6. New Business—

(a) William Fitts Ryan Visitor Center Dedication June 20th.

(b) Scheduling of next six meetings of Gateway Advisory Commission.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact Herbert S. Cables, Superintendent, Gateway National Recreation Area, Headquarters, Building #69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630-0353.

Minutes of the meeting will be available for inspection four weeks after

the meeting at the Gateway National Recreation Area Headquarters building.

Dated: May 13, 1981.

Herbert S. Cables, Jr.,

Superintendent.

[FR Doc. 81-15516 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Wednesday, June 17, 1981, in Room 234 at the National Capital Region Headquarters, 1100 Ohio Drive, SW., Washington, D.C.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Mr. Russell E. Dickenson (Chairman), Director, National Park Service, Washington, D.C.
Mrs. Helen M. Scharf, Chairman, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C.
Mr. George M. White, Architect of the Capitol, Washington, D.C.
General Mark W. Clark, Chairman, American Battle Monuments Commission
Mr. J. Carter Brown, Chairman, Commission of Fine Arts, Washington, D.C.
Honorable Marion S. Barry, Mayor of the District of Columbia, Washington, D.C.
Mr. Gerald P. Carmen, Commissioner, Public Buildings Service, Washington, D.C.

The purpose of the meeting will be to review the following memorial proposals:

A.

1. H.J. Resolution 207

To require the Secretary of the Interior to place a plaque at the United States Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial.

2. S.J. Resolution 48

To provide for the erection of an appropriate statue or other memorial in the Arlington National Cemetery to honor individuals who were combat glider pilots during World War II.

3. S. 941

To authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II.

B. Also, review draft design objectives and guidelines for the proposed Navy memorial authorized by Pub. L. 96-199 (Section 113a).

C. Also review the preliminary design for the Vietnam Veterans Memorial to be located in Constitution Gardens, West Potomac Park. This design was recently selected in a national design competition from 1,420 entries. The competition was conducted by the Vietnam Veterans Memorial Fund, sponsors of the memorial.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at (202) 426-7750. Minutes of the meeting will be available for public inspection 2 week after the meeting at the National Capital Region Headquarters, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated: May 19, 1981.

George J. Becklasy,

Acting Regional Director, National Capital Region.

[FR Doc. 81-15517 Filed 5-22-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29614]

Elgin, Joliet & Eastern Railway Co.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements for prior approval under 49 U.S.C. 11343 the trackage rights agreement for Elgin, Joliet, and Eastern Railway Company (EJ&E) to operate over approximately 2,500 feet of track owned by the Indiana Harbor Belt Railway (IHB) and approximately 384 feet of track owned by the Baltimore and Ohio Chicago Terminal Railroad Company (BOCT). Both tracks are located in Hammond (Lake County), IN.

DATES: This exemption will be effective June 25, 1981. Petitions for reconsideration of this action must be filed within 20 days after this publication.

ADDRESSES: Send petitions for reconsideration to: (1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th Street & Constitution Avenue NW., Washington, DC 20423, and (2) Petitioner's representative D. Kevin Blair, Attorney for Elgin, Joliet and Eastern Railway Company, 55 West Monroe, Suite 1500, Chicago, IL 60603.

Pleadings should refer to Finance Docket No. 29614.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Background

The Elgin, Joliet, and Eastern Railway Company (EJ&E), a common carrier by railroad, seeks exemption pursuant to 49 U.S.C. 10505 in connection with two proposed trackage rights agreements by petition filed March 23, 1981.

The agreement, dated December 1, 1980, is between EJ&E and the Indiana Harbor Belt Railroad Company (IHB). It grants EJ&E the right to use approximately one-half mile of IHB track immediately west of, and connected with, EJ&E track used in connection with its service to industries in northwest Indiana.

The other agreement, dated December 31, 1980, is with the Baltimore and Ohio Chicago Terminal Railroad Company (BOCT). It grants EJ&E a right to use approximately 384 feet of track extending east from the Illinois-Indiana State line. The easternmost end of the track connects with the track owned by the IHB and used by EJ&E under its trackage rights agreement.

In accordance with an agreement dated August 1, 1972, EJ&E had been using a 960-foot section of track owned by the Erie Lackawanna Railway Company (EL). This track extends east from the Illinois-Indiana State line to a section of EJ&E track known as the Towle Spur which is leased from EL. The Towle Spur eventually connects with a EJ&E main line track used to serve industries along Lake Michigan in northwestern Indiana.

On April 1, 1976, EL ceased operations; EJ&E has been the only railroad continuing operations on this track. The agreements will make it possible for the EL trackage to be removed.

Specifically, they give EJ&E an alternative route between the Indiana-Illinois State line and the EJ&E right-of-way one-half mile to the east. This route runs substantially parallel to and is located roughly 100 feet to the north of the route now used by EJ&E. The agreements with IHB and BOCT will provide EJ&E alternate access to its right-of-way.

The agreements will not increase, decrease, or alter the competition among carriers serving the Chicago Switching District. No industries are served solely by these lines, therefore, there will be no disruption of service.

The trackage rights agreements will benefit several railroad operations in the Chicago Switching District by reducing the cost to all parties who now pay a pro-rata share of the State Line Interlocker maintenance expense.

Discussion and Conclusions

Exemptions Criteria

The acquistion by a rail carrier of trackage rights over another rail line requires our prior approval under 49 U.S.C. 11343, pursuant to an application filed under 49 CFR Part 1111.

Under 49 U.S.C. 10505, as recently amended by section 213 of the Staggers Rail Act of 1980 (Pub. L. No. 96–448, 94 Stat. 1895, October 14, 1980), we are authorized to exempt a rail transaction where we find that (1) regulation is not necessary to carry out the rail transportation policy set forth in 49 U.S.C. 10101a, and (2) the transaction is either of limited scope or regulation of the transaction is not needed to protect shippers from the abuse of the market power.

The two trackage rights agreements under consideration involve approximately one-half mile of track which will simply provide EJ&E with an alternative route of access to its right-of-way without the need to pass over the EL tracks. Implementation of the proposed trackage rights agreements will not allow an expansion of EJ&E's service market, nor will it alter the existing rail service. The impact of the agreements will not affect the services available to any shipper located in the Chicago Switching District. Therefore, our scrutiny of this transaction is not necessary to carry out the rail transportation policy. Exempting these transactions from regulation will facilitate at least one of the objectives: to minimize the need for regulatory control, and to require expeditious decisions when regulation is necessary. 49 U.S.C. 10101a(2).

Additionally, the exemptions would avoid the undue burden of time and expense by the applicant and other parties seeking Commission approval.

Also, the agreements are of limited scope because: (1) only small segments of track are involved; (2) no significantly changed rail operations will occur; and (3) neither railroad employees, shippers, carriers, nor the environment will be affected adversely.

Having concluded that the transaction is of limited scope, we need not determine whether regulation is necessary to protect shippers from the abuse of market power.

Labor Protection

The Rail Labor Executives' Association has filed in opposition to the application, requesting conditions for the protection of employees. In granting this exemption, we may not relieve a carrier of its obligation to protect the interests of employees. See 49 U.S.C. 10505(g)(2). Therefore, as a condition to use of this exemption, we will require the uniform level of labor protection which is set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

We find: (1) Application of the requirements of 49 U.S.C. 11343 for prior approval of EJ&E's trackage rights and operations over 2,500 feet of track owned by IHG and 384 feet of track owned by BOCT is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a.

(2) This transaction is of limited scope.

(3) This decision will not relieve EJ&E from an obligation to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707.

(4) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) Pursuant to 49 U.S.C. 10505, we exempt EJ&E's acquisition of the described trackage rights over the IHB and BOCT from 49 U.S.C. 11343, subject to the employee protective conditions imposed in *Norfolk & Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

(2) Within 60 days after this transaction is consummated, EJ&E shall submit three copies of a sworn statement showing all journal entries necessary to record the transaction.

(3) This exemption shall continue in effect for one year from the effective date of this decision. The parties must consummate the transaction during that time in order to take advantage of this exemption.

(4) Notice of our action shall be given to the general public by delivery of a copy of this decision to the Director of the Federal Register, for publication.

(5) This decision shall be effective 30 days from its date of publication in the **Federal Register.**

(6) Petitions to stay the effective date of this decision must be filed no later than 10 days after the date of publication in the **Federal Register.**

(7) Petitions to reopen this proceeding for reconsideration must be filed no later than 20 days after the date of publication in the **Federal Register.**

Dated: May 15, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Acting Chairman Alexis was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–15578 Filed 5–22–81; 8:45 am]

BILLING CODE 7035–01–M

Finance Applications; Decision-Notice

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

We find:

Each transaction is exempt from section 11343 (formerly Section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive and effective notice. The notice will indicate that

consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board No. 3, The Motor Carrier Board, Members Krock, Joyce, and Dowell.

MC-FC-78955. By decision of March 27, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to ALABAMA STORAGE COMPANY, INC., d.b.a. ALABAMA-MAYFLOWER, Birmingham, AL 35211 of certificate No. MC-26544 (Sub-No. 2) issued May 6, 1975, to Alabama Storage Company, Inc. (X&Y Corp.), Dothan, AL 36301 authorizing the transportation of *used household goods,* between points in Calhoun, Cherokee, Clay, Cleburne, Etowah, Randolph, Saint Clair, Talladega, De Kalb, Bibb, Blount, Cullman, Fayette, Jefferson, Lamar, Marion, Pickens, Shelby, Tuscaloosa, Walker, and Winston Counties, AL. Representative: Jim Loftin, P.O. Box 1333, Dothan, AL 36302. No TA application has been filed. Transferee holds no authority.

MC-FC-78993. By decision of March 12, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to HAPPY TIME TOURS (THUNDER BAY) LIMITED of Certificate No. MC-127618 issued February 2, 1967 to Wagar Coach Lines, Limited authorizing the transportation over irregular routes of passengers and their baggage; in charter operations, beginning and ending at ports of entry in the United States. Canada Boundary Line, and extending to points in the United States (except those in Alaska and Hawaii), restricted to traffic originating at points on Ontario, Canada. Representative: Jeremy Kahn, Attorney-at-Law, 1511 K Street, NW, Washington, D.C. 20005.

MC-FC-79010. By decision of April 9, 1981, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132. Review Board No. 3 approved the transfer to TRANS-WAY, INC., of Avenel, NJ, of Certificate No MC-120963 and (Sub-No. 1) issued to Robert Bernard Brysh, d.b.a. Challenger Freightways, of Meridan, CT, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate C-1473 dated June 2, 1961, issued by the Connecticut Public Utilities Commission, authorizing general commodities between points in Connecticut subject to the following conditions: (1) Transferor must request in writing cancellation of Certificate of Registration No. MC-120963 (Sub-1) and (2) transferee shall prior to or concurrently with, consummation of the transaction, furnish the Commission a certified copy of the State certificate as re-issued to the acquiring party applicant, or if the State Commission does not re-issue the certificate, a certified copy of the order which approves the transfer of the intrastate certificate, together with a statement in writing confirming the date of consummation of the interstate transaction. Representative: Robert B. Pepper, 168 Woodbridge. Avenue, Highland Park, NJ 08904. Transferee is a carrier. TA lease is not sought.

Note.—No. MC-147784 (Sub-Nos. 2 and 3), published in another section of this Federal Register issue, are directly related matters.

MC-FC-79052. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to QUAD CITIES EXPRESS, INC., of Rock Island, IL, Certificate No. MC-149492 and (Sub-No. 1) F issued March 28, 1980, and December 18, 1980, to Chicago and Quad Cities Express, Inc., of Chicago, IL, authorizing the transportation of Docket No. MC-149492. Regular routes: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 MC 467, commodities in bulk, and those requiring special equipment, Between Chicago and Moline, IL, serving all intermediate points, From Chicago over U.S. Highway 66 to junction Alternate U.S. Highway 66, then over Alternate U.S. Highway 66 to Joliet, IL (also from Chicago over Illinois HIghway 4A to Joliet), then over unnumbered highway via Colona and Carbon Cliff, IL, to junction Illinois Highway 92 to Moline, and return over the same route. No. MC-149492 (Sub-No. 1 F). Regular routes: *General commodities* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment (1) between Moline, Illinois, and its commercial zone and Clinton, Iowa, and return over the same route, serving all intermediate points, and (2) between Moline, Illinois, and its commercial zone and Mascatine, Iowa, and its commercial zone; from Moline Illinois, over U.S. Highway 61 and return over the same route, serving all intermediate points. Representatives: Brian K. Ridenour, P.O. Box 82928, 1200 N. Street, 500 Atrium, Lincoln, NE 68501, and Philip A. Lee, 120 West Madison Street, Suite 618, Chicago, IL 60602.

MC-FC-79053. By decision of March 30, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to HAROLD TRUCKING, INC., of Seminary, MS, of permit No. MC-123919 issued Spetember 28, 1966, to Floyd Davia Bullock, SR., d.b.a. Floyd Bullock, of Hattiesburg, authorizing the transportation *farm supplies* from Birmingham and Mobile, AL, and New Orleans, LA, to points in MS (except points in that part of MS located west of a line beginning at Vicksburg, MS, and extending north along U.S. Hwy 61 to junction MS Hwy 3, then along MS Hwy 3 to Yazoo City, MS, then along U.S. Hwy 49W to junction U.S. Hwy 49E east of Yazoo City, MS, then along U.S. Hwy 49E to Greenwood, MS, then along MS Hwy 7 to junction MS Hwy 8, then along MS to Grenada, MS, then north along U.S. Hwy 51 to the Mississippi-Tennessee State Line), under a continuing contract, or contracts, with Mississippi Federated Cooperatives, of Jackson, MS, restricted against transportation in tank or hopper-type vehicles. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205.

MC-FC-79058. By decision April 9, 1981, issued under 49 CFR 1132, Review Board No. 3 approved the transfer to LUSIUS, INC., of Commerce City, CO, of Certificate No. MC-143199 issued January 29, 1980 to Cop's, Inc., of Commerce City, CO, authorizing the transportation of *meats, meat products, meat byproducts and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), from Denver, Ft. Morgan, Greely, and Sterling, CO, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusets, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and

the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named destination points. Representative: Richard E. Cole, 8331 Pontiac Street, Commerce City, CO 80022, (303) 289-2941.

MC-FC-79064. By decision of March 30, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board, No. 3 approved the transfer BLUE WATER TRANSPORT, a Division of International Movements, Inc. of Pasadena, MD, of Certificate No. MC-84751 and Subs 3 and 4 issued to Merchants Storage Company of Virginia, of Alexandria, VA, (Richard A. Bantl, Trustee in Bankruptcy) authorizing the transportation of used automobiles, in driveaway service, from Washington, DC, to New York, NY, and points in New York and New Jersey within ten miles of New York, NY; Baltimore, MD, Portsmouth, Newport News, and Norfolk, VA, and Philadelphia, PA, with no transportation for compensation on return except as otherwise authorized, subject to certain restrictions; *household goods* as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points within 100 miles of the District of Columbia; between Takoma Park, MD, Alexandria, VA, points in Arlington County, VA, and points in Maryland within ten miles of Takoma Park, MD, on the one hand, and, on the other, points in Pennsylvania, Delaware, Georgia, South Carolina, North Carolina, Virginia, Maryland, and Florida; *Household goods* as defined by the Commission, and *soda fountain equipment,* between Washington, DC, on the one hand, and, on the other, points in Pennsylvania, Delaware, New Jersey, New York, Rhode Island, Tennessee, Georgia, South Carolina, North Carolina, Virginia, Maryland, and Florida; *used household goods,* between the District of Columbia, Alexandria, VA, and points in Montgomery, Howard, Frederick, Carroll, Baltimore, Anne Arundel, Prince Georges, Calvert, Charles, and St. Marys Counties, MD, Baltimore, MD, and points in Arlington, Fairfax, Prince William, Stafford, Spotsylvania, King George, Facquier, and Loudon Counties, VA, subject to certain restrictions; *household goods,* between, Washington, DC, on the one hand, and, on the other, points in Illinois, Ohio, Connecticut, Kentucky, Massachusetts, West Virginia, Vermont, and Maine. Representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, DC 20006. Transferee is not a carrier. TA lease is not sought.

MC-FC-79072. By decision of March 30, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to PACIFIC INTERMODAL TRANSPORT, INC., Bothell, Washington of certificate No. MC-125551 (portion) and MC-125551 Sub 16F, issued December 3, 1969, to K & W Trucking Co., Inc., St. Cloud, Minnesota authorizing the common carrier transportation over irregular routes of (1) *general commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Alaska with the pertinent restrictions. Sub 16F *general commodities* (except classes A and B explosives), between points in the commercial zone of Seattle, WA, restricted to traffic having a prior or subsequent movement by water. Representative: Robert D. Gisvold, (612) 333-1314, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402.

MC-FC-79085. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 3 approved the transfer to NOR-PAC DISTRIBUTING CORP. of Aberdeen, WA a portion of Certificate No. MC-81495 1 and all of MC-81495 (Sub-Nos. 2 and 4) issued April 11, 1966, April 19, 1968, and May 11, 1971 to Vigilant, Inc. of Aberdeen, WA authorizing the transportation of new furniture, stoves and machinery, over a regular route, between Hoquiam, Wash., and Portland, Oreg. From Hoquiam over Washington Highway 9 to Grand Mount, Wash., thence over U.S. Highway 99 to Portland, and return over the same route. Service is authorized to and from the intermediate point of Aberdeen, Wash. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in practices of Motor Carriers of Household Goods, 17 MCC 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, between points and places within three miles of Abredeen, Hoquiam, and Cosmopolis, Washington, including Aberdeen, Hoquiam and Cosmopolis, general commodities (except those of unusual value, dangerous explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), over irregular routes, between points in Grays Harbor County, Wash., restricted to prior or subsequent interstate rail movements. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over irregular routes between Aberdeen and Hoquiam, Wash., on the one hand, and, on the other, the Wynoochee Dam Site (Grays Harbor County), Wash. Representative: George Kargianis, 2120 Pacific Bldg., Seattle, WA 98104, Omaha, NE 68102. TA application has not been filed.

MC-FC-79088. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to LOOP FLEET SERVICE, INC. of Permit No. MC-148583 and MC-148583 (Sub-No. 4F) issued September 25, 1975 to Loop Cartage, Inc. authorizing the transportation of Commodities sold in drug, apparel, chain, discount and department stores between points in Kenosha, Milwaukee, Ozaukee, Racine and Waukesha Counties, WI, Lake County, IL and Chicago, IL. Also plumbing fixtures, electric generators and internal combustion engines between the facilities of Kohler Company in Sheboygan County, WI and Chicago, IL and Milwaukee and Waukesha, WI. Subject to the following conditions if any. Representative: James L. Sernovite, 1818 N. Commerce St., Milwaukee, WI 53212.

MC-FC-79092. By decision of April 9, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to LEONARD JOSEPH HAMAEKERS, d.b.a. AMERICAN TRAIL VENTURES of Mountain View, CA of Certificate No. MC-145008 (Sub 2)F issued to Western Safaris, Inc., d.b.a. Heart of America Tours of El Paso, TX authorizing: *passengers* and their baggage, limited to transportation of not more than 20 passengers (excluding the driver) in one vehicle at one time in one-way and round-trip special operations as camping and sightseeing tours, from El Paso, TX, Denver, CO, and Los Angeles and San Francisco, CA, to points in AZ, CA, CO, NM, NV, TX and UT, and return. Representative: Leonard J. Hamaekers, 1555 W. Middlefield Rd., Mountain View, CA 94043. TA lease is not sought. Transferee is not a carrier.

MC-FC-79100. By decision of April 10, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to REYNOLD L. MIARER, an Individual of Certificate No. MC-146676

(Sub-No. 1F) issued December 2, 1980 to Burks Trucking, Inc. authorizing the transportation of *fertilizer and fertilizer ingredients,* over irregular routes, between the facilities of Ohio Farmers Grain and Supply Association, at or near Fostoria, OH, on the one hand, and, on the other, points in Indiana and Michigan. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge Street, Bublin, OH 43017.

MC-FC-79102. By decision of April 9, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MARTINO TRUCKING INC., of Rochester, PA of Certificate No. MC-128618 issued on August 3, 1967 to John L. Martino, d.b.a. Martino Trucking Co., of Rochester, PA authorizing the transportation of (1) *rough castings,* in dump vehicles, from New Brighton and Rochester, PA to Youngstown, OH; and (2) *scrap metals,* in dump vehicles, from Youngstown, OH, to New Brighton and Rochester, PA. Representative: John A. Vuono, Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219.

MC-FC-79104. By decision of April 9, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to PAUL's EXPRESS, INC., of Westwood, MA, of Certificate No. MC-17806, acquired in No. MC-FC-75731 by Ruth F. Holderried, Joseph E. Holderried, and Leo Donald Holderried, Jr., d.b.a. Paul's Express, of Westwood, MA, authorizing *General commodities* (usual exceptions), between points in Massachusetts within the miles of Boston, including Boston. Representative: Joseph E. Holderried, 198 Mill St., Westwood, MA 02090. TA lease is not sought. Transferee is not a carrier.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically 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 protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

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.

Dated: May 18, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 147784 (Sub-2), filed February 9, 1981. Applicant: TRANS-WAY, INC., Route 1 and Inman Avenue, Avenel, NJ 07001. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a common carrier by motor vehicle, over irregular routes, transporting General Commodities (except classes A and B explosives) between points in Connecticut. (Hearing site: Newark, NJ.)

Note.—This application is filed as a directly related application to finance proceeding docketed MC-FC-79010. The purpose of this application is a conversion of a certificate of registration. No. MC-FC-79010 is published in another section of this **Federal Register** issue.

MC 147784 (Sub-3), filed February 9, 1981. Applicant: TRANS-WAY, INC., Route 1 and Inman Avenue, Avenel, NJ 07001. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a common carrier by motor vehicle, over irregular routes, transporting (1) General commodities, except classes A and B explosives, between points within the territory (inclusive of the points specified) bounded by a line beginning at New York, NY, and extending in a westerly direction along NJ Hwy 4 to Paterson, NJ, thence along US Hwy 46 to junction US Hwy 202, thence along US Hwy 202 to junction US Hwy 206, thence along US Hwy 206 to Princeton, NJ, thence in a southeasterly direction along an unnumbered Hwy to Hightstown, NJ, thence along NJ Hwy 33 to junction US Hwy 9, thence along Hwy 9 to Perth Amboy, NJ, and thence in a easterly direction to New York, NY, on the one hand, and, on the other, points in CT; (2) General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, office furniture and equipment, commodities in bulk, and those requiring the use of special equipment between points in CT, on the one hand, and, on the other, Philadelphia, PA, and (3) Floor covering and materials, supplies and equipment used or useful in the installation of floor covering, from points in CT to Camden, NJ, Wilmington, DE and Baltimore, MD. (Hearing site: Newark, NJ.)

Note.—This application is filed as a directly related application to finance proceeding docketed MC-FC-79010. The purpose of this application is eliminate the gateway of Greenwich, CT. No. MC-FC-79010 is published in another section of this **Federal Register** issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc 81-15506 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application; Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

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

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

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-122

The following applications were filed in region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 155695 (Sub-1-1TA), filed May 7, 1981. Applicant: WEIDHAAS TOURS, INC., 4420 Westfield Avenue, Pennsauken, NJ 08110. Representative: Robert G. Weidhaas (same as applicant). *Passengers and their baggage in charter and special operations* from points in NJ and PA to points in the U.S. and return. There are six statements of support attached to this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 155770 (Sub-1-1TA), filed May 6, 1981. Applicant: EDWARD M. ENNIS, d.b.a. ELCO TRANSPORTATION, Route 7, Arlington, VT 05250. Representative: Edward M. Ennis (same as applicant). *Contract carrier:* irregular routes: *Molded plastic parts, and equipment, materials and supplies used in the manufacturing of molded plastic parts* from Pittsfield, MA to points east of ND, SD, NE, KS, and NM, under continuing contract(s) with Poly-Matrix, Inc. of Pittsfield, MA. Supporting shipper: Poly-Matrix, Inc., Downing Industrial Park, Pittsfield, MA 01201.

MC 147923 (Sub-1-3TA), filed May 6, 1981. Applicant: MARINE TRANSPORTATION INTERMODAL, INC., d.b.a. M T I Inc., 15 Prospect Lane, Colonia, NJ 07067. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities having a prior or subsequent movement by water* between Philadelphia, PA ports, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, and DC. Supporting shipper: United States Lines, Inc., 27 Commerce Drive, Cranford, NJ 07016.

MC 142539 (Sub-1-3TA), filed May 6, 1981. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland, NJ 08904. *Contract carrier:* irregular routes: *Chemicals or allied products (STCC Industry Grouping) steel wool and plastic bottles, except in bulk,* between points in the US except AK and HI under continuing contract(s) with Purex Corp., Briston, PA. Supporting shipper: Purex Corporation, 1414 N. Radcliffe Street, Briston, PA 19007.

MC 148893 (Sub-1-8TA), filed May 6, 1981. Applicant: WREN TRUCKING, INC., 1989 Harlem Road, Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Swimming pools, parts thereof and related commodities, and materials, supplies and equipment used in the manufacture or distribution of such commodities* between points in AR, CO, CT, DE, DC, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NC, NY, OH, OK, PA, RI, TN, TX, VT, VA, WV and WI. Restricted to traffic originating at or destined to the facilities of Kayak Recreational Manufacturing Corporation, Depew, NY. Supporting shipper: Kayak Recreational Manufacturing Corporation, 5460 Transit Road, Depew, NY 14043.

MC 146857 (Sub-1-4TA), filed May 7, 1981. Applicant: W. K. THOMAS, INC., 60 Robbins Road, Springfield, MA 01104. Representative: Patrick A. Doyle, 40 Sky Ridge Lane, Springfield, MA 01128. *Contract carrier:* irregular routes: *Sporting goods including all types of recreational sporting goods and a wide variety of National and International sports equipment,* between Chicopee, MA, Indianapolis, IN, and Reno, NV, under continuing contract(s) with Spalding, Division of Questor, Meadow Street, Chicopee, MA.

MC 149114 (Sub-1-3TA), filed May 11, 1981. Applicant: NATIONAL TRANSPORT SERVICES CO., INC., 100 Industrial Avenue, Edison, NJ 08837. Representative: Barbara R. Klein, Esq., 1101 Connecticut Avenue, NW., Suite 1000, Washington, DC 20036. *Contract carrier:* irregular routes: *Candy and confectionary food products* between M & M Mars Co. plants at or near Elizabethtown, PA, Hackettstown, NJ and Chicago, IL on the one hand, and on the other, Buffalo, NY, Atlanta, GA, Charlotte, NC, Cincinnati, Columbus, and Cleveland, OH, Detroit, MI, Jacksonville, FL, Kansas City, KS, Chicago, IL, Pittsburgh, PA, St. Louis, MO, Los Angeles and San Jose, CA, under continuing contract with M & M Mars Co. of Hackettstown, NJ. Supporting shipper: M & M Mars, Co., High Street, Hackettstown, NJ 07840.

MC 138225 (Sub-1-1TA), filed May 11, 1981. Applicant: HEDRICK ASSOCIATES, INC., R.R. No. 2, Box 10A2, Douglas Road, Far Hills, NJ 07931. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier:* irregular route: *Wine (except in bulk)* from Healdsburg, CA to Union Township, NJ, under continuing contract(s) with Beer Import Co., Inc. of Vauxhall, NJ. Supporting shipper: Beer Import Co., Inc., P.O. Box 286, Vauxhall, NJ 07088.

MC 155869 (Sub-1-1TA), filed May 11, 1981. Applicant: UNITED STATES SERVICE CORPORATION, 170 Main Street, Holyoke, MA 01040. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Contract carrier:* irregular routes: *General commodities, usual exceptions,* between points in CT and MA, on the one hand, and, on the other, points in the contiguous 48 states under continuing contract(s) with Sheldon Forwarding, CO., Inc., of Holyoke, MA and United Freight Forwarders, Inc., of Holyoke, MA. Supporting shipper: Sheldon Forwarding Co., Inc., 170 Main Street, Holyoke, MA 01040; United Freight Forwarders, Inc., 170 Main Street, Holyoke, MA 10140.

MC 155601 (Sub-1-1TA), filed May 11, 1981. Applicant: AIR TRANSIT, INC., 6

Claflin Street, Boston, MA 02210. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Contract carrier:* irregular routes: *Commodities as are dealt in by manufacturers of cans, and supplies, materials, and equipment used in connection therewith,* between Peabody, MA, on the one hand, and, on the other, points in the US in and east of NM, IA, MO, OK, AR, and TX, under continuing contract(s) with Eagle Can Co., of Peabody, MA 01960. Supporting shipper(s): Eagle Can Co., First Avenue, Peabody, MA 01960.

MC 102764 (Sub-1-2TA), filed May 11, 1981. Applicant: ABC, INC., 24 Plymouth Road, No. Providence, RI 02904. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Common carrier,* regular routes: *passengers and their baggage, and express and newspapers in the same vehicle with passengers,* between Providence, RI and Boston, MA serving all intermediate points, from Providence, RI over Interstate HWY 95 to the Jct of Hwy 128, then over Hwy 128 to the Jct of the Southeast Expressway to Boston, MA and return over same route. Supporting shippers: Applicant has appended to its application an Argument stating the reasons why the authority should be granted.

MC 152596 (Sub-1-2TA), filed May 11, 1981. Applicant: DOWNEAST DISPATCH, INC., 38 Rolfe Lane, Newbury, MA 01950. Representative: John C. Lightbody, Esq., Murray, Plumb & Murry, 30 Exchange Street, Portland, ME 04101. *Electric Fuses* from the premises of Gould, Inc. in Newburyport, MA to Harrisburg, PA, Memphis, TN, Chicago, IL, and Sparks, NV. Supporting shippers: Gould, Inc., 374 Merrimac Street, Newburyport, MA 01950.

MC 16872 (Sub-1-5TA), filed May 12, 1981. Applicant: WILLIAM MIRRER, d.b.a. MIRRER'S TRUCKING, 100 E. 25th St., Paterson, NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Washing, cleaning, and scouring compounds, and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between the facilities used or utilized by Purex Corporation, Ltd., its subsidiaries, divisions, vendors, packers, and distributors, at points in the US east of and including ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in the US east of and including ND, SD, NE, KS, OK, and TX. Supporting shippers: Purex Corporation, Ltd., 1414 N. Radcliffe St., Bristol, PA 19007.

MC 155867 (SUB-1-1TA), filed May 11, 1981. Applicant: SHAWN LEASING & TRUCKING, INC., 39 Castleton Avenue, Staten Island, NY 10301. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities, except in bulk, having a prior or subsequent movement by water* between ports in the New York, NY commercial zone, on the one hand, and, on the other, points in CT, MD, MA, NJ, NY, PA and RI. Supporting shippers: Remco International Company, Inc., 2 John Street, New York, NY 10038 and Mercantile Freight Forwarders Inc., 7 Dey St., New York, NY 10007.

MC 151193 (Sub-1-18TA), filed May 8, 1981. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, Three Commerce Drive, Cranford, NJ 07016. *Contract carrier:* irregular routes: *(1) Shortening and edible fat by-products (except commodities in bulk), and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities (except commodities in bulk)* between points in CA, FL, GA, IL, IA, MD, MA, NE, NJ, NY, NC, under continuing contract(s) with Intercon Company, Carteret, NJ. Supporting shipper: Intercon Company, 351 Roosevelt Avenue, Carteret, NJ 07008.

MC 151010 (Sub-1-2TA), filed May 8, 1981. Applicant: COASTAL WOOD TREATING, LTD., Fredericton R.R. 5, New Brunswick, Canada. Representative: Clare Hudson Payne, Esq., Eaton, Peabody, Bradford & Veague, P.O. Box 1210, Merrill Center, Bangor, ME 04401. *Contract carrier:* regular routes: *Rough and surfaced lumber and timber, barked pine poles, bulk wood waste, utility poles, pressure treated timbers,* from Patten, ME, over ME Hwy 159, then along Interstate Hwy 95 to ports of entry along the International Boundary Line between the United States and Canada located at or near Houlton, ME, and return over the same route; from various points along ME Hwy 6 from Dover-Foxcroft, ME to ports of entry along the International Boundary Line between the United States and Canada located at or near Vanceboro, ME; and from various points along ME Hwy 9 and U.S. Hwy 2 from Rumford, ME to ports of entry along the International Boundary Line between the United States and Canada located at or near Calais, ME, under continuing contracts with County Forest Products, Inc. of Patten, ME, Atlantic Pressure Treating, Ltd. of Fredericton, New Brunswick, Canada and Maritime Wood Preservers, Ltd. of Truro, Nova Scotia, Canada. Supporting shippers: County Forest Products, Inc., P.O. Box 297, Patten, ME 04765; Atlantic Pressure Treating, Ltd., Box 10, Site 7, R.R. #5, Fredericton, New Brunswick, Canada E3B 4X6; and Maritime Wood Preservers, Ltd., P.O. Box 934, Truro, Nova Scotia, Canada.

MC 143668 (Sub-1-3TA), filed May 8, 1981. Applicant: LONG ISLAND AIRPORTS LIMOUSINE SERVICE, CORP. 25 Newton Place, Hauppauge, NY 11787. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Passengers and their baggage,* between points in Queens, Nassau and Suffolk Counties, NY, on the one hand, and, on the other, Atlantic County, NJ. Supporting shipper(s): Playboy-Elsinore Associates, 2500 Boardwalk, Atlantic City, NJ 08404.

MC 151004 (Sub-1-3TA), filed April 30, 1981. Applicant: WARNACO TRUCKING CORP., 350 Lafayette Street, Bridgeport, CT 06602. Representative: John F. Ryan (same as applicant). *Contract carrier:* irregular routes: *Paper products consisting of food containers and industrial packaging materials, and the materials used in the manufacture, packaging and distribution of same, i.e. secondary fiber, bags, cartons, glue* between plants of Keyes Fibre in Albertville, AL, Sacramento, CA, Hammond, IN, Waterville, ME and Wenatchee, WA on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Keyes Fibre, An Arcata Company of Waterville, ME. Supporting shipper: Keyes Fibre, An Arcata Company, Upper College Avenue, Waterville, ME 04901.

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 116993 (Sub-II-1TA), filed May 12, 1981. Applicant: CITY HAUL, INC., 705 East Second St., Cincinnati, OH 45202. Representative: Richard Rueda, 135 North 4th St., Philadelphia, PA 19106. *General commodities* with the usual exceptions, between Cincinnati and Dayton, Ohio and their respective Commercial Zones on the one hand, and, on the other, Baltimore, MD; New York, NY: Norfolk, VA; and points in the states of OH, IL, IN, KY, MI, MO, PA, WV, and NJ for 270 days. An underlying ETA for 120 days is being sought. There are five supporting shippers. There statements may be examined in the Phila. ICC Office.

MC 150310 (Sub-II-1TA), filed May 8, 1981. Applicant: LOAD LINE, LTD., P.O. Box 8009, Pittsburgh, PA 15216. Representative: Stanley E. Levine, 220 Grant St., PIttsburgh, PA 15219. *General commodities,* between pts. in (1) the

counties of Allegheny, Beaver, Butler and Lawrence, PA; (2) the counties of Bergen, Essex, Morris, Passaic, and Union, NJ: and (3) the counties of Boyd, Wayne and Kanawaha, KY; and the County of Cabell, WV on the one hand, and, on the other, pts. in the US for 270 days. Supporting shipper(s): Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230.

MC 112063 (Sub-II-1TA), filed May 12, 1981. Applicant: P. I. & I. MOTOR EXPRESS, INC., Broadway Ave. Extension, Masury, OH 44438, P.O. Box 685, Sharon, PA 16146. Representative: Milan Tatalovich, 11 West Liberty St., Girard, OH 44420. *Mercer commodities, viz: oil well pumping jacks, and materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between the facilities of Morgan Engineering, Oil Products Division, a unit of AMCA International Corp., at Alliance Oh, on the one hand, and, on the other, points in the US for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morgan Engineering, Unit of AMCA International Corp., 947 East Broadway, Alliance, OH 44601.

MC 147906 (Sub-II-7TA), filed May 11, 1981. Applicant: KOHN TRANSPORT INC., 4840 Southway, SW., Canton, OH 44706. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Paper and related products and (2) materials, equipment and supplies used in the production and distribution of paper and related products (except commodities in bulk)* between Stark County, OH, on the one hand, and, on the other, pts in and east of MI, IA, MO, AR, TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Central Coated Products, Inc., P.O. Box 3145, Alliance, OH 44601.

MC 149484 (Sub-II-21TA), filed May 11, 1981. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. *Bicycles and mopeds and related products* between the facilities of Steyr Damiler Puch at Secaucus, NJ on the one hand, and on the other, points in and east of WI, IL, MO, OK, and TX for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Steyr Damiler Puch, 85 Metro Way, Secaucus, NJ 07094.

MC 149484 (Sub-II-19TA), filed May 11, 1981. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: E. J. Mumma, Jr. (same as applicant). *General commodities (except commodities in bulk and classes A and B explosives)* between points in the US (except AK and HI) for 270 days. Restricted to traffic originating or destined to the facilities of Distribution Services of America, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Distribution Services of America, Inc., 666 Summer St., Boston, MA 02210.

MC 119631 (Sub-2-3TA), filed May 12, 1981. Applicant: DEIOMA TRUCKING CO., P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 425 13th St., N.W., Suite 1032, Washington, DC 20004. *Lumber and wood products* between ports of entry on the International Boundary Line between the U.S. and Canada located in NY and MI, on the one hand, and, on the other, points in NY, PA, OH, MD, VA, MI, IN, IL, KY, TN, and DC for 270 days. Supporting shippers: Empire Wholesale Lumber Co., P.O. Box 249, Akron, OH 44309. 84 Lumber, P.O. Box 8484, Eight-four, PA 15330.

MC 107012 (Sub-II-165TA), filed May 12, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *(a) Containers, container ends, and closures, (b) commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and* (c) *material, equipment, and supplies used in the manufacture and distribution of containers, container ends, and closures* from the facilities of Central Can Co., at or near Chicago, IL to points in AL, GA, NC, SC, TN, and VA for 270 days. Supporting shipper: Central Can Co., 3200 South Kilbourn Ave., Chicago, IL 60623.

Note.—Common control may be involved.

MC 134156 (Sub-II-2TA), filed May 12, 1981. Applicant: AL SALEM, d.b.a. AL SALEM PRODUCE, 5136 Cherokee Hill Dr., Salem, VA 24153. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *Caulking compounds and sealants, materials, supplie, and equipment, used in the manufacture, sale, and distribution of caulking compounds and sealants,* between Atlanta, GA, Harleysville, PA, and Garland, TX, on the one hand, and, on the other, points in the US, except AK, and HI, and (2) *Shoes,* and *materials, supplies, and equipment, used in the manufacture, sale, and distribution of shoes,* between Laredo, TX, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Pecora Corp., 165 Wambold Road, Harleysville, PA 19438. Dentex Shoe Corp., Del Mar Industrial Park, Laredo, TX 78041.

MC 150163 (Sub-II-6TA), filed May 4, 1981. Applicant: HORWITH TRUCKS, INC., R.D. #1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Limestone,* in bulk, in dump vehicles, from Canaan, CT to Northampton, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lehigh Portland Cement Co., 718 Hamilton Mall, Allentown, PA 18105.

MC 2605 (Sub-II-7TA), filed April 30, 1981. Applicant: COMMERCIAL TRANSPORT, INC., 2300 E. Adams Ave., Philadelphia, Pa. 19124. Representative: Doanld J. Campanile (address same as applicant). *General Commodities, except class A and B explosives,* between points in the U.S. (except AK and HI). Supporting shipper(s): NL Industries, Inc., P.O. Box 700, Hightstown, NJ 08520.

MC 146807 (Sub-II-19TA), filed May 6, 1981. Applicant: S N W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Paul Seleski (address same as above). *Filtered Coa, in bags or boxes,* from Lackawanna County, PA to points in WA, OR, CA, AZ, CO, TX, LA, FL, GA, NC, VA, MD, DC, NY, ME, NH, VT, MA, OH, MI, NM, WI, IA, OK, KS, AR, and MO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pool World, 3100 Birney Ave., Scranton, PA 18507.

MC 150954 (Sub-II-31TA), filed May 5, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Drive, Suite 215, San Antonio, TX 78217. *Plastic pipe,* from Siloam Springs, AK to points in AL, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX and WI, for 270 days. Supporting shipper: Jet Stream Plastics, Divsion of Winrock Enterprises, P.O. Box 190 Siloam Springs, AR 72761.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 106644 (Sub-3-9TA) filed May 15, 1981. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker III (same as applicant). (1) *Commodities, the transportation of which because of size or weight, require the use of special equipment, self-propelled articles (except automobiles), and building materials,* between those

points in the U.S. in and east of WI, IA, NE, MO, OK, and TX, on the one hand, and, on the other, points in the U.S. in and west of MN, SD, WY, CO, KS, and NM; and (2) commodities described in (1) between points in the U.S. restricted in (2) above having a prior or subsequent movement by rail. Authority coincides to unopposed administratively final portion of applicant's Sub. 357F. Supporting shippers: None.

MC 75840 (Sub-3-61TA), filed April 17, 1981, republication—originally published in **Federal Register** of May 4, 1981, volume 46, No. 85. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton, 3400 Third Avenue, South, Birmingham, AL 35222. *Chemicals or allied products and textile mill products,* between the facilities of Olin Corporation at Lake Charles, LA, Joliet and Rockdale, IL and Wilmington and Ludlow, MA, on the one hand, and, on the other, points in the US, in and east of TX, OK, KS, MO, IA and MN. Supporting shipper(s): Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904.

MC 115841 (Sub-3-53TA), filed April 15, 1981, republication—originally published in **Federal Register** of April 27, 1981, volume 46, No. 80. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 22168, Knoxville, TN 37922. Representative: Chester G. Groebel (same as above). *Air conditioning parts (Charged lines),* from Wynne, AR to Nashville and Lewisburg, TN. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil-Quaker Blvd., Lavergne, TN 37048.

MC 154793 (Sub-3-1TA), filed April 3, 1981, republication—originally published in **Federal Register** of April 20, 1981, volume 46, No. 75. Applicant: WILLIAM C. WOODARD, d.b.a. DRACO TRUCK RENTAL, Box 206, Greenbriar Pike, Springfield, TN 37172. Representative: James Tyre Havron, 513 Nashville Trust Bldg., Nashville, TN 37201. *Contract carrier:* irregular routes, *snuff, dry flour, in bulk,* from Christian County, KY, to Davidson County, TN and Cook County, IL, under continuing contract(s) with United States Tobacco Company. Supporting shipper(s): United States Tobacco Company, 41 North and Northwest By-Pass, Hopkinsville, KY 42240.

MC 114848 (Sub-3-6TA), filed April 10, 1981, republication—originally published in **Federal Register** of April 27, 1981, volume 46, No. 80. Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Avenue, P.O. Box 13068, Memphis, TN 38113. Representative: Robert T. Wharton (same as above). *Clay, in bulk,* from Wilkinson County, GA to Calloway County, MO; Lowndes County, MS and Mercer County, NJ. Supporting shipper(s): M & M Clays, Inc., P.O. Box 98, McIntyre, GA 31054.

MC 143988 (Sub-3-2TA), filed April 9, 1981, republication—originally published in **Federal Register** of April 27, 1981, volume 46, No. 80. Applicant: JAMES W. TATE, d.b.a. JAMAR TRUCKING, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *(1) Water pumps, component parts of water pumps, water pump accessories, and (2) Materials, equipment and supplies used in the manufacture and distribution of commodities listed above in (1);* between the facilities of Layne & Bowler, Inc. at Memphis, TN, on the one hand, and, on the other, New Orleans, LA and points in TX, NM, AZ, NV, ID, WA, OR, UT and CA. Supporting shipper(s): Layne & Bowler, Inc., 900 Chelsea Ave., Memphis, TN 38108.

MC 148697 (Sub-3-1TA), filed April 3, 1981, republication—originally published in **Federal Register** of April 20, 1981, volume 46, No. 75. Applicant: TRINTY, INC., P.O. Box 327, 1859 Harper Ave., S.W., Lenoir, NC 28645. Representative: Barbara A. Watson and/or Annette J. Bryant (same as above). *New furniture,* from the facilities of Bernhardt Furniture Company in Cleveland, Iredell and Caldwell Counties, NC to points and places in WA, OR, CA, NV, UT and AZ. Supporting shipper(s): Bernhardt Furniture Company, P.O. Box 740, Lenoir, MC 28645.

MC 147093 (Sub-3-1TA), filed May 15, 1981. Applicant: B&L TRUCK LINE, INC., Hwy. 125 South, P.O. Drawer 9, Middleton, TN 38052. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Clay and clay products, cleaning compounds, and automotive supplies,* between Hardeman County, TN, on the one hand, and, on the other, all points in LA, AR, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, ME, MD, MI, MN, MS, MO, ND, NE, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV and DC. Supporting shipper: Maltan, Inc., Hwy. 125 South, Middleton, TN 38052.

MC 155948 (Sub-3-1TA), filed May 15, 1981. Applicant: JOHN CASSIDY & SONS, INC., 7301 NW 36th Ct., Miami, FL 33147. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *(1) General commodities (except classes A and B explosives); and (2) trailers* between points in Broward, Dade, Martin, Palm Beach and St. Lucie Counties, FL, restricted to traffic having an immediately prior or subequent movement in interstate or foreign commerce. Supporting shipper: International Distribution Center, Inc., 7301 NW 36th Ct., Miami, FL 33147.

MC 128095 (Sub-3-10TA), filed May 15, 1981. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *New furniture* between (1) the facilities of Town House Furniture, Ltd., at or near St. Louis, MO; (2) the facilities of Penthouse Furniture, Ltd., at or near Springfield, Mo; and (3) the facilities of Brittany Furniture Industries, Inc., at or near Paoli, IN, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and TX. Supporting shipper: Town House Furniture, Ltd., 7901 Michigan Avenue, St. Louis, MO 63111.

MC 146559 (Sub-3-3TA), filed May 4, 1981. Applicant: GOLDSTON TRANSFER, INC., P.O. Box 1059, Eden, NC 27288. Representative: Archie W. Andrews (same address as applicant). *Malt beverages and materials, equipment and supplies used in the manufacture, sale and distribution of malt beverages* between points in and east of TX, OK, MO, IA, and MN. Supporting shipper: Miller Brewing Company, 3939 West Highland Boulevard, Milwaukee, WI 53201.

MC 155394 (Sub-3-2TA), filed May 4, 1981. Applicant: LANIER EXPRESS, INCORPORATED, 2775 Highway 54 West, Fayetteville, GA 30214. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, DC 20036. *Wearing Apparel, in cartons and on hangers, and household textile products.* (1) Between points in NC, SC, and GA, and (2) Between points in Atlanta, GA, on the one hand, and, on the other, Dallas, TX, Los Angeles, CA, and Evergreen and Brantley, AL. Supporting shippers: There are five statements of support attached to this application which may be examined at the regional Atlanta, GA office. Applicant intends to interline with other carriers at Atlanta, GA, Charlotte, NC, Greenville and Spartanburg Counties, SC.

MC 149388 (Sub-3-1TA), filed May 13, 1981. Applicant: FEPCO TRUCKING, INC., 3458 Moreland Ave., Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Pulp, paper and allied products,* between the facilities of SPC Company at or near LaGrange, GA, on the one hand, and, on

the other, points in the U.S. in and east of MN, IA, MO, OK, and TX. Supporting shipper: SPC Company, 1707 Shorewood Drive, LaGrange, GA 30240.

MC 155915 (Sub-3-1TA), filed May 13, 1981. Applicant: M. T. TRANSPORTATION, INC., 400 Hickman Street, P.O. Box 1597, Gadsden, AL 35902. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract,* irregular; *metal folding tables and accessories and materials, equipment and supplies used in the manufacture thereof* between Gadsden, AL, on the one hand, and, on the other, points in the U.S. under continuing contract with Modern International, Inc. and Modern Tables, Inc., 400 Hickman Street, P.O. Box 1597, Gadsden, AL 35092.

MC 155916 (Sub-3-1TA), filed May 12, 1981. Applicant: ARDMORE FARMS, INC., Post Office Box 183, De Land, FL 32720. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or utilized by a manufacturer of fruit juices (except in bulk),* between the facilities of Spear Packing, Inc., at or near Carlstadt, NJ, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, MO, AR, and LA. Supporting shipper: Spear Packing, Inc., 95 Broad Street, Carlstadt, NJ 07072.

MC 146449 (Sub-3-2TA), filed May 12, 1981. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Avenue, East Point, GA 30344. Representative: William J. McCann (same address as applicant). *Contract,* irregular routes, transporting *general commodities (except household goods as defined by the Commission and Classes A & B explosives)* between points in the U.S., under continuing contract(s) with United Freight, Inc. and its member affiliates. Supporting shipper: United Freight, Inc., 1260 Southern Road, Morrow, GA 30260.

MC 107912 (Sub-3-10TA), filed May 12, 1981. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood Rd., Memphis, TN 38118. Representative: A. Doyle Cloud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Synthetic plastics* between Gallman, MS, on the one hand, and, on the other, points in TN. Applicant intends to tack with existing authority in MC 107912 and subs thereunder and to interline this traffic at Memphis, TN. Supporting shipper: Ethyl Corporation, 451 Florida Blvd., Baton Rouge, LA 70801.

MC 148620 (Sub-3-9TA), filed May 12, 1981. Applicant: K.G.L. CONTRACTING SERVICES, INC., P.O. Box 8202, Pembroke Pines, FL 33024. Representative: Robert W. Gerson, 1400 Candler Building, 127 Peachtree Street, N.W., Atlanta, GA 30303. *Contract carrier,* irregular routes, *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Roosevelt Paper Company. Supporting shipper(s): Roosevelt Paper Company, 7601 State Road, Philadelphia, PA 19136.

MC 142629 (Sub-3-1TA), filed May 11, 1981. Applicant: ED HOPSON PRODUCE COMPANY, INC., P.O. Box 3287, Oxford, AL 36203. Representative: John W. Cooper, P.O. Box 56, Mentone, AL 35984. *Contract,* Irregular, *Furniture and Parts, and Accessories thereto, and Materials, Equipment, and Supplies used or utilized in the manufacture and shipping thereof,* between all points in the U.S., except AK and HI, under a continuing contract with Wellborn Cabinets, Inc. Supporting shipper: Wellborn Cabinets, Inc., Route 1, Ashland, AL 36251.

MC 155337 (Sub-3-1TA), filed May 11, 1981. Applicant: KENNESAW TRANSPORTATION, INC., 155 Dixie Drive, Woodstock, GA 30188. Representative: C. W. Patrick (same address as applicant). *Bread and other Bakery Products* between the facilities of European Bakers, Ltd., Atlanta, GA, and points in the U.S. (except AK and HI). Supporting shipper: European Bakers, Ltd., 3955 Oakcliff Industrial Court, Atlanta, GA 30340.

MC 155337 (Sub-3-2TA), filed May 11, 1981. Applicant: KENNESAW TRANSPORTATION, INC., 155 Dixie Drive, Woodstock, GA 30188. Representative: C. W. Patrick (same address as applicant). *Printed Material* between the facilities of W. R. Bean & Son, Inc., at or near Atlanta, GA and points in the U.S. (except AK and HI) Supporting shipper: W. R. Bean & Son, Inc., 4800 Frederick Drive, Atlanta, GA 30378.

MC 146646 (Sub-3-43), filed May 11, 1981. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355-A, Birmingham, AL 35217. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *(1) Carpet, carpet backing (2) the materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in #1 above;* between the facilities of Trend Carpet/Roxbury Carpet/Divisions of WWG Industries, Inc. located in GA and SC on the one hand and on the other all points in the U.S. Supporting Shipper: Trend Carpet/Roxbury Carpet/Divisions of WWG Industries, Inc., P.O. Box 162, Rome, GA 30161.

MC 144776 (Sub-3-4 TA), filed May 8, 1981. Applicant: APACHE TRANSPORT, Inc., 833 Warner Street, SW, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta GA 30349. *Plastic bags and other plastic articles,* between the facilities of Dixie Bag Company, Inc., 4880 Massachusetts Blvd. College Park, GA and all points in and east of the States of TX, OK, KS, NB, SD, and ND. Supporting shipper: Dixie Bag Company, Inc., 4880 Massachusetts Blvd. College Park, GA 30337.

MC 115789 (Sub-3-3TA), filed May 8, 1981. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, 425 13th St., N.W., Suite 1032, Washington, DC 20004. *Contract carrier;* irregular routes, *general commodities* between Coshocton, OH, and points in FL, GA, SC, NC, and AL under a continuing contract with Clow Corporation. Supporting shipper: Clow Corporation, Executive Plaza East, 1211 W. 22nd St., Oakbrook, IL 60521.

The following applications were filed in region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 41406 (Sub-4-6TA), filed May 13, 1981. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Dr., Merrillville, IN. Representative: Ralph D. Artim, 8400 Westlake Dr., Merrillville, IN 46410. *Contract* irregular: *General Commodities (except classes A & B explosives and commodities in bulk),* between points in the U.S., under continuing contracts with United Freight, Inc., 1260 Southern Road, Morrow, GA 30260, and, Distribution Services of America, Inc., 666 Summer Street, Boston, MA 02210. Supporting shipper(s): United Freight, Inc., 1260 Southern Road, Morrow, GA 30260 and Distribution Services of America, Inc., 666 Summer Street, Boston MA 02210.

MC 95876 (Sub-4-20TA), filed May 13, 1981. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. (1) *Plastic pipe, fittings and accessories therefor, and* (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above,* between Siloam Springs, AR, on the one hand, and, on the other, points in AL, CO, GA, IA, IL, IN, KS, KY, LA, MI, MN, MS, MO, NE, ND, NM, OH, OK, SC, SD, TN, TX and WI. Supporting shipper: Jet Stream

Plastics, P.O. Box 190, Siloam Springs, AR 72761.

MC 95876 (Sub-4-21TA), filed May 13, 1981. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave N., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Automotive parts* between points in York County, SC, Buncombe County, NC and Scotland County, NC, on the one hand, and, on the other points in the US (including AK but excluding HI). Supporting shipper: Rockwell International, 2135 West Maple Road, Troy, MI 48084.

MC 97932 (Sub-4-5TA), filed May 13, 1981. Applicant: WREN, INC., d.b.a. LAKEVILLE MOTOR EXPRESS, 1665 West County Road C., St. Paul, MN 55113. Representative: Richard L. Gill, 1805 American National Bank Building, St. Paul, MN 55101. *General commodities (except those of unusual value and Classes A and B explosives),* between Minneapolis-St. Paul, MN and points in Goodhue County, MN. Supporting shippers: The Cornelius Company, Highway 10 West, Anoka, MN 55303. Applicant intends to tack and interline.

MC 100785 (Sub-4-1TA), filed May 14, 1981. Applicant: LAWRENCE E. BULT, d.b.a. L. BULT CARTAGE, 123 N. Williams, Thornton, IL 60476. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204. *Fertilizer, and related materials, equipment and supplies,* between the Chicago, IL Commercial zone and points in IL, IN, MI and WI. Supporting shippers: Plant Marvel Laboratories, 624 West 19th St., Chicago, IL 60628 and Sesco Enterprises, 121st and Peoria, Chicago, IL 60643.

MC 117370 (Sub-4-3TA), filed May 12, 1981. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. *Fresh and frozen boxed and carcass meats and packinghouse products and by-products, and materials, equipment and supplies used in the production and distribution of the commodities named above* between Milwaukee, WI on the one, hand and, on the other hand, points in AR, DE, DC, IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, NC, OH, PA, TN, VA, and WV, under continuing contract(s) with Peck Meat Packing Corporation of Milwaukee, WI. An underlying ETA seeks 120 day authority. Supporting shipper, Peck Meat Packing Corporation, 231 S. Muskego Avenue, Milwaukee, WI 53233.

MC 123074 (Sub-4-3TA), filed May 13, 1981. Applicant: M. L. ASBURY, INC., 141 South Main St., Romeo, MI 48065. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. *Asphalt and asphalt products,* between Detroit, MI and the commercial zone thereof, on the one hand, and, on the other hand, points in OH. An underlying ETA seeks 120 days authority. Supporting shipper: Marathon Oil Corporation, 539 South Main St., Findlay, OH 45840.

MC 129645 (Sub-4-7TA), filed May 14, 1981. Applicant: SMEESTER BROS., INC., 1330 South Jackson Street, Iron Mountain, MI 49801. Representative: H. G. Denny (same address as applicant). *Building materials* between points in Los Angeles County, CA; Baltimore, MD; Cuyahoga and Medina Counties, OH; York County, PA; Dallas and Harris Counties, TX; King County, WA; MI, and WI on the one hand, and, on the other points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Donn Corporation, 1000 Crocker Road, Westlake, OH 44145.

MC 135410 (Sub-4-24TA), filed May 13, 1981. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P. O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Avenue, Suite 200-A, Park Ridge, IL 60068. *Paper and paper products,* between the facilities of Champion International Corporation in Stearns County, MN, and points in the State of IL. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020.

MC 136635 (Sub-4-17TA), filed May 14, 1981. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, Indiana 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, Indiana 46240. *Gasoline in tank vehicles,* from Louisville, KY to points in IN. Supporting shipper: Bi-Rite Oil Company, Inc., 130 North State Street, North Vernon, IN.

MC 138432 (Sub-4-11TA), filed May 13, 1981. Applicant: Garland Gehrke, 1800 N. Jefferson, Lincoln, IL 62656. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Candy or confectionery noi; and materials, equipment, and supplies used in the manufacture, assembly, conversion, or distribution thereof;* between points in the United States (except AK and HI). Restricted to the transportation of shipments moving from, to or between the facilities of California Peanut. Supporting Shipper: California Peanut Co., 500 W. Ohio, Richmond, CA 94807.

MC 139482 (Sub-4-35TA), filed May 12, 1981. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. *Automotive products and accessories,* between Chicago, IL, on the one hand, on the other, Little Rock, AR, Phoenix, AZ, Los Angeles, San Diego, and San Francisco, CA, Denver, CO, Miami, FL, Atlanta, GA, Kansas City, KS, Frankfort, KY, Baltimore, MD, Chelmsford, MA, Minneapolis, MN, Buchanan, & Brooklyn, MI, St. Louis, MO, Edison, NJ, Buffalo, & Woodside, NY, Gastonia, NC, Cincinnati, Cleveland, & Columbus, OH, Clackamus, & Milwaukee, OR, Allentown, Erie, Lancaster, Philadelphia, & Pittsburgh, PA, Lincoln, RI, Greenville, SC, Dallas, Houston, & Laredo, TX and Seattle, WA. Restricted to the transportation of traffic originating at or designed to facilities of Turtle Wax, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Turtle Wax, Inc., 5655 West 73rd Street, Chicago, IL 60638.

MC 142891 (Sub-4-5TA), filed May 13, 1981. Applicant: A&H, INC., P.O. Box 346, Footville, WI 53737. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005. *Common,* irregular: *Rubber and plastic products, chemicals, and related products,* (1) from Stoughton, WI to New York, NY; Portland, OR and San Francisco, CA; (2) from Macon, GA to Stoughton, WI. Supporting shipper Midwest Rubber Manufacture, Inc., 250 Industrial Circle, Stoughton, WI 53589.

MC 144645 (Sub-4-6TA), filed May 14, 1981. Applicant: ROBERT HANSEN TRUCKING, INC., Route 2, Box 125, Delevan, WI 53115. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract;* irregular: *Such commodities as are dealt in or used by a manufacturer or distributor of plastic and plastic products* between the facilities of Penda Corporation at Portage, WI, on the one hand, and, on the other, points in the U.S. under continuing contracts with Penda Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Penda Corporation, Route 3 Industrial Road, P.O. Box 449, Portage, WI 53901.

MC 145042 (Sub-4-7TA), filed May 15, 1981. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Avenue, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933. *Fertilizer and fertilizer ingredients* between points in Vigo County and Porter

County, IN, on the one hand, and, on the other, points in the Lower Peninsula of MI. Supporting shipper: Farm Bureau Services, Inc., 7373 W. Saginaw Highway, Lansing, MI 48909.

MC 146846 (Sub-4-3TA), filed May 11, 1981. Applicant: LOUIS J. LANE, Box 148, Trego, WI 54888. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street, P.O. Box 218, Crandon, WI 54520. *Paper and paper products* originating at the facilities of Pacon Corporation located in the Town of Grand Chute, Outagamie Count, WI to points in CA, OR, WA, UT, ID, MT, NV, AZ, CO, and NM. Supporting shipper: Pacon Corporation, 2525 Casalome Drive, Appleton, WI 54911.

MC 151014 (Sub-4-2TA), filed May 14, 1981. Applicant: WITTE ASSOCIATES, INC., 7195 Thornapple River Drive, Ada, 49301. Representative: Curtis D. Jonker, 880 Union Bank Building, Grand Rapids, MI 49503. *Passengers and their baggage, in special and charter operations,* between Grand Rapids, and Chicago, (O'Hare Airport), round trip, limited to persons participating in Witte Travel air tours departing Chicago O'Hare Airport, having an immediately prior or subsequent trip by air; with equipment limited to 15 passenger Vans. An underlying ETA seeks 30 days authority plus automatic extension. Supporting shipper: Witte Travel, 7195 Thornapple River Drive, Ada, MI 49301.

MC 153883 (Sub-4-3TA), filed May 14, 1981. Applicant: HARNIC TRUCKING, INC., P.O. Box 1218, Hammond, IN 46320. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Contract irregular: *Metal Products,* between points in the U.S., under continuing contract(s) with R. Lavin & Sons, Inc., 3426 Sout Kedzie Avenue, Chicago, IL 60623. Supporting shipper: R. Lavin & Sons, Inc., 3426 Kedzie Avenue, Chicago, IL 60623.

MC 154716 (Sub-4-2TA), filed May 11, 1981. Applicant: WALGREEN-OSHKOSH, INC., 200 Wilmot Road, Deerfield IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd. LaGrange IL 60525. Contract irregular: *Household appliances, televisions, television recording devices; and materials, equipment and supplies for finished products* between points and places in IL, WS, IN, MN, TN, and AK on the one hand and Jefferson County, KY on the other under continuing contract with General Electric Company, Louisville, KY. Supporting shipper: General Electric Company, Building 4, Room 428, Appliance Park KY 40225.

MC 155486 (Sub-4-1TA), filed May 14, 1981. Applicant: A.T.C. INC., Route 3, Box 31A, Lake Zurich, IL 60047. Representative: William P. Jackson, Jr., Post Office Box 21249, Arlington, VA 22210. *Rubber and plastic products,* between the facilities of Park Rubber Co., at or near Lake Zurich, IL, on the one hand, and, on the other, points in the United States. Supporting shipper: Park Rubber Co., 80 Genesee St., Lake Zurich, IL 60047.

MC 155667 (Sub-4-1TA), filed May 14, 1981. Applicant: JUDY F. ARKIN and ARTHUR M. ARKIN, d.b.a. STEWART CARTAGE CO., 61 S. Mitchell Ct., Addison, IL 60101. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016. *Contract;* Irregular: *Printed matter; also materials, supplies, and equipment used in the maintenance and operation of printing houses,* Between Chicago, Dwight, and Mattoon, IL; Crawfordsville, Plymouth, and Warsaw, IN; Gallatin, TN; Glasgow, KY; Spartanburg, SC; and Willard, OH; on the one hand, and, on the other, points in the states of IL, IN, KY, MI, MO, OH, and TN, under continuing contract(s) with R. R. Donnelley & Sons Company, located in Chicago, IL. Supporting shipper: R. R. Donnelley & Sons Company, 2223 South Martin Luther King Drive, Chicago, IL 60612.

MC 155668 (Sub-4-1TA), filed May 14, 1981. Applicant: YANKE TRANSFER, LTD., Box 66, Viscount, Saskatchewan, Canada S0K 4M0. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Ten South Fifth Street, Minneapolis, Minnesota 55403. *Fertilizer* between ports of entry on the International Boundary Line located in ND, MN and MT, on the one hand, and, on the other, points in MN, ND, SD, MT, IA, ID, OK and TX. Supporting shipper: Westview Distribution, Ltd., 2002 Richardson Rd., Saskatoon, Sask., Canada S7L 4B7.

MC 155940 (Sub-4-1TA), filed May 13, 1981. Applicant: DWIGHT MOSES AND ROY MOSES, d.b.a. MOSES BROS. TRUCKING, RR 1, P.O. Box 65A, Crosby, ND 58730. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Common Carrier: Fertilizer,* from ports of entry located on the international boundary line between the U.S. and Canada located in Saskatchewan and Manitoba, on the one hand, and on the other, points in MN, ND, and MT, and from MN to MT, and *Sand,* from Ottawa, MN to points in ND. An underlying ETA seeks 120 day authority. Supporting shipper: There are 7 supporting shippers.

MC 155943 (Sub-4-1TA), filed May 14, 1981. Applicant: PTS TOURS, A DIVISION OF PAULSON TRAVEL SERVICE, INC., 412 W. Washington St., Brainerd, MN 56401. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Passengers and their baggage,* between Crow Wing County, MN, on the one hand, and, on the other, Nashville, TN. Supporting shipper: Ironton Fire Department, Box 127, Ironton, MN 56455.

MC 155958 (Sub-5-1TA), filed May 14, 1981. Applicant: AMBASSADOR TRANSPORTATION, INC., 303 S. Jefferson Street, Green Bay, WI 54301. Representative: William J. Vande Castle (same address as applicant). *Passengers and their baggage in regular operations,* between points in Menominee County, MI on the one hand, and on the other, Austin Straubel Field, in Brown County, WI, including intermediate points Marinette, Peshtigo, and Oconto, WI. Supporting shipper: City of Menominee, MI, City Hall, 2511 Tenth Street, Menominee, MI 49858.

MC 155959 (Sub-4-1TA), filed May 14, 1981. Applicant: ROSEBUD FREIGHT LINE CO., INC., 505 South Washington, Aberdeen, SD 57401. Representative: Joe Maynes, 505 South Washington, Aberdeen, SD 57401. *Such commodities as are used in the installation of pipeline,* between points in IA, MN, MT, ND and SD, restricted to the transportation of traffic originating at or destined to the facilities of The Kendall Company. An underlying ETA seeks 120 day authority. Supporting shipper: The Kendall Company, 1 Federal Street, Boston, MA 02101.

MC 44445 (Sub-4-1TA), filed May 7, 1981. Applicant: HAROLD KLEIN CARTAGE CO., INC., 5235 N. Hopkins St., Milwaukee, WI 53209. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract, irregular; General commodities [except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk and those requiring special equipment],* between points in WI and IL under continuing contract(s) with International Nu-Way Shippers, Inc. Supporting shipper: International Nu-Way Shippers, Inc., 3333 S. Iron St., Chicago, IL.

MC 97255 (Sub-4-1TA), filed May 5, 1981. Applicant: SOUTH WHITLEY TRUCKING CO., INC., 606 E. Front St., South Whitley, IN 46787. Representative: Alki E. Scopelitis, Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204. *Metal products,* between Montpelier and South Whitley, IN, on the one hand, and, on the other, points in IL, IN, KY, MI and OH. Supporting shipper: Gripco Fasteners, Div. of Mite Corporation, 111 E. Broad St., South Whitley, IN 46787.

Note.—Applicant intends to tack with existing authority.

MC 32122 (Sub-4-3TA), filed May 6, 1981. Applicant: PAZEN TRANSFER LINES, INC., P.O. Box 243, Waukau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912. *Paper, surface coated with silicone,* and the return of materials, equipment or supplies used in the manufacture, sale or distribution of *Paper, surface coated with silicone,* between Menasha, WI, on the one hand, and, on the other, points in CA, AL, GA, IL, IN, MI, MN, NJ, NY, NV, NC, OH, OK and TX. Supporting shipper: Akrosil, 206 Garfield Ave., Menasha, WI 54956. No underlying ETA has been filed.

MC 60887 (Sub-4-1TA), filed May 11, 1981. Applicant: HARRY H. LONG MOVING-STORAGE & EXPRESS, INC., 1631 S. Lynndale Avenue, Appleton, WI 54911. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *General commodities* (except Classes A and B explosives) between points in WI, on the one hand, and, on the other, points in Chicago, IL and its commercial zone. There are five supporting shippers.

MC 107487 (Sub-4-1TA), filed May 12, 1981. Applicant: COLUMBIA CITY FREIGHT LINES, INC., Gateway Industrial Park, P.O. Box 328, Columbia City, IN 46725. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204. *Automotive parts and materials, equipment and supplies used in the construction thereof,* from Columbia City, IN over State Hwy. 9 to U.S. Hwy. 6; thence over U.S. Hwy. 6 to Toledo, OH; return over the same route serving all intermediate points. Supporting shippers: White Automotive Corp., P.O. Box 92, Columbia City, IN 46725.

MC 113434 (Sub-4-9TA), filed May 1, 1981. Applicant: GRA-BELL TRUCK LINE, INC., P.O. Box 1001, A5253—144th Ave., Holland, MI 49423. Representative: Roger Van Wyk (same as applicant). *Charcoal, charcoal products, materials, equipment and supplies* used in the manufacture and distribution thereof, between points in IA, IL, IN, KY, MI, MN, MO, MD, NY, NJ, OH, PA, TN, VA, WV, WI and DC. Restricted to shipments originating at or destined to Imperial Products Corporation and its facilities. An underlying ETA seeks 120 days authority. Supporting shipper: Imperial Products Corporation, Suite 1660, 1034 South Brentwood Blvd., St. Louis, MO 63117.

MC 113751 (Sub-4-7TA), filed May 11, 1981. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia St., Waupaca, WI 54981. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Common; irregular; *foodstuffs and materials, equipment and supplies* used in the manufacture and distribution of such commodities, between Menomonie and Vesper, WI, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX. Supporting shipper: Beatrice Food Company, Sanna Division, 6501 Grand Teton Plaza, Madison, WI 53719.

MC 113855 (Sub-4-3TA), filed May 7, 1981. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. *Contract, Irregular: General commodities (except classes A and B explosives),* between points in the U.S., under continuing contract(s) with Seaport Cooperative, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Seaport Cooperative, Inc., 730 NW 11th Ave., Portland, OR 97209.

MC 115975 (Sub-4-5TA), filed May 11, 1981. Applicant: C. B. W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62095. Representative: M. Burnell Watson, P.O. Box 48, Wood River, IL 62095. *Petroleum products and chemicals in bulk,* between Olathe, KS and points in the U.S., under continuing bilateral contract or contracts with Southwest Petro-Chem, Inc., a wholly owned subsidiary of WITCO Chemical Corporation. Supporting shipper: Southwest Petro-Chem, Inc., a wholly owned subsidiary of Witco Chemical Corp., P.O. Box 1974, Olathe, KS 66061.

MC 118044 (Sub-4-1TA); filed May 12, 1981. Applicant: KEESHIN CHARTER SERVICE, INC., 705 S. Jefferson St., Chicago, IL 60607. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd. NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Passengers and their baggage, in charter and special operations* from points in FL in and south of Pinellas, Hillsborough, Polk, Osceola and Brevard Counties, FL to points in the U.S., and return. There are six (6) supporting shippers.

MC 124078 (Sub-4-69TA), filed May 8, 1981. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Sodium nitrate in bulk* from Chesapeake, VA to Bessemer, AL; Macedonia, OH and Delmar, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Chilean Nitrate Sales Corporation, P.O. Box 1217, Chesapeake, VA 23320.

MC 124408 (Sub-4-5TA), filed May 7, 1981. Applicant: THOMPSON BROS., INC., P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Liquid fertilizer and liquid fertilizer ingredients,* from Madison, SD, to points in MN, on and south of I Hwy. 94. An underlying ETA seeks 120 days authority. Supporting shipper: Terra Chemicals International, Inc., P.O. Box 1828, Sioux City, IA 51102.

MC 124408 (Sub-4-6TA), filed May 7, 1981. Applicant: THOMPSON BROS., INC., P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Liquid fertilizer and liquid fertilizer ingredients,* from Pipestone, MN, to points in SD on and east of U.S. Hwy. 281. An underlying ETA seeks 120 days authority. Supporting shipper: Getty Refining and Marketing Co., P.O. Box 1650, Tulsa, OK 74102.

MC 139151 (Sub-4-5TA), filed May 11, 1981. Applicant: CANUS TRUCKING LTD., 150 Sutherland Ave., Winnipeg, Manitoba, Canada R2W5K4. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. *Roofing granules,* from Kremlin and Wausau, WI, to Noyes, MN, on the US/Canada Boundary Line, for 270 days. Supporting shipper: Building Products of Canada, Ltd., Lachine, Quebec H8T 3E3.

MC 14159 (Sub-4-4TA), filed May 12, 1981. Applicant: AGS ENTERPRISES, INC., 809 Columbian Blvd., Litchfield. IL 62056. Representative: Michael R. Solomon (same address as applicant). *Gerneal Commodities (except Classes A & B explosives, commodities in bulk, those commodities which because of size or weight require the use of special equipment, household goods and Mercer commodities),* between Counties of Madison, Clinton, St. Clair, Macoupin, Montgomery and Monroe, IL; City of St. Louis, Counties of St. Louis, St. Charles, Jefferson, Franklin, Warren, MO, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: There are 19 supporting shippers.

MC 142383 (Sub-4-23TA), filed May 12, 1981. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th St., Winona, MN 55987. Representative: Gary Shurson, (same address as applicant). *Contract*—irregular, *General Commodities (except Class A and B exlposives)* between points in the U.S., under continuing contract with Ardan, Inc. Supporting shipper: Ardan, Inc., 2320 Euclid Avenue, Des Moines, IA 50310.

MC 144884 (Sub-4-2TA), filed May 1, 1981. Applicant: ARTHUR E.

JOHNSTON & MICHAEL A. JOHNSTON, d.b.a. JOHNSTON TRUCKING, Box 325, Spearfish, SD 57783. Representative: Thomas J. Simmons, 5301 N. Cliff, P.O. Box 480, Sioux Falls, SD 57101. *Iron and steel pipe and pipe fittings, and articles used in the manufacture and distribution of iron and steel pipe and pipe fittings,* between points in the U.S., restricted to traffic destined to or originating at Keenan Supply Co., Inc. Supporting shipper: Keenan Supply Co., Inc., 4700 Dahlia St., Denver, CO 80216.

MC 145664 (Sub-4–23TA), filed May 11, 1981. Applicant: STALBERGER, INC., 223 So. 50th Ave. West, Duluth, MN 55807. Representative: Joyce L. Donaldson, P.O. Box 6749, Duluth, MN 55807. *Aluminum, steel, glass, rubber products and machinery to manufacture such products,* between all points in the U.S. Supporting shipper: J.T. Nelson Co., Inc. 7647 National Turnpike, Louisville, KY 40214.

MC 148797 (Sub-42TA), filed May 12, 1981. Applicant: RICHARD L. WHITE, d.b.a. RICHARD L. WHITE TRUCKING, 2446 Stella, Fairmont, MN 56031. Representative: Gene P. Johnson, P.O.B. 2471, Fargo, ND 58108. *Contract:* irregular, *food and related products,* between Fairmont, MN, on the one hand, and on the other, points in the U.S. under a continuing contract(s) with Armour Food Company, Div. of Armour & Co. Underlying ETA seeks 120 days authority. Supporting shipper: Armour Food Company, Div. of Armour & Co., Greyhound Tower, Phoenix, AZ 85077.

MC 150746 (Sub-4–9TA), filed May 8, 1981. Applicant: DFC TRANSPORTATION COMPANY, 12007 Smith Drive, Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. *Computer tape, plastic articles, polyester film, and packaging items,* between Huntley, IL, on the one hand, and, on the other, all points in the U.S. Supporting shipper: Wabash Tape Corp., 221 East Main Street, Huntley, IL 60142.

MC 150885 (Sub-4–3TA), filed May 12, 1981. Applicant: ROBERT WHEELER III, Rural Route 3, Canton, IL 61520. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. *Coal,* from LaSalle, IL to Lee County, IL (restricted to traffic having a prior movement by water). Supporting shipper: (1) Lone Star Industries, Inc., P.O. Box 467, Dixon, IL 61021.

MC 151557 (Sub-4–1TA), filed May 11, 1981. Applicant: BLAZER TRUCK LINES, INC., 23845 Ecorse Road, Taylor, MI 48180. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. *Contract* irregular: *automobile parts and materials, equipment and supplies used in the manufacture and production of motor vehicles* between the facilities of Allied Products, Inc., located at or near South Bend, IN, and Detroit, MI, and the commercial zone thereof. Restricted to traffic moving under a continuing contract or contracts with Chrysler Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Chrysler Corporation, Chrysler Corporate Traffic, 6334 Lynch Road, P.O. Box 1976, Detroit, MI 48288.

MC 153883 (Sub-4–2TA), filed May 12, 1981. Applicant: HARNIC TRUCKING, INC., P.O. Box 1218, Hammond, IN 46320. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Contract* irregular *Safety related finished fabricated iron and steel items with carbo zinc finish used in and around nuclear reactors and those commodities used in the manufacture thereof,* between points in the U.S. (except AK and HI) under continuing contract(s) with ITT Grinnell Corporation. Supporting shipper: ITT Grinnell Corporation, 4425 South Western Boulevard, Chicago, IL 60609.

MC 155742 (Sub-4–2TA), filed May 11, 1981. Applicant: COBB TRANSPORT COMPANY, INC., d.b.a. THE COBB COMPANY, 10140 North Port Washington Rd., Mequon, WI 53092. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. *Contract;* (1) *Machinery and metal products;* and (2) *materials, equipment, and supplies, including lumber, used in the manufacture and distribution of machinery and metal products,* between the facilities of Telsmith Division-Barber-Greene Co., at Milwaukee, WI, on the one hand, and, on the other, points in the U.S., under continuing contracts with Telsmith Division-Barber-Greene Co., of Milwaukee, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Telsmith Division-Barber-Greene Co., 532 East Capitol Dr., Milwaukee, WI, 53212.

MC 155826 (Sub-4–1TA), filed May 8, 1981. Applicant: TRAFCO, INC., P.O. Box 328, Columbia City, IN 46725. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities,* between St. Joseph and Whitley Countries, IN, NE, and points in the U.S. in and east of WI, IA, MO, AR, and TX. Supporting shippers: There are six supporting shippers.

MC 155891 (Sub-4–1TA), filed May 11, 1981. Applicant: BCD TRUCKING, 9948 Deering Avenue, Livonia, MI 48150. Representative: Stephen C. Fitch, 155 East Broad Street, Columbus, OH 43215. Transporting *general commodities* between points in the United States. Supporting shipper: Benchmark, Inc., 4660 13th St., Wyandottie, MI 48192; SCI Corporation, 4262 13th, Wyandote, MI 48192.

MC 155895 (Sub-4–1TA), filed May 11, 1981. Applicant: LLOYD TRUCKING, INC., 908 W. Hurd Rd., Monroe, MI 48161. Representative: William B. Carrigan, 364 Crampton Avenue, Monroe, MI 48161. *Contract Beer and alcoholic beverages and related empty containers,* between points in MI on the one hand, and on the other, points in OH and WI, under continuing contract with Monroe Beverage Co., 987 W. Hurd Rd., Monroe, MI 48161. Supporting shipper: Monroe Beverage Co., 987 W. Hurd Rd., Monroe, WI . 8161.

MC 155892 (Sub-4–1TA), filed May 11, 1981. Applicant: HAROLD MECIKALSKI, d.b.a. MECIKALSKI TRUCKING, 1168 Stead Drive, Menasha, WI 54952. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Electrical machinery or equipment or supplies* between Appleton, WI and points in the U.S under contract with Miller Electric Mfg. Company for 270 days. Supporting shipper: Miller Electric Mfg. Co., 718 Bounds Street, Appleton, WI 54911.

MC 154460 (Sub-4–3TA), filed May 11, 1981. Applicant: Q CARRIERS INC., 14086 Rutgers Street NW., Prior Lake, MN 55372. Representative: Randall D. Quiring, 14086 Rutgers Street NE., Prior Lake, MN 55372. Contract Irregular *Steel wire rope* between points in the U.S., under continuing contracts" with Macwhyte Wire Rope Company, Kenosha, WI 53141. Supporting shipper: Macwhyte Wire Rope Co., 2906 14th Ave., Kenosha, WI 53141.

MC 155364 (Sub-4–1TA), filed May 5, 1981. Applicant: SINCLAIR CARTAGE, INC., 9700 Madison Street, Hinsdale, IL 60521. Representative: Edward G. Finnegan, Ltd., 134 N LaSalle Street, Suite 1016, Chicago, IL 60602. common; irregular *commodoities are asphalt and asphalt products in bulk in tank type vehicles,* within, to and from, and between Whiting and East Chicago, Indiana, and the plant sites of Aurora Blacktop, Inc., Inland Paving Company and James E. McElvain Co., Inc., at Yorkville and Morris, IL, for shippers in such authorized areas of operration. supporting Shippers are listed as follows: Aurora Blacktop, In., 1079 Sard Ave., Montgomery, IL, 60538; Inland Paving Company, P.O. Box D, LaGrange, IL. 60525; James E. McElvain Co., Inc.,

P.O. Box 63, Route 47 North, Morris, IL, 60450.

MC 155364 (Sub-4-2TA), filed May 5, 1981. Applicant: SINCLAIR CARTAGE, INC., 9700 S Madison Street, Hinsdale, IL 60521. Representative: Edward G. Finnegan, Ltd., 134 N LaSalle Street, Suite 1016, Chicago, IL 60602. *Commodities are fertilizer and fertilizer materials in bulk in dump type vehicles* from Belvidere, DuPue, Seneca, Lemont, Albany, IL, to the facilities of Growmark, Inc., in Wisconsin; from Burns Harbor, Indiana to the facilities of Growmark, Inc., in IL and WI; from Prairie du Chien, WI to Growmark, Inc., facilities in IL, for shippers in such authorized areas of operation. Supporting Shipper is listed as follows: Growmark, Inc., 1701 Towanda Avenue, Bloomington, IL. 61701.

MC 155447 (Sub-4-1TA), filed May 11, 1981. Applicant: NEENAH FOUNDRY TRANSPORT, INC., 2121 Brooks Avenue, Neenah, WI 54956. Representative: Norman A. Cooper, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Machinery, transportation equipment and metal products* and materirals and supplies used in the manufacture, sale, and distributuion of named commodities, between points in Fond du Lac, Outagamie, and Winnebago Counties, WI and points in the U.S. for 270 days. Supporting shippers: Neenah Foundry Company, Neenah, WI and Oshkosh Truck Corporation, Oshkosh, WI.

MC 155715 (Sub-4-1), filed May 1, 1981. Applicant: MARVIN L. BISHOP, d.b.a. MARV'S ROUSTABOUT SERVICE, Box 4, Williston, ND 58801. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. *Contract Carrier: General Commodities (except household goods and Class A and B explosives),* Between points in the Untied States, (except AK and HI), under contract with Dover Corporation Norris Division, Tulsa, OK. An underlying ETA seeks 120 days authority. Supporting shipper(s): Dover Corporation Norris Division, Box 1739, Tulsa, OK.

MC 155774 (Sub-4-1), filed May 6, 1981. Applicant: G.M.C. MOTOR TRUCK SALES, INC., LAND OVER Transportation Division, P.O. Box 693, Dubuque, IA 52001. Representative: Carl L. Steiner, 39 S LaSalle Street, Chicago, IL 60603. *Metal Products* and *Building Materials* between Jones County, IA, on the one hand, and, on the other, all points in the U.S. supporting shipper: Lear Siegler, Inc., Cuckler Building Division, P.O. Box 438, Monticello, IA 52310.

MC 155775 (Sub-4-1TA), filed May 7, 1981. Applicant: NORTHWESTERN MICHIGAN TRUCKING, INC., 9196 Eleven Mile Road, Bear Lake, MI 49614. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. *Foodstuffs and related products* between points in MI and MS on the one hand, and, on the other , points in the U.S. Supporting shipper: Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684.

MC 155888 (Sub-4-1TA), filed May 11, 1981. Applicant: TERRENCE J. HEMMERICH, d.b.a. T.J. CARTAGE, 3855 West 70th Street, Chicago, IL 60629. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Meat, Meat Products, Meat By-Products, Commodities used or useful in the preparation, distribution and sale of packing house products,* between points in the Counties of Cook, Lake, Du Page, Will, McHenry and Kankakee in IL and Lake and Portage in IN, on the one hand, and, on the other, points in the States of IA, IL, IN, MI, MN, MO, OH and WI. Supporting shipper: Ed. Miniat, Inc., 945 West 38th St., Chicago, IL 60609.

MC 155893 (Sub-4-1TA), filed May 11, 1981. Applicant: D & M CARTAGE, INC., P.O. Box 433, Brookings, SD 57006. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Avenue, Sioux Falls, SD 57101. *Metal Products,* between Brookings, SD and points in its commercial zone, on the one hand, and, on the other, points in the U.S. (except CA, SD, AK and HI). Supporting shipper: Prest Equipment Company, 500 Insbrook Lane, Brookings, SD 57006.

MC 155894 (Sub-4-1TA), filed May 11, 1981. Applicant: COLE COUNTRY EXPRESS, INC., 4401 River Road, Grand Rapids, MN 55744. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, 55424. *Forest products, lumber and wood products and building materials;* between Itasca County, MN, on the one hand, and, on the other, points in the U.S. Supporting shipper: Cole Forest Products, Inc., 4401 River Road, Grand Rapids, MN 55744.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 9291 (Sub-5-6 TA), filed May 11, 1981. Applicant: CARROL BALL TRANSPORT, INC., P.O. Box 53, Centerville, KS 66014. Representative: Clyde N. Christey, 1010 Tyler, Suite 110L, Topeka, KS 66612. *Pipe and tubing,* between the Commerical Zones of St. Louis, MO; Iola & Kansas City, KS; Tulsa, Oklahoma City & Port of Catoosa, OK; Clinton, IA: Shreveport and New Orleans, LA; Wichita Falls, Electra, Bowie, Houston, Forney, Dallas, Lone Star, Crowley & Abilene, TX; Columbus & Lorraine, OH; Evansville, IN; Deshler, NE; Alton & Olney, IL; on the one hand and points in NE, TX, OK, KS, AR, IN, LA, OH, MS, MN, MO, IL, CO, WY, NM and SD on the other hand. Supporting shippers: Kenneth R. Johnson, Inc., 409 Sixth St., Osawatomie, KS 66064; Intercontinental Pipe & Steel, Inc., 8340 Meadow Rd., Dallas, TX 75231; Trident Steel Corporation, 10097 Manchester Rd., St. Louis, MO 63122.

MC 41849 (Sub-5-6 TA), filed May 11, 1981. Applicant: KEIGHTLEY BROS., INC., 1305 Gratiot Street, St. Louis, MO 63103. Representative: Frederick H. Gerlach (same as above). *Ammonium nitrate and dry fertilizer,* from Selma, MO to points in IL, IN, KY, AR, KS, IA, and MI. Supporting shipper(s) USS Agri-Chemicals, 233 Peachtree Street NE., Atlanta, GA 30303.

MC 52460 (Sub-5-35 TA), filed May 11, 1981. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same as above). *Such commodities as are dealt in or used by wholesale, retail discount, variety and department stores,* between points in Pulaski County, AR, on the one hand, and, on the other, points in the U.S. Supporting shipper: Target Stores, Inc., 600 Carnahan Dr., Maumelle, AR 72118.

MC 111401 (Sub-5-41 TA), filed May 11, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Ground Clay, in bulk,* from Riverside, TX to Memphis, TN. Supporting shipper: The Milwhite Co., Inc., P.O. Box 15038, Houston, TX, 77020.

MC 113908 (Sub-5-32 TA), filed May 11, 1981. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65808. Representative: Jim G. Erickson (same as applicant). *Chemicals, i.e., denatured unpotable beer, aluminum chlorohydroxide, and many others used in the manufacturing of drugs and pharmaceutical supplies;* between Union and Somerset Counties, NJ, on the one hand, and, on the other, St. Louis City and County, MO. Supporting shipper: Bristol-Myers Products Company, 225 Long Avenue, Hillside, NJ 07207.

MC 114274 (Sub-5-12TA), filed May 11, 1981. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St., P1, P.O. Box 1703, Des Moines, IA 50306.

Representative: William H. Towle, 180 North LaSalle St., Suite 3520, Chicago, IL 60601. *Manufactured Fertilizers* From Portland, CT, to Points in NY, OH, and PA. Supporting shipper: Estech General Corporation, 30 N. LaSalle, Chicago, IL 60603.

MC 115669 (Sub5–8TA), filed May 11, 1981. Applicant: DAHLSTEN TRUCK LINE, INC., 101 Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes, (same as applicant). *Flour,* from Kansas City, MO to Sioux City, IA & Wichita, KS; and from St. Joseph, MO to Wichita, KS. Supporting shipper: Cereal Food Processors, Inc., P.O. Box 11336, Kansas City, MO 6412.

MC 129923 (Sub-5–2TA), filed May 11, 1981. Applicant: SHIPPERS TRANSPORTS, INC., 5005 Commerce Street, West Memphis, AR 72301. Representative: Edward G. Grogan, Esquire, Twentieth Floor, First Tennessee Building, Memphis, TN 38103. *Food and related products,* between Little Rock, AR, Atlanta, GA, Fort Wayne and Indianapolis, IN, Louisville, KY, New Orleans, LA, St. Louis, MO, Memphis and Nashville, TN, Dallas and Houston, TX. Supporting shipper: Indian Summer Inc., Belding, MI 48809.

MC 135691 (Sub-5–18TA), filed May 11, 1981. Applicant: DALLAS CARRIERS CORP., P.O. Box 38528, Dallas, TX 75238. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *General commodities (with the usual exceptions) which at the time are moving on bills of lading of freight forwarders* (1) from Philadelphia, PA, and Baltimore, MD, to Dallas, Houston and San Antonio, TX; and (2) from Cincinnati, OH; Cranston, RI; Milford, CT; and Boston, MA, to Houston and San Antonio, TX. Supporting shipper: Florida-Texas Freight, Inc., 2700 Gaston Ave., Dallas, TX 75226.

MC 143179 (Sub-5–7TA), filed May 11, 1981. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same as applicant). Contract; Irregular. *Packaging and cushioning materials,* between Buffalo and Minneapolis, MN, on the one hand, and on the other, Lincoln and Omaha, NE. Supporting shipper: Packaging Plus, Inc., 5825 65th Avenue North, Minneapolis, MN 55429.

MC 144420 (Sub-5–1TA), filed May 11, 1981. Applicant: MALIBU BEACH BOAT SALES & SERVICE CO., INC. Rt. 1, Box 261, Osage Beach, MO 65056. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Boats,* between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shippers: 8.

MC 144821 (Sub-5–6TA), filed May 11, 1981. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Avenue, St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *(1) Petroleum, natural gas products; (2) chemicals and related products; and (3) materials, equipment and supplies used in the manufacture, assembly, sale and distribution of commodities described in (1) and (2) above* between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to facilities of Bell Chemical Company. Supporting shipper: Bell Chemical Company, 411 W. Wolcott Ave., Chicago, IL 60622.

MC 146730 (Sub-5–2TA), filed May 11, 1981. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 214 A, Sedalia, MO 65301. Representative: Charles J. Fain, 333 Madison Street, Jefferson City, MO 65101. *Lumber or wood products, except furniture,* between points in AL, AZ, AR, CA, CO, GA, IL, ID, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, NY, NC, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. Supporting shipper: 8.

MC 147632 (Sub-5–3TA), filed May 11, 1981. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. *Ice cream,* from Woodbridge, NJ to Phoenix, AZ, Los Angeles, San Diego and San Francisco, CA; Denver, CO; New Orleans, LA; Las Vegas and Reno, NV; Portland, OR; Austin, Dallas and Houston, TX; Salt Lake City, UT and Seattle and Tacoma, WA. Supporting shipper: Woodbridge Sweets Corp., Amboy Ave., Woodbridge, NJ 07895.

MC 147632 (Sub-5–4TA), filed May 11, 1981. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. *General commodities (except household goods and classes A and B explosives)* between the facilities utilized by West Coast Shippers' Association and its affiliates at Philadelphia, PA, New York, NY and Chicago, IL on the one hand, and, on the other, Los Angeles, San Diego and San Francisco, CA; Portland and Eugene, OR; Salt lake City, UT; Reno, NV; Seattle and Tacoma, WA; Denver, CO; and Dallas and Houston, TX. Supporting shipper: West Coast Shippers Association, 2000 S. 71st St., Philadelphia, PA 19142.

MC 151162 (Sub-5–5TA), filed May 11, 1981. Applicant: LOWELL E. CAWOOD, d.b.a. L. E. CAWOOD PRODUCE, Post Office Box 83, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Candy and Confectionery Products*—(1) From Waco, TX to points in AZ, CA, IA, IL, IN, KS, KY, MI, MN, ND, NE, NY, OH, PA, SD, TN, WI and WY; and (2) From Elizabethtown, PA and Hackettstown, NJ to points in AR, AZ, CA, CO, KS, LA, NM, NV, OK, OH, TN, TX and UT. Supporting shipper: M&M/Mars Company, High Street, Hackettstown, NJ 07840.

MC 153723 (Sub-5–3TA), filed May 11, 1981. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *General Commodities (except commodities in bulk, in tank vehicles, classes A and B explosives, household goods as defined by the Commission and commodities which because of size or weight require the use of special equipment)* between the facilities of The Essex Group, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: The Essex Group, Inc., Post Office Box 1216, Ft. Wayne, IN 46801.

MC 155866 (Sub-5–1TA), filed May 11, 1981. Applicant: C.T.D., INC., d.b.a. STATEWIDE HAULERS, INC., 1800 Chicago Street, Laredo, TX 78041. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Granite,* from Marble Falls, TX to Brisbane, CA, under continuing contract(s) with Capitol Granite & Marble Company, of Marble Falls, TX. Supporting shipper: Capitol Granite & Marble Company, P.O. Box 816, Marble Falls, TX 78654.

MC 155868 (Sub-5–1TA), filed May 11, 1981. Applicant: MARC S. DORSETT, d.b.a. AMERICAN PLAINS TRANSPORTATION, 200 East 21st, Topeka, KS 66612. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601 *Passengers and their baggage, in special and charter operations,* beginning or ending at points in Shawnee County, KS, and extending to points in the U.S. Supporting shippers: King Travel Service, Inc., 217 East 8th Street, Topeka, KS 66603.

MC 118959 (Sub-5–17TA), filed May 13, 1981. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Plastic pipe, fittings and accessories,* between Bibb County, GA, on the one hand, and, on the other, points in AL, AR, FL, KY, LA, MS, NC, OH, SC, TN, TX, VA, and WV. Supporting shipper: Dyka U.S.A., Inc., Box 10246, Wilson Airport, Macon, GA 31297.

MC 121517 (Sub-5-9TA), filed May 12, 1981. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Dolomitic limestone,* from the facilities of Delta Mining Corporation in Johnston County, OK to Dallas, TX. Supporting shipper: Delta Mining Corporation, 2009 108th Street, Suite 904, Grand Prairie, TX 75050.

MC 125535 (Sub-5-11TA), filed May 13, 1981. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Rd., St. Louis, MO 63141. Representative: Donald S. Helm (Same as above). Contract: Irregular. *General commodities (except commodities in bulk in tank vehicles and household goods).* Between points in the U.S. (except AK and HI). Supporting shipper: World Wide Transportation Services, Inc., 36440 Northline Rd., Romulus MI.

MC 135936 (Sub-5-5TA), filed May 13, 1981. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Food products* between Fremont, Webster, Polk, Hamilton, Dallas, Marshall, Linn, Woodbury and Hardin Counties, IA on the one hand, and, on the other, pts in MN, ND, SD, NE, CO, KS, MO, IL, WI, IN, MI, OH, PA, MA, NY, NJ, DE and MD. Supporting shipper: W & G Marketing Co., Inc., Box 1742, Ames, IA 50010.

MC 136385 (Sub-5-1TA), filed May 13, 1981. Applicant: HALL WAY, INC., Box 22, Ankeny, IA 50021. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Contract, irregular. *Such commodities as are dealt in by wholesale and retail grocery stores* between Polk County, IA on the one hand, and, on, the other pts in FL, IL, MN, MO, MI, NE, KS, TX, AND WI. Supporting shipper: Super Valu Stores, Inc., 3900 106th NW, Des Moines, IA 50322.

MC 138328 (Sub-5-24TA), filed May 13, 1981. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: Donald Ehrlich (same address as applicant). *Canned goods,* from Hollister, Madera, Modesto, San Jose, Stockton, Turlock and Volta, CA, to points in AL, AR, CO, IL, IN, IA, LA, MI, MN, MS, MO, NE, ND, OH, OR, SD, TX, WA, and WI. Restricted to traffic originating at facilities of Tri-Valley Growers, Inc. Supporting shipper: Tri-Valley Growers, Inc., 100 California, San Francisco, CA 94106.

MC 142132 (Sub-5-3TA), filed May 12, 1981. Applicant: T. J. KERVIN TRUCKING CO., P.O. Box 45, Winnfield, LA 71483. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459. Contract: Irregular: *Treated poles, posts and piling* between Sequoyah County, OK, on the one hand, and, on the other, the 48 states, under a continuing contract(s) with Crown Zellerbach Corporation, Bogalusa, LA. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427

MC 147536 (Sub-5-12TA), filed May 13, 1981. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, P.O. Box 1567, Joplin, MO 64801. *Pet foods, animal feed, materials, equipment, and supplies used in the manufacture and distribution of Pet Foods and Animal Feed,* between Jay County, IN and Jasper County, MO, on the one hand, and, on the other, points in the U.S. Supporting shipper: International Multifoods Corporation, Eighth and Marquette, Minneapolis, MN 55402.

MC 147536 (Sub-5-13TA), filed May 13, 1981. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, P.O. Box 1567, Joplin, MO 64801. *(1) Charcoal, charcoal briquets, and charcoal products; and (2) materials, equipment, and supplies used in the manufacture and distribution of commodities in (1) above,* between Dent County, MO, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY. Supporting shipper: Imperial Products Co., Suite 1660—103 South Brentwood, St. Louis, MO 63117.

MC 148143 (Sub-5-3TA), filed May 13, 1981. Applicant: MID-AMERICA FARM LINES, INC., M.P.O. Box 71, Springfield, MO 65801. Representative: John M. Ringenberg (Same address as applicant). *General commodities (except classes A and B explosives and hazardous wastes), including hazardous materials,* from the facilities used by Northern Cargo Association and/or its members at Boston, MA, Charlotte, NC, Dalton, GA, Jersey City, NJ, and Los Angeles, CA, to the facilities used by Northern Cargo Association and/or its members in Anoka, Hennepin, Ramsey, Scott, Dakota, and Washington Counties, MN. Supporting shipper: Northern Cargo Association, 1912 Broadway NE, Minneapolis, MN 55413.

MC 149173 (Sub-5-3TA), filed May 12, 1981. Applicant: NATIONAL EXPRESS, INC., 8138 Balson, St. Louis, MO 63130. Representative: Clarence E. Scott (same as applicant). *Chemicals, chemical products, commodities sold by grocery, hardware, drug and discount stores, and Materials and supplies used in manufacture, sale, and distribution of above,* between points in U.S. Supporting shipper: International Liquidators, 3734 Juanita St. St. Louis, MO 63116.

MC 150391 (Sub-5-2TA), filed May 13, 1981. Applicant: WEST TEXAS EXPRESS, 9717 Carnegie Avenue, El Paso, TX 79925. Representative: Joe Washington Roberts, 1468 Backus, El Paso, Texas 79925. Common, regular: *General commodities (except A & B explosives), household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and/or automobiles,* from El Paso, TX to Alamogordo, NM, over HWY 54 serving all intermediate points; from Alamogordo, NM to Las Cruces, NM, over HWY 70/82 serving Holloman Air Force Base, White Sands Missile Range and Johnson Space Center as off-route points, and return via the same route. Supporting shippers: There are 10 supporting shippers.

MC 150578 (Sub-5-32TA), filed May 12, 1981. Applicant: STEVENS TRANSPORT, a Division of STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: Michael Richey (same as applicant). Contract; irregular; *Such merchandise as is dealt in or used by grocery, department, variety and drug stores* between points in the U.S. under a continuing contract with The Kroger Co., their subsidiaries, suppliers, and affiliates. Supporting shipper: The Kroger Co., 1014 Vine St., Cincinnati, OH.

MC 153723 (Sub-5-4TA), filed May 13, 1981. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Insulation Materials*—From the facilities of Eagle Picher Industries, Inc., at or near Joplin, MO—To points in the U.S. Supporting shipper: Eagle Picher Industries, Inc., P.O. Box 550, Joplin, MO 64801.

MC 154458 (Sub-5-2TA), filed May 13, 1981. Applicant: QUALITY DELIVERY, INC., 4900 Deramus, Kansas City, MO 64120. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. *Contract* Irregular *General commodities (except household goods as defined by the Commission, Classes A and B explosives and hazardous waste),* between Jackson County, County, MO,

on the one hand, and, on the other points in KS. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 64119.

MC 154765 (Sub-5-2TA), filed May 13, 1981. Applicant: NORTHSTAR TRANSPORTATION, INC., 10951 Lakeview Ave., Lenexa, KS 66219. Representative: Stanley O. Wilson (same as applicant). Contract: Irregular—*Machines, Merchandise Vending, Coin Operated, packaged,* between points in the U.S. except AK and HI. Supporting shipper: The Vendo Company, 7209 N. Ingram Ave., Pinedale, CA 93650.

MC 154768 (Sub-5-6TA), filed May 13, 1981. Applicant: IOWA EXPRESS DISTRIBUTION, INC., 2165 N.W. 108th, Suite B, Des Moines, IA 50322. Representative: Harold W. Sternberg, 2165 N.W. 108th, Suite B, Des Moines, IA 50322. Contract irregular. *Such commodities as are dealt in by retail music and home entertainment stores,* (1) between pts in IA and (2) between pts in IA, on the one hand, and, on the other, Omaha, NE, under continuing contract(s) with Pickwick International, Inc., of Minneapolis, MN. Supporting shipper: Pickwick International, Inc., 7500 Excelsior Blvd., Minneapolis, MN.

MC 155865 (Sub-5-1TA), filed May 11, 1981. Applicant: OMEGA LOGISTICS, LTD., P.O. Box 42, Clive, IA 50053. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Contract; irregular; *General commodities* (except Classes A and B explosives), between points in Polk County, IA, on the one hand, and, on the other, points in IA, under continuing contract(s) with Hawkeye Carpet Association, Inc, with prior interstate movement by motor. Supporting shipper: Hawkeye Carpet Association, Inc., 2165 N.W. 108th Street, Clive, IA 50053.

MC 155873 (Sub-5-1TA); filed May 12, 1981. Applicant: RICHARD LEJEUNE, d.b.a. RICHARD LEJEUNE, TRUCKING, Route 2, Box 164, Halfway, MO 65663. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. Contract; irregular. *(1) Machinery and (2) artificial flowers and related products* (1) between Cook County, IL, on the one hand and points in AR, KS, LA, MS, MO, OK, and TX, and (2) between Polk County, MO on the one hand and Sacremento, CA, New Albany, IN, Atlanta, GA and Dallas, TX and their respective commercial zones on the other hand. Supporting shipper: Mott Corportion, 500 Shawmut Avenue, LaGrange, IL 60525; Teters Floral Products Company, P.O. Box 210, Bolivar, MO 65613.

MC 155896 (Sub-5-1TA), filed May 12, 1981. Applicant: INTERMODAL DRAYAGE, INC., 7522 Milan, St. Louis, MO 63130. Representative: Hugh H. Liston (same as above). *General commodities* between the St. Louis, MO.E. St. Louis, IL Commercial Zones and points and places in the states of MO and IL. Supporting shipper: Wren Piggyback Consolidators, 4560 N. 2nd, St. Louis, MO 63130.

MC 155899 (Sub-5-1TA); filed May 12, 1981. Applicant: HAY BROTHERS, INC., 2105 First Street, Lake Charles, LA 70601. Representative: C. W. Ferebee, 720 N. Post Oak, Suite 230, Houston, TX 77024. (1) *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and* (2) *earth drilling machinery and equipment, and machinery, equipment materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells* between Calcasieu Parish, LA, on the one hand, and points in TX, on the other. Supporting shipper: The Dia-Log Company, Box 1172, Lake Charles, LA.

MC 100449 (Sub-5-7TA), filed May 14, 1981. Applicant: MALLINGER TRUCK LINE, INC., 2100 N. General Bruce Drive, Temple, TX 76501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Furniture* between Milam County, TX on the one hand and, on the other, points in the U.S. Supporting shipper: Royal Seating Corp., Box 753, Cameron, TX 76520.

MC 111401 (Sub-5-42 TA), filed May 15, 1981. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Petroleum Lubricating Oil, in bulk, in tank vehicles,* from Tulsa, OK to Wickliffe, OH. Supporting shipper: Sun Petroleum Products Co., P.O. Box 2039, Tulsa, OK, 74102.

MC 112822 (Sub-5-6TA), filed May 15, 1981. Applicant: BRAY LINES INC., P.O. Box 1191, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Pulp, paper and related products,* between points in WI, on the one hand, and on the other, points in TX. Supporting shipper: Consolidated Papers, Inc., 231 First Avenue North, Wisconsin Rapids, WI 54494.

MC 118224 (Sub-5-3TA), filed May 15, 1981. Applicant: STANDARD FRUIT & VEGETABLE CO., INC., 2111 Taylor Street, Dallas, TX 75201. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. *Paper and paper products* from W. Monroe, LA to points in TX. Supporting shipper(s): Manville Forest products Corporation, P.O. Box 488, W. Monroe, LA 71291.

MC 120761 (Sub-5-5 TA), filed May 14, 1981. Applicant: NEWMAN BROS. TRUCKING CO., P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 623 South Henderson, 2d floor, Fort Worth, TX 76104. (1) *Machinery, equipment, materials, and supplies, used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products;* (2) *Machinery, equipment, materials, and supplies, used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof,* between points in the U.S. (except AK and HI). Restricted to shipments moving to or from the facilities of Haliburton Services, a Division of The Haliburton Company. Supporting shipper: Haliburton Services, a Division of The Haliburton Company, Box 1431, Duncan, OK 73536.

MC 123285 (Sub-5-3TA), filed May 14, 1981. Applicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clayte Binion, 623 South Henderson, 2d floor, Fort Worth, TX 76104. (1) *Gilsonite, in bulk,* from Uintah County, UT to NM, KS, TX and OK; and (2) *cement, in bulk,* from Bushland, TX to Vernal, UT. Supporting shipper: Haliburton Services, Drawer 1431, Duncan, OK 73536.

MC 124141 (Sub-5-13TA), filed May 14, 1981. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *General commodities (except Classes A and B explosives),* from Philadelphia, PA and points in its commercial zone to points in AZ, CA, NM, NV, OR, TX, UT and WA. Supporting shipper: West Coast Shippers Association, 2000 S. 71st Street, Philadelphia, PA 19142.

MC 124236 (Sub-5-20TA), filed May 14, 1981. Applicant: CHEMICAL

EXPRESS CARRIERS, INC., 4625 N. Central Expressway, Dallas, TX 75205. Representative: Lee Carpenter (same as applicant). *Potash*, between points in NM and TX. Supporting shipper: Mobley Co., Inc., P.O. Box 1640, Kilgore, TX 75662.

MC 125254 (Sub-5-8TA), filed May 14, 1981. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *(a) Food and related products and (b) materials, equipment, and supplies used in the manufacture, sale, or distribution of such products in (a)*, between pts in Muscatine, Johnson, and Osceola Counties, IA, on the one hand, and, on the other, pts in San Joaquin County, CA; Duval County, FL; Hudson County, NJ; Lucas County, OH; Cumberland and Allegheny Counties, PA, Greenville County, SC; Dallas County, TX; Chatham County, GA; Ulster County, NY and Mecklenburg County, NC. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 133811 (Sub-5-2TA), filed May 15, 1981. Applicant: H. E. McCONNELL AND H. E. McCONNELL, II, d.b.a. McCONNELL & SON TRUCKING CO., 5117½ East Broadway, North Little Rock, AR 72114. Representative: James M. Duckett, 221 West Second, Suite 411, Little Rock, AR 72201. *Roofing Granules*, from the facilities of 3M Company, at Little Rock, AR, to Daingerfield, TX. Supporting shipper: 3M Company, Little Rock, AR.

MC 134182 (Sub-5-1TA), filed May 15, 1981. Applicant: ALLIED TRANSPORTATION SERVICES, INC., P.O. Box 7424, Shawnee Mission, KS 66207. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. Contract: Irregular. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766*, between points in the U.S. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 136212 (Sub-5-3TA), filed May 15, 1981. Applicant: JENSEN TRUCKING COMPANY, INC., P.O. Box 349, Gothenburg, NE 69138. Representative: Scott T. Robertson, P.O. Box 94748, Lincoln, NE 68509. *Meats, meat products, meat by-products and articles distributed by meat packinghouses* between pts in NE, IA, IL, MO, KS, TX, CO, MI, OK, MN, WI, OH, IN, NV, AZ, and CA restricted to traffic moving from or to the facilities of Swift Independent Packing Co. Supporting shippers: Swift Independent Packing Co., 115 W. Jackson Blvd., Chicago, IL 60604.

MC 140635 (Sub-5-12TA), filed May 14, 1981. Applicant: ADAMS LINES INC., 2619 "N" Street, Omaha, NE 68107. Representative: John L. Hornung (same address as applicant). (1) *Food and Related products* between pts in the U.S. (except AK&HI) (2) *General Commodities (Except Class A&B Explosives and Household goods as defined by the Commission and commodities in bulk)* from the Chicago, IL Commercial Zone to pts in CO, IA, KS, MN, MO, NE, SD.

MC 140665 (Sub-5-69TA), filed May 14, 1981. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Household and personal care products and materials and supplies used in the manufacture and distribution thereof*, between Kent County, MI on the one hand, and, on the other, points in the U.S. (except GA, NJ, TX, CA, WA, CO, and IA). Supporting shipper: Amway Corporation, 7575 E. Fulton Road, Ada, MI 49355.

MC 142352 (Sub-5-1TA), filed May 14, 1981. Applicant: HAUSMAN TRUCKING INC., 607 D Avenue, Vinton, IA 52349. Representative: Daniel O. Hands, Suite 200-A, 205 West Touhy Ave., Park Ridge, IL. 60068. *Meat and meat products, meat by products and related products distributed by meat packing houses* from the facilities of Wilson Foods Corp. at (1) Cedar Rapids, IA to Chicago, IL and pts in IN, (2) Logansport, IN, to pts in IA and MO and (3) Marshall, MO to pts in AZ, IL, IA, LA, MS and TN. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 142716 (Sub-5-3TA), filed May 14, 1981. Applicant: C & L TRUCKING, INC., 1609 27th Street, N.W., Cedar Rapids, IA 52405. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Fertilizer*, from Irvington, IA to pts in MN on and south of U.S. Hwy 12. Supporting shipper: Amoco oil Company, 200 E. Randolph Drive, Chicago, IL 60601.

MC 143433 (Sub-5-5TA), filed May 15, 1981. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING COMPANY, 310 South First Avenue, Stroud, OK 74079. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk).* (1) from Amarillo, TX and Dakota City, NE to points in PA; and (2) from Loveland and Denver, CO; Omaha and Gering, NE; New Orleans, LA; Gulfport, Biloxi, and Pascagoula, MS; and Amarillo, Corpus Christi, Lubbock, and Dallas, TX to points in WI, IL, MN, MI, IN, MO, AL, MS, AR and OK, restricted to traffic originating at or destined to the facilities used by North American Provisions Company and Gurrentz International, Inc. Supporting shippers: Gurrentz International, Inc; 2020 Ardmore Blvd.; Pittsburgh, PA 15211. North American Provisions Company; P.O. Box 340; Park Ridge, IL 60068.

MC 144622 (Sub-5-81TA), filed May 14, 1981. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. STUART, P.O. Box 179, Bedford, TX 76021. *Trailer parts and accessories* from Siloam Springs, AR; Indianapolis, IN; Erlanger and Henderson, KY; Wyandotte, MI; Springfield, MO; and Ridgeway, PA to Tulsa, OK and Houston, TX. Supporting shipper: Coastal Air Brake Co, Inc., 4464 West 12th, Houston, TX 77055.

MC 146078 (Sub-5-24TA), filed May 15, 1981. Applicant: CAL-ARK, INC., P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. *Textile and paper goods and material, equipment, and supplies utilized in the manufacture of textile and paper goods* between Ouachita County and Pulaski County, AR, on the one hand, and, on the other, all points and places in the U.S. Supporting shipper: Chicopee, P.O. Box 1151, New Brunswick, NJ 08903.

MC 146448 (Sub-5-20TA), filed May 15, 1981. Applicant; C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *General commodities (except Classes A and B explosives and household goods)*, from Philadelphia, PA and points in its commercial zone to points in AZ, CA, NM, NV, OR, TX, UT and WA. Supporting shipper: West Coast Shippers Association, 2000 S. 71st Street, Philadelphia, PA 19142.

MC 147423 (Sub-5-1TA), filed May 14, 1981. Applicant: BOND TRANSFER, INC., 1831 Mills Street, El Paso, TX 79901. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *General commodities (except classes A and B explosives)*, between El Paso, TX, on the one hand, and, on the other, points in Sierra County, NM. Supporting shippers: Dal-Tile Corp., 1129 Pellicano, El Paso, TX; Hanley Paint Co.,

1324 Texas, El Paso, TX; Triangle Elec. Supply Co., 3815 Durazno, El Paso, TX; S.O.S. TV & Appliance, 1916 Montana, El Paso, TX.

Note.—Applicant intends to interline.

MC 148152 (Sub-5–8TA), filed May 15, 1981. Applicant: K & H TRUCKING, INC., 3301 So. Lamar St., Dallas, TX 75215. Representative: Edmond E. Payne, 3301 So. Lamar St., Dallas, TX 75215. Contract: Irregular, *Stoneware, China, Steel Flatware and Paper Forms (except Commodities in Bulk),* between points in the U.S., under continuous contract(s) with Wallace International, a division of The Wallace Companies, Inc., of Birmingham, AL. Supporting shipper: Wallace International, 171 Ciatation Ct., Birmingham, AL 35216.

MC 150627 (Sub-5–3TA), filed May 15, 1981. Applicant: JAMES FINCH, d.b.a. FINCH HOT SHOT SERVICE, 7601 S. Central Expressway, Dallas, TX 75216. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Contract; irregular; *Electrical Supplies,* from Dallas, TX to points in OK, LA, and AR, under a continuing contract with Electra Sales of North Texas, Inc., Dallas, TX. Supporting shipper: Electra Sales of North Texas, Inc., 4834 Reading, Dallas, TX 75247.

MC 151641 (Sub-5–3TA), filed May 14, 1981. Applicant: WILLIAM E. JOHNSON d.b.a. WILLIAM E. JOHNSON TRUCKING COMPANY, 11211 Sherman Avenue, Dallas, TX 75220. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245. *Food and related products;* from Seward County, KS to points in AZ, NM, CA, OR and WA. Supporting shipper(s): National Beef Packing Co., Inc., P.O. Box 978, Liberal, KS 67901.

MC 153392 (Sub-5–5TA), filed May 14, 1981. Applicant: CENTRAL TRACTOR FARM & FAMILY CENTER, INC., 1515 East Euclid, Des Moines, IA 50316. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Paper and plastic bags and containers, and materials used in the manufacture thereof,* between Des Moines, IA, on the one hand, and, on the other, points in NE and KS, under contract with Great Plains Bag Corporation. Supporting shipper: Great Plains Bag Corporation, 2201 Bell Avenue, Des Moines, IA 50321.

MC 155806 (Sub-5–TA), filed May 15, 1981. Applicant: B–LINE EXPRESS, INC., R.R. #2, Atchison, KS 66002. Representative: Robert J. Bednar, P.O. Box 349, Atchison, KS 66002. *General commodities (excluding explosives and hazardous waste)* between points and places in the states of KS and MO. Supporting shippers: Rockwell International, Atchison, KS; Phalen Chevrolet, Inc., Atchison, KS; The Lockwood Company, Inc., Atchison, KS; and Atchison Hospital Association, Atchison, KS.

MC 155985 (Sub-5–1 TA), filed May 15, 1981. Applicant: FAMILYTREE, INC., 412 Pamela Drive, Baytown, TX 77520. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Passengers and their baggage in special or charter Operations,* between points in the Houston, TX, commercial zone, on the one hand, and on the other, points in the U.S. including AK but excluding HI. Shipping supporters: Grace Jackson Travel, 4601 Village Lane #2011, Baytown, TX; Baytown Independent Automobile Association, 708 Alexander, Baytown, TX; Lee College, P.O. Box 818, Baytown, TX.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 149195 (Sub-6–14 TA), filed May 7, 1981. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra St., Kingsburg, CA 93631. Representative: James F. Hauenstein (same as applicant). *Fire Clay and Fire Brick.* FROM: Greensboro, NC, and Norristown, PA. TO: Los Angeles, CA (Restricted to commodities originating at or consigned to the facilities of the North State Pyrophyllite Co.), for 270 days. Supporting shipper: North State Pyrophyllite Company, Inc. Div. of Resco Products, P.O. Box 7247, Greensboro, NC. 27407.

MC 155840 (Sub-6–1 TA), filed May 8, 1981. Applicant: FRED BURHANS, d.b.a. BURHANS TRUCKING, 4641 Fircroft, Covina, CA 91722. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract carrier:* irregular routes; *Fertilizer* from Vernon, CA to Clark, King and Snohomis Counties, WA; Jackson, Josephine, Douglas, Lane, Marion, Multnoma, Clackamas, and Washington Counties, OR; Maricopa, Yuma, Coconino and Pima Counties, AZ; Washoe, Clark and Carson City Counties, NV; Salt Lake City, UT; and Arapahoe, Weldo, Mesa, El Paso, Pueblo and Larimar Counties, CO, for the account of Estech General Chemical Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Estech General Chemical Corp., P.O. Box 338, East St. Louis, IL 62202.

MC 124679 (Sub-6–44TA), filed May 11, 1981. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 So., Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same as applicant). *Such commodities as are dealt in and distributed by grocery, hardware and drug stores, (2) cleaning and building maintenance materials and supplies, (3) swimming pool, spa and hot tub products, (4) chemical, and (5) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) through (4) above, (except commodities in bulk)* between the facilities of Purex Corporation and all points in the U.S. (except Alaska and Hawaii), for 270 days. Supporting shipper: Purex Industries, Inc., 24600 So Main St., Carson, CA. 90745.

Note.—Applicant holds motor contract carrier authority in MC–128813 and sub numbers thereunder, therefore dual operations may be involved.

MC 148929 (Sub-6–1TA), filed May 11, 1981. Applicant: GAY'S HOTSHOT SERVICE, INC., 18 Cacti Place, Casper WY 82601. Representative: Raymond E. Gay (same address as applicant). *Machinery, equipment, materials and supplies used in, or in connection with, discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and machinery, equipment, materials and supplies used in, or in connection with, the construction, operation, repair and servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof,* between points in MT, ND, SD, NE, WY, ID, NV, UT, CO, AZ, NM, OR, WA, OK and TX, for 270 days. Applicant intends to tack authority to authority held in MC 14929. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the regional office listed.

MC 155824 (Sub-6–1TA), filed May 7, 1981. Applicant: GARY S. & GREG H. GARABEDIAN, d.b.a. H & M TRANSFER CO., 15304 Saranac, Whittier, CA 90604. Representative: Gary S. Garabedian (same address as applicant). *Contract Carrier,* Irregular routes: *Iron or steel articles, metal lath, corner beads, casing beads, drywall products and other metal building products,* between points in CA on the one hand and points in AX, NV, OR, UT, and WA on the other hand, for the account of Inryco, Inc., Los Angeles, CA, for 270 days. Supporting shipper: Inryco, Inc., 6466 Gayhart St., Los Angeles CA 90040.

MC 139906 (Sub-6–72TA), filed May 11, 1981. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative:

Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Furniture* from the facilities of Lehigh Furniture Division of Lehigh Portland Cement Co., at or near Marianna, FL to points in the U.S. for 270 days. Supporting shipper: Lehigh Furniture Division of Lehigh Portland Cement Co., P.O. Box 640, Marianna, FL 32466.

MC 155838 (Sub-6-1TA), filed May 8, 1981. Applicant: BETTY I. PATRICK, BOB J. TEMPLETON, d.b.a. IRISH & CHEROKEE TRANSPORTATION, 1306 Valjean, Simi Valley, CA 93065. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract carrier,* irregular routes; *Foodstuffs, lightpoles with accessories and sporting goods* from Los Angeles and Orange Counties, CA, to points in UT, CO, OR, WA, NV and AZ for the account of W. C. Metal & Chrome Polishing, Western Lighting Standards and Bell Foundry Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: W. C. Metal & Chrome Polishing, 735 Manchester, Los Angeles, CA; Bell Foundry Company, 5310 Southern, South Gate, CA 90280; Western Lighting Standards, 18060 Mt. Washington, Fountain Valley, CA.

MC 148341 (Sub-6-5TA), filed May 8, 1981. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Contract carrier,* irregular routes: *picture frames, albums, wall decor clocks, mirrors and related products,* from Carson and Sacramento, CA, to Phoenix, AZ, Chicago, IL, Statesville, NC, Portland, OR, Salt Lake City, UT and Seattle and Spokane, WA, under continuing contract(s) with Intercraft Industries Corp. for 270 days. Supporting shipper: Intercraft Industries Corp., 771 E. Watsconcenter Rd., Carson, CA 90745.

MC 155878 (Sub-6-1TA), filed May 11, 1981. Applicant: BOB MEADER TRUCKING, INC., Route 2, Box 206, Scappoose, OR 97056. Representative: Peter H. Glade, One SW Columbia, Suite 555, Portland, OR 97258. *Building materials: between points in OR, WA and ID for 270 days. Supporting shipper: Cascade West Materials, Inc., P.O. Box 1586, Lake Oswego, OR 97034.*

MC 144572 (Sub-6-17TA), filed May 8, 1981. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. *Cheese and related dairy products,* from Lyons, IL to Denver, CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Associated Grocers of Colorado, 5151 Bannock Street, Denver, CO 80217.

MC 155863 (Sub-6-1TA), filed May 7, 1981. Applicant: PRIEST ENTERPRISES, INC., 176 Sixth Street, Wells, NV 89835. Representative: Mike Pavlakis, P.O.B. 646, Carson City, NV 89701. *Metallic ores, non-metallic minerals,* between points in ID, NV and UT, for 270 days. Supporting shippers: Freeport Gold, P.O. Box 1132, Elko, NV 89801, C-Bar-C Milling Company, P.O. Box 65, Montello, NV 89830.

MC 153534 (Sub-6-1TA), filed May 11, 1981. Applicant: SIMON FLORES, INC., d.b.a. UNION TRANSPORT SYSTEM, 411 Molino St., Los Angeles, CA 90013. Representative: Simon Flores (same as applicant). *Contract Carrier,* Irregular Routes: *Such commodities as are dealt in by Home Improvement Retail Stores, and commodities used in the manufacture and distribution of such commodities,* between Points in CA and points in AZ, NM, TX and UT for the account of Standard Brands Paint Co., Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Standard Brands Paint Co., Inc., 4300 W. 190th St., Torrance, CA 90509.

MC 141742 (Sub-6-2TA), filed April 2, 1981. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: *Lumber and wood products, pulp, paper and related products, metal products, building materials, and commodities used in the manufacture of the above,* between the facilities of Louisiana Pacific Corporation on the one hand, and, on the other, the states in and west of MN, IA, MO, AR, and LA under continuing contract(s) with Louisiana Pacific Corporation. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Louisiana Pacific Corporation, P.O. Box 158, Samoa, CA 95564.

MC 146436 (Sub-6-1TA), filed April 17, 1981. Applicant: SIERRA HIGHLANDS BUS CO., INC., 2015 E. Hammond, Fresno, CA 93703. Representative: O. L. "Bud" Johansen (same as applicant). *Common carrier,* regular route, *Passengers, express, newspapers, U.S. Mail and baggage* of passengers in the same vehicle with passengers in schedule regular route service between Fresno, CA and Fishcamp, CA, via State Hwy. 41; between Bass Lake, CA and Merced, CA, via State Hwys 140 and 49, having a prior or subsequent out of state movement. Interlining at Merced and Fresno with Greyhound and Trailways, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are twenty-one (21) shippers. Their statements may be examined at the Regional Office listed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15507 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we fine, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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 service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the

Energy Policy and Conservation Act of 1975.

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

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

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

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-3-072

Decided: May 18, 1981.

By The Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 78795 (Sub-1), filed May 6, 1981. Applicant: ERNEST L. DINGES, d.b.a. DINGES A. MOVING & STORAGE CO., 800 2nd Ave., Dunvansville, PA 16635. Representative: Alvin F. Dinges (same address as applicant). Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 104104 (Sub-27), filed May 6, 1981. Applicant: GEORGE A. FETZER, INC., Route 565, Augusta, NJ 07822. Representative: Louise M. Fetzer (same address as applicant). Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No OPY-3-075

Decided: May 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 155835, filed May 8, 1981. Applicant: THOMAS A. BROWN, 3509 76th St., Lubbock, TX 79423. Representative: Thomas A. Brown (same address as applicant), (806) 792-0285. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 155875, filed May 11, 1981. Applicant: DONALD K. BOLLHORST, d.b.a. ANCHOR INTERNATIONAL, 400A Chamber of Commerce Building, Baltimore, MD 21202. Representative: Donald K. Bollhorst (same address as applicant), (301)-547-0340. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 155885, filed May 11, 1981. Applicant: GARFIELD TRANSFER COMPANY, INC., d.b.a. GARFIELD TRUCK LINES, 200 SW 34th (P.O. Box 800), Renton, WA 98055. Representative: Josephine W. Frandsen (same address as applicant), (206)-251-8395. Transporting *used household goods*, for the U.S. Government incident to the performance of a pack and crate service on behalf of the Department of Defense, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15580 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP-3-232]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 18, 1981.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

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.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment not a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

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

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

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".

MC 133194 (Sub-23), filed January 28, 1981. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Rd., P.O. Box 1047, Russellville, AR 72801. Representative: Richard H. Streeter, 1729 H St., NW, Washington, DC 20006. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) Between Dardanelle, AR and Danville, AR: From Dardanelle over AR Hwy 27 to junction AR Hwy 10, then over AR Hwy 10 to Danville, and return over the same route, (2) Between Dardanelle, AR and Rover, AR: From Dardanelle over AR Hwy 7 to junction U.S. Hwy 28, then over U.S. Hwy 28 to Rover, and return over the same route, and (3) Between Ola, AR and Danville, AR, over AR Hwy 10, serving all intermediate points in (1), (2), and (3) above.

Note.—Applicant intends to tack and interline this requested authority with its existing authority.

[FR Doc. 81-15582 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 86]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: May 20, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 5888 (Sub-59)X, filed May 7, 1981. Applicant: MID-AMERICAN LINES, INC., 127 West 10th Street, Kansas City, MO 64105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions from its lead and Sub-Nos. 16, 17, 21, 24, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43F, 49F, 50F, 51F, 54F, and 56F certificates to: (1) eliminate all exceptions in its general commodities authority except classes A and B explosives in its lead and Sub-Nos. 17, 21, 24, 27, 29, 30, 31, 34, 35, 36, 40, and 42; (2) eliminate all service restrictions and authorize service at all intermediate points on its regular routes; (3) authorize two-way authority in lieu of one-way authority in the lead (Sheets 4 and 5), and in Sub-Nos. 17 (Sheet 2); 31 (Sheet 4); and 35 (Sheets 3, 9, 10, 11 and 29); (4) authorize country-wide authority in lieu of plant sites and specified points in the irregular route portions of its authorities, as follows: (a) in its lead (Sheet 5) from Parsons, Neodesha, Pittsburg, Concordia, Fort Scott and Hillsboro, KS, to Lalette, Wilson, Crawford, Cloud, Bourbon, and Marion Counties, KS; from St. Joseph, Carthage, Lemar and Butler, MO, to Buchanan, Jaspar, Barton and Bates Counties, MO; (b) in Sub-No. 17, Sheet 2, Paragraph 2, from Cedar Point, Florence, Clements, Council Grove, Cottonwood Falls, Peabody, Wichita, Hutchinson, El Dorado, Burns, Emporia, and Matfield Green, KS, to Chase, Marion, Morris, Sedgwick, Reno, Butler and Lyons Counties, KS, and from St. Joseph, MO, to Buchanan County, MO; and in Paragraph 5, from Emporia, KS, to Lyon County, KS; and on Sheet 3, from Cedar Point, KS, to Chase County, KS; (c) in Sub-No. 31, Sheet 4, from Terre Haute, IN, to Vigo County, IN, and from Decatur, Springfield, Quincy, LaSalle, Elgin, Canton, Macomb, Monmouth, Kewanee and Ottawa, IL, to Macon, Sangamon, Adams, LaSalle, Kane, Fulton, McDonough and Henry Counties, IL; (d) in Sub-No. 35, Sheet 9, Paragraph 1, from Osceola, Creston, Gowrie and Coon Rapids, IA, to Clarke, Union, Webster and Carroll Counties; IA; (e) in Sub-No. 37, from Wathena, KS, to Doniphan County, KS; (f) in Sub-No. 38, from Waukesha, WI, to Waukesha County, WI; (g) in Sub-No. 41, from New Haven, IN, to Allen County, IN; (h) in Sub-No. 43, from Waukesha, WI, to Waukesha County, WI; (i) in Sub-No. 49F, from Monroe, MI to Monroe County, MI; and; (j) in Sub-No. 50F, from Bayport, MN, to Washington, County, MN; (5) in Sub-No. 32, eliminate the plant site limitation and the originating at and destined to restriction; remove exceptions of iron and steel, bulk and size and weight commodities and authorize service between points in Scott County, MN, on the one hand, and, on the other, points in several States; (6) in Sub-No. 33, authorize radial authority in lieu of one-way authority between Kansas City, KS, on the one hand, and, on the other, points in MN and Wi, and to remove in bulk restriction, and the restriction against service at a facility in Kansas City, (7) to enlarge commodity descriptions, as follows: (a) in the lead sheet 5, from dairy products to "food and related products;" on Sheet 4 from malt beverages to "food and related products" and from machinery and twine to "machinery and textile mill products;" and on Sheet 5, from tractors, farm and dairy machinery, supplies, equipment and parts and building materials and equipment to "machinery and building materials;" (b) in Sub-No. 17, Sheet 2, from agricultural implemenmts and agricultural implements parts to "lumber and wood products and machinery;" (c) in Sub-No. 33, from mineral wool, mineral wool products, insulating material and insulating air ducts to "building materials; (d) in Sub-No. 35, Sheet 9, from poultry, butter and eggs, to "food and related products; sheet 15, from butter, eggs, poultry, dressed rabbits, meat & paper to "food and related products and pulp and paper products", and at Sheet 29, from steel and steel articles to "metal products;" (e) in Sub-No. 37, from building and building parts and materials, accessories and supplies used in connection with installation, erection and construction of buildings to "buildings and building materials"; (f) in Sub-No. 38, from electrical distribution transformers to "machinery;" (g) in Sub-No. 41, from fibrous glass products and materials, mineral wool products and materials, insulated air ducts, insulating products and materials, glass fibre rovings, yarn and strands and glass fibre mats and matting, to "clay, concrete, glass or stone products, and building materials and textile mill products;" (h) in Sub-No. 43F, from electrical distribution transformers and parts of same to "machinery;" (i) in Sub-No. 49F, from iron and steel articles to "metal products;" (j) in Sub-No. 50F, from windows, screens, doors, and building woodwork to "building materials;" (k) in in Sub-No. 51F, from aluminum and zinc ingots to "metal products;" (l) in Sub-No. 54F, from expanded metal products to "metal products; and (m) in Sub-No. 56F, from wrought steel pipe and tubing and wrought iron pipe and tubing to "metal products;" and (7) to authorize radial in lieu of one-way authority: (a) in Sub-No. 35, Sheet 29, between points in Putnam County, IL, and, points in IN and KY; (b) in Sub-No. 37, between points in Doniphan County, KS, and, points in IL, IN, IA, MI, MN, MO, OH, and WI, and those in NE and SD on and east of U.S. Hwy. 81; (c) in Sub-No. 38, between points in Waukesha County, WI, and, points in IA, KS and MO; (d) in Sub-No. 49F, between points in Monroe County, MI, and, points in IA, IL, IN, KS, MN, MO, OH, and WI; and (e) in Sub-No. 50F, between points in Washington County, MN, and, points in the Lower Peninsula of MI.

MC 36459 (Sub-5)X, filed April 30, 1981. Applicant: WILLIAM C. BONNER,

INC., Route 1, P.O. Box 3366, Wescosville, PA 18106. Representative: Alan Kahn & Barry D. Kleban, 1430 Land Title Building, Philadelphia, PA 19110. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 1, 2, 3, and 4F certificates to (A) broaden the commodity descriptions: lead certificate (in part), to "those commodities which because of size or weight require special handling or equipment" from heaters and parts, tanks, fittings, and chemical apparatus; Sub-No. 1, to "metal products" from steel, and "building materials" from brick and concrete pipe; Sub-No. 2, to "metal products" from steel; Sub-No. 3 (in part), to "ores and minerals, and clay, concrete, glass or stone products" from marble, finished and unfinished; and, in the lead and Sub-No. 4, remove all exceptions in the general commodities authority "except classes A and B explosives"; (B) delete the restriction to traffic having a prior or subsequent movement by water in Sub-No. 4; and (c) broaden territorial descriptions from plantsite and city-wide to county-wide authority, and replace one-way service with radial service: lead certificate, between Philadelphia, PA, and, New York, NY, and points in NJ; Sub-No. 1, (a) between Philadelphia, PA, and, points in three States, and (b) Montgomery and Berks Counties, PA (Pottstown and Reading, PA), and, Atlantic (Atlantic City, NJ) and Camden Counties, NJ; Sub-No. 2, between Bucks County, PA (plantsite in Bristol, PA), and, points in three States; Sub-No. 3, (a) between Philadelphia, PA, and, points in two States and DC, and (b) between Philadelphia, PA, and points in six States and DC; and Sub-No. 4, between Philadelphia, PA, and, described parts of PA.

MC 38403 (Sub-4)X, filed May 8, 1981. Applicant: WELLING TRUCK SERVICE, INC., 3610 Tree Ct., Industrial Drive, Kirkwood, MO 63122. Representative: H. Barney Firestone, 10 S. LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in lead and Sub-Nos. 2 and 3F certificates to (1) remove all exceptions in its general commodities authority (except Classes A and B explosives) in the regular route portion of the lead (2) broaden the commodity description from brick to "clay, concrete, glass or stone products" in Sub-No. 2 and from confectionery products, chocolate, cocoa and cocoa compounds, chocolate syrup, oleomargarine, in part (1) and dessert preparations and materials and supplies in part (2) to "food and related products and materials and supplies used in the manufacture thereof" in Sub-No. 3F (3) allow service at all intermediate points on its regular route between Aviston, IL and St. Louis, MO, remove the delivery only restriction at off-route points, and expand off-route points within 6 miles of Aviston and 4 miles of Trenton to Clinton County, IL, in the lead, (4) change city to county-wide, Maryland Height, MO to St. Louis County, MO in Sub-No. 2, and Trenton and Aviston to Clinton County, IL in the irregular route portion of the lead; (5) remove exception to Harvey, IL in Statewide authority in Sub-No. 2, (6) change one-way to radial authority between St. Louis County, MO and points in IL in Sub-No. 2.

MC 41932 (Sub-16)X, filed May 4, 1981. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104. Representative: Ronald D. Browning, 1321 S. E. Water Ave., Portland, OR 97214. Applicant seeks to remove restrictions in its lead and Sub-Nos. 10, 11, 13 and 14 certificates to (1) broaden the general commodity descriptions to (a) "general commodities" in the lead (Sheets 1 and 2) and Sub-No. 13; (b) "general commodities (except Class A and B explosives)" in lead (Sheet 2), Sub-Nos. 10, 11 and 14; (2) allow service at all intermediate points between Salt Lake City, UT and Twin Falls, ID; Twin Falls and Bliss, ID; Twin Falls and Rupert, ID; Boise and Bliss, ID; Twin Falls and Buhl, ID; Buhl and Castleford, ID in the lead; and between Mountain Home and Mountain Home Air Force Base, ID in Sub-No. 11; and (3) replace off-route points with county-wide authority as follows: in the lead, Utah Army Service Forces Depot (near Ogden, UT) with Salt Lake, Davis, Weber and Box Elder Counties, UT; off-route points north of and within 15 miles of the described route between Jerome and Rupert, ID, with Cassia, Minidoka, Jerome, Twin Falls, and Gooding Counties, ID; in Sub-No. 10, Egin, a site at Scoville, ID, Lewisville, Menan, Ririe, and Roberts with Jefferson County, ID; Parker with Bannock, Bingham, Bonneville, Fremont, and Madison Counties, ID; and Borah, Aberdeen, Springfield, Rockford, and Moreland with Power, Bannock, Bingham, Cassia and Minidoka Counties, ID.

MC 67646 (Sub-99)X, filed April 24, 1981. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 82 certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except class A and B explosives);" from dairy products, frozen foods, beverage preparations and related advertising matter, fish, meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses, to "food and related products"; from tile and tools, and equipment used in the installation of tile, to "clay, concrete, glass or stone products and metal products", from fencing, fence materials, and tools and equipment used in erecting fences, to "metal products"; from ammunition to "ordnance and accessories"; from skin creams, skin lotions, suntan preparations, cosmetics, antiseptic creams, shaving products, and other skin preparations, to "chemicals and related products"; and from electrical transformers and parts thereof, to "machinery" (2) authorize service at all intermediate points in connection with its regular routes through IA, WI, IL, IN, OH, PA, MD, NJ and NY, (3) in the regular-route portions broaden off-route points by (a) removing facilities limitations at named points: at Rochelle, IL; at or near St. James and Madelia, MN and, at or near Cockeysville, MD, (b) replace facilities limitations at Fernald, OH with Harrison; OH; at Brownhelm Township, OH with Vermillion, OH; at Darrowville, OH with Stow, OH; at Greenwood Township, PA with Crawford County PA; at Mt. Haley Springs, PA with Cumberland County, PA; and at Chaska, MN with Carver County, MN (4) in irregular routes change city to county-wide authority; from Milwaukee, WI to Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties, WI; from North Chicago, IL to Lake County, IL; from Fairmont, MN to Martin County, MN; from Anoka, MN to Anoka County, MN; from Minneapolis/St. Paul, MN to Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, MN; from Villa Park, IL to DuPage County, IL from Duluth, MN to St. Louis County, MN; from Blue Earth, Fairmont, LeSeuer, Mankato, Mapleton, Madelia, Montgomery, New Prague, St. Peter, Waseca and Winnebago, MN to Blue Earth, Faribault, LeSeuer, Martin, Nicolett, Scott, Waseca and Watonwan Counties, MN; from Albany, NY to Albany County, NY; from Yonkers, NY to Westchester County, NY; and from Boston, to Essex, Middlesex, Norfolk, Plymouth, and Suffolk Counties, MA, (5) remove plantsite limitation and (a) replace Albert Lea, Fairmont, Mankato, Winnebago, and Worthington, MN with Blue Earth, Faribault, Freeborn, Martin, and Noble Counties, MN, and (b) replace Waukesha, WI with Waukesha County, WI (6) remove the "in bulk" restriction, (7) remove restriction against

transportation of hides, skins, pelts, chromes, crusts or pieces thereof from MN or IL on an alternate route authorizing general commodities (8) in regular route authority to serve points in MA remove restriction against the transportation of traffic from or to points in the commercial zones of points located in NH, on sheet 21 (9) remove the interline restriction at Mechanicsburg, PA, on sheet 25; (10) authorize service over alternate routes and at off-route points to allow service to be in connection with all applicant's regular route operations, (11) remove restrictions against transportation of traffic originating at, destined to, or interchanged at named points over all alternate routes, (12) remove "for purpose of joinder only" on regular route between Harrisburgh, PA and a junction in PA, (13) remove restriction to the transportation of traffic moving from, to, or through Pittsburgh or points in PA within 35 miles of Pittsburgh on regular routes between points in PA on sheet 12, (14) remove a restriction to traffic moving to or from Frederick, MD and points west of Frederick on regular route between Frederick and Baltimore, MD, on sheet 15, (15) remove the originating at and/or destined to facilities at Rochelle, IL restrictions on sheet 11, (16) change one-way to radial and two-way authority in connection with both regular and irregular routes authority between various points throughout the U.S. and (17) remove the restrictions limiting service from and to terminal points of Minneapolis, St. Paul, and Chicago and intermediate and off-route points to that moving to or from specified points.

MC 68860 (Sub-54)X, filed May 4, 1981. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Drive, Roanoke, Virginia 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 13, 14, 16, 19, 21, 26, 28, 29, 30, 32F, 40F, 43F, 52F and 53F certificates and Sub-E-1 Letter notice, and its authority in MC 68860 Sub-Nos. 23 and 24 acquired in MC-F 13042 and MC-F 13054, with reissued certificates still pending. It seeks to (A) broaden the commodity descriptions: in the lead and Sub-Nos. 13, 23 and 43F, from general commodities, with exceptions, to "general commodities (except classes A and B explosives)"; in the lead, from overalls and denims, canned goods, sugar, butter, poultry, bags, wool, seeds, milk, and cream and milk powder; in Sub-E-1, part (1), from canned goods, sugar and vinegar and (also in Sub-No. 14) from such merchandise as are dealt in by wholesale, retail and chain grocery and food business houses, to "such commodities as are dealt in by retail, wholesale, chain grocery and food business houses, materials, equipment and supplies used in the conduct of such business"; in Sub-Nos. 19, 24 and E-1 part (2) from angles, bars, bases, beams, bridge steel, channels, forms (structural), joists, piling, pipe (cast iron, plate, or sheet), pipe fittings, plates (structural), rivets, rods, sheets, slabs, wire rope and accessories for beams and joists, to "iron and steel articles"; in Sub-No. 26, from incandescent electric lamps to "incandescent electric lamps, materials, equipment and supplies"; remove the restrictions against: commodities in bulk, in tank vehicles and/or requiring the use of special equipment in Sub-Nos. 21, 28, 30 and 52F; "in truckload lots" and in Sub-No. 24, parts (1), (2) and (3); and against traffic having a prior or subsequent movement by air in Sub-No. 35F; (B) broaden the territorial scope by: replacing one way authority with: radial in the lead; and Sub-Nos. 14, 19, 26, 29, 32, 40, and 53F; by removing facilities limitations in Sub-Nos. 21, 26, 32, 40, 52F and 53F; by replacing plantsite and city-wide with county-wide authority as follows: in Sub-No. 14, Lynchburg, and points within 75 miles thereof, with Lynchburg and points in Campbell, Highland, Augusta, Albemarle, Fluvanna, Buchingham, Amelia, Prince Edward, Nottoway, Charlotte, Halifax, Pittsylvania, Henry, Patrick, Floyd, Pulaski, Giles, Graig, Roanoke, Botetourt, Allegheny, Bath, Rockbridge, Bedford, Amherst, Campbell, Appomottox, Nelson, Franklin, Cumberland, Luneburg and Mecklenburg Counties, VA; in Sub-Nos. 16 and 19, Trouteville with Botetourt County, VA; and in Sub-No. 30, Huntington with Cabell County WV; and removing the restrictions limiting transportation to traffic originating at or destined to named facilities in Sub-Nos. 19 and 30.

MC 81412 (Sub-34)X, filed April 30, 1981. Applicant: VALLEY TRANSFER AND STORAGE COMPANY, INC., Route 1, P.O. Box 3366, Wescosville, PA 18106. Representative: Alan Kahn, and Barry D. Kleban, 1430 Land Title Building, Philadelphia, PA 19110. Applicant seeks to remove restrictions in its Sub-Nos. 1 and 33F certificates to (1) broaden the commodity description from, structural steel, prefabricated houses, and steel transmission poles, to "those commodities which because of their size or weight require the use of special handling or equipment"; (2) remove a facilities limitation at Hazleton, PA in Sub-No. 33F; (3) replace city-wide authority with county-wide authority as follows: Allentown and Bethlehem, PA, and West Hazelton, PA, with Lehigh, Northampton and Luzerne Counties, PA; (4) replace existing one-way authority with radial authority between points in PA, and points located throughout the U.S.; and (5) eliminate the restriction in Sub-No. 33F against service to AK, HI and PA.

MC 109326 (Sub-116)X, filed April 20, 1981, published in the **Federal Register** of May 8, 1981, republished as corrected this issue. Applicant: C & D TRANSPORTATION CO., INC., Box 10506, New Orleans, LA 70121. Representative: William P. Jackson, Jr., Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions in its lead and Sub-Nos. 103, 104, 106, 107, 108G, 110, 111, 114F, 115F, E letter notices E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11, E12, E13, E37, E38, E39, E40, and E41 to (1) broaden commodity descriptions to "food and related products" from perishable foods, packinghouse products, dairy productrs, fresh and frozen seafood and fresh and frozen fruits and vegetables, frozen citrus products, cheese, fresh and frozen meats, foodstuffs (except bananas), foodstuffs, canned goods and frozen foods, bananas, perishable foods and foodstuffs, meat, meat products, meat by-products, dairy products, and commodities distrubuted by meat packinghouses and returned shipments, fresh or frozen foods and foodstuffs (excess carcass meat suspended on rails) and returned shipments, coffee beans, poultry products and poultry by-products, animal and poultry feed, and meat in carcass form in the lead; from meats, meat products and meat by-products and articles distributed by meat packing houses in Sub-Nos. 103, 106, 107, and E letters notices E3, E11, E37, E38, E39, E40, and E41; from spring water, in containers in Sub-No. 104; from packinghouse products, dairy products, fresh and frozen seafood and fresh and frozen vegetables, meat, meat product, meat by-products, dairy products and commodities distributed by meat packinghouses in Sub-No. 108G from bananas in Sub-Nos. 110, E letter notices E1, E2, E4, E5, E6, E7, E8, E9, E10, E12, E13, from foodstuffs in Sub-No. 111; and from frozen foods in Sub-No. 113; to "printed matter" from advertising, promotional, and display material and when moving in the same vehicle at the same time with canned goods and frozen foods in part of the lead; to "metal products" from cans in part of the lead; to "pulp, paper and related products" from boxes in part of the lead; to "containers" from cartons and containers, and cardboard, fibreboard,

paper and composition containers in parts of the lead; to "machinery" from machinery, parts, accessories, equipment, supplies, implements, parts, appliances, and products usually or customarily used or useful in the processing, manufacture, packing, freezing, or canning of foodstuffs in part of the lead; and to "containers and packaging materials" from glass and plastic containers and other related packaging materials in Sub-No. 104, (2) remove the "in bulk" restriction in the lead, Sub-Nos. 103, 106, 107, 108G, 111, 114, E37, and E41, (3) remove the mechanical refrigeration vehicle restrictions in the lead, and E3, E11, E38, and E39 (4) remove (a) the restriction against the transportation of bananas between New Orleans, LA and Gulfport, MS in the lead (b) the ex-water restrictions in the lead, and Sub-No. 110 (c) the restriction against the transportation from or to any facility of The Great Atlantic and Pacific Tea Company, Inc. of New York, NY and Hunt Foods and Industries, Inc., (merged into Norton Simon, Inc.) of Fullerton, CA, in the lead, Sub-Nos. 103, 104, 106, 107, 108G, 110, 111, E letter notices E37, E38, E39, E40, and E41 (d) the restriction against transportation to AK and HI in Sub-No. 114 (5) remove the facilities limitation (a) in the fourth paragraph of the lead and replace New Albany, MS with Union County, MS, (b) in the fifth paragraph of the lead and replace Jackson, MS with Hinds County, MS, (c) in the sixth paragraph of the lead and replace Collins, New Albany, Canton, Crystal Springs, and Jackson, MS with Covington, Union, Madison, Copiah, and Hinds Counties, MS (d) in paragraphs 8, 9, 10 and 11 in the lead and replace Moorhead, MS with Sunflower County, MS, (e) in Sub-No. 103 and replace Goodlettsville, TN with Davidson County, TN, (f) in Sub-No. 106 and replace Shreveport, LA with Caddo Parish, LA, (g) in Sub-No. 113 and replace Forest, MS with Scott County, MS, (h) in Sub-No. 114 and replace Brundidge and Troy, AL with Pike County, AL, (6) replace city with county-wide authority (a) in paragraph 2 of the lead from Montgomery, AL to Montgomery County, AL; in the seventh paragraph of the lead from Mobile, AL to Mobile County, AL; in the ninth paragraph of the lead from Birmingham, AL to Jefferson County, AL; Arlington, TX to Tarrant County, TX; Austin, IN to Scott County, IN; in the tenth paragraph of the lead, Birmingham, AL to Jefferson County, AL and Monroe, LA to Quachita Parish, LA; in paragraph twelve of the lead, Wilmington, DE to New Castle County, DE; in paragraph thirteen, Orange, TX to Orange County, TX and New Orleans and points within 15 miles thereof to New Orleans, LA; paragraphs fourteen through seventeen, Ft. Walton Beach, Panama City, and Pensacola, FL to Okloosa, Bay and Escambia Counties, FL; Gulfport, Columbus, Hattiesburg, Jackson, Laurel, Meridan, Pascagoula, and Vickburg, MS to Harrison, Lowdnes, Forrest, Hinds, Jones, Lauderdale, Jackson and Warren Counties, MS; and, Mobile, AL to Mobile County, AL; in paragraphs sixteen and seventeen of the lead Birmingham, AL to Jefferson County, AL; in paragraph 20 of the lead Decatur, IL to Macon County, IL and Terre Haute, IN to Vigo County, IN; in paragraph 21 of the lead Mobile, AL to Mobile County, AL; in paragraph 24 Sikeston, MO to Scott County, MO and Mobile and Eight Mile, AL to Mobile County, AL, (b) in Sub-No. 104, Deer Park, MD to Garrett County, MD, (c) in Sub-No. 107, Gulfport, MS to Harrison County, MS, (d) in Sub-No. 108G, second paragraph, Pascagoula, and Bay St. Louis, MS to Jackson and Hancock Counties, MS; in the fourth paragraph Montogomery, AL to Montgomery County, AL, (e) in Sub-No. 110 Mobile, AL to Mobile County, AL, (f) in E1, E11 and E12, Miami, FL to Dade County, FL (g) in E4 and E10 Terre Haute, IN to Vigo County, IN, (h) in E6 Pensacola, FL to Escambia County, FL, (i) in E37 Mobile, AL to Mobile County, AL, (j) in E3 and E39 Montgomery, AL to Montgomery County, AL, and (k) in E38 Birmingham, AL to Jefferson County, AL; (7) remove the "orginating at or destined to" named facilities restrictions in the lead and Sub-Nos. 103 and 113 and (8) change one-way to radial authority between various points throughout the U.S. in the lead, Sub-Nos. 103, 104, 106, 107, 108G, 110, 113, 115, E letter notices E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11, E12, E13, E37, E38, E39, E40, E41. The purpose of this republication is to (1) provide notice (a) of a broadened commodity description for E letter notice E-3 in part (1); (b) of county-wide authority for lead certificate, paragraphs 7 and 21, and E-letter notices E-3 and E-38; and to (2) correct several typographical errors.

MC 109346 (Sub-10)X, filed May 4, 1981. Applicant: J. L. COX & SON, INC., 777 Action Street, Odessa, MO 64076. Representative: Tom B. Kretsinger, P.O. Box 258, 20 E. Franklin, Liberty, MO 64068. Applicant seeks to remove restrictions in its lead and Sub-No. 6 and 8 certificates to: (1) broaden the commodity description from pipe, pipe-line materials, machinery and equipment incidental to and used in connection with the construction, repairing, or dismantling of gas, gasoline and oil pipe-lines; and steel and metal pipe, pipe fittings, paint and tar to be used in the construction of pipelines; in the lead; from machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and byproducts, water, or sewerage, in Sub-No. 6; and from machinery, equipment, materials, and supplies used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewage, including the stringing and picking up of pipe, in Sub-No. 8, to "pipe, pipeline machinery, equipment, materials and supplies, used in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up of pipe"; (2) remove the territorial restrictions limiting service between rail-heads, on the one hand, and, on the other pipe-line rights-of-way and/or to or from pipe-line rights-of-way in order to allow service between points in IA, IL, IN, KS, MO, OH, OK and TX, between points in AL, AR, CO, CT, DE, FL, GA, KY, LA, MA, MD, ME, MI, MN, MS, MT, NE, NH, NJ, NM, NC, ND, RI, SC, SD, UT, VA, VT, WI, WV, WY and DC, between points in AZ, ID, NE, OR and WA, between points in AZ, ID, NE, OR, and WA on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY and DC, and between points in NY, PA and TN.

MC 115651 (Sub-102)X, filed May 7, 1981. Applicant: KANEY TRANSPORTATION INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 2, 3, 5, and 6 certificates to (1) broaden the commodity description (a) from paint and paint materials, varnish, lacquers, driers, stains, shellacs, fillers, thickeners, thinners, and reducing or removing compounds, to "commodities in bulk", in the lead; (b) from core compound to "chemicals and related products" in the lead, and Sub-Nos. 3, and 6; (c) from paint and paint materials, varnish, lacquers, driers, stains, shellacs, fillers, thickeners, thinners, and

reducing or removing compounds to "chemicals and related products" in Sub-Nos. 2 and 6; and (d) from urethane foam components, liquid, in tank vehicles, to "commodities in bulk" in Sub-No. 5; (2) convert existing one-way authority to radial authority between specified points located mainly in the eastern and central portions of the U.S. in the lead, Sub-Nos. 2, 3, 5, and 6; (3) broaden the territorial description in (a) Sub-No. 2 by deleting the exception against service to Quincy, MA; (b) in Sub-No. 6 by broadening Denver and Pueblo, CO, to Arapahoe, Adams, Denver, Jefferson, and Pueblo Counties, CO; (d) convert the origin of Rockford, IL, to points in Winnebago County, IL in the lead and Sub-Nos. 2, 3, 5, and 6; and (4) delete the in bulk, in tank vehicles, limitations in the lead, Sub-Nos. 2, 3, 5, and 6.

MC 125996 (Sub-98)X, filed May 6, 1981. Applicant: GOLDEN TRANSPORTATION INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. Applicant seeks to remove restrictions from its lead docket and Sub-Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 15, 18, 21, 23, 24, 30, 32, 33, 41, 42, 44, 48, 52, 54F, 57F, 61F, 65F, 71F, 73F, 74F, 76F, 78F, 79F, 80F, 84F, 85F, 88F, 89F, 90F, 91F, 93F and 94F certificates and MC-F-13541 in order to: and MC-125996 Sub-No. 53 permit (1) broaden specific commodities descriptions as follows: (a) from various feeds and feed ingredients, meat products, canned foodstuffs, frozen foods, malt beverages, and canned goods to "food and related products" in its lead docket and Sub-Nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 15, 18, 21, 23, 24, 30, 32, 41, 42, 44, 52, 53, 54F, 57F, 71F, 74F, 76F, 78F, 79F, 80F, 84F, 85F, 89F, 90F, 91F, 93F and 94F certificates; (b) from rugs and carpets, rug and carpet padding and materials and supplies used in installation to "textile mill products" in its Sub-No. 33 certificate; and (c) from agricultural chemicals to "chemicals and related products" in its Sub-No. 48 certificate; (d) from periodicals and magazines and perioddicals in its Sub-No. 88F and MC-F-13541 to "printed matter;" (2) replace specified points with county-wide authority as follows: Buhl and Hagerman with Twin Falls and Gooding Counties, ID (lead and Sub-Nos. 3, 5, 7); Albin, Irwin and Gallio with Laramie, Natrona and Converse Counties, WY; and Converse Counties, WY; and Ardmore and Pine Ridge with Fall River and Shannon Counties, SD (Sub-No. 12); LeMars with Plymouth County, IA (Sub-No. 13); Siloam Springs and Gentry with Benton County, AR; and Proctor and Kansas with Adair and Delaware Counties, OK (Sub-No. 15); Hospers with Sioux County, IA (Sub-No. 18); Deerfield with Lake County, IL (Sub-No. 23); Crete with Saline County, NE (Sub-No. 24); Gibbon and Hastings with Buffalo and Adams Counties, NE (Sub-No. 30); New Hampton with Chickasaw County, IA (Sub-No. 32); City of Commerce and Pico Rivera with Los Angeles County, CA; and Trenton with Mercer County, NJ (Sub-No. 33); Madison with Madison County, NE (Sub-No. 41); Grand Island with Hall County, NE (Sub-No. 42); Springfield with Greene County, MO; and Manhattan and Newton with Riley and Harvey Counties, KS (Sub-No. 44); Muscatine with Muscatine County, IA (Sub-No. 48); Huron and Mitchell with Beadle and Davison Counties, SD (Sub-No. 52); Carroll, Denison, Iowa Falls, Fort Dodge and Cherokee with Carroll, Crawford, Hardin, Webster and Cherokee Counties, IA (Sub-No. 54); Pocatello with Bannock County, ID (Sub-No. 61); Estherville with Emmet County, IA; Sioux Falls with Minnehaha County, SD; and Worthington with Nobles County, MN (Sub-No. 71); West Jordan and Lehi with Salt Lake and Utah Counties, UT; Bonne Terre with St. Francois County, MO; Plymouth with Marshall County, IN; and Biwabik with St. Louis County, MN (Sub-No. 73); Worthington and Austin with Nobles and Mower Counties, MN; Huron with Beadle County, SD; Fort Dodge and Ottumwa with Webster and Wapello Counties, IA (Sub-No. 74); Emporia and Wichita with Lyon and Sedgwick Counties, KS; Dakota City with Dakota County, NE (Sub-No. 76); Terre Haute with Vigo County, IN (Sub-No. 78); Muscatine and Mitchellville with Muscatine and Polk Counties, IA (Sub-No. 80); Fairmont with Martin County, MN; and Sioux City with Polk County, IA (Sub-No. 84); Britt and Mason City with Hancock and Cerro Gordo Counties, IA (Sub-No. 85); Pewaukee with Waukesha County, WI (Sub-No. 88 and MC-F-13541); Connell, Moses Lake, Quincy and Richland with Franklin, Grant and Benton Counties, WA; Hermiston and Weston with Umatilla County, OR; Nampa and American Falls with Canyon and Power Counties, ID (Sub-Nos. 89 and 93); Clovis and Fresno with Fresno County, CA (Sub-Nos. 90 and 91); and Holcomb with Finney County, KS (Sub-No. 94); (3) remove all of the following restrictions and limitations on commodity and territorial descriptions whenever they appear in the above certificates: (a) facilities restrictions; (b) originating at—destined to restrictions; (c) restrictions against transportation of specified commodities and commodities in bulk and/or hides; (d) restrictions specifying use of vehicles equipped with mechanical refrigeration; (e) restrictions against transportation in tank or hopper type vehicles; and (f) restriction limiting service to the transportation of traffic having a prior movement by water; (4) replace territorial description in its contract carrier permit with "between points in the United States" serving a named shipper(s) under continuing contract(s) in Sub-No. 53; (5) delete restriction against a specific commodity or commodities in bulk embraced in "such commodities" descriptions in Sub-Nos. 61F, 65F, 73F; and (6) expand its one-way authority to radial authority between various combinations of points in the U.S.

MC 134369 (Sub-20)X, filed May 7, 1981. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Representative: Allen C. Zuckerman, 39 S. LaSalle St., Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-Nos. 8, 10F and 17F certificates to: in Sub-No. 8, part (1) broaden the commodity description from sand and sand with additives to "ores and minerals", substitute Ogle County, IL, for the city designation of Oregon, IL, delete the "in bulk, in tank or hopper type vehicles" restriction, and substitute radial service in place of its one-way authority: "between Ogle County, IL, and points in the U.S. on and east of U.S. Hwy. 85 (except Bettendorf, Keokuk and Waterloo, IA); in Sub-No. 8, part (2), broaden the commodity description from foundry aggregates to "such commodities as are dealt in by foundries", remove the "in bulk, in tank or hopper type vehicles" restriction, change the one-way authorization to radial authority: "between points in the U.S. on and east of U.S. Hwy. 85 (except points in IL, IN, MI, PA, WV, OH, points in Pike, St. Louis, St. Charles, Jefferson, St. Francois, Marion, Washington and Stoddard Counties, MO, and Owensboro, KY) and points in IL, MI, IN and OH", and remove the restriction against the transportation of "(a) lime and limestone products from points in Dodge, Fond du Lac and Manitowoc Counties, WI, Knox County, TN, Davenport, IA, Kansas City, MO and Limedale, AR, to points in IL, IN, OH and MI, (b) sand from the facilities of Wedron Silica Company, at Whitehead, SC, Glen Rose, TX and Sewanee, TN, to points in IL, IN, MI, and OH, and (c) sand from Hanover, WI, to points in MI"; in Sub-No. 10F, broaden the commodity description from foundry compound and premix to "such

commodities as are dealt in by foundries", substitute the county designation of Winnebago County, WI and Black Hawk County, IA, for the city designations of Winnebago County, WI and Black Hawk County, IA, for the city designation of Neenah, WI, and Waterloo, IA, and authorize radial service in place of its one-way authority: "between Winnebago County, WI and Black Hawk County, IA"; in sub-Nos. 17F, broaden the commodity description from foundry compound and premix to "such commodities as are dealt in by foundries", substitute the county designations of Cook County, IL and Black Hawk County, IA for the city designations of Chicago, IL and Cedar Falls, IA, and authorize radial service "between Cook County, IL, and Black Hawk County, IA" in place of its one-way authority.

MC 140768 (Sub-50)X, filed May 8, 1981. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions from its lead and Sub-Nos. 4, 14, 45F, 48F, 51F, 52F, 53F, 57F, 60F, 62F, 65F, 67F, and 68F permits to (1) broaden the commodity description (a) from plastic bathtubs and plastic bath fixtures; and from fiberglass tubs and fiberglass shower stalls to "rubber and plastic products" in the lead and Sub-No. 45F, (b) from brass, bronze, and copper pipe and tubing, brass and copper alloys, brass, bronze, copper and nickel products, copper billets, metal scrap, and fire brick to "metal products, waste or scrap materials, and clay, concrete, glass or stone products" in Sub-No. 4, (c) from cleaning products, nutritional foods and related articles, and toilet preparations to "chemicals and related products, food and related products, and rubber and plastic products" in Sub-No. 5, (d) from wheels, tires, hub caps, and battery parts to "rubber and plastic products, metal products, machinery, transportation equipment, lumber and wood products, and petroleum, natural gas and their products" in Sub-No. 14, (e) from steel bathtubs, lavatories, sinks and plumber fittings and supplies to "metal products, and clay, concrete, glass or stone products" in Sub-No. 19, (f) from cigarette packaging materials to "pulp, paper and related products, rubber and plastic products, and metal products" in Sub-No. 32, (g) from plumbers' goods and bathroom fixtures to "rubber and plastic products" in Sub-No. 48F, (h) from paper, paper products, furniture and plastic materials to "pulp, paper and related products, furniture and fixtures, and rubber and plastic products" in Sub-No. 53F, (i) from tin, solder and solder residue to "ores and minerals, and metal products", from iron and steel wire rods to "metal products" in Sub-No. 60F, (j) from paper, paper products, dispenser boxes, and liquid soaps to "pulp, paper and related products, rubber and plastic products, metal products, and chemical and related products", from paper and paper products to "pulp, paper and related products" in Sub-No. 62F, (k) from insecticides, herbicides, pesticides, fertilizer seed, argicultural chemicals and applicators therefor to "chemicals and related products, farm products and machinery" in Sub-No. 65F, and (l) from general commodities, with the usual exceptions to "general commodities (except classes A and B explosives) in Sub-Nos. 51F, 67F, and 68F, (2) eliminate in bulk restriction or size and weight restrictions in Sub-Nos. 4, 5, 14, 45F, 48F, 42F, 53F, 57F, 60F, 62F, and 65F, and (3) expand the territorial description in each permit to between points in the U.S. under Continuing contract(s) with named shippers.

MC 145990 (Sub-5)X, filed April 30, 1981. Applicant: LAWRENCEBURG TRUCKING, INC., 21 Catalpa Avenue, Lawrenceburg, IN 47025. Representative: John R. Bagileo, 918—16th ST., NW, Washington, DC 20006. Applicant seeks to remove restrictions to (A) broaden the commodity description in the lead (part 1), and Sub-No. 2F certificates to "food and related products" from alcoholic beverage (except in bulk); and broaden part (2) of the lead certificate to "clay, concrete, glass or stone products" from glass containers; (B) remove the restriction limiting service to that originating at the shipper's facilities and destined to the named destination, in the lead certificate; and (C) replace one-way authority with radial authority, and broaden the territorial descriptions from city-wide to county-wide authority: lead certificate, between (a) Dearborn County, IN (Lawrenceburg, IN), and, points in Will, Sangamon, Macon and Champaign Counties, IL (Plainfield, Springfield, Decatur, and Champaign, IL), and Chicago, IL, and (b) La Salle County, IL (Streator, IL), and, Cincinnati, OH; Sub-No. 2, between Dearborn County, IN (Lawrenceburg, IN), and, points in Lake County, IL (Waukegan, IL).

MC 148375 (Sub-3)X, filed February 18, 1981, previously noticed in the **Federal Register** of March 6, 1981, republished as follows: Applicant: LOWER COLUMBIA TRUCKING, INC., Rt. 1, Box 217, Cathlamet, WA 98612. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Applicant seeks to remove restrictions from its Sub-No. 2F certificate. This Board previously broadened the certificate to include "general commodities, except Classes A & B explosives", to allow service at all intermediate points, and to remove a restriction against all traffic moving between 4 points. Applicant also sought off-route county-wide authority which was denied because it was determined to be an unreasonable broadening of territory. Because of a recent Commission decision declaring this type of broadening to be reasonable, the Restriction Removal Board has decided to renotice this application with respect to the proposed expansion of off-route points. Notice is hereby given that appliction seeks to expand its off-route points of Altoona, Roseburt, Deep River Camp, Puget Island, Long Beach, Seaview, Chinook and Megler, WA, to all points in Wahkiakum and Pacific Counties, WA.

MC 148903 (Sub-100)X, filed May 1, 1981. Applicant: J & M TANK LINES, INC., P.O. Box 589, Americus, GA 31709. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 1F, 2F, 3F, 5F, 7F, and 8F certificates to (A) broaden the commodity descriptions in all certificates to "clay, concrete, glass or stone products" from lime, rock, stone, cement, mortar mix, sand, tile grout, masonry coating, silica clay, fire-brick, limestone and gravel; to "ores and minerals" from aluminum clay sulphate and bauxite ore, "metal products" from fly ash, "food and related products" from salt, corn starch, corn sugar, and phosphate feed supplements, "petroleum or coal products" from cold mixed asphalt and liquid asphalt sealer, and "printed matter" from advertising matter, in the lead certificate; and to "chemicals and related products" from vinyl concrete patcher, fertilizers and materials, and acrylic paint and adhesives in the lead and Sub-No. 7 certificates; (B) remove restrictions limiting service to that "in bags," "in containers," "in bulk," "in tank vehicles" and "when moving in mixed loads"; (c) remove restrictions against shipments having a subsequent movment by water, and limiting traffic to that having a prior movement by rail, and restricted to traffic originating at a named plantsite and destined to the named destinations, in the lead certificate; (D) expand one-way authority to radial authority on service, generally between points in the southern and midwestern States; and (E) expend

authority to serve named plantsites and cities to county-wide authority, as follows: lead certificate, Bibb County, GA (plant at Macon, GA), Glynn County, GA (Brunswick, GA), Decatur County, GA (Bainbridge, GA), Sumter and Dougherty Counties, GA (Americus and Albany, GA), Shelby County, AL (Wilsonville, AL), Houston County, GA (plantsite, Clinchfield, GA), Richmond County, GA (Augusta, GA), Anson County, NC (plantsite at Lilesville, NC), Franklin County, TN (plantsite near Sewanee, TN), Sumter County, GA (plantsite, Andersonville, GA), Coffee and Tift Counties, GA (Douglas and Tifton, GA), Chatham, Bartow, Marion, Crawford and Macon Counties, GA (plantsites in Chatham, Bartow, Marion, Crawford and Macon Counties, GA), Jefferson County, AL (Birmingham, AL), Marengo County, AL (Demopolis, AL), and Carroll County, GA (facilities near Roopville, GA); Sub-No. 1, St. Clair County, AL (Ragland, AL); and Sub-No. 8, Chattanooga, TN (facilities at Chattanooga, TN).

[FR Doc. 81-15579 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

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

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

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

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-2-078

Decided: May 13, 1981.

By the Commission, Review Board No. 2, Members Parker, Chandler and Fortier.

MC 6992 (Sub-17F), filed April 28, 1981. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, P.O. Box 1127, Indianapolis, IN 46206. Representative: Andrus E. Bates (same address as applicant), (317) 353-8331. Transporting general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with General Electric Corporation, of Albuquerque, NM.

MC 56863 (Sub-12F), filed May 5, 1981. Applicant: ERKEL TRANSFER, INC., P.O. Box 6, Le Center, MN 56057. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *metal products*, between points in the U.S., under continuing contract(s) with United Steel Products Co., of Montgomery, MN.

MC 56863 (Sub-13F), filed May 5, 1981. Applicant: ERKEL TRANSFER, INC., P.O. Box 6, Le Center, MN 56057. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *electrical machinery*, between points in the U.S., under continuing contract(s) with Winco Division of Dyna-Technology, Inc., of Le Center, MN.

MC 105843 (Sub-4F), filed May 4, 1981. Applicant: VAN AUKEN EXPRESS, INC., P.O. Box 176, Greenville, NY 12083. Representative: Donald G. Hichman, R.D. No. 1, Box 7, Union Spring, NY 13160. Transporting *general commodities* (except classes A and B explosives) between points in Albany, Columbia, Delaware, Greene, Otsego, Rennselaer, Schenectady and Schoharie Counties, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, NH, NJ, NY, PA, RI, and VT.

MC 107012 (Sub-709F), filed May 5, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant), (219) 429-2234. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Xerox Corporation, of Rochester, NY.

MC 118543 (Sub-1F), filed May 1, 1981. Applicant: PETER & SON, INC., 1422 Water Street, P.O. Box 333, Fitchburg, MA 01420. Representative: James M. Burns, 1381 Main Street, Suite 413, Springfield, MA 01103, (413) 781-8205. Transporting *household goods*, between points in the U.S., in and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to 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.

MC 120793 (Sub-2F), filed May 5, 1981. Applicant: WALL TRUCKING COMPANY, INC., 1301 Eastchester Drive, High Point, NC 27261. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893-4924. Transporting *new furniture and fixtures*, between points in NC.

MC 127902 (Sub-21), filed May 4, 1981. Applicant: DIETZ MOTOR LINES, INC., P.O. Box 1427, Hickory, NC 28601. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425—13th St., N.W.,

Washington, DC 20004, (202) 737-1030. Transporting *such commodities* as are dealt in by retail stores, between points in NC, and SC, on the one hand, and, on the other, points in GA, TN, AL, AR, LA, and MS.

MC 136123 (Sub-27), filed May 4, 1981. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same address as applicant), 813-722-0506. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with United Freight, Inc., of Morrow, GA, and Distribution Services of America, Inc., of Boston, Mass.

MC 139482 (Sub-189F), filed May 4, 1981. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant), (506) 354-8546. Transporting *pulp, paper and related products,* between points in the U.S.

MC 139923 (Sub-84), filed May 1, 1981. Applicant: MILLER TRUCKING CO., INC., 105 South 8th St., Stroud, OK 74079. Representative: Edward L. Handlin (same as applicant), 800-722-4727. Transporting *food and related products* between points in TN and MO, on the one hand, and, on the other, points in TX.

MC 143032 (Sub-39), filed May 4, 1981. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., 10 South Fifth St., Minneapolis, MN 55402, 612-340-0808. Transporting *lumber and wood products, and forest products,* between the facilities of Potlatch Corporation at points in MN, on the one hand, and, on the other, points in the U.S.

MC 144663 (Sub-3), filed May 4, 1981. Applicant: RONALD R. GANDER, 7815 Republic, N.E., Albuquerque, NM 87109. Representative: Larry D. Lucas, P.O. Box 26387, Albuquerque, NM 87125, 505-243-9744. Transporting *wallboard,* between points in the U.S., under continuing contract(s) with Western Gypsum Company, of Rosario, NM.

MC 147452 (Sub-7), filed May 4, 1981. Applicant: W.D.W. TRUCKING, INC., 2620 S.W. 66th Terrace, Miramar, FL 33023. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30326, 404-262-7855. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under condinuing contract(s) with (a) Distribution Services of America, of Boston, MA, and (b) United Freight, Inc., of Morrow, GA.

MC 147512 (Sub-3F), filed May 4, 1981. Applicant: HUDSON EXPRESS, INC., P.O. Box 142, Hudson, WI 54016. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402, (612) 339-4546. Transporting *such commodities* as are dealt in or used by manufacturers, convertors, printers and distributors or paper and paper products, between points in WI, on the one hand, and, on the other, points in the U.S.

MC 150973 (Sub-3), filed April 29, 1981. Applicant: HERBERT R. SHIPLEY, INC., 3304 Sykesville Road, Westminster, MD 21157. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean Va 22101, 703-893-4924. Transporting *chemicals and related products, and forest products,* between points in the U.S., under continuing contract(s) with Affiliated Hospital Products, Inc., of St. Louis, MO.

MC 152092 (Sub-35), filed May 1, 1981. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19702. Representative: Samuel W. Earnshaw, 803 Washington, DC 20005, 202-783-4110. Transporting *petroleum and petroleum products,* between points in the U.S., under continuing contract(s) with (a) Arco Petroleum Products Co., of Los Angeles, CA, (b) BP Oil Incorporated, of Cleveland, OH, (c) Cibro Petroleum Inc., of Bala Cynwyd, PA, (d) City of Dover, of Dover, DE, (e) Container Corporation of America, of Wilmington, DE, (f) Enterprise Oil and Gas Company, of Detroit, MI, (g) Exxon Company, U.S.A., of Houston, TX, (h) Getty Refining and Marketing Co., of Tulsa, OK, (i) West Bank Oil, Inc., of Pennsauken, NJ, (j) W. L. Wheatley, Div. of Joseph Campbell Co., subdivision of Campbell Soup Co., of Camden, NJ, (k) Pedroni Fuel Co., of Vineland, NJ, (l) Sun Petroleum Products Co., of Philadelphia, PA, and (m) Holly Oil Co., of Newark, DE.

MC 152312 (Sub-2F), filed April 30, 1981. Applicant: DON'S TRUCKING, INC., P.O. Box 24433, Richmond, VA 23234. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, (202) 457-1124. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with E.I. DuPont de Nemours & Co., Inc., of Wilmington, DE.

MC 152672 (Sub-3F), filed May 6, 1981. Applicant: A. ROGER LEASING, LTD., 850 Beaver Grade Rd., Coraopolis, PA 15108. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22108, (703) 442-8330. Transporting *metal products,* between the facilities of Babcock and Wilcox Company, at points in the U.S., on the one hand, and, on the other points in the U.S.

MC 155553F, filed April 28, 1981. Applicant: GRAND VIEW TOURS, 322 Spruce St., Glenolden, PA 19036. Representative: Denise Blackburn (same as applicant), (215) 461-8116. To engage in operations, in interstate or foreign commerce, as a *broker,* at Glenolden, PA, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations beginning and ending at points in Philadelphia, Delaware and Montgomery Counties, PA, and extending to points in the U.S.

MC 155572F, filed April 28, 1981. Applicant: VALLEY SUPPLY, a division of D & D SERVICE CENTER, INC., P.O. Box 56, Goodwin Ave., Union Pier, MI 49129. Representative: Daryl D. Cummings (same address as applicant), (616) 469-4042. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of industrial and portable air compressors, refrigeration compressors, rock drills, and portable welders, between points in the U.S.

MC 155752F, filed May 5, 1981. Applicant: RON DAVIS TRUCKING, Rural Route 1, Booneville, IA 50038. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Fancyfarm Foods, Inc., of Emeryville, CA.

MC 155762F, filed May 6, 1981. Applicant: BYRON ELEVATOR COMPANY, 302 Byron Ave. No., Byron, MN 55920. Representative: Lou B. Kuhlmann (same address as applicant), (507) 775-6262. Transporting *metal products,* between Chicago, IL, and points in MN.

MC 155763, filed May 6, 1981. Applicant: CAPSTAN TRANSPORTATION CO., 109 North Broad St., Lancaster, OH 43130. Representative: Thomas A. Rogers (same address as applicant), (614) 687-2800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) C. F. S. Continental, of Chicago, IL, (b) Calandra Industrial Supply Company, of Lancaster, OH, (c) McAuley

Manufacturing, Inc., of Bremen, OH, (d) Premix E. M. S., of Lancaster, OH, (e) Lancaster Beauty Supply, Inc., of Lancaster, OH, (f) Cyril-Scott Company, of Lancaster, OH, (g) The Limited Stores, of Columbus, OH, (h) J. F. Auer, of Mamaroneck, NY, (i) Tudor Converted Products, Inc., of Mt. Kisco, NY, and (j) Andersen Corporation, of Bayport, MN.

Volume No. OPY-3-07

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Decided: May 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 694 (Sub-7), filed May 6, 1981. Applicant: CLETUS E. MUMMERT, INC., W. King St., East Berlin, PA 17316. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236-9318. Transporting *paper and paper products,* and *machinery,* between points in the U.S., under a continuing contract(s) with P. H. Glatfelter Company, of Spring Grove, PA.

MC 65525 (Sub-27), filed May 7, 1981. Applicant: WHITE BROTHERS TRUCKING CO., P.O. Box 96, Wasco, IL 60183. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603, (312) 236-9375. Transporting *those commodities,* which because of size or weight, require the use of special handling or equipment, between points in IL and WI, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, LA, MS, MT, NV, NM, NC, OK, OR, SC, TX, UT, WA, and WY.

MC 69454 (Sub-13), filed May 5, 1981. Applicant: DITTO FREIGHT LINES, 1575 Industrial Ave., San Jose, CA 95112. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. Transporting *general commodities* (except classes A and B explosives), between the facilities of Owens Corning Fiberglas Corporation, at or near Santa Clara, CA, on the one hand, and, on the other, points in NV, AZ, OR, WA, ID, NM, MT, and TX.

MC 98844 (Sub-2), filed May 4, 1981. Applicant: SCOLLY TRUCKING, INC., 215 Bremen St., East Boston, MA 02128. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting *general commodities* between points in MA and NH.

Note.—Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of Certificate of Registration No. MC 98844 Sub 1, at applicant's written request.

MC 113974 (Sub-78), filed May 7, 1981. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Avenue, Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant), (412) 461-5100. Transporting *rubber and plastic products,* between points in Broome County, NY, on the one hand, and, on the other, points in the U.S. in and east of IL, KY, LA, MN, MS, TN and WI.

MC 126045 (Sub-35), filed May 7, 1981. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, 1010 South Farragut Street, Davenport, IA 52808. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603, (312) 236-9375. Transporting (1) *ores, minerals, coal and coal products, and metal products,* between points in Scott and Muscatine Counties, IA, and Rock Island County, IL, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MO, MN, NE, TN and WI; and (2) *food and related products, farm products, and chemicals and related products,* between points in Scott and Muscatine Counties, IA, and Rock Island County, IL, on the one hand, and, on the other, points in IL, IA, MO, and MN.

MC 134134 (Sub-94), filed May 5, 1981. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114, (402) 397-9900. Transporting *metal products,* between points in Lancaster County, PA, on the one hand, and, on the other, points in MI, OH, IN, SD, GA, and FL.

MC 142245 (Sub-8), filed May 5, 1981. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave. SW., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459-6121. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The Pillsbury Company, of Minneapolis, MI.

MC 143154 (Sub-11), filed May 7, 1981. Applicant: A & S TRUCKING, P.O. Box 4027, Missoula, MT 59806. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101, (406) 252-4165. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of bee hives, between points in the U.S.

MC 145695 (Sub-8), filed May 7, 1981. Applicant: MAZCO SYSTEMS, INC., 140 Grand St., Carlstadt, NJ 07072. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *printed matter,* between points in the U.S., under continuing contract(s) with Great Eastern Color Lithographic Corp., of New York, NY.

MC 146695 (Sub-7), filed May 6, 1981. Applicant: YANKEE S. & L., INC., d.b.a. YANKEE MOTOR FREIGHT, 1136W West 500 South, Marion, IN 46952. Representative: M. H. Haisley (same address as applicant), (317) 674-7745. Transporting *general commodities* (except classes A and B explosives), between the facilities of Texize, Division of Morton Norwich and its affiliates, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151644 (Sub-3), filed May 6, 1981. Applicant: WILDCAT TRUCKING COMPANY, a corporation, 6810 Dollarway Rd., Pine Bluff, AR 71602. Representative: M. Douglas Wood, 2500 McCain Blvd., Suite 103, North Little Rock, AR 72116, (501) 758-1058. Transporting *lumber and wood products,* and *building materials,* between points in AR, on the one hand, and, on the one other, points in the U.S.

MC 151655 (Sub-8), filed April 30, 1981. Applicant: FRANK BROS. TRUCKING CO., a corporation, 349 Abbott Ave., P.O. Box 241, Hillsboro, TX 76645. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478-9808. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Bay Plastics, Inc., of Burleson, TX.

MC 151894 (Sub-3), filed May 5, 1981. Applicant: VENTURE EXPRESS, INC., P.O. 100300, Nashville, TN 37210. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301, (404) 522-2322. Transporting *general commodities* (except classes A and B explosives), between points in Rutherford County, TN, on the one hand, and, on the other, points in the U.S.

MC 151914 (Sub-2), filed May 5, 1981. Applicant: RUSSELL STOVER CANDIES, INC., 1004 Baltimore Ave., Kansas City, MO 64105. Representative: Thomas P. G. Franklin, 1004 Baltimore Ave., Kansas City, MO 64105, (816) 842-9240. Transporting *malt beverages,* between points in Jefferson County, CO, on the one hand, and, on the other, points in AR and TN.

MC 154324, filed May 5, 1981. Applicant: CARLTON W. GROVE, JR., 1143 Skelp Level Rd., Downingtown, PA 19355. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365-5141. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with The Clorox Company, of Oakland, CA.

MC 154384, filed May 6, 1981. Applicant: CHARLES BEN STOKES, d.b.a. STOKES TRUCKING, Route 3, Box 233, Clover, SC 29710. Representative: Donald E. Cross, 918 16th St. NW., Suite 700, Washington, D.C. 20006, (202) 785-3700. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of polyethylene and paper products, between points in the U.S. under continuing contract(s) with Adams Industries, Inc., of Monroe, LA.

MC 155364, filed May 7, 1981. Applicant: SINCLAIR CARTAGE, INC., 9700 South Madison St., Hinsdale, IL 60521. Representative: Edward G. Finnegan, Ltd., 134 North LaSalle St., Suite 1016, Chicago, IL 60602, (312) 782-9500. Transporting (1) *petroleum and petroleum products,* (2) *chemicals and petrochemicals,* (3) *coal and coal products,* (4) *tar products,* and (5) *fertilizer and fertilizer materials,* between points in IA, IL, KY, MI, OH, IN, and WI.

Volume No. OPY-4-141

Decided May 20, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 37896 (Sub-45), filed May 6, 1981. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St. NW., Washington, D.C. 20006, (202) 833-1170. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Rockwell International Corporation, of Troy, MI.

MC 123226 (Sub-2), filed May 6, 1981. Applicant: SUPERIOR CARRIERS, INC., P.O. Box K, Kenvil, NJ 07874. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, D.C. 20005, (202) 296-3555. Transporting *food and related products,* between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 138687 (Sub-7), filed May 8, 1981. Applicant: BYNUM TRANSPORT, INC., 4609 Hwy. 92, East, Lakeland, FL 33801. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302, (904) 576-1221. Transporting *metal products,* between points in FL, on the one hand, and, on the other, points in the U.S.

MC 145906 (Sub-4), filed May 7, 1981. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Santa Fe Pike, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401 (615) 388-3200. Transporting (1) *metal products, and (2) ores and minerals,* between points in AL, AR, GA, IN, KY, IL, LA, MI, MS, MO, NY, NC, OH, PA, and SC, on the one hand, and, on the other, points in AL and TN.

MC 148647 (Sub-28), filed May 8, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 W. 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N. LaSalle St., Chicago, IL 60601 (312) 332-5106. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Bristol-Myers Co., of New York, NY, and its subsidiaries.

MC 153457, filed May 8, 1981. Applicant: GOLD STAR CARRIERS, INC., Rte. 2, Box 528, Springtown, TX 76082. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103 (817) 332-4718. Transporting *such commodities* as are dealt in or used by grocery, drug and food business houses, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 153807, filed May 8, 1981. Applicant: J & W LEASING, INC., P.O. Box 86, Ottsville, PA 18942. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966 (215) 357-7220. Transporting *ores and minerals, chemicals and related products, coal and coal products, rubber and plastic products, clay, concrete, glass or stone products and metal products,* between points in Erie County, NY, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA, and DC.

Volume No. OPY-4-142

Decided May 20, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 1936 (Sub-50), filed May 7, 1981. Applicant: B & P MOTOR EXPRESS COMPANY, 825 W. Federal St., Youngstown, OH 44501. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215 (614) 228-15411. Transporting *petroleum and petroleum products,* between points in the U.S., under continuing contract(s) with Pennzoil Company, of Oil City, PA.

MC 37896 (Sub-46), filed May 7, 1981. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW, Washington, DC 20006 (202) 833-1170. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with General Electrical Company, of Schenectady, NY.

MC 74416 (Sub-29), filed May 6, 1981. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005 (202) 296-3555. Transporting *food and related products,* between the facilities of J. H. Filbert, Inc., and The Oxford Corporation, at points in the U.S., on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, OK, KS, and TX.

MC 105566 (Sub-251), filed May 7, 1981. Applicant: SAM TANKSLEY TRUCKING, INC. P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312 (703) 750-1112. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 124896 (Sub-103), filed May 8, 1981. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N St., NW, Suite 700, Washington, DC 20036 (202) 331-8800. Transporting *such commodities* as are dealt in by pharmaceutical houses, between points in the U.S., under continuing contract(s) with Norwich Eaton-Pharmaceuticals, Division of Morton Norwich, of Norwich, NY.

MC 145936 (Sub-3), filed May 8, 1981. Applicant: G&M TRUCKING, INC., 15313 Goodrich Dr., NW, Gig Harbor, WA 98335. Representative: Judith L. Gamrath, 1212 Pacific Bldg., Seattle, WA 98104 (206) 624-8888. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Farwest Shippers Association, of Seattle, WA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15583 Filed 5-22-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Revco D.S., Inc., and Zale Corp.; Proposed Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comment on the proposed judgment filed with the United States District Court for the Northern District of Texas in *United States v. Revco D.S., Inc. and Zale Corporation* Civil Action No. 3-81-0157-H, was

received by the Department of Justice and is published herewith, together with Justice's response to the comment.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court—Northern District of Texas

United States of America, Plaintiff, v. Revco D.S. Inc. and Zale Corporation, Defendants. Civil Action No. 3-81-0157-H.

Comments of The National Association of Retail Druggists

On February 6, 1981 the parties to this proceeding filed with this Court a stipulation and proposed Final Judgment. The proposal would settle by consent the lawsuit filed by the Department of Justice challenging the acquisition by Revco of Skillern's drug stores. Pursuant to the Antitrust Procedures and Penalties Act of 1974, 15 U.S.C. 16(e), before a consent judgment is entered, "The court shall determine that the entry of such judgment is in the public interest." In making its determination, the court may consider the competitive impact of the judgment and alternative remedies, as well as any other considerations bearing upon the adequacy of such judgment.

These comments are submitted on behalf of the National Association of Retail Druggists pursuant to the Antitrust Procedures and Penalties Act of 1974, 15 U.S.C. 16. The National Association of Retail Druggists ("NARD") is a national association of independent pharamacists. NARD represents the owners of more than 30,000 independent retail pharmacies. These pharmacies employ some fifty thousand pharmacists—owners and employees—and dispense two-thirds of the nation's prescriptions. Together, these pharmacies serve 18 million consumers daily. While NARD believes that the proposed consent decree provides limited relief, the decree fails to adequately protect the public interest. NARD therefore asks that the Court reject the proposed judgment unless it is modified for the reasons listed below.

The Complaint and Proposed Settlement

On February 2, 1981 the Antitrust Division of the Department of Justice filed a complaint charging that the acquisition by Revco of Skillern's drug stores would violate § 7 of the Clayton Act, 15 U.S.C. 17, in that it would substantially lessen competition in the sale of ethical drugs.

In particular the complaint alleged that:

(a) Competition between Revco and Skillern's in the retail sale of ethical drugs will be eliminated in the Dallas-Ft. Worth, El Paso and Tyler areas;

(b) Competition generally in the retail sale of ethical drugs will be substantially lessened in the Dallas-Ft. Worth, El Paso and Tyler areas; and

(c) Concentration in the retail sale of ethical drugs will be increased in the Dallas-Ft. Worth, El Paso and Tyler areas.

On February 8, 1981 the Department of Justice and the parties reached a proposed settlement, and filed a stipulation and proposed Final Judgment with this Court. The proposed decree would require Revco to divest itself of between 28 and 31 drug stores in the Dallas-Ft. Worth, El Paso and Tyler, Texas area. In the Dallas-Ft. Worth area, Revco would be required to divest itself of eight named pharmacies (six Skillern—two Revco) and one drug store from each of 17 identified groups. Each group is comprised of between two and four pharmacies. The choice of which pharmacy from within each group is to be divested is left with Revco.

In El Paso, Revco would be required to either divest itself of one pharmacy from each of two specified groups to a chain drug store (defined as four or more stores) presently operating in the El Paso area other than the leading competitor, or four drug stores to a new entrant into that area. The choice of which stores are to be divested is left with Revco.

In the Tyler area, Revco would be required to divest itself of one of two named pharmacies to a competitor presently in the Tyler area other than the two leading competitors in that area, or must sell one of the identified pharmacies plus one additional store in the Tyler area to a new entrant. Again, the choice of which stores are to be divested is left to Revco.

The proposed Final Judgment gives the Department of Justice the right to approve all purchasers, but articulates no standards regarding that procedure. The proposed Final Judgment contains no limitations on Revco's ability to make additional acquisitions.

Comments

The proposed Final Judgment submitted to the Court for approval fails to adequately assure that there will be no substantial lessening of competition as a result of the acquisition. First, the proposed decree fails to address the fact that the acquisition may affect competition in areas other than the three specific geographic areas. Second, while the decree does require that divestiture take place within the three designated localities, it fails to specifically identify which assets are to be divested. This failure provides a loophole that can allow Revco to circumvent the intent of the settlement. Third, the proposed decree inexplicably encourages Revco to sell certain assets to chain stores. Fourth, the proposed decree does not contain any limitations on future acquisitions by Revco.

A. *The Proposed Final Judgment Ignores the Fact That Competition May Be Substantially Lessened in Areas Other Than the Three Designated Localities.*

The proposed decree fails to address the lessening of competiton in areas other than Dallas-Ft. Worth, El Paso and Tyler, Texas. As of August 15, 1980, Revco operated approximately 1,276 pharmacies in 24 states. Fifty-eight of these were in the state of Texas. As of November 10, 1980, Skillern operated approximately 144 pharmacies in the states of Texas and New Mexico. The proposed Final Order only concerns itself with three localities, and does not address the fact that competition may be lessened in other parts of Texas and New Mexico. NARD believes that consolidation of Revco and Skillern will further entrench Revco's market power and will increase barriers to new entry, as the power should be modified before acceptance to provide greater assurance that competition is not lessened in the three localities where Skillern's and Revco now compete directly, by not allowing Revco to designate which stores are divested. While the proposed order requires Revco to divest itself of between 28 and 31 stores, Revco can choose all but eight of the stores that are to be sold. The stores are to be chosen by Revco from categories of stores listed in the proposed decree. In most cases, Revco must choose between selling its store or a Skillern store in the same neighborhood. This obviously gives Revco the opportunity to keep the more desirable location, while unloading the unproductive or less productive store. Allowing Revco to choose which stores will be sold can effectively impede the ability of a new competitor to succeed. NARD believes that the choice of stores to be divested should not be left open to Revco, but should be left to the new entrant. This can be assured by requiring Revco, acting in good faith, to make its stores available on comparable terms based on comparable valuations.

C. *The Proposed Final Judgment Should Not Encourage the Sale of Assets to a Drug Chain.*

The proposed Order is highly unusual in that it encourages Revco to sell its El Paso stores to a drug chain currently operating in El Paso. No explanation is made as to why sales to a chain (defined as four or more stores) are preferable, from an antitrust perspective, to sales to the owner of one, two, three or no other stores. It is hard to understand how competition is enhanced by requiring the sale of stores to a chain currently operating in El Paso rather than to a smaller entity. Moreover, the proposed Final Judgment provides that in El Paso, if Revco does not sell to a chain, it must sell four stores as a block. Competition will not be enhanced by having fewer competitors.

D. *The Proposed final Judgment Does Not Monitor Future Acquisitions by Revco.*

NARD believes that any Final Judgment in this matter should contain a provision prohibiting future acquisitions by Revco except with government approval. As stated above, Revco has reached its enormous position by acquiring small independent pharmacies and chains. The Final Judgment should recognize this and contain a provision requiring Revco to obtain the consent of the Department of Justice for any acquisition over a certain size for a ten year period. The failure to include such a provision, which is standard in most consent decrees, allows Revco to continue making additional acquisitions unchecked by the antitrust enforcement agencies.

E. *The Proposed Final Judgment Does Not Provide Any Standards which the Department Will Use in Approving Prospective Purchasers.*

The proposed Final Judgment provides that any purchaser of assets from Revco must be approved by the Department of Justice. The decree fails, however, to state what factors the Justice Department will consider before it exercises its right of approval. NARD believes that prospective purchasers should be carefully reviewed by the Department of Justice to make certain that competition would be enhanced if they acquired the

assets. NARD believes that the proposed decree should expressly prohibit the sale of any assets to any chain store currently owning 4 or more stores. To allow Revco to sell any assets to a chain such as Rite-Aid or Eckerd's would subvert the purposes of the lawsuit. While the Department of Justice has the ability to disapprove a purchase by a large chain, NARD believes that an explicit provision to that effect should be included in the Final Judgment.

Dated: April 10, 1981.

Respectfully submitted,

Richard M. Rindler,

Gilbert E. Geldon, Pepper, Hamilton & Scheetz, 1776 F Street NW., Washington, D.C. 20006, Counsel to National Association of Retail Druggists.

United States District Court

Northern District of Texas

United States of America, Plaintiff, v. Revco D.S., Inc. and Zale Corporation, Defendants. Civil Action No. 3-81-0157-H.

Response of the United States to the Comments of the National Association of Retail Druggists

Pursuant to Section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(d), the United States hereby responds to the comments submitted by the National Association of Retail Druggists (NARD) in opposition to the entry of the proposed Final Judgment that was filed with the Court on February 6, 1981.

A. *The Proposed Relief Is Substantially That Which Could Be Expected After a Trial on the Merits.*

The objective of the proposed relief is to insure that, at a minimum, the affected markets are restored to the competitive posture in which they were prior to the acquisition. Indeed, the relief proposed is substantially that which the government could expect after a trial on the merits, and in fact is greater than that obtained after a trial on the merits in *United States* v. *Revco Discount Drug Centers, Inc. and Cook United, Inc.*, Civil Action No. 76-265 (N.D. Ohio 1976).

By its terms, the proposed relief prevents any increase in concentration and encourages new entry into the market. The proposed relief assures that the markets will be at least as competitive as they were prior to the acquisition. Such a settlement clearly serves the public interest.

NARD objects to the proposed relief on the grounds that the acquisition will entrench Revco's market power and increase barriers to entry in areas other than the three localities where relief has been obtained. This argument, however, is misdirected. It attacks the scope of the government's complaint, not the proposed Final Judgment. The complaint alleges a violation of Section 7 of the Clayton Act in the three markets where the parties were horizontal competitors. Only those markets would have been at issue if the matter had proceeded to trial on the merits, and thus the proposed Final Judgment is limited to those three markets.

B. *The Specific Assets To Be Divested Are Left To Negotiation Between Revco And The Purchasing Party.*

NARD suggests that the proposed Final Judgment be modified to prevent Revco from choosing the stores it will divest. The proposed Final Judgment identifies eight specific drug stores that must be sold; all other stores are to be selected from groups of two to four stores in close geographic proximity to one another.

The proposed Final Judgment is drafted in this way to give the potential purchasers substantial flexibility in negotiating for the particular drug stores that they want. This flexibility enables the United States to rely on the expertise of the prospective purchasers in determining which stores are most compatible with a purchaser's needs, thereby enabling it to compete most effectively in the particular market. In most of the designated groups there are large and small stores offered in the same area. this allows for maximum flexibility tailored to the needs of the potential purchasers. This aspect of the proposed relief also provides for changing circumstances that otherwise could not be taken into account if specific stores were further identified.

Several provisions of the proposed Final Judgment provide effective checks on any attempt to subvert its purpose or intent. Section VIII requires that Revco provide the Department of Justice with a monthly report disclosing all offers to sell the stores and all parties expressing an interest in any or all of the stores. Section V provides for approval of any proposed sale by the United States, or, if the United States objects to the sale, that the proposal be submitted to the Court for approval. Finally, Revco has an additional incentive to negotiate in good faith with any potential purchaser since Section VI of the proposed Final Judgment provides for the appointment of a trustee to sell the assets if the divestiture is not accomplished by January 31, 1982.

C. *The Relief Proposed For El Paso Is Designed To Enhance Competition In That Market.*

NARD objects to the proposed Final Judgment provision that requires Revco to sell two stores from two identified groups to a presently competing drug store chain, or, in the alternative, four stores, including two from the identified groups, to a new entrant into the El Paso market. The clear thrust of this proposed relief is to enhance competition, either by new entry or increased competition from existing competitors in that market.

The language of the proposed relief is not intended to preclude a sale of drug stores to an existing competitor operating fewer than four drug stores in the market. Read alternatively, the language of the options should be interpreted to include an entity with fewer than four stores to be a new entrant for purposes of the requirements of Section V. The clear intent of the challenged provision is to enhance competition in this market and is not intended to eliminate an existing competitor with fewer than three stores from purchasing the stores. The only proscription on possible sale of the El Paso store is the exclusion of the largest competitor in the market as a potential purchaser.

If the potential purchaser is an entity that cannot be accurately defined within the language of the proposed Final Judgment, Section XI permits the parties either to present it to the Court for appropriate directions or to seek a modification of the decree.

D. *A Provision Requiring Department of Justice Clearance For Future Acquisitions By Revco Is Unnecessary.*

NARD argues that the Final Judgment should prohibit, for ten years, future acquisitions by Revco without government approval. While this type of provision is sometimes employed in consent decrees, it is not necessary in this case. The Department of Justice has no evidence to show that every future acquisition by Revco would be inherently anticompetitive. Instead, the Department would need to evaluate each future acquisition on a case-by-case basis, to determine whether its effect may be substantially to lessen competition or to tend to create a monopoly in violation of Section 7 of the Clayton Act.

The government's ability to monitor future acquisitions might actually be impaired by the consent decree procedure suggested by NARD. The type of retail store transaction involved here would ordinarily fall within the pre-merger notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a. These pre-merger rules provide the government with a longer time period and more specific information than is usually the case in consent decree provisions. Moreover, under the pre-merger rules, acquisitions that require the consent of the government by the terms of a consent decree are exempted from the notification requirements and waiting periods of the Act. 16 CFR 802.70(b). Thus, in this situation, the advantages of the pre-merger noitification rules and other monitoring devices which enable the United States to make a full evaluation of a proposed acquisition would be limited if the United States were to follow the consent decree procedure urged by NARD.

E. *The Proposed Final Judgment Adequately Provides for Review and Approval Of Any Proposed Divestiture.*

NARD suggests that the proposed Final Judgment should enumerate the standards that will be used in evaluating any divestiture proposal, and, further, that the sale of any assets to a drug store chain should be expressly prohibited.

Section V of the proposed Final Judgment provides a flexible approach to evaluation of any proposed divestiture; Revco is to submit all proposed sales to the United States for its approval. If the United States does not approve the proposed sale, the proposed Final Judgment provides that the matter be submitted to the Court. The standards governing the Department's evaluation will be based on the competitive consequences of the proposed purchase based upon existing case law and economic analysis. NARD's suggestion that all drug store chains be prohibited from purchasing the stores lacks merit in these markets since an additional or stronger chain may increase competition or at least not decrease competition. In view of the prospective nature of the relief obtained, further enumeration of standards to be

applied might unnecessarily encumber the objective of a prompt competitive divestiture. Therefore, the suggestion that specific standards and limitations be established and articulated is unwarranted.

Conclusion

For the foregoing reasons, the proposed Final Judgment is in the public interest and should be entered by the Court upon completion of the notice requirements of the Antitrust Procedures and Penalties Act.

Respecfully submitted,

Mary Coleen T. Sewell,

Larry R. Patton,

Attorneys, Antitrust Division.

[FR Doc. 81-15530 Filed 5-22-81; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated March 27, 1981, and published in the **Federal Register** on April 2, 1981; (46 FR 20009), Smith Kline & French Labs., Div. of Smithkline Corp., 1530 Spring Garden Street, Philadelphia, Pa. 19101, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

	Schedule
Drug:	
Amphetamine (1100)	II.
Phenylacetone (8501)	II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: May 19, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-15497 Filed 5-22-81; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated March 17, 1981, and published in the **Federal Register** on March 23, 1981; (46 FR 18124), Stepan Chemical Co. Natural Prod., 100 W. Hunter Avenue, Maywood, N.J. 07607, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

	Schdule
Drug:	
Cocaine (9041)	II.
Ecgonine (9180)	II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: May 19, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-15498 Filed 5-22-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-9534]

Victoria Needlework, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assitance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on July 28, 1980 in response to a petition which was filed on behalf of workers at Victoria Needlework, Incorporated, New York, New York. The workers produce ladies' handbags.

U.S. imports of handbags increased in 1979 compared to 1978 and increased in 1980 compared to 1979.

A survey was conducted by the Department of Labor of major customers of Victoria Needlework. The survey revealed that several major customers decreased purchases from Victoria Needlework and increased purchases of imported handbags in 1979 compared to 1978 and in 1980 compared to 1979. These major customers accounted for a substantial proportion of Victoria's sales declines in 1979 compared to 1978 and in 1980 compared to 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at Victoria Needlework, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Victoria Needlework, Incorporated, New York, New York who became totally or partially separated from employment on or after July 9, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-15581 Filed 5-22-81; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 414A]

Duke Power Co.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Duke Power Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns a proposed additional ownership participant, the Piedmont Municipal Power Agency, for the Catawba Nuclear Station, Unit 2. The current holders of the construction permit are Duke Power Company and North Carolina Municipal Power Agency Number 1.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in York County, South Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 2.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Construction

Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the **Federal Register** on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with respect to the Piedmont Municipal Power Agency presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before July 21, 1981.

Dated at Bethesda, Maryland, this 8th day of May 1981.

For the Nuclear Regulatory Commission.

E. Adensam,

Acting Chief, Licensing Branch #4, Division of Licensing.

[FR Doc. 81-14928 Filed 5-18-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50.247 and 50-286]

Consolidated Edison Co. of New York, Inc. (Indian Point Unit No. 2) and Power Authority of the State of New York (Indian Point Unit No. 3)

May 14, 1981.

Director's Decision Under 10 CFR 2.206

By letter dated April 1, 1981, Mr. Donald Ross and Ms. Joan Holt, on behalf of the New York Public Interest Research Group, Inc. ("NYPIRG") requested the Commission to "order the immediate suspension of operations at Indian Point on the grounds of noncompliance with the NRC's Final Emergency Planning Rule". In a letter dated April 6, 1981, Ms. Holt emphasized that NYPIRG was seeking "*immediate* relief" (emphasis in original) and expressed concern that NYPRIG's request was being treated as a request for action pursuant to 10 CFR 2.206 of the Commission's regulations. The Commission has determined that NYPIRG's request is most appropriately treated as a request for action pursuant to 10 CFR 2.206 and, accordingly, has referred the matter to me for action. After considering the request, I have concluded for the reasons which follow that the alleged noncompliance by the Indian Point facilities with the NRC's Final Emergency Rule does not warrant in itself the immediate suspension of a resumption of operations at the two Indian Point facilities. Accordingly, I have determined not to grant the requested relief.

Discussion

NYPIRG has requested that there be an immediate suspension of operations at Indian Point Units 2 and 3 until such time as there is a workable and implemented emergency plan for the two facilities and until such time as an investigation by the Atomic Safety and Licensing Board that was ordered by the Commission has been completed. The Commission has had occasion recently to consider this very issue and has resolved the issue in favor of allowing continued operation of the facilities.

On May 30, 1980, the Commission ordered a discretionary adjudication to resolve safety issues at the two Indian Point facilities raised by a previous petition submitted by the Union of Concerned Scientists. On July 15, 1980, the Commission decided that the risk posed by operation of the two facilities' did not warrant suspension of the facilities' operating licenses during the pendency of the adjudicatory proceeding. On January 8, 1981, the Commission, after having addressed a number of concerns including the lack of an emergency plan for the surrounding area, concluded that its earlier decision to permit continued operation of Indian Point 3 remained valid. With respect to Indian Point 2, however, the Commission declared that, prior to resumption of operations at the facility, it would reexamine its July 15, 1980 decision to permit continued operations at the facility in order to determine whether the July 15 decision remained valid.

Until April 1, 1981, the Commission's regulations did not require an emergency plan to be in effect for the service area. However, if after April 1, 1981, the NRC finds that the state of emergency preparedness does not provide reasonable assurance that appropriate protective measures can and will be taken in he event of a radiological emergency and if the deficiencies are not corrected within four months of that finding, the Commission will determine whether the reactor shall be shut down or whether other enforcement action is appropriate. With respect to Indian Point 2, on April 7, 1981, the Commission, in a meeting attended by Ms. Holt, addressed the question of whether its decision to permit continued operations of the facility remained valid. For the reasons set forth orally in that meeting, I recommended that the Commission not disturb its previous decision to allow continued operation of the plants. In that meeting, the Commission spent considerable time discussing the emergency plans for the Indian Point facilities. As reflected in the Commission Secretary's memorandum dated April 10, 1981 summarizing the April 7, 1981 meeting "[T]he Commission, by a vote of 3-1, agreed that its decision of July 11, 1980, to permit continued operation of Indian Point 2 and 3 remains valid." [1] On April 22, 1981, the Commission was further briefed on the status of offsite emergency preparedness around the nuclear power facilities in New York State. On April 24, 1981, letters were sent to all holders of power reactor operating licenses in New York State, including the Indian Point units, requesting that certain deficiencies identified to the NRC by the Federal Emergency Management Agency be corrected within 120 days.

The Commission has already determined, in accordance with my prior recommendation, that the two Indian Point facilities can operate despite alleged problems with the emergency plan for the facilities. Therefore, NYPIRG's request for immediate suspension of operations at Indian Point Units 2 and 3 based on alleged noncompliance with the NRC's Final Emergency Planning Rule is denied. I believe it is imporant to add, however, that as the Commission itself noted, this is not the final judgment on the safety of the two facilities. I will continue to monitor the operations of the two facilities, particularly with a view to the status of the emergency plans for the two facilities and will take appropriate action to protect the public's health and safety as circumstances warrant.

A copy of this decision will be placed in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room for the two facilities, located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

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[1] In a footnote to this statement, the Secretary's memorandum noted that the July 15, 1980 date, as discussed in the Commission's order of January 8, 1981, was in error and should have read July 11, 1980.

Additionally, a copy of this decision will be filed with the Secretary of the Commission for review by the Commission in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided in 10 CFR 2.206(c), this decision will constitute final action of the Commission twenty-five (25) days after the date of issuance, unless the Commission on its own motion institutes the review of this decision within that time.

Dated at Bethesda, Maryland this 14th day of May 1981.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 81-15553 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment approves changes in the Technical Specifications relating to (1) the setpoint values for the fire pump discharge pressure for the Reactor Depressurization System and (2) use of Thermo-Luminescent Dosimeters (TLD) as an alternate to film for environmental monitoring.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 4 and March 6, 1981, (2) Amendment No. 43 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of May, 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-15554 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et at.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-66 issued to Duquesnse Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to allow a deviation of ± 16 steps between rod demand and analog rod position indicators for operation during cycle 2.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1981, supplemented April 8, 1981. (2) Amendment No. 42 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of May, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-15555 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operations of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment was effective March 14, 1981.

This amendment was authorized by phone on March 14, 1981 and was confirmed by letter dated March 16, 1981. The amendment revises the Technical Specifications to provide a redundancy in decay heat removal capability for the plant in all modes of operation and provides for 23 feet of water over the reactor pressure vessel flange while in Mode 6. The amendment was issued on an expedited basis to allow plant startup.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1981, supplemented March 24, 1981, (2) the Commission's letter to the licensee dated March 16, 1981, (3) Amendment No. 43 to License No. DPR-66 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2), (3), and (4) 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 15th day of May, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-15556 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-58, and Amendment No. 30 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments provide further clarification of the term **Operable**, employed in the facilities Technical Specifications, as it applies to single failure criteria for safety systems.

The application for the amendments complies with the standards and requirements for the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 16, 1980, (2) Amendment Nos. 46 and 30 to License Nos. DPR-58 and DPR-74, and (3) the Commission's letter dated May 12, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A coy of items (2) and (3) may be obtained addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of May 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-15557 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-316]

Indiana and Michigan Electric Co; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment revises the Axial Power Distribution Monitoring System (APDMS) technical specifications and the setpoint for the P-7 permissive (interlock).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated May 1, 1981 as supplemented May 7, 1981, (2) Amendment No. 31 to License No. DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of May 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-15558 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Company, et al., San Onofre Nuclear Generating Station, Units 2 and 3; Order Extending Construction Completion Dates

Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California are the holders of Construction Permit Nos. CPPR-97 and CPPR-98 issued by the

Atomic Energy Commission [1] on October 18, 1973 for the San Onofre Nuclear Generating Station. These facilities are presently under construction at the applicants' site at Camp Pendleton, San Diego County, California. By letters dated March 31, 1978, and April 23, 1980, Southern California Edison Company filed requests for extension of the latest construction completion dates for the facilities. The requests were granted by the Commission's Orders dated December 28, 1978, and August 5, 1980, respectively.

On March 16, 1981, Southern California Edison Company filed a request for another extension of the latest construction completion dates for the San Onofre 2 and 3 facilities. This request is to extend the latest completion dates to October 15, 1981 for Unit 2 and November 15, 1982 for Unit 3. Southern California stated that this extension was requested because construction has been delayed due to (1) regulatory and licensing delays following the TMI incident, (2) changes and/or additions to the facility design associated with TMI modifications, and (3) a strike by the boilermakers.

This action involves no significant hazards consideration, good cause has been shown for the delay, and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement-Construction Permit Stage (FES-CP) for the San Onofre Nuclear Generating Station, Units 2 and 3, published in March 1973. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as is the FES-CP for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the local public document room established for the San Onofre Nuclear Generating Station, Units 2 and 3 at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 92676.

It is hereby ordered that the latest completion date for CPPR-97 be extended from April 15, 1981 to October 15, 1981 and the latest date for CPPR-98 be extended from June 15, 1982 to November 15, 1982.

Date of issuance: May 13, 1981.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 81-15559 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

[Docket Nos. 50-361 and 50-362]

Southern California Edison Company, et al.; San Onofre Nuclear Generating Station, Unit Nos. 2 and 3; Negative Declaration Supporting; Extension of Construction Permit Nos. CPPR-97 and CPPR-98 Expiration Dates

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Southern California Edison Company's request to extend the expiration dates of the construction permits for the San Onofre Nuclear Generating Station, Units Nos. 2 and 3 (CPPR-97 and CPPR-98) which are located in San Diego County in the State of California. The request is for an extension to the permits through October 15, 1981 for CPPR-97 and through November 15, 1982 for CPPR-98, to allow completion of construction of the facilities.

The Commission's Division of Licensing has prepared an environmental impact appraisal relative to these changes to CPPR-97 and CPPR-98. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement-Construction Permit Stage or evaluated in the environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Dated at Bethesda, Maryland, this 13th day of May, 1981.

For The Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-15560 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338-50-339]

Virginia Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 29 and No. 10 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) which revised the Technical Specifications for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments make changes to Table 3.7-4 of the facility Technical Specifications by removing certain facility snubbers. The changes are needed based on the NRC required Multi-Structure Amplified Response Spectra Analysis presently underway at NA-1&2.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated May 13, 1981 and May 15, 1981; (2) Amendment No. 29 and No. 10 to Facility Operating Licenses No. NPF-4 and NPF-7 and (3) the Commission's related Safety Evaluation. These items are available for public inpection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Licensing.

Dated at Bethesda, Maryland this 15th day of May, 1981.

For The Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-15561 Filed 5-22-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

May 20, 1981.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether Section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

- Farmers Home Administration

7 CFR 1945—A Disaster Assistance General
On occasion
State or local governments
County and State governments
SIC: 911 912 913 919
Farm income stabilization, 3,086 responses, 25,488 hours; $35,200 Federal cost, 1 form; not applicable under 3504(H)
Charles A. Ellett, 202-395-7340

Section 321 of the Consolidated Farm and Rural Development Act authorizes FmHA to determine areas to be designated eligible to receive emergency (EM) loans. No EM loans can be made without such designation.

Revisions

- Farmers Home Administration

7 CFR 1945-B, Emergency Loan Policies, Procedures, and Authorizations, and 7 CFR 1945-C, Insured Economic Emergency Loans
FmHA 1940-38 and 1945-22
On occasion
Farms/businesses or other institutions. Farmers, ranchers, acquaculture operators, etc., suffering
SIC: 011 013 016 017 018 019 021 024 025 027
Farm income stabilization, 598,929 responses, 169,670 hours; $972,800 Federal cost, 2 forms; not applicable under 3504(H)
Charles A. Ellett, 202-395-7340

The Consolidated Farm and Rural Development and Agricultural Credit Acts authorize FmHA to promulgate regulations necessary to determine eligibility of applicants for economic emergency and emergency loans.

Reinstatements

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202-377-3627

New

- Bureau of the Census

Value of Single-Family Houses (Nonconstruction Costs)
C-701 (X)
Nonrecurring
Businesses or other institutions
Builders of single-family homes for sale, nationwide
SIC: 153 152 142 175
Small businesses or organizations
Other advancement and regulation of commerce, 2,000 responses, 1,000 hours; $25,000 Federal cost, 1 form; not applicable under 3504(H)
Office of Federal Statistical Policy and Standard, 202-673-7974

The purpose of this form is to obtain information which will be used in conjunction with data from other sources and forms to determine the value put in place in construction of single-family houses. This information will be used to revise the factors which are used in the monthly estimates which have not been updated since 1970.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202-426-5030

New

- Office of Elementary and Secondary Education

A Study of State Management Practices in ESEA Title I ED 863, 863-1, 863-2, 863-3, and 863-4
Nonrecurring
State or local governments
State and local education agencies
SIC: 941
Elementary, secondary, and vocational education, 157 responses, 413 hours; $172,633 Federal cost, 5 forms; not applicable under 3504(H)
Federal Education Data Acquisition Council, 202-426-5030

Public Law 95-561 expanded States' management responsibilities in ESEA Title I. This study assesses the effects of the changes and documents the problems, innovations, and recommendations States have for managing Title I. The findings will contribute to the reauthorization hearings.

Revisions

- Office of Postsecondary Eduction

Request for Payment of 1981 and 1982 BEOG Award Notice of Termination
ED-304 & ED-304-2
On occasion, annually
Individuals or households/businesses or other institutions
Basic grant recip. (Stud Finan Aid Admin., etc.
SIC: 822
Higher education, 82,000 responses, 27,700 hours; $411,000 Federal cost, 2 forms, not applicable under 3504(H)
Federal Education Data Acquisition Council, 202-426-5030

These forms are the means by which students attending institutions that participate under the alternate disbursement system submit information regarding the students enrollment to the secretary to be used in determining their basic grant award. The Secretary acts as the disbursing agent on behalf of the Institution.

Reinstatements

- Office of Elementary and Secondary Education

Report on ESEA Title I Comparability Requirements Under P.L. 89-10 as Amended by P.L. 95-561
4524
Annually
State or local governments
State educational agencies
SIC: 941
Elementary, secondary, and vocational education, 56 responses, 84 hours; $200 Federal cost, 1 form, not applicable under 3504(H)
Federal Education Data Acquisition Council, 202-426-5030

Title I ESEA provides grants to local agencies to meet of educationally deprived children. P.L. 95-561 requires that for State approval of a local agency's title I program: ". . . Funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title "The sec. will use data to eval. the effectiveness of sea in securing.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

- Health Resources Administration

Evaluation of the Impact of Team Training on Dental Practice
Nonrecurring
Businesses or other institutions
Dentists, dental schools and a control dentist group
SIC: 802
Health, 3,563 responses, 1,332 hours; $263,231 Federal cost, 3 forms;, not applicable under 3504(H)
Gwendolyn Pla, 202-395-6880

Survey to compare private practice of team trained dentists with practices of dentists who did not recieve team in dental school. Evaluation will assist in decisions relevant to program funding, modification, and dissemination.

- Office of Assistant Secretary for Health

Application for Correction of Public Health Service
Commissioned corps personnel records
50
On occasion
Individuals or households
Present and former PHS commissioned corps personnel
Health, 50 responses, 50 hours; $50 Federal cost, 50 forms; not applicable under 3504(H)
Gwendolyn Pla, 202-395-6880

The application is submitted by present and former PHS commissioned corps officers to request a correction of error or allege injustice in their personnel records. The application will be utilized by the Board of Correction to determine if an error or injustice has occurred and to rectify such error or injustice.

Revisions

- Centers for Disease Control

Cancer Surveillance and Epidemiologic Studies Data
Collection Forms
CDC 4.529ATH CDC 4.530ATH CDC 4.530A CDC 4.530C
CDC 4.530B
On occasion
Indiviuals or Households
Cancer surveillance and epidemiologic studies
Health, 85 responses, 70 hours; $20,000 Federal cost, 3 forms; not applicable under 3504(H)
Gwendolyn Pla, 202-395-6880

This clearance package, continuing familial cancer studies and the study of interpersonal contact in leukemia and lymphoma, provides the mechanism for an ad hoc epidemiologic investigation of unusual cases, particularly multiple case cancer families, and the extension of an ongoing study. Info. is used to clarify etiology and transmissibility of cancer.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202-426-1887

New

- Research and Special Programs Administration

Cargo Tank Certification Record Requirements
Nonrecurring
Businesses for other institutions
Manufacturers of cargo tanks and motor carriers
SIC: 371
Small businesses or organizations
Other transportation, 1,500 responses, 1,500 hours; 1 form; not applicable under 3504(h)
Terry Grindstaff, 202-395-7340

Used by cargo tank manufacturers, owners and Federal Highway Administration personnel to verify that cargo tanks have been manufactured and tested in accordance with the regulations so as to maintain the level of safety set forth in the regulations.

- Research and Special Programs Administration

Cargo Tank Inspection Record Requirements
Biennially
Businesses or Other Institutions
Motor Carrier Operators

SIC: 421
Small businesses or organizations
Other transportation, 114,600 responses, 114,600 hours; 1 form; not applicable under 3504(h)
Terry Grindstaff, 202-395-7340
To verify compliance with the regulations and to assure integrity of cargo tanks so that their continued use will not lower the level of safety set forth in the regulations.

• Research and Special Programs Administration
MC 330 and MC 331 in Service Cargo Tank Record
Requirements
Other—See SF83
Businesses or other institutions
Motor carrier operators
SIC: 421
Small businesses or organizations
Other transportation, 600 responses, 600 hours; $15,000 Federal cost, 1 form; not applicable under 3504(h)
Terry Grindstaff, 202-395-7340
To verify location of MC 330 and MC 331 cargo tanks so that Federal Highway Administration field inspectors can verify that required tests have been performed. Extra precaution needed due to increased chance of tank failure caused by stress corrosion due to type of materials transported.

• Research and Special Programs Administration
Certification and Data Report Cargo Tank Record Requirements
Nonrecurring
Businesses or other institutions
Motor carrier operators
SIC: 421
Small businesses or organizations
Other transportation, 229,800 responses, 229,800 hours; 1 form; not applicable under 3504(h)
Terry Grindstaff, 202-395-7340
To verify that cargo tanks were manufactured and tested in accordance with the specification to which it was stated that they were manufactured.

• Research and Special Programs Administration
MC 330 and MC 331 Cargo Tank Record Requirements
Biennially
Businesses or other Institutions
Motor carrier operators
SIC: 421
Small businesses or organizations
Other transportation, 1,200 responses, 1,800 hours; $45,000 Federal cost, 1 form; not applicable under 3504(h)
Terry Grindstaff, 202-395-7340
To ascertain that MC 330 and MC 331 cargo are maintained in a safe condition for the transportation of hazardous materials and to verify that the requirements of the regulations have been met.

Extensions (No Change)

• Office of the Secretary
Pipeline Carrier Accident Report
7000-1
On occasion
Businesses or other institutions
Operations of hazardous liquid pipelines
Small businesses or organizations
Other Transportation, 250 responses, 250 hours; $22,500 Federal cost, 1 form; not applicable under 3504(h)
Corrinne Hayward, 202-395-7340
The Federal regulations (49 CFR 195) require liquid pipeline operators to report failures to DOT. The form includes information on the location of the failure, personal injury and property damage, commodity loss, and cause. The information is used to evaluate the effectiveness of existing regulations.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202-634-5394

NEW

• Internal Revenue Service
Exclusion for certain conservation cost-sharing payments
Nonrecurring
Individuals or households/farms/businesses or other institutions
Recipient of cost share payments under S. 126 IRS Code
SIC: 632
Central fiscal operations, 1 response, 1 hour; 1 form; not applicable under 3504(h)
Warren Topelius, 202-395-7340
Effective September 30, 1979, section 126 permits recipients of certain conservation cost-share payments to exclude the portion of such payments which does not substantially increase the annual income derived from the property on which the conservation practices are installed.

Extensions (Burden Change)

• United States Customs Service
Pro Forma List of Export Declarations for Shipments to Canada
CF-7303
On occasion
Businesses or other institutions
Brokers and carriers
Sic: All
Small businesses or organizations
Federal law enforcement activities, 6,000 responses, 1,200 hours; $6,404 Federal costs, 1 form; not applicable under 3504(h)
Warren Topelius, 202-395-7340
Information on this form describes the particulars of merchandise shipped to Canada for which shippers export declarations are required but will be submitted within the time frame specified on the form.

ACTION

Agency Clearance Officer—Mr. Dana Rodgers—202-254-8501

New

• Older American Volunteer Programs Project Profile and Basic Human Needs Activities
A-1021
Annually
Businesses or other institutions
Private, non-profit organizations and State and loc. governments
Sic: multiple
Small businesses or organizations
Social services, 1,090 responses, 34,880 hours; 1 form; not applicable under 3504(h)
Diane Wimberly, 202-395-6880
Form is needed to determine proper program and resource management and to monitor progress.

• Older American Volunteer Programs Project Progress Report
A-1020
Quarterly
Businesses or other institutions
Private, nonprofit organizations and State and local governments
SIC: multiple
Small businesses or organizations
Social services, 4,360 responses, 8,720 hours; 1,090 forms; not applicable under 3504(h)
Diane Wimberly, 202-395-6880
Form is needed to determine proper program and resource management and to monitor progress.

• Older Americans Volunteer Programs Project Narrative
A-1018
Annually
Businesses or other institutions
Private, nonprofit organization and State and local governments
SIC: multiple
Small businesses or organizations
Social services, 1,090 responses, 13,870 hours; 1 form; not applicable under 3504(h)
Diane Wimberly, 202-395-6880
Form is required by all grant applicants who wish to receive funds to carry out action programs. Form is used to determine award of benefits.

Extensions (No Change)

• ACTION/Peace Corps Volunteer Application Form
A-35
On occasion

Individuals or households
Primarily priv. citiz. who apply for vol. serv. in ACTION
Social services, 5,600 responses, 5,600 hours; $160,000 Federal cost, 1 form; not applicable under 3504(h)
Diane Wiberly, 202-395-6880

The ACTION volunteer application is used to collect data to evaluate an individual applicant's eligibility and suitability for ACTION voluneer service. This form is the only means by which the required data can be obtained.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Phillip Ross—202-287-0747

New

• Spill Prevention Control and Countermeasure Plan and Review [1]
Nonrecurring
Individuals or households/State or local governments/businesses or other INS owners and operators of onshore and offshore facilities
Sic: multiple
Small businesses of organizations
Pollution control and abatement, 83,803 responses, 99,333 hours; 2 forms; not applicable under 3504(h) 202-395-7340.
Edward H. Clarke,
Incorporates contingency planning and spill response and prevention into one comprehensive program so that facilities may most effectively eliminate oil spills.

• Compliance Schedule Reports [1]
Other-see SF 83
State or local governments/businesses or other institutions
NPDES permittees
Sic: Multiple
Small businesses or organizations
Pollution control and abatement, 84,904 responses, 84,904 hours; $159,612 Federal cost, 0 form; not applicable under 3504(h) 202-395-7340

Edward H. Clarke,
In order that the permitting authority may properly ascertain that the owner/operator is carrying out the requirements of its permit, he is required to make progress reports on schedules, plans or other activities as required by the individual permit.

• Spill Prevention Control and Countermeasure (SPCC) Plan, Time Extension Request [1]
Nonrecurring
Individuals or households/State or local governments/businesses or other INS facilities subject to SPCC requirement 40 CFR 112
Sic: multiple
Small businesses or organizations
Pollution control and abatement, 40 responses, 20 hours; 1 form; not applicable under 3504(h) 202-395-7340

Edward H. Clarke,
Request to regional administrator to grant additional time to a facility to prepare a SPCC plan.

• Application for Approval of Construction or Modification [1]
On occasion
Businesses or other institutions
Asbestos mills
Sic: 149, 109, 329, 333, 281, 286, 161, 495, 348, 282
Small businesses or organizations
Pollution control and abatement, 49 responses, 24 hours; $102 Federal cost, 1 form; not applicable under 3504(h) 202-395-7340

Edward H. Clarke,
Written application by owner or operator for approval by the Administrator of any construction or modification to a source subject to the regulations in part 61.

• NESHAP Notification of Start-Up [1]
Nonrecurring
Businesses or other institutions
Asbestos mills
Sic: 109, 149, 161, 281, 282, 286, 329, 333, 348, 495
Small businesses or organizations
Pollution control and abatement, 98 responses, 49 hours; $204 Federal cost, 0 form; not applicable under 3504(h) 202-395-7340

Edward H. Clarke,
Owner or operator shall furnish written notification of anticipated start-up and actual start-up to enable scheduling of an EPA observer, if desired, and program planning.

• NESHAPS Source Reporting and Waiver Request [1]
Nonrecurring
Businesses or other institutions
Asbestos mills
Sic: 109, 149, 161, 281, 282, 286, 329, 333, 348, 495
Small businesses or organizations
Pollution control and abatement, 49 responses, 74 hours; $308 Federal cost, 1 form; not applicable under 3504(h) 202-395-7340

Edward H. Clarke,
Owner or operator shall submit an initial report and/or request a waiver (if the source is unable to operate in compliance). The Administrator uses this information to confirm compliance of a source or to determine if a waiver is appropriate.

• Oil Spill Report [1]
On occasion
Individuals or households
Owners or operators of onshore and offshore facilities
Pollution control and abatement, 700 responses, 350 hours; $22,431 Federal cost, 1 form; not applicable under 3504(h) 202-395-7340

Edward H. Clarke,
Applicable to facilities subject to 40 CFR 112.3 who discharge more than 1,000 U.S. gallons of oil into navigable waters. When information is received and evaluated, enforcement measures may be taken or recommendations made to change oil spill prevention control and countermeasures or procedures, methods, and equipment necessary to prevent reoccurance of spill.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—202-254-9515

New

• Survey of State Fire Training Systems
Nonrecurring
State or local governments
the 50 State fire training offices and 1 in Puerto Rico
Disaster relief and insurance, 0 responses, 0 hours; $30,000 Federal cost, 1 form; not applicable under 3504(H)
Robert Veeder 202-395-4814

The National Fire Academy is developing a National Directory of State Fire Service Training Systems, part of the developmental process is a request to each State Training Office for their system information. The results will provide the academy with course development needs and eliminate possible duplication. The States will use the information to cooperate, share, and coordinate programs.

• Adjunct
Faculty Procurement
On occasion
Individuals or households
Individuals who we acquire to assist us as instructors
Small businesses or organizations
Disaster relief and insurance, 0 responses, 0 hours; 1 form; not applicable under 3504(H)
Robert Veeder, 202-395-4814

It is essential that adjunct faculty be secured in order to supplement the small staff of instructors at the National Fire

[1] Over the next several weeks, the Environmental Protection Agency will be requesting clearance for several hundred reporting and recordkeeping requirements that were administered previously without OMB approval. In order to provide a thorough review without unnecessarily disrupting EPA programs, OMB may grant interim approvals for many of these requests, after an initial screening. Interim approvals would be followed by full reviews and final approval or disapproval decisions which would be announced in future editions of the Federal Register.

Academy. These adjunct faculty are secured through contract arrangements. Quotes are required from each applicant. Public Law 93-498, Section 7.

• Firefighter Integrated Response Equipment System
Nonrecurring
State or local governments
Fire departments in selected cities
Disaster relief and insurance, 0 responses, 0 hours; $32,500 Federal cost, 1 form; not applicable under 3504(H)
Robert Veeder, 202-395-4814

This is a multi-year project (Co-sponsored W/NASA) for the design, development, fabrication, field test and evaluation of improved firefighter personal protective clothing and equipment. This is a letter report covering the evaluation of the field test.

• Reply Card for Broadcast Stations Under Campaigns
On occasion
Businesses or other institutions
Public service direct on a radio station
Small businesses or organizations
Defense-related activities, 11,800 responses, 1,966 hours; 1 form; not applicable under 3504(H)
Robert Veeder, 202-395-4814

For the purpose of evaluating the broadcast spot disaster information under campaigns such as winter survival, flood, tornado and hurricanes. The information will be used to evaluate the effectiveness and circulation of necessary information to save lives and protect property.

• News Coverage Areas of Print Media
Annually
Businesses or other institutions
Daily and weekly newspapers
Small businesses or organizations
Defense-related activities, 6,000 responses, 600 hours; $3,000 Federal cost, 1 form; not applicable under 3504(H)
Robert Veeder, 202-395-4814

Provides information to allow disaster recovery teams to provide recovery information to the appropriate staff members at appropriate newspapers to facilitate the most speedy recovery possible by disaster victims.

• News Coverage of Broadcast Media
Annually
Businesses or other institutions
Radio and TV stations
Small businesses or organizations
Defense-related activities, 9,000 responses, 900 hours; $4,500 Federal cost, 1 form; not applicable under 3504(H)
Robert Veeder, 202-395-4814

Provides information needed to allow disaster recovery teams to provide recovery information to the appropriate staff members at the appropriate radio and TV stations to facilitate the most speedy recovery possible by disaster victims.

• Request for Fire Suppression Assistance
On occasion
State or local governments
State foresters
Disaster relief and insurance, 5 responses, 5 hours; $50 Federal cost, 1 form; not applicable under 3504(H)
Robert Veeder, 202-395-4814

This form will be used by State Governors to request Federal assistance for suppression of any fire on publicly or privately owned forests which threatens such destruction as would constitute a major disaster.

• Electrical Fire Investigations
Other-see SF83
State or local governments
Fire departments in 10 cities
Disaster relief and insurance, 120 responses, 600 hours; Federal cost, 10 forms; not applicable under 3504(H)
Robert Veeder, 202-395-4814

To collect in-dept reports of electrical fires. To analyze and recommend remedial action. To reduce losses of life and property caused by electrical fires.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Agency Clearance Officer—C. Michael Hathaway—202-395-3432

New

• Questionnaire Concerning U.S. Investment in Canada
Nonrecurring
Businesses or other institutions
U.S. based multinatl corp with Canadian investments, etc.
SIC: multiple
Executive direction and management, 800 responses, 12,800 hours; $1,820Federal cost, 1 form; not applicable under 3504(H)
Edward C. Springer, 202-395-4814

The information being sought in the attached questionnaire is designed to aid agencies represented on the Trade Policy Staff Committee in determining whether the Canadian Foreign Investment Review Agency is operating in a way which distorts trade patterns. Information collected would be used within the Government and only in aggregate form.

SELECTIVE SERVICE SYSTEM

Agency Clearance Officer—Clarence E Boston—202-724-0683

New

• Claim for Postponement or Reclassification
SSS form 9
Nonrecurring
Individuals or households
Selective Service System registrants who have received Defense-related activities, 1 response, 1 hour; $1 Federal cost, 1 form; not applicable under 3504(H)
Kenneth B. Allen, 202-395-3785

This form may be used by Selective Service System registrants after receiving a notice to report to an Armed Forces examining and entrance station for induction to subject a claim to the Selective Service System for the postponement of their induction or a change in their classification.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202-389-2146

Revisions
• Disabled Veterans Application for Vocational Rehabilitation
28-1900
On occasion
Individuals or households
Disabled veterans desiring vocational rehabilitation
Veterans education, training, and rehabilitation, 33,000 responses, 8,250 hours; $148,705 Federal cost, 1 form; not applicable under 3504(H)
Robert Neal, 202-395-6880

Title 38 U.S.C., Chapter 31 provides vocational rehabilitation for service-disabled veterans. The application obtains information used to determine eligibility and entitlement to vocational rehabilitation.

C. Louis Kincannon,
Assistant Administrator for Reports Management.

[FR Doc. 81-15588 Filed 5-22-81; 8:45 am]
BILLING CODE 3110-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the tenth meeting of the President's Commission for the Study of Ethical Problems in Medicine

and Biomedical and Behavioral Research will be held in Room 208, J. W. McCormack Post Office and Court House Building, Boston, Massachusetts from 9:00 a.m. to 5:00 p.m. on Thursday, June 4, 1981 and from 9:00 a.m. to 4:30 p.m. on Friday, June 5, 1981.

The meeting will be open to the public, subject to limitations of available space. The agenda for Thursday, June 4, will include, among other things (1) testimony on the ethical and legal aspects of decisions to forego life-sustaining therapy, especially in patients who may not be competent, and (2) consideration of a draft report on the determination of death. The agenda for Friday, June 5, will include among other things (1) an examination of the federal and institutional policies and procedures for the protection of human subjects of research, particularly when fraud and abuse have been alleged, and (2) a progress report on the study of means to assess the implementation of federal regulations on research involving human subjects.

During each afternoon fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time or those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission's office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653-8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 81-15465 Filed 5-22-81; 8:45 am]

BILLING CODE 6820-AV-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Brady Energy Corp.; Order of Suspension of Trading

May 19, 1981.

It appears to the Securities and Exchange Commission that questions have been raised with respect to the adequacy and accuracy of publicly available information concerning the identity of the purchasers of a controlling interest in Brady Energy Corporation, the status of the transaction and the financial arrangements involved in the transaction.

In view of the foregoing, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Brady Energy Corporation from 11:30 a.m. (EDT) on May 19, 1981 through midnight May 28, 1981.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15592 Filed 5-22-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5722]

Restaurant Associates Industries, Inc., Common Stock, $1 Par Value; Notice of Application To Withdraw From Listing and Registration

May 19, 1981.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Restaurant Associates Industries, Inc. (the "Company") is listed and registered on the BSE and the American Stock Exchange, Inc. ("Amex"). The Company has determined that because of the limited trading volume on the BSE, the continued expense of listing does not justify maintaining the dual listing of the common stock.

2. This application relates solely to withdrawal of the common stock from listing and registration on the BSE and shall have no effect upon the continued listing of such stock on the Amex. The BSE has posed no objection to this matter.

Any interested person may, on or before June 10, 1981, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15593 Filed 5-22-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Companies; Moratorium on New License and Transfer of Control Applications

AGENCY: Small Business Administration.

ACTION: Notice of 90-day moratorium.

SUMMARY: This Notice is to advise the public that, effective April 17, 1981, the SBA had placed a 90-day moratorium on all new SBIC license and transfer of control applications.

EFFECTIVE DATE: The moratorium was effective April 17, 1981.

FOR FURTHER INFORMATION CONTACT: Peter F. McNeish, Acting Associate Administrator for Investment, Small Business Administration, Washington, D.C. 20416, (202) 653-6848.

SUPPLEMENTARY INFORMATION: On April 17, 1981, the SBA placed a 90-day moratorium on all SBIC licensing activity including transfers of control. On April 28, 1981, this action was modified to authorize the processing and granting of licenses, transfers of control and conversions to partnership which were in process on April 17, 1981, but to continue the moratorium on all new license applications and all new transfer of control and conversion applications. The reason for the moratorium is the Administration's concern with the effectiveness of SBA's licensing standards and regulatory oversight of SBICs. During this moratorium period a comprehensive review of the SBIC licensing standards and regulations will be undertaken by the Agency and, if warranted, modifications to the standards and regulations will be proposed.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: May 20, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-15594 Filed 5-22-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/408]

Advisory Committee on the Law of the Sea; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed session on Monday and Tuesday, June 8 and 9 and in open session on Tuesday, June 9, 1981. A group, cutting across subcommittee lines of the Advisory Committee on the Law of the Sea will also meet in closed session on Tuesday, June 9. The open session of the meeting will convene June 9 at 2:30 p.m. in Room 1410, U.S. Department of State, 21st and C Streets, N.W., Washington, D.C.

The purpose of the closed meeting is to consider the current review of the Law of the Sea Convention and the review process and to make preparations for the U.S. Delegation to the Resumed Tenth Session of the Third United Nations Conference on the Law of the Sea to be held in Geneva beginning August 3, 1981. The sub-group will advise U.S. negotiators on matters relating to potential reciprocal arrangements among like-minded nations that have enacted or may enact domestic mining legislation prior to possible entry into force of a comprehensive Law of the Sea Treaty. During the closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issues which the United States is currently reviewing and has negotiated or will negotiate at the Conference. The documents are exempt under 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9), and may be withheld from disclosure in the public interest.

The issues cover such subjects as the review, freedom of navigation on the high seas and in straits used for international navigation and related national security interest, the nature of a deep seabeds mining regime and deep seabed mining legislation, the continental margin, the economic zone, fisheries, marine pollution, scientific research, dispute settlement, and other topics involving U.S. national security and foreign relations matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize United States law of the sea interests.

The open session of the Advisory Committee meeting will discuss all principal agenda issues which have been considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines, and other public groups. As such, it will comprehensively review the proposals which have come and will come before the Conference.

At the open session, beginning at 2:30 p.m., June 9, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department in controlled, members of the public who wish to attend the open session should contact Marsha Bellavance and provide their name and affiliation to facilitate their attendance. Her telephone number is (202) 632-0041.

Norman A. Wulf,

Acting Director, Office of the Law of the Sea Negotiations.

May 8, 1981

[FR Doc. 81-15501 Filed 5-25-81; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice CM-81406]

Integrated Services Digital Network (ISDN) Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative (CCITT) will meet on June 3, at 10:00 a.m. in Room 1205 of the Department of State, 2201 C Street NW., Washington, D.C. This Working Party deals with the evolution of ISDN as it is being considered by CCITT Study Group XVIII.

Inasmuch as this will be the first meeting of the Working Party, the initial part of the meeting will be devoted to organizational and housekeeping matter. The remainder of the meeting will be spent in developing U.S. positions to be taken at the upcoming meeting of Study Group XVIII (June 22-July 1).

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Admittance of public members will be limited to the seating avaiable. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to June 3, 1981 members of the general public who plan to attend the meeting inform Mr. Richard H. Howarth, Office of International Communications Policy, Department of State, telephone (202) 632-1007, of their intention.

All non-Governmental attendees must use the C Street entrance to the building.

Dated: May 5, 1981.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 81-15499 Filed 5-22-81; 8:45 am]

BILLING CODE 4710-01-M

[Public Notice CM-8/407]

Overseas Schools Advisory Council; Meeting

The Executive Committe of the Overseas Schools Advisory Council, Department of State, will be meeting Thursday, June 18, 1981 at 9:30 a.m. in Conference Room 2722B of the Department of State building, 2201 C Street NW., Washington, D.C.

Agenda items scheduled for discussion are as follows:

I. Welcome to Council Members
II. Results of Ballot Election of Council Chairman and Vice Chairman
III. Message from Assistant Secretary
IV. Discussion on Reports of Council Activities
  A. Status Report of 1980/1981 Program
  B. Fund-Raising Programs Organized Locally by the Schools and Activities of Regional Overseas Schools Associations
  C. Council Communications with U.S. Corporations and Foundations on Behalf of the Overseas Schools
V. Matching Gifts Programs
VI. Proposal Submitted to the Council Regarding Additional Benefits to the American-Sponsored Overseas Schools
VII. Other Business
VIII. Selection of Date for Full Council Meeting

For the purpose of fulfilling building security, members of the public wishing to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703-235-9600, prior to June 18. The public may participate in discussions at the Chairman's discretion.

Dated: May 1, 1981.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 81-15500 Filed 5-22-81; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; San Luis Obispo, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in San Luis Obispo, California.

FOR FURTHER INFORMATION CONTACT: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440-2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an Environmental Impact Statement (EIS) on a proposal to improve the flow of San Luis Obispo Creek in the City and County of San Luis Obispo, California, at the intersection of Marsh Street and Higera Street (State Highway 227) near their junction with U.S. Highway 101. The project is considered necessary to reduce flood hazards during high flows. The project will be coordinated with the City for consistency with its plans for channel improvements both upstream and downstream of this project.

Alternatives under consideration include: (1) taking no action; (2) realign channel, build new bridge and revise ramps; (3) raise existing bridge and surrounding streets and revise ramps; and (4) realign channel only.

No scoping meetings have been scheduled at this time. Meetings will be scheduled to encourage affected parties to identify the crucial issues and insure that matters of importance are not overlooked in the early stages of review.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: May 15, 1981.

Albert J. Gallardo,

District Engineer, Sacramento, California.

[FR Doc. 81-15531 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-22-M

National Advisory Committee on Outdoor Advertising and Motorist Information; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: 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 National Advisory Committee on Outdoor Advertising and Motorist Information.

DATES: Meeting to be held on June 18 and 19, 1981.

TIME: Meeting wil be held from 8:30 a.m. to 5:00 p.m. on June 18 and 19.

ADDRESS: The meeting will be held at Room 4200, Nassif Buiilding, 400 Seventh Street, SW., Washington, D.C.

ATTENDANCE: The public is invited to attend. Any member of the public will be permitted to file a written statement with the Committee. Interested persons may be permitted to speak at the meeting in accordance with the bylaws established by the Committee.

AGENDA: The full committee will meet to:

1. Review and approve minutes,
2. Consider subcommittees' resolutions,
3. Vote on resolutions, and
4. Consider other matters as may be specified by the Chairman or Executive Director.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald L. Kennedy, Executive Director of the National Advisory Committee, Room 4132, HRW-13, (202) 426-0142, or Mr. Edward V. A. Kussy, Deputy Assistant Chief Counsel, Room 4230, HCC-40, (202) 426-0791, Federal Highway Administration, 400 Seventh Stret, SW., Washington, D.C. 20590.

(Catalog of Federal Domestic Assistance Program Number 20.214, Highway Beautification—Control of Outdoor Advertising, and Control of Junkyards. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: May 20, 1981.

L. P. Lamm,

Executive Director.

[FR Doc. 81-15552 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP81-13; Notice 1]

Iveco Trucks of North America, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance With Vehicle Identification Number Regulation

Iveco Trucks of North America, Inc. of Blue Ball, Pennsylvania, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Iveco imports the Z-100 truck (9,995 lbs. GVW) manufactured in Brescia, Italy. Due to mistranslation and interpretation the tenth character of the VIN was not changed at the proper time to signify Model Year 1981. The result is that over 1700 trucks, manufactured between June and December 1980, came into the country with the VIN translating as Model Year 1980, when in reality they were 1981 models.

The company's inconsequentiality arguments are not based upon the effect of the noncompliance but the effects that might result were an attempt made to correct it: "Great confusion and inaccuracies would result from attempts in the field to correct and re-register such vehicles; and it would be seriously detrimental to accurate and efficient documentation, which might be necessary in any recall campaign or potential future theft investigation." As for possible difficulties with State registration, Iveco proposes "identifying the vehicles and providing full explanations [and] will provide the National Auto Theft Bureau or proper involved agencies a listing of affected vehicle identification numbers, with proper model year designation."

Interested persons are invited to submit written data, views and arguments on the petition of Iveco Trucks of North America, described

above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Nelson Erickson and Taylor Vinson, respectively.

Comment closing date: June 22, 1981.

(Sec. 102, Pub. L. 93-492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 15, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-15284 Filed 5-22-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 23]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $503,000 has been established for the company.

Name of Company: ULICO CASUALTY COMPANY.

Business Address: 805 Third Avenue, New York, New York 10022.

State of Incorporation: Delaware.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1980 Revision, at page 44513 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: May 14, 1981.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 81-15476 Filed 5-22-81; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 100
Tuesday, May 26, 1981

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 805.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, May 26, 1981.

CHANGE IN MEETING: The following item was inadvertently omitted from the original announcement:

"Proposed Contracts for expert witness services in connection with a court case."

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued May 21, 1981.

[S-812-81 Filed 5-21-81; 2:24 pm]

BILLING CODE 6750-06-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

May 20, 1981.

TIME AND DATE: 10 a.m., May 27, 1981.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F Plumb, Secretary; telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda: however, all public documents may be examined in the Division of Public Information.

The consent agendas, power and miscellaneous agendas will be considered on Wednesday, May 27, 1981. The gas agenda will be considered on Thursday, May 28, 1981.

Consent Power Agenda—491st Meeting, May 27, 1981, Regular Meeting (10 a.m.)

CAP-1. Project No. 3238, Marsh Island Hydro Associates; Project No. 3323, Bangor Hydro-Electric Co.
CAP-2. Project No. 2114, Public Utility District No. 2 of Grant County; Project No. 199, South Carolina Public Service Authority; Docket No. DA-2, South Carolina, U.S. Forest Service
CAP-3. Project No. 739, Appalachian Power Co.
CAP-4. Docket No. ER81-144-001, Upper Peninsula Power Co.
CAP-5. Docket No. ER81-234-000, Arizona Public Service Co.
CAP-6. Docket No. ER78-522, Virginia Electric & Power Co.
CAP-7 Docket No. ES81-17-000, Idaho Power Co.

Consent Miscellaneous Agenda

CAM-1. Potomac Electric Power Co.
CAM-2. Docket No. RM79-76 (Texas—8), high-cost gas produced from tight formations
CAM-3. Docket No. RM79-76 (Texas—9), high-cost gas produced from tight formations
CAM-4. Docket No. RM79-76 (Colorado—3), high-cost gas produced from tight formations
CAM-5. Docket No. RM79-76 (Colorado—12), high-cost gas produced from tight formations
CAM-6. Docket No. RM79-76 (New Mexico—3), high-cost gas produced from tight formations
CAM-7 Docket No. RM79-76 (New Mexico—4), high-cost gas produced from tight formations
CAM-8. Docket No. GP81- Husky Oil Co., Bolatch Well No. 11 Ferc No. JD80-5561, NGPA Section 108, USGS Docket No. NM2702-79

Consent Gas Agenda

CAG-1. Docket No. RP78-23, Midwestern Gas Transmission Co.
CAG-2. Docket No. RP81-23-000, El Paso Natural Gas Co.
CAG-3. Docket No. RP81-25-000, South Georgia Natural Gas Co.
CAG-4. Docket No. RP81-53-000, East Tennessee Natural Gas Co.
CAG-5. Docket No. RP81-54, Tennessee Gas Pipeline Co.
CAG-6. Docket No. RP81-55-000, East Tennessee Natural Gas Co.
CAG-7 Docket Nos. RP81-56 and RP80-97-004, Tennessee Gas Pipeline Co.
CAG-8. Docket No. RP81-57-000, Midwestern Gas Transmission Co.
CAG-9. Docket No. RP81-60-000, Valero Interstate Transmission Co.
CAG-10. Docket No. RP81-61-000, Michigan Wisconsin Pipeline Co.
CAG-11. Docket No. ST79-15-001, Nue Wells Pipe Line Co.
CAG-12. Docket No. TA81-2-33-001 (PGA81-2a and YPR81-2a), El Paso Natural Gas Co.
CAG-13. Docket No. TA81-2-44-000 (PGA81-1), Commercial Pipeline Co., Inc.
CAG-14. Docket No. TA81-29-002 (PGA81-1, IPR81-1, DCA81-1 and LFUT81-1), Transcontinental Gas Pipe Line Corp.
CAG-15. Docket No. TA81-1-32 (PGA81-1 and IPR81-1), Colorado Interstate Gas Co.
CAG-16. Docket No. TA81-2-33-000, El Paso Natural Gas Co.
CAG-17 Docket No. CI77-657, American Natural Gas Production Co.
CAG-18. Docket Nos. CI78-223-002, CI78-225-002 and CI78-226-002, Exxon Corp., Docket No. CI81-222-000, Mitchell Energy Offshore Corp., Docket No. CI81-110-000, Shell Oil Co., Docket No. CI81-153-000, Getty Oil Co., Docket No. CI81-102-000, Louisiana Land Offshore Exploration Co., Docket No. CI81-140-000, Getty Oil Co., Docket No. G-16139-007 Gulf Oil Corp., Docket No. CI75-137-000, Belco Petroleum Corp., Docket No. CI81-019-000, Arco Oil & Gas Co., a division of Atlantic Richfield Co., Docket No. CI81-130-000, Getty Oil Co., Docket No. CI81-220-000, Koch Industries, Inc., Docket Nos. CI81-197-000 and CI81-199-000, Shell Oil Co., Docket No. CI81-201-000, Diamond Shamrock Corp., Docket No. CI81-196-000, Sonat Exploration Co.
CAG-19. Docket No. TC80-93, Mid-Louisiana Gas Co.
CAG-20. Docket No. CP80-388-003, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-21. Docket No. CP78-129, Texas Eastern Transmission Corp.
CAG-22. Docket No. CP80-409, Panhandle Eastern Pipe Line Co.
CAG-23. Docket No. CP80-561, Locust Ridge Gas Co.
CAG-24. Docket No. CP80-160, Mountain Fuel Supply Co.
CAG-25. Docket No. CP80-365, Panhandle Eastern Pipe Line Co.
CAG-26. Docket No. CP80-481 (phase I), Florida Gas Transmission Co. and Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-27 Docket No. CP80-568, National Fuel Gas Supply Corp.
CAG-28. Docket No. CP81-44-000, Columbia Gas Transmission Corp.
CAG-29. Docket No. CP81-146, El Paso Natural Gas Co.

CAG-30. Docket No. CP81-197-000, Michigan Wisconsin Pipe Line Co.
CAG-31. Docket No. CP81-271-000, Columbia Gas Transmission Corp.
CAG-32. Docket No. CP81-295-000, Northern Natural Gas Co., Division of Internorth, Inc.

Regular Power Agenda

I. Licensed Project Matters

P-1. Project No. 2545, The Washington Water Power Co.

II. Electric Rate Matters

ER-1. Docket Nos. ER81-267-000 and ER81-341-000, Kentucky Utilities Co.
ER-2. Docket No. ER81-387-000, Central Power & Light Co.
ER-3. Docket No. ER81-392-000, Pennsylvania Power & Light Co.
ER-4. Docket No. ER81-147-000 and ER81-148-000, Holyoke Power & Electric Co. and Holyoke Water Power Co.
ER-5. Docket No. ER78-417, Kentucky Utilities Co.
ER-6. Docket No. ER77-531, Illinois Power Co.
ER-7. Docket No. EF79-4011, Southwestern Power Administration (system rates)

Regular Miscellaneous Agenda

M-1. Docket No. RM79-54-001, diesel and duel fuel cogeneration—qualifying status
M-2. Reserved
M-3. Reserved
M-4. Docket No. GP81- . Midlands Gas Corp., U.S. Geological Survey negative determinations for 7 wells under NGPA Section 108, FERC No. JD81-19731

Regular Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket Nos. RP71-29, et al., (phase I and II) and Docket No. SA80-4, United Gas Pipe Line Co.
RP-2. Docket Nos. RP79-36, RP80-65 and RP81-11-000, Michigan Wisconsin Pipe Line Co.
RP-3. Docket Nos. RP80-91 and RP80-93, Arkansas Louisiana Gas Co.
RP-4. Docket No. OR81- , Loop Inc. and LoCap Inc.

II. Producer Matters

CI-1. Reserved

III. Pipeline Certificate Matters

CP-1. Docket No. CP78-532, Ozark Gas Transmission System
CP-2. (a) Docket Nos. CP80-43, CP66-110, et al., CP70-19, et al., CP70-100, et al., CP71-222, et al., and CP71-299, et al., Great Lakes Gas Transmission Co.; (b) Docket Nos. CP79-332 and CP79-332-001, Natural Gas Pipeline Co. of America, Michigan Wisconsin Pipe Line Co., Tennessee Gas Pipeline Co., a division of Tenneco, Inc., and Texas Eastern Transmission Corp.; Docket Nos. CP79-462, CP79-462-001, CP66-110, et al., CP66-110-020, CP70-19-007, CP70-100-002, CP71-222-005, CP71-299-001, CP71-223-003, Great Lakes Gas Transmission Co.; Docket Nos. CP79-467 and CP79-467-001, Michigan Wisconsin Pipe Line Co.
CP-3. Docket No. CP81-174-000, Colorado Interstate Gas Co.
CP-4. Docket No. CP81-219-000, East Tennessee Natural Gas Co.
CP-5. Docket No. CP74-35, Pacific Offshore Pipeline Co.; Docket No. CI79-533, Exxon Corp.

Kenneth F. Plumb,

Secretary.

[S-808-81 Filed 5-21-81; 9:16 am]

BILLING CODE 6450-85-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., Thursday, May 29, 1981.

PLACE: 1700 G Street N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Request for Extension of Time to Move a Branch Office—South Gate Federal Savings & Loan Association (Federal Mutual), Newport, Kentucky
Application for Bank Membership—The Bowery Savings Bank, New York, New York
Trust Department Application—Builders Federal Savings & Loan Association (Stock), Rocky Mount, North Carolina
Application for Authority to Acquire Control of—First Savings & Loan Association of Burkburnett, Burkburnett, Texas *and* Application to Incur Debt—First America Savings, Inc., Burkburnett, Texas
Application for Bank Membership—Stoneham Co-operative Bank, Stoneham, Massachusetts
Merger; Maintenance of Branch Offices; Cancellation of Membership and Insurance; Transfer of Stock and Change of Name—First Federal Savings & Loan Association of Nashville, Nashville, Tennessee (Mutual) *and* First Franklin Federal Savings & Loan Association, Franklin, Tennessee (Mutual) *into* Home Federal Savings & Loan Association, of Nashville, Nashville, Tennessee (Mutual)

No. 488, May 21, 1981.

[S-813-81 Filed 5-21-81; 3:01 pm]

BILLING CODE 6720-01-M

4

[USITC SE-81-14]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, June 4, 1981.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigations 731-TA-31 and -33 (Barium Carbonate from the Federal Republic of Germany and Strontium Nitrate from Italy)—briefing and vote.
2. Investigation 751-TA-2 (Television Receiving Sets from Japan)—briefing and vote.
3. Petitions and complaints, if necessary:
a. Credit card machines (Docket No. 729).
4. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-809-81 Filed 5-21-81; 9:55 am]

BILLING CODE 7020-02-M

5

LEGAL SERVICES CORPORATION.

Meeting of the Board of Directors.

TIME AND DATE: 10 a.m.-5 p.m., Friday, June 5, 1981.

PLACE: Legal Services Corporation, eighth floor conference rooms 2 and 3, 733 15th Street, N.W., Washington, D.C.

STATUS: Open meeting (portion of the meeting will be closed so the Board can discuss a litigation matter under 45 CFR 1622.5(h)).

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of March 6, 1981 Meeting.
3. Report on Reauthorization of Legal Services Corporation Act and Fiscal Year 1982 Appropriation.
4. Report from Committee on Provision of Legal Services:
• Amendment to Contract for Reginald Heber Smith Community Lawyer Fellowship Program.
5. President's Report.
6. Other Business.
7. Future Meeting Dates.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, (202) 272-4040.

Issued: May 20, 1981.

Dan J. Bradley,

President.

[S-807-81 Filed 5-20-81; 4:51 pm]

BILLING CODE 6820-35-M

6

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 9 a.m.-10 a.m.

DATE: June 11, 1981.

PLACE: Peachtree Plaza, Atlanta, Georgia.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive Session (closed meeting Sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director (202) 653-6252.

May 19, 1981.

Toni Carbo Bearman,

Executive Director, National Commission on Libraries and Information Science.

[S-811-81 Filed 5-21-81; 2:20 pm]

BILLING CODE 7527-01-M

7

UNITED STATES RAILWAY ASSOCIATION.

DATE AND TIME: 9 a.m., June 4, 1981.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS AT THE ANNUAL MEETING: Portions closed to the public (9 a.m.):

1. Litigation report.
2. Consideration of Internal Personnel Matters.
3. Review of Conrail Proprietary and Financial Information.

Portions open to the public (9:30 a.m.):

4. Approval of Minutes of April 30, 1981 Board of Directors Meeting.
5. Election of Officers.
6. Consideration of Conrail June Drawdown Request.
7 Consideration of Conrail Third Quarter Commitment request.
8. Conrail Monitoring.
9. Contract Actions.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 426-4250.

[S-810-81 Filed 5-21-81; 1:44 pm]

BILLING CODE 8240-01-M

federal register

Tuesday
May 26, 1981

Part II

Department of Transportation

Federal Aviation Administration

Delay of Compliance Date for Instrument Rating Requirement

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. 21134; Amendment No. 135-13]

Delay of Compliance Date for Instrument Rating Requirement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment delays from February 1, 1981, to August 1, 1981, the date for compliance with the requirement that pilots in command of air taxi and commercial operator (Part 135) aircraft must have an instrument rating (§ 135.243). This action provides interim regulatory relief to pilots and operators under Part 135 while the FAA revises § 135.243 to provide permanent relief from the instrument rating requirement for certain operations. The Director, Office of Management and Budget (OMB), has exempted rules that delay compliance dates from sections 3, 4, 7, and 8 of Executive Order 12291. This amendment is consistent with the remaining requirements of Executive Order 12291 and the Regulatory Flexibility Act.

EFFECTIVE DATE: May 19, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Sullivan, Chief, Safety Regulations Staff (AVS-20), Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Compliance Date for Instrument Rating Requirements

On September 26, 1978, the FAA issued a revised Part 135 of the Federal Aviation Regulations (FAR), "Air Taxi Operators and Commercial Operators" (43 FR 46742; October 10, 1978). This revision was effective on December 1, 1978. Section 135.243(b)(3) requires an instrument rating for pilots in command of airplanes. Under § 135.10, pilots and operators were given until June 1, 1979, to comply with this requirement. The FAA received numerous petitions for exemption from the instrument rating requirement. As a result, the FAA determined that additional rulemaking regarding that requirement should be initiated before compliance with the instrument rating became mandatory. To allow this, the FAA changed the compliance date in § 135.10 for the instrument rating requirement to December 1, 1980 (44 FR 26737; May 7, 1979).

On November 28, 1980, the FAA again extended the compliance date for the instrument rating to February 1, 1981 (45 FR 80460; December 4, 1980). At the same time, the FAA issued Notice 80-23 (45 FR 80450) which proposed certain changes in the instrument rating requirement. The comment period on Notice 80-23 closed on February 4, 1981.

The FAA found that additional time was needed to evaluate properly comments received in response to Notice 80-23 and to formulate the FAA's final course of action. Therefore, the FAA planned to extend the compliance date to May 1, 1981. However, that extension was not completed before it became necessary to review the agency's regulatory actions to determine compliance with Executive Order 12291. Discussions were held with OMB on this proposed extension. This rulemaking, along with several others, generated an exemption from certain provisions of Executive Order 12291 by the Director of OMB. The exemption allows this particular document to be issued without submission to OMB.

The FAA has received numerous calls and exemption petitions from operators and pilots seeking relief from this rule. Many pilots claim that they face the loss of their jobs and, in some cases, they have lost their jobs. Operators claim that they are losing business. The FAA is developing a rule to provide permanent relief to certain operators based on comments received in response to Notice 80-23. The FAA has determined that it is appropriate to again delay the date for compliance with the instrument rating requirement for all Part 135 operators from February 1, 1981, to August 1, 1981, to allow completion of the rulemaking proposed in Notice 80-23.

Notice and Public Procedure

This amendment provides temporary regulatory relief to pilots and to air taxi and commercial operators and does not impose any economic burden on those operators. Accordingly, I find that notice and public procedure are unnecessary and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended, effective May 19, 1981, by removing the date "February 1, 1981" in § 135.10(c) and inserting in its place the date "August 1, 1981."

Note.—The FAA has determined that this regulation provides interim relief for certain operators while the agency is completing rulemaking action proposed in Notice 80-23. It therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant regulation" under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant a regulatory evaluation; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

(Secs. 313(a) and 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, DC, on May 18, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-15347 Filed 5-19-81; 2:30 pm]

BILLING CODE 4910-13-M

federal register

Tuesday
May 26, 1981

Part III

Department of Transportation

Federal Aviation Administration

Elimination of Duties and Activities of Flight Crewmembers Not Required for Safe Operation of Aircraft; Change of Effective Date

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 121 and 135

[Docket No. 20659; Amdt. Nos. 121-171 and 135-14]

Elimination of Duties and Activities of Flight Crewmembers Not Required for the Safe Operation of Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, notice of change of effective date.

SUMMARY: This amendment amends the effective date of Amendments 121-168 and 135-11 issued on January 14, 1981. The effective dates are being postponed for 30 days at the direction of the Office of Management and Budget in order that they be allowed to complete their review of these amendments as required by Section 7, paragraph (b) of Executive Order 12291.

EFFECTIVE DATE: As of May 18, 1981, the effective date of the regulations published at 46 FR 5500 has been delayed until June 18, 1981.

FOR FURTHER INFORMATION CONTACT: Edward P Faberman, Assistant Chief Counsel (AGC-200), Regulations and Enforcement Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3073.

SUPPLEMENTARY INFORMATION: On January 14, 1981, the FAA issued Amendment Nos. 121-168 and 135-11 (46 FR 5500, January 19, 1981.) These amendments prohibit performance of nonessential duties and activities by flight crewmembers which are not required for the safe operation of aircraft during critical phases of flight. These amendments require operators and flight crewmembers to assure a flight deck environment that is free from distractions created by the performance of nonessential flight crewmember duties.

Executive Order 12291 was issued by the President on February 17, 1981. Section 7, paragraph (b), requires that agencies report any regulation falling within the requirements of this section to the Director of the Office of Management and Budget (OMB) prior to the effective date of any rule that the agency has promulgated in final form, as of the date of the Executive Order, and that had not become effective. Since the effective date of Amendments 121-168 and 135-11 was May 18, 1981, it was necessary that the Director be notified of this rule. The General Counsel of the Department of Transportation notified OMB that this had been reconsidered under the Executive Order and should become effective.

On May 15, 1981 the Office of Information and Regulatory Affairs, OMB, notified the Office of the General Counsel of the Department of Transportation, by telephone, that they needed more time to review this rule and that, therefore, the effective date of the rule had to be postponed. In accordance with this direction, the effective date of this rule is postponed by 30 days to June 18, 1981.

Adoption of Amendment

In order to provide additional time for OMB to review this rule in accordance with Executive Order 12291, the effective dates of Amendments 121-168 and 135-11 are amended to June 18, 1981.

(Secs. 313(a) and 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—Since this document only involves a change of effective dates, the FAA has determined that: (1) It is not a major regulation under Executive Order 12291; (2) It is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) It does not warrant preparation of a regulatory evaluation as the impact is so minimal.

Issued in Washington, D.C. on May 18, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-15348 Filed 5-19-81; 2:30 pm]

BILLING CODE 4910-13-M

federal register

Tuesday
May 26, 1981

Part IV

Department of Health and Human Services

Office of Human Development Services

Native American Programs; Announcement of Availability of FY 1982 Financial Assistance for Native American Projects

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-821]

Native American Programs; Availability of Fiscal Year 1982 Financial Assistance

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Fiscal Year 1982 Financial Assistance for Native American Projects.

SUMMARY: The Administration for Native Americans (ANA) announces that applications will be accepted for financial assistance under Section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the *Code of Federal Regulations* in 45 CFR Part 1336.

DATE: Closing date for receipt of all applications under this program announcement is 90 days prior to the Budget Period End date (BPE) of the current ANA grant.

Scope of This Program Announcement

This program announcement is directed to the attention of Fiscal Year 1981 ANA grantees and provides guidance to those grantees in the preparation of their applications for FY '82 funding from the Administration for Native Americans. This announcement solicits applications for FY '82 grants and is being published to ensure that the public has notice of the Administration for Native American's funding priorities for fiscal year 1982.

This program announcement is intended to solicit applications only from Indian tribes and Native American organizations which are FY '81 grantees of ANA. Competition for other grant awards in FY '82 will be announced separately in the **Federal Register.**

Program Purpose

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency of American Indians, Alaskan Natives and Hawaiian Natives through financial assistance, training and technical assistance, and research, demonstration, and evaluation activities. Based on the authorization in the Native American Programs Act (Title VIII of Pub. L. 93-644, as amended), ANA supports activities that strengthen the ability of Indian tribes and Native American groups and organizations to determine and implement developmental strategies supportive of comprehensive social and economic progress.

ANA Program Goals

Consistent with ANA's mission of promoting self-sufficiency, the goal of the ANA program is to provide financial assistance to Indian tribes and Indian, Alaska Native and Hawaiian Native organizations to enable them to create and implement effective local social and economic development strategies. The implementation of these strategies is expected to result in sustained improvement in the social and economic conditions of Native Americans within the community, as well as in increased effectiveness and efficiency of the Indian tribe or Native American organization in defining and achieving its own economic and social goals.

The Administration for Native Americans operates on the principle that economic and social development are interrelated and that both must be balanced if Native Americans are to achieve self-sufficiency. This approach, developed in consultation with Native American leaders all over the nation, represents no radical break with the past, but provides a new perspective to the ANA mission, based inpart on the successful experiences of many grantees in moving toward self-sufficiency in recent years.

It is the policy of the Administration for Native Americans to encourage tribes and Native American organizations to achieve a balanced approach to social and economic development through locally determined and implemented strategies. This policy allows grantees to focus on social and economic barriers and move from dependence on social services to increasing opportunities for self sufficiency.

Because the local community knows the appropriate activities required to create its own social and economic balance, it is ANA's policy to strengthen tribes and Native American organizations in providing direction to social and economic development and in coordinating all resources, Federal and non-Federal, toward locally determined priorities. It is also ANA's policy to support the development of local leadership, on and off the reservation, in planning and implementing local programs which meet community needs.

Thus, the program and policy initiatives of the Administration for Native Americans in this program announcement are grouped into three major categories:

- Enhancement of the capability of tribal governments and Native American organizations to meet local needs and to influence social and economic growth.
- Development of diversified and stable economies or improved access to and development of programs which provide jobs, promote the economic well-being of Native American people, and reduce dependency on services.
- Development or improvement of comprehensive tribal social systems or improved access to and development of programs which safeguard the health and welfare of individuals, families and communities, and provide services needed to achieve and maintain a thriving community.

Program Objectives

Federally-Recognized Tribal Grantees

All ANA funded Federally recognized tribes and tribal consortia applying for fiscal year 1982 funding must indicate that the proposed project(s) will achieve one or more of the following objectives:

- To strengthen the ability of tribal governmental institutions and Indian leadership to plan, develop and implement community-determined programs supportive of balanced social and economic growth.
- To strengthen the ability of tribes to function as units of government.
- To develop and/or access, in a comprehensive manner, resources, services, and benefits necessary for meeting the economic needs of the tribe.
- To develop diversified and stable tribal economies which provide jobs, encourage business development, promote economic well-being and reduce dependency on services.
- To plan and carry out programs to gain private sector investment, technical assistance, markets and job opportunities for tribal economies.
- To strengthen the ability of tribal governments to plan and implement comprehensive social services.
- To improve tribal and individual access to resources, services and benefits necessary to meet social needs.
- To resolve problems of jurisdictional conflict and ill-defined areas of program responsibility which result in gaps in services for the tribes.
- To assist Indian tribes to ensure that Indian people exercise their rights and obtain the benefits to which they are entitled by virtue of the Federal trust relationship, legislative authority, or as citizens of the United States.
- To promote tribal coordination and control of local, State and Federal program efforts and initiatives in employment, energy, child welfare, environmental and occupational health, aging, rehabilitation and other areas

that enhance social and economic self-sufficiency.

Other Than Federally Recognized Tribal Grantees

All ANA funded off-reservation organizations and non-tribal consortia, urban Indian Centers, Native Alaskan and Native Hawaiian organizations applying for FY '82 funding must indicate that the proposed project(s) will achieve one or more of the following objectives:

- To plan, develop and manage the implementation of community-determined programs supportive of balanced community social and economic growth.
- To develop and/or access, in a comprehensive manner, resources, services, and benefits necessary for meeting the economic needs of the local Native American community and its members.
- To develop programs which provide jobs, encourage business development and community co-operatives and otherwise promote the economic well-being of Native Americans and reduce dependency on services.
- To plan and carry out programs to gain private sector investments, technical assistance, markets and job opportunities for Native Americans.
- To develop and/or improve, in a comprehensive manner, the accessibility of resources, services and benefits necessary for meeting the social needs of the Native American community.
- To make private and public agencies aware of and responsive to the rights of Native Americans to the services and benefits for which all citizens are eligible.
- To help Native Americans become aware of and obtain the services to which they are entitled by legislative authority and as citizens of the United States.
- To enhance coordination of local, State and Federal programs which are necessary to substained social and economic improvements for the community and its members.

Applicants who wish further clarification or explanation of this announcement should call Mr. Merv Tano or Ms. Pecita Lonewolf, ANA, (202) 245-7714.

Training And Technical Assistance

Program funds requested in the applications for financial assistance may be utilized for obtaining technical assistance and training required to support the activities designed to achieve the project objectives. The proposed technical assistance or training resources should be sufficiently detailed to assure its applicability to the overall project. Applicants must define the manner in which the proposed technical assistance and training will affect achievement of objectives.

Eligible Applicants

Indian tribes and Native American organizations which are FY '81 grantees of the Administration for Native Americans are eligible to apply for a grant awards under the program announcement. See Appendix A for a partial list of FY '81 ANA grantees funded to date in 1981. The list of all grantees funded in FY '81 will be published in October, 1981.

Budget Considerations

The Administration for Native Americans' FY '82 proposed budget is $28 million for Financial Assistance, Training and Technical Assistance, and Research, Demonstration and Evaluation. This represents a reduction of $5.8 million from the FY '81 level of $33.8 million. The budget for all programs funded for FY '82 under Section 803, Financial Assistance, including those to be funded under this program announcement is $25.6 million, which represents a reduction from the FY '81 level of $28 million for Financial Assistance.

Grantee Share of Project

Grantees must provide up to 20% of the total approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in Section 1336.52 of ANA's regulations which will be provided in the application kit.

The Application Process

Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. An application kit containing the necessary forms as well as supplemental descriptive project information will be sent to all eligible applicants 180 days prior to the Budget Period End date of their current ANA grant.

Application Submission

The grant application, including all attachments must be submitted to the address specified in the application kit.

The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American programs Rules and Regulations.

A-95 Notification Process

In compliance with the Department of Health and Human Service's implementation of the Office of Management and Budget Circular No. A-95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants, with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal financial assistance. Some State and Areawide Clearinghouses provide their own forms for the notification and others use the facesheet (SF-424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application Consideration

The Commissioner determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are submitted by the appropriate due date and which are complete will be reviewed and evaluated by a panel of ANA staff against the published criteria. The ANA program specialist for the particular applicant will provide written comments on the application to the Commissioner and will also review the applicant's compliance performance on the submission of financial reports, project progress reports and audits for the prior year and for the current grant year. The results of the above three reviews assist the Commissioner in his consideration of each application. The Commissioner's consideration also takes into account the comments of the A-95 Clearinghouse and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision either to disapprove or to fund a grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are

notified through the issuance of a Notice of Financial Assistance Awarded which sets forth in writing to the recipient the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of recipient participation.

Criteria For Review And Condition For Funding

A preliminary review of each application will be performed to determine its timeliness of submission and completeness. Applications received after the due date and applications which are incomplete, will not be accepted for review and will be returned to the applicant without consideration for funding.

(1) *Timeliness:* Applications are due in the OHDS Grants Receiving Office 90 days prior to the Budget Period End Date (BPE). See Appendix A to determine the appropriate due date.

(2) *Completeness:* All applications must be submitted on the forms supplied and in the manner prescribed by ANA in Appendix B.

Each application will then be reviewed and evaluated on the following two areas:

(1) *Compliance Performance:* The applicant's performance in the timeliness and adequacy of the submission of the required reports for the previous and current year will be reviewed and will be a factor in the Commissioner's final funding decision.

(2) *Quality of the Application:* Applications which are complete and received by the appropriate due date will be evaluated against the following criteria:

(a) Applicant's goals are consistent with ANA program objectives as described in this program announcement. (10 points)

(b) Applicant's goals and objectives in the application are related to and consistent with the overall priorities of the applicant organization, as reflected in planning documents. (10 points)

(c) Applicant's objectives are clear, definitive, and measurable; objectives also reflect a capacity building social and economic development approach. (25 points)

(d) The proposed activities, methodologies will achieve project objectives. (10 points)

(e) Applicant is achieving its current ANA supported objectives in a reasonable time frame, and has set new objectives which further progress toward identified goals. (10 points)

(f) The training and technical assistance required to support the activities designed to achieve the stated objectives is indicated in detailed specific tasks indicating resources required, person days allocated, time schedule and cost. (10 points)

(g) Grantee has documented necessary administrative capabilities/functions; financial management system, personnel policies, travel policies, etc. (5 points)

(h) Project personnel are or will be well qualified to achieve project objectives. The person(s) responsible for developing the application is identified by name and position and his/her future responsibilities in the implementation of project objectives is indicated. (10 points)

(i) That the estimated cost to the government is reasonable and justified considering the anticipated results of the project. (10 points)

Due Date For Receipt Of Application

The due date for applications submitted in response to this program announcement is 90 days prior to the applicant's current Budget Period End date. See Appendix A for a partial list of due dates. The final list will be published in October, 1981.

Applications may be mailed or hand delivered. An application will be considered on time if it is received on or before close of business of the correct due date in the OHDS Grants Receiving Office in Washington, D.C. The official time or date of receipt is that registered by the Department of Health and Human Services.

Applications received after the due date because they were mailed or hand delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program No. 13.612 Native American Programs)

Dated: May 8, 1981.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: May 19, 1981.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Administration for Native Americans Budget Period End Date/Application Due Date

		Budget period end date (BPE)	Application due date
Lumbee Regional Development Association, Inc.	NC	10/31/81	8/1/81
Grand Portage Reservation Business Committee.	MN	10/31/81	8/1/81
Inter-Tribal Council of Michigan, Inc.	MI	10/31/81	8/1/81
Six Sandoval Indian Pueblos, Inc.	NM	10/31/81	8/1/81
Ft. Belknap Community Council.	MT	10/31/81	8/1/81
Rosebud Sioux Tribe	SD	10/31/81	8/1/81
The Papago Tribe of Arizona.	AZ	10/31/81	8/1/81
Organization of the Forgotten American.	OR	10/31/81	8/1/81
Lansing North American Indian Center, Inc.	MI	10/31/81	8/1/81
American Indian Center of Omaha, Inc.	NE	10/31/81	8/1/81
Community Action for the Urbanized, Inc.	CA	10/31/81	8/1/81
Alu Like, Inc	HI	11/30/81	9/1/81
Mille Lacs Reservation Business Committee.	MN	11/30/81	9/1/81
Ute Mountain Ute Tribe	CO	11/30/81	9/1/81
Cheyenne and Arapahoe Tribes of Oklahoma.	OK	11/30/81	9/1/81
Cumberland County Association for Indian People.	NC	11/30/81	9/1/81
Seminole Nation of Oklahoma.	OK	12/31/81	10/1/81
Utah Paiute Tribal Corporation, Inc.	UT	12/31/81	10/1/81
Council of Energy Resources Tribes, Inc.	DC	12/31/81	10/1/81
Oklahomas for Indian Opportunity.	OK	12/31/81	10/1/81
Tri-City Indian Development Center.	OK	12/31/81	10/1/81
American Indian Scholarship, Inc.	NM	12/31/81	10/1/81
McCurtain County Indian Development Center.	OK	12/31/81	10/1/81
Bois Forte Reservation Business.	MN	12/31/81	10/1/81
Cherokee Nation of Oklahoma.	OK	12/31/81	10/1/81
Choctaw Nation of Oklahoma.	OK	12/31/81	10/1/81
Chickasaw Nation of Oklahoma.	OK	12/31/81	10/1/81
Pueblo of Acoma	NM	12/31/81	10/1/81
Southern Ute Indian Tribe.	CO	12/31/81	10/1/81
Confederated Salish-Kootenai Tribes.	MT	12/31/81	10/1/81
Standing Rock Sioux Tribe.	SD	12/31/81	10/1/81
Cheyenne River Sioux Tribe.	SD	12/31/81	10/1/81
San Carlos Apache Tribe	AZ	12/31/81	10/1/81
Creek Nation of Oklahoma.	OK	12/31/81	10/1/81
Ponca Tribe of Oklahoma	OK	12/31/81	10/1/81
Genesee Valley Indian Association, Inc.	MI	12/31/81	10/1/81
Southern Plains Inter-Tribal Center, Inc.	OK	12/31/81	10/1/81
American Indian Center of Mid-America, Inc.	MO	12/31/81	10/1/81
Fresno American Indian Council, Inc.	CA	12/31/81	10/1/81
Indian Center of San Jose, Inc.	CA	12/31/81	10/1/81
Sacramento Indian Center, Inc.	CA	12/31/81	10/1/81
Cook Inlet Native Association.	AK	12/31/81	10/1/81

Administration for Native Americans Budget Period End Date/Application Due Date—Continued

		Budget period end date (BPE)	Application due date
Hikiola Cooperative	HI	1/31/82	11/1/81
Mescalero Apache Tribe	NM	1/31/82	11/1/81
Colorado River Indian Tribes.	AZ	1/31/82	11/1/81
Inter-Tribal Council of Nevada, Inc.	NV	1/31/82	11/1/81
Abenaki Self-Help Association, Inc.	VT	1/31/82	11/1/81
American Indians for Development, Inc.	CT	1/31/82	11/1/81
Central Maine Indian Association, Inc.	ME	1/31/82	11/1/81
Mashpee Wampanoag Indian Council, Inc.	MA	1/31/82	11/1/81
New Hampshire Indian Council, Inc.	NH	1/31/82	11/1/81
Narragansett Tribal Education Project, Inc.	RI	1/31/82	11/1/81
Cleveland American Indian Center, Inc.	OH	1/31/82	11/1/81
Heart of America Indian Center, Inc.	MO	1/31/82	11/1/81
Crow Tribe of Indians of Montana.	MT	1/31/82	11/1/81
Eastern Band of Cherokee Indians.	NC	1/31/82	11/1/81
White Earth Reservation Business Committee.	MN	2/28/82	12/1/81
Santo Domingo Tribe	NM	2/28/82	12/1/81
Blackfeet Tribe	MT	2/28/82	12/1/81
Pueblo of Laguna	NM	2/28/82	12/1/81
Lower Brule Sioux Tribe	SD	2/28/82	12/1/81
Shoshone-Arapahoe Joint Council.	WY	2/28/82	12/1/81
Indian Center, Inc	NE	2/28/82	12/1/81
Santa Rosa Indian Center, Inc.	CA	2/28/82	12/1/81
Red Lake Tribal Council	MN	2/28/82	12/1/81
Leech Lake Reservation Business Committee.	MN	3/31/82	1/1/81
Lummi Tribe	WA	3/31/82	1/1/81
Oneida Tribe of Indians of Wisconsin.	WI	3/31/82	1/1/81
The Business Committee of the Chippewa Cree.	MT	3/31/82	1/1/81
Menominee Indian Tribe of Wisconsin.	WI	3/31/82	1/1/81
California Inter-Tribal Council, Inc.	CA	3/31/82	1/1/82
Eight Northern Pueblos Council, Inc.	NM	3/31/82	1/1/82
Indian Center of Topeka, Inc.	KS	3/31/82	1/1/82
Native Americans for Community Action, Inc.	AZ	3/31/82	1/1/82
Quechan Tribe	AZ	4/30/82	2/1/82
Santee Sioux Tribe of Nebraska.	NE	4/30/82	2/1/82
Swinomish Tribe	WA	4/30/82	2/1/82
Crow Creek Sioux Tribe	SD	4/30/82	2/1/82
Hualapai Tribe	AZ	4/30/82	2/1/82
White Mountain Apache Tribe.	AZ	4/30/82	2/1/82
Miccosukee Tribe of Flordia.	FL	4/30/82	2/1/82
Mid-American All Indian Center, Inc.	KS	4/30/82	2/1/82
Cocopah Tribe	AZ	5/31/82	3/1/82
Havasupai Tribal Council	AZ	5/31/82	3/1/82
Metlakatla Indian Community.	AK	5/31/82	3/1/82
Yankton Sioux Tribe	SD	5/31/82	3/1/82
Makah Indian Tribal Council.	WA	5/31/82	3/1/82
Small Tribes Organization of Western Washington.	WA	5/31/82	3/1/82
Trenton Indian Service Area Corporation.	ND	5/31/82	3/1/82
Sioux City American Indian Center, Inc.	IA	5/31/82	3/1/82
Hopi Tribal Council	AZ	6/30/82	4/1/82
Turtle Mountain Band of Chippewa Indians.	ND	6/30/82	4/1/82

Administration for Native Americans Budget Period End Date/Application Due Date—Continued

		Budget period end date (BPE)	Application due date
Seminole Tribe of Florida	FL	6/30/82	4/1/82
Assiniboine and Sioux Tribes.	MT	6/30/82	4/1/82
Kickapoo Tribe in Kansas	KS	6/30/82	4/1/82
Coushatta Alliance	LA	6/30/82	4/1/82
Chitimacha Tribe of Louisiana.	LA	6/30/82	4/1/82
Penobscot Nation	ME	6/30/82	4/1/82
Passamaquoddy Tribe, Indian Township Reservation.	ME	6/30/82	4/1/82
Passamaquoddy Tribe, Pleasant Point Reservation.	ME	6/30/82	4/1/82
Three Affiliated Tribal Business Council.	ND	6/30/82	4/1/82
Navajo Tribal Council	AZ	6/30/82	4/1/82
Seneca Nation of Indians	NY	6/30/82	4/1/82
Indian Action of Northwestern California, Inc.	CA	6/30/82	4/1/82
United Tribes of Kansas and Southeast Nebraska.	KS	6/30/82	4/1/82
Association of Aroostook Indians, Inc.	ME	6/30/82	4/1/82
WCD Enterprises, Inc	OK	6/30/82	4/1/82
Plains Apache	OK	6/30/82	4/1/82
Pawnee Tribe of Oklahoma.	OK	6/30/82	4/1/82
Kiowa tribe of Oklahoma	OK	6/30/82	4/1/82
Comanche Indian Tribe	OK	6/30/82	4/1/82
Minneapolis American Indian Center, Inc.	MN	6/30/82	4/1/82
Kaw Tribe	OK	6/30/82	4/1/82
Otoe-Missouri Tribe	OK	6/30/82	4/1/82
Tonkawa Tribe	OK	6/30/82	4/1/82
Boston Indian Council, Inc.	MA	6/30/82	4/1/82
American Indian Community, Inc.	NY	6/30/82	4/1/82
Buffalo North American Indian Culture Center, Inc.	NY	6/30/82	4/1/82
Native American Cultural Center, Inc.	NY	6/30/82	4/1/82
North American Indian Club of Syracuse and Vicinity, Inc.	NY	6/30/82	4/1/82
Baltimore American Indian Center, Inc.	MD	6/30/82	4/1/82
Council of Three Rivers American Indian Center, Inc.	PA	6/30/82	4/1/82
United American Indians of Delaware Valley, Inc.	PA	6/30/82	4/1/82
Grand Rapids Inter-Tribal Council, Inc.	MI	6/30/82	4/1/82
North American Indian Association of Detroit Inc.	MI	6/30/82	4/1/82
St. Paul American Indian Center, Inc.	MN	6/30/82	4/1/82
Native American Committee, Inc.	IL	6/30/82	4/1/82
Albuquerque Urban Indian Center, Inc.	NM	6/30/82	4/1/82
Native American Center, Inc.	OK	6/30/82	4/1/82
Native American Coalition of Tulsa, Inc.	OK	6/30/82	4/1/82
Denver Native American United, Inc.	CO	6/30/82	4/1/82
Montana United Indian Association, Inc.	MT	6/30/82	4/1/82
Dakota Association of Native Americans, Inc.	ND	6/30/82	4/1/82
Rapid City Indian Service Council, Inc.	SD	6/30/82	4/1/82
Utah Native American Consortium, Inc.	UT	6/30/82	4/1/82
American Indian Association of Tucson, Inc.	AZ	6/30/82	4/1/82
Phoenix Indian Center, Inc.	AZ	6/30/82	4/1/82

Administration for Native Americans Budget Period End Date/Application Due Date—Continued

		Budget period end date (BPE)	Application due date
Inter-Tribal Friendship House, Inc.	CA	6/30/82	4/1/82
South Bay Indian Services, Inc.	CA	6/30/82	4/1/82
Central Council of Tlingit and Haida Indians of Alaska.	AK	6/30/82	4/1/82
Mauneluk Association, Inc.	AK	6/30/82	4/1/82
Seattle Indian Center, Inc	WA	6/30/82	4/1/82
Tacoma Indian Center, Inc.	WA	6/30/82	4/1/82
American Indian Community Center, Inc.	WA	6/30/82	4/1/82
United Indian Association of Central Washington, Inc.	WA	6/30/82	4/1/82
Urban Indian Council. Inc	OR	6/30/82	4/1/82
Coeur d'Alene Tribe of Idaho.	ID	7/31/82	5/1/82
St. Regis Mohawk Tribe	NY	7/31/82	5/1/82
Guilford Native American Association, Inc.	NC	8/31/82	6/1/82
Metrolina Native American Association, Inc.	NC	8/31/82	6/1/82
South Eastern Michigan Indians, Inc.	MI	8/31/82	6/1/82
American Indian Fellowship Association, Inc.	MN	8/31/82	6/1/82
Farmington Inter-Tribal Indian Organization, Inc.	NM	8/31/82	6/1/82
Gallup Indian Community Center.	NM	8/31/82	6/1/82
American Indian Center of Dallas, Inc.	TX	8/31/82	6/1/82
Indian Centers, Inc	CA	8/31/82	6/1/82
Hawaii Council of American Indian Nations, Inc.	HI	8/31/82	6/1/82
Fairbanks Native Association, Inc.	AK	8/31/82	6/1/82
The Confederated Tribes of the Umatilla Indian Reservation.	OR	9/30/82	7/1/82
Northern Cheyenne Tribal Council.	MT	9/30/82	7/1/82
Gila River Indian Community.	AZ	9/30/82	7/1/82
Pascua Yaqui Tribe	AZ	9/30/82	7/1/82
Nez Perce Tribe of Idaho	ID	9/30/82	7/1/82
Spokane Tribe of Indians	WA	9/30/82	7/1/82
Fond du Lac Reservation Business Committee.	MN	9/30/82	7/1/82
Mississippi Band of Choctaw Indians.	MS	9/30/82	7/1/82
Yakima Indian Nation	WA	9/30/82	7/1/82
Colville Confederated Tribes.	WA	9/30/82	7/1/82
Devils Lake Sioux Tribe	ND	9/30/82	7/1/82
Pueblo of Zuni	NM	9/30/82	7/1/82
Jicarilla Apache Tribe	NM	9/30/82	7/1/82
Pueblo of Isleta	NM	9/30/82	7/1/82
Osage Tribal Council	OK	9/30/82	7/1/82
Sisseton-Wahpeton Sioux Tribe.	SD	9/30/82	7/1/82
Oglala Sioux Tribe	SD	9/30/82	7/1/82
Uintah and Ouray Tribal Council.	UT	9/30/82	7/1/82
Quileute Tribe	WA	9/30/82	7/1/82
The Tulalip Tribes	WA	9/30/82	7/1/82
Native American Rights Fund.	CO	9/30/82	7/1/82
Great Lakes Inter-Tribal Council.	WI	9/30/82	7/1/82
United Rappahannock Tribal Office.	VA	9/30/82	7/1/82
Council of Energy Resource Tribes, Inc.	DC	9/30/82	7/1/82

Administration for Native Americans Budget Period End Date/Application Due Date—Continued

		Budget period end date (BPE)	Application due date
Citizen Band of Potawatomi of Oklahoma.	OK	9/30/82	7/1/82
Saginaw Inter-Tribal Association, Inc.	MI	9/30/82	7/1/82
Central Tribes of Shawnee Area, Inc.	OK	9/30/82	7/1/82
Oklahoma Inter-Tribal Council, Inc.	OK	9/30/82	7/1/82
Salt River Indian Community.	AZ	9/30/82	7/1/82

Administration for Native Americans

Grant Application Checklist

In order to be considered complete, an application must contain the following forms and material:

(1) Acknowledgment Post Card
(2) Form 424, Federal Assistance
(3) Part II, Project Approval Information
(4) Part III, Budget Information
(5) Part IV, Summary of Work Program
(6) Part V, Assurances
(7) HHS-441, Civil Rights Assurance
(8) HHS-641, Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973
(9) Budget Breakdown
(10) Resolution of Approval of application by governing body
(11) Non-Federal share waiver request, if applicable, signed by the chairperson per Section 1336.52, ANA Regulations
(12) Maintenance of Effort Assurance per Section 1336.53(a), ANA Regulations
(13) Project Progress Report for first eight months of current budget period
(14) If applicable, copy of indirect cost rate agreement in effect for the proposed budget period.

The forms and instructions to prepare an application under this program announcement will be provided in the Application Kit which will be sent to all eligible applicants 180 days prior to the Budget Period End Date (BPE) of the FY '81 ANA grant.

[FR Doc. 81-15504 Filed 5-22-81; 8:45 am]
BILLING CODE 4110-92-M

federal register

Tuesday
May 26, 1981

Part V

Environmental Protection Agency

Standards Applicable to Owners and Operators of Hazardous Waste Treatment; Storage and Disposal Facilities

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 264

[SWH-FRL-1825-2]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment; Storage and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of reproposed rulemaking.

SUMMARY: On February 5, 1981, EPA reproposed standards for permitting hazardous waste land disposal facilities. This notice supplements the reproposal by setting forth more fully the various issues which EPA has considered in developing the standards. The purpose of this notice is to enable the public to better comment on the February 5 proposal as well as other regulatory options.

DATE: The comment period for this notice will run concurrently with that set for the February 5, 1981 reproposal. Comments must be received on or before August 4, 1981.

ADDRESS: Comments should be addressed to Deborah Villari, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9173.

Comments on the reproposed rule or today's supplemental notice should identify the regulatory docket as follows: "Section 3004: Permitting Standards for Land Disposal Facilities."

The public docket for this rulemaking is available at Room 2711B, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for reviewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding hoildays.

FOR FURTHER INFORMATION CONTACT: For information on today's supplemental notice of reproposed rulemaking, contact Barry Stoll, Acting Chief, Land Disposal Branch, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9116. For information on the reproposed rule, contact Robert B. Taylor, Land Disposal Branch, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9120.

SUPPLEMENTARY INFORMATION:

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I. Background

Under Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), EPA is required to establish such performance standards, applicable to owners and operators of hazardous waste treatment, storage and disposal facilities (TSDF's), as may be necessary to protect human health and the environment. Some of these standards provide the basis for issuing permits to such facilities under Section 3005. Other standards establish the duties of owners and operators of existing treatment, storage and disposal facilities who qualify for "interim status", a period, established under section 3005(e) of RCRA, during which the facility is treated as if it has a permit. (See 45 FR 33158, May 19, 1980, for a description of "interim status".)

A. Past Rulemaking

In developing regulations under Section 3004, EPA has placed its standards for interim status facilities in 40 CFR Part 265 and those for issuing permits in 40 CFR Part 264. On May 19, 1980 (45 FR 33154) and January 12, 1981 (46 FR 2802), EPA issued a full set of regulations under Part 265 for interim status facilities. Also on May 19, 1980, EPA issued regulations under Part 264 that established certain administrative requirements for permitted facilities. The remainder of the Part 264 standards are being issued in stages. On January 12, 1981, EPA Issued permitting standards governing location of TSDF's, closure and post-closure care and requirements for TSDF's as well as specific technical standards for storage facilities. On January 23, 1981 (46 FR 7666), EPA issued technical standards for hazardous waste incinerators. With these actions, EPA has promulgated the principal elements of the Part 264 standards except for the technical standards applicable to land disposal facilities.

Technical standards for permitting land disposal facilities were originally proposed on December 18, 1978 (43 FR 58982). The basic approach taken in the December 18, 1978 proposal was to set uniform design requirements for landfills and surface impoundments, subject to opportunities for variances when alternative designs could achieve equivalent environmental protection. Many commenters criticized the proposal as being too inflexible and not adequately oriented towards a particular regulatory goal. In response, EPA reconsidered its approach and decided tentatively to move towards a site-specific risk assessment approach. On October 8, 1980, EPA published a supplemental notice of proposed rulemaking, briefly outlining the options which EPA has considered and announcing EPA's tentative selection of the risk assessment approach. A 30-day comment period was provided.

On February 5, 1981, EPA reproposed technical standards for permitting land disposal facilities. The reproposal adopted the site-specific risk assessment approach. A 180-day comment period was provided to promote full discussion of the complex

technical and policy issues concerning the various types of land disposal practices. EPA expects to promulgate final land disposal regulations in 1982.

EPA was concerned that the delay in promulgating final Part 264 standards for land disposal facilities would present problems for owners and operators of new disposal facilities, who may not begin to construct or operate these facilities without permits.[1] (Owners and operators of existing facilities who have qualified for interim status may continue to operate.) New land disposal facilities cannot receive permits until EPA has issued standards for such facilities. EPA was concerned that the delay in issuance of land disposal standards operated effectively as a moratorium on new land disposal facilities, a situation which could undermine the nation's need for environmentally-acceptable disposal capacity and could cause unnecessary economic hardship. Therefore, on February 13, 1981, EPA issued a temporary, interim standard for new land disposal facilities (40 CFR Part 267, 46 FR 12414) to provide a basis for issuing permits. This standard becomes effective on August 13, 1981.

B. Purpose of Notice

In developing the February 5 proposed regulations, EPA has had to consider a variety of broad and complex technical and policy issues and to choose from a large menu of regulatory options. The October 8, 1980 supplemental notice of proposed rulemaking briefly outlined some regulatory options that the Agency had considered.

Following the October 8, 1980 notice, EPA proposed the risk assessment approach in the February 5, 1981, standards. EPA provided a 180-day comment period on this proposal. EPA recognizes that providing the public a continued opportunity during the comment period to comment on all issues, relating to all potential regulatory approaches, would be beneficial. The purpose of this notice is to assist the public in considering these issues.

In this notice, EPA has tried to explain not only the available regulatory options but also the fundamental policy and technical issues underlying the selection of any approach. We hope that the notice will assist the public to evaluate and comment upon the various regulatory options.

Public comment on all issues relating to the land disposal of hazardous wastes will also assist EPA in complying with Executive Order 12291, signed by the President on February 17, 1981. The Executive Order requires all federal agencies, in promulgating major new rules, to prepare regulatory impact anslyses. For each such rule, the analysis must describe potential benefits and costs (including non-quantifiable benefits and costs) of the rule, determine the potential net benefits of the rule, and describe alternative approaches that could substantially achieve the same regulatory goal at lower cost. In addition, the anslysis will include an analysis of effects on small businesses as required by the Regulatory Flexibility Act.

Although EPA believes that in some cases, it may be appropriate to prohibit the land disposal of certain hazardous wastes, in other caes land disposal may be the most acceptable management option. It is our intent in developing final land disposal standards to consider intermedia trade-offs and to evaluate land disposal on the same basis as any other hazardous waste management option, allowing it to continue where there is adequate assurance that human health and the environment can be protected.

C. Format of Notice

This notice is divided into several sections. Sections II and III discuss the broad land disposal policy issues which EPA believes must be addressed in any regulatory approach. The remaining sections examine in some detail what we believe are the principal options available to regulate land disposal facilities and raise specific questions relating to these options.

The discussion reflects the present technical sophistication in designing land disposal facilities and estimating their environmental impacts. All experts agree that particular types of factors and mechanisms are relevant in designing and evaluating these facilities. The debate now focuses on detail: How critical is factor X in predicting the migration of contaminant Y? What is the degree of confidence with which one may predict that a particular design will now fail due to the occurrence of a particular type of unfavorable circumstance? EPA requests that commenters addressing the technical issues raised in this notice focus on these difficult issues rather than on generalities which are already well known and not subject to dispute (e.g., that bio-degradation and sorption are relevant to land disposal issues).

Further, the discussion concerning land disposal reflects the general technical consensus that complete containment of disposed wastes can be achieved only for a limited period; that any facility thus presents some risk; and that in designing and regulating land disposal facilities, one must focus upon limiting risk to acceptable levels. These questions broadly address the options for limiting risk in light of the uncertainty in the present scientific state of the art and the resources available to implement any selected policy option.

II. Preliminary Issues Concerning Risk

Hazardous wastes contain constituents which may present health and environmental risks for long periods of time. Many organic constituents are stable (degrade very slowly); other hazardous constituents (e.g., toxic metals) never degrade. Yet the existing technology for disposing of hazardous wastes on or in the land cannot confidently isolate these wastes from the environment forever.

Since disposing hazardous wastes in or on the land inevitable results in the release of hazardous constituents to the environment at some time, any land disposal facility creates some risk. RCRA requires EPA to establish such standards "as may be necessary to protect human health and the environment." Thus, EPA's task is to assure that risks from land disposal facilities do not exceed a level which is determined by some means to be acceptable.

The means of assuring acceptable risk include direct risk assessment, indirect methods such as design requirements or performance goals, or prohibitions that require that wastes be treated or disposed of by means other than land disposal. These approaches are discussed in detail in subsequent sections of this notice.

Before discussing and selecting appropriate means for reducing risk to acceptable levels, however, one must define the types and degrees of risks which can and should be considered. Furthermore, one must decide who is the appropriate party to determine acceptable risk. These broad but essential preliminary issues are discussed immediately below. Commenters are invited to address these broad issues either directly or in the context of discussing the more specific questions raised in subsequent sections of this notice.

A. To What Extent Can and Should Risks to Future Generations Be Considered?

In disposing of hazardous wastes that will remain potentially dangerous for many thousands of years, society has some responsibility to protect future

[1] A detailed discussion of these problems is set forth at 46 FR 12414–12417, February 13, 1981.

generations. But, while some duty to protect future generations is implied in all environmental regulations, to what relative degrees should protection be provided to today's and tomorrow's populations; that is, how can today's society equitably allocate risk over time?

This issue requires recognition of an essential distinction between present and future generations. Present-day society produces a variety of economic goods (e.g., cars, electrical appliances and plastic goods), resulting in generating and disposing of hazardous wastes. Thus, society accepts some degree of risk in return for the economic benefits of production. However, the risks imposed by today's land disposal upon society in the year 2080, for example, will be accompained by fewer corresponding economic benefits, since many of the goods produced today (or the infrastructure for producing those goods) will no longer be in use (or existence) in 2080. Thus, one may argue that the imposition of risk on future generations by today's land disposal activities for present economic gains may be unfair even in some situations where the same risk would be acceptable to present-day society.

A resolution of this issue requires a consideration of several subordinate issues. First, what assumptions may be made concerning future exposure to hazardous waste? For example, if the quantity of water consumption increases in the future or if available water sources are depleted (e.g., mining of ground-water resources which are not replenished naturally or artificially), then water which presently is unused may need to be used in the future for drinking or other purposes. Current trends in water usage in the United States do indicate an increasing need to tax previously unused ground-water resources. These trends include depletion or pollution of existing ground-water resources, and changing land use patterns which result in the development of formerly pristine areas and the increased use of ground water in these areas. If such trends continue, future generations may be forced to either allocate scarce water (by increasing the cost of consumption or by other means), treat the contaminated water, or increase risk by using the contaminated water. However, if such trends do not continue, then the contamination of ground water near selected and identifiable land disposal sites presents less of a danger to future populations, provided that contaminated ground water can be identified and its use limited accordingly. (Similarly, land use changes caused by population growth and other factors may or may not result in other types of exposures to wastes disposed in areas previously considered remote.)

Second, how likely is it that future societies will have developed the techological and economic capability to recover and treat wastes and to restore contaminated soil, ground water or surface water to their noncontaminated states, thereby reducing exposure to wastes? Can any sensible assumptions concerning future technological capability be made at this time?

Third, what assumptions can be made concerning the institutions available to provide long-term protection from hazardous wastes? Some institutional mechanisms are already being put into place under RCRA. See 40 CFR Parts 264 and 265, Subparts G and H. For example, most regulatory options discussed later in this notice would require some degree of post-closure care. This care may include long-term maintenance and ground-water monitoring together with a pre-financed fund to ensure that these activities can be carried out. In addition, EPA must make some assumptions about other institutional mechanisms (e.g., local land use controls, state or Federal clean-up efforts, common-law tort remedies and disclosure in private property transactions) that could achieve protection of future generations but that are not under EPA control. This issue suggests at least the following subsidiary questions:

i. Can and should owners or operators of land disposal facilities be relied upon to implement perpetual care (or long-term care, depending on whether and how rapidly the wastes decompose over time), if such care is required to successfully implement the selected regulatory option? Can and should they be required to set up financial mechanisms in advance which will assure long-term availability of adequate funds?

ii. Can and should a Federal, state or local agency be charged with the responsibility for long-term monitoring and maintenance of closed land disposal facilities? What special arrangements could be established to finance these activities? Can a governmental agency be relied upon to provide care for centuries if such care is or becomes necessary?

iii. Apart from owners or operators and governmental agencies, what other institutional arrangements may be used to assure long-term care and the existence of funds to pay for such care? Would a national fund analagous to but broader than that contained in section 107(k)(3) in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (the post-closure liability fund) be appropriate? How should such a fund be financed: through general revenue, or through a tax on hazardous waste generators or land disposal facilities? As an alternative, could private funds (such as annuity funds or trust funds) be used?

EPA recognizes that predicting the future is conjectural at best. However, a decision on the degree of protection provided to future generations will be implicit in any regulatory approach. Thus, this issue must be faced squarely, based upon an analysis of past and present trends and a reasonably projection of future trends.

B. What Types of Risks (Effects Upon Human Health and the Environment) Are of Concern?

An evaluation of the total adverse effects caused by a land disposal facility requires consideration of the constituents of the wastes, the fate and transport of those constituents in the facility and into and through the environment, the extent of human and environmental exposures to the constituents, and the vast array of potential effects which the constituents may have upon people and the environment. The ability to consider all of these factors is constrained both by the limits of technical knowledge (e.g., the effects of many constituents are not well known at this time) as well as by the limits of available time and resources to perform the required analyses.

Therefore, it is appropriate to ask which of the many possible effects to people (e.g., cancer, liver damage, mild nausea), animals and plants and other parts of the environment (e.g., ground-water which may be used as a water source for irrigation or industrial cooling water) should be considered and the weight which should be assigned to these various effects. Should a regulatory approach consider all types of effects? What effects, if any, are so minor as to be not worth considering?

C. How Should the Degree of Risk be Calculated?

To assess the numerical risk presented by a particular facility in a particular location, one must attempt to calculate the risk and then decide whether that risk is acceptable. The extent to which this numerical calculation and risk assessment is performed depends on the regulatory approach. Conversely, the selection of a regulatory approach depends in part on

the extent to which actual calculation of risk is considered desirable or feasible.

First, the regulations could pursue some type of "zero" risk approach. As indicated earlier, it is probably impossible to avoid all releases of hazardous waste constituents forever. Yet it is possible to design facilities to contain wastes for some period of time and thereby achieve a zero or near-zero risk level during that period. Likewise, it is possible to prohibit the siting of disposal facilities in certain locations and thereby achieve zero risk from hazardous waste in those locations. Under this approach, calculating risk is not necessary. Examples of a hazardous waste regulation requiring the containment of hazardous wastes are the regulations for hazardous waste storage regulations in 40 CFR Part 264, Subparts I–L (46 FR 2802, January 12, 1981).

Second, the regulations may require facilities to be designed and managed in ways that limit risk, as defined by technical criteria. This approach, like containment, does not involve the calculation of risk and determination of acceptability of risk at particular facilities. Rather, it attempts to limit the total risks to society produced by all such facilities by setting stringent requirements. An example of this approach is contained in the standards for incinerators (40 CFR Part 264 Subpart O, 46 FR 7666, January 23, 1981). Those standards require, among other things, 99.99% destruction and removal of the principal organic hazardous constituents in the waste and a limitation of particulate emissions to 180 milligrams per day per standard cubic meter. Of course, reliance on uniform design and operating standards creates the possibility that the risks created under the standards are more or less than society would accept if it could and did conduct detailed numerical risk assessments for each facility. (Readers should note that, partly due to this last consideration, on January 23, 1981, EPA proposed amendments to its incinerator requirements to allow case-by-case risk assessment to be used as a variance from the 99.99% destruction and removal requirements.)

Third, the regulations could explicitly address the risk issue. The risks posed by a particular facility could be calculated, subject to uncertainties inherent in such calculations. The calculated risks (including the range of uncertainty) would then be judged for acceptability. The judgment could be based upon a uniform acceptable level determined in Federal or state regulations or upon an individual determination made by a permit writer. (See subsection D below, which discusses who should determine acceptability of risk.) An explicit risk assessment approach is contained in EPA's proposed land disposal regulations of February 5, 1981.

D. Who Should Determine Acceptable Levels of Risk?

Generally, when EPA sets standards for classes of facilities under any of the environmental laws which it implements, it sets uniform national standards. Uniform standards assure fairness by imposing similar costs upon similar facilities. They also lessen competition among states for new industry by setting uniform minimum environmental protection requirements. However, they also limit local determination of the desirable degree of environmental protection. Under section 3009 of RCRA, states may not have less stringent requirements than required by the national standards. (However, section 3009 does permit more stringent requirements.)

Section 3004 of RCRA expresses Congress' intent that EPA write nationally applicable standards. However, even national standards can be written to allow certain local determinations based upon local factors such as local hydrogeological conditions, the types of wastes being disposed at particular facilities, and local water usage and land use patterns. Going one step further towards local determination, a regulatory approach could allow even goals as well as the means to achieve those goals to be determined locally. For example, the reproposed land disposal regulations require the permit issuing authority to assess the risks posed by the facility and to determine whether they are acceptable. The regulations contain some numerical standards, but, for many constituents, acceptability is to be determined by the permit writer/

Allowing risk accepability to be judged at the state regulatory level could result in a facility in one state being judged as acceptable at the same time that a facility with similar site-specific conditions in another state is judged as unacceptable. Similar discrepancies could occur even within a state if the judgments are made by permit writers on a case-by-case basis.

How should decisions on the various elements of risk be allocated between national and state decisionmakers? If states make the decisions, to what extent will interstate competition for industry lower standards below that which is desired by the states and their citizens? In addition, if states make the decisions, should decisions be made uniformly through state regulation or on a case-by-case basis by permit writers?

III. Regulatory Perspectives

Once the broad policy issues discussed above are decided and regulatory goals are established, a means to implement the goals by issuing and denying permits must be developed. In setting standards under section 3004, EPA is mindful that the regulatory program must be capable of operating efficiently and of assuring the public that human health and the environment will be protected.

A. Assurances to the Public

The public has become justifiably concerned about the dangers presented by hazardous waste, and EPA strongly believes that the standards it sets under Section 3004 must provide reasonable assurances that the public's legitimate concerns about hazardous waste will be addressed. The RCRA permit must be formulated not only to require a certain level of protection but also to provide reasonable assurances that the level will in fact be achieved.

Some uncertainty is inherent in land disposal of hazardous waste. Many hazardous wastes are complex mixtures of chemical substances, each of which has unique properties. In addition, complicated waste interactions and hydrogeological and other environmental factors make it difficult to confidently predict the degree of containment, attenuation, or migration of waste constituents with precision. Finally, the health and environmental effects of most hazardous waste constituents are not always well understood, and synergistic and antagonistic effects of combinations of these constituents are even less well understood. Thus, uncertainty is a key problem that EPA must cope with in developing its land disposal regulations.

This uncertainty takes two principal forms. First, there is uncertainty in predicting potential effects of a given hazardous waste management scenario. Some possibility of error is always present. The questions to be considered are: (1) What degree of error can we tolerate in predicting a facility's performance or the potential adverse effects of wastes in the environment and still be able to say with some confidence that certain minimum levels of protection will be achieved? (2) What approach is appropriate when lack of knowledge results in an acceptable range of error? Can supplementary requirements compensate for error in making predictions?

Second, there is uncertainty concerning the way that the individuals and institutions that manage hazardous waste will behave. Any regulations controlling hazardous waste management must assume and compensate for human error. To provide a reasonable assurance of safety to the public, EPA must determine what margin of safety it should provide against the uncertainties of human behavior.

B. Need to Have Implementable Program

No regulatory program is acceptable if it cannot be operated efficiently by EPA and the approved states. Permitting agencies must be able to issue permits to environmentally-acceptable facilities. The chosen goal must be accompanied by a regulatory scheme which makes maximum and efficient use of available resources in an effort to collect sufficient amounts of data to develop permit requirements for the particular conditions at each individual site, but at the same time does not become a roadblock to issuing all necessary permits. Similarly, the approach cannot involve too much uncertainty, thereby inviting public opposition in hearings and litigation, which would also result in too few permits. Since there are a large number of existing land disposal facilities, an inefficient regulatory approach could jeopardize EPA's general effort to provide environmentally-acceptable disposal capacity nationwide and to phase out those facilities which are unacceptable.

EPA is concerned about the amount of time which permitting authorities' staffs would be required to spend in attempting to implement any particular regulatory approach. Unless the approach is carefully crafted, some permit applications could not be reviewed due to insufficient manpower. Another constraint is the degree of expertise needed to evaluate permit applications under a given regulatory approach. For example, the existing national pool of experts on the fate and transport of waste constituents in the environment is extremely limited.

EPA is also concerned about the burden which various regulatory approaches place on the regulated community. In addition to the costs of capital equipment and operating expenses, EPA is interested in the costs involved in preparing, analyzing and justifying a particular facility design and operating plan. EPA recognizes that there is a limited amount of resources available to provide environmental protection. EPA is, therefore, concerned about how various regulatory approaches affect the relative allocation of resources between environmental control equipment (including operating costs) and the data collection or analyses needed to prepare a complete permit application.

EPA urges commenters to address the issue of resource demands when they comment upon the options described later in this notice or other options which they may propose.

C. Regulatory Approaches

The following are the principal conceptual approaches available for regulating hazardous waste land disposal:

1. *Design and Operating Standards.* These are standards which specifically require permittees, to install particular pieces of equipment or use particular practices. This approach may include prohibitions against certain activities. Typical examples include liner specification (e.g., 5 feet of clay with a permeability of 10^{-7} cm/sec.) or a prohibition against disposing certain types of wastes in landfills.

2. *Technical Performance Standards Based on Best Available Technology.* Performance standards specify particular goals that permittees must achieve, allowing each permittee to choose any management method of his that satisfies the goal. A technical performance standard is one that is linked to the performance of a particular design or operating element of the facility.

The selection of the performance goal may be based on a decision about what the "best available technology" (BAT) performing a particular function can achieve. An example of a BAT technical performance standard is a requirement that a facility be designed to allow no more than a certain percentage of the disposed waste to enter the environment annually. The choice of "best" generally includes some consideration of cost, since almost any facility's performance may be improved by spending additional money for additional or better control.

3. *Technical Performance Standards Based on Acceptable Risk.* A technical performance standard could also be based on a decision that a particular level of performance achieved by a technology is adequate to protect against unacceptable environmental risk. An example might be a standard requiring containment of wastes for a certain number of years, based upon a judgment that the requirement provides an appropriate allocation of present and future risk.

4. *Environmental Performance Standards.* Such standards seek to set limits on what may be tolerated in the environment. This may take the form of risk specifications (e.g., 10^{-6} probability that an individual will die of cancer or that some other adverse environmental effect will occur), pollutant limits (e.g., 4.5 parts per billion of trichlorethylene), or prohibitions. This approach is used in part in the February 5, 1981, proposed regulations. See proposed 40 CFR 264.20, 46 FR 11161.

5. *Facility-Specific Risk Assessments Based on Narrative Standard.* This approach would establish broad narrative standards (e.g., no significant risk of cancer) and allow the permit writer to determine specific requirements after a full consideration of all the site-specific factors. This approach, like the one discussed in the preceding paragraph, is used in part in the February 5, 1981 proposed regulations. See proposed 40 CFR 264.21, 46 FR 11161.

IV. Risk Assessment: Predicting That any Release From the Land Disposal Facility Will be Environmentally Acceptable

As mentioned previously, EPA has reproposed land disposal standards which would require the permit applicant to predict the risk that a particular land disposal facility would impose upon human health and the environment and require the permit writer to review the application, independently determine the risks, and judge whether the risks are acceptable. This case-by-case approach has sometimes been referred to as "best engineering judgment" (BEJ). To distinguish this approach from other case-by-case "BEJ" approaches (e.g., a containment approach which requires the use of engineering judgment to determine the ability of a particular facility to contain particular wastes during the specified period), we will refer to this approach simply as "risk assessment."

A. General Approach

The basic approach of the reproposal is to create an initial presumption that no release of hazardous waste constituents to the water or air should be allowed. This presumption may be rebutted if, after a consideration of all relevant factors, the permit applicant demonstrates and the permit-issuing authority determines that no unacceptable effects on human health and the environment will result from any release from the facility. If only environmentally-acceptable releases will occur, then a permit may be issued. This approach thus contemplates that a

substantial burden will be placed on permit applicants to demonstrate that any releases from their facilities will not adversely affect human health or the environment.

The major steps in demonstrating environmentally-acceptable release are: (1) analyzing the hydrogeology, wastes and facility design; (2) predicting the rate and quality of leachate generation; (3) predicting the fate and transport of constituents leached from the facility to the unsaturated zone, the saturated zone and subsurface soil; (4) predicting the fate and transport of these constituents in the ground water (saturated zone): (5) predicting the fate and transport of gases and vapors which are released from the facility to the air; (6) predicting the exposures of people, animals, plants and other environmental components to released constituents; (7) calculating the total risk presented by the facility to human health and the environment; and (8) determining the acceptability of the calculated risk.

Predictions or calculations need not necessarily be expressed in single numbers. They may be statistical in nature (e.g., expressed in terms of means and standard deviations). This allows one to estimate risk while acknowledging the variability of the estimate. Qualitative estimates may be acceptable in extreme situations where the risks are clearly acceptable or unacceptable.

Many complicated and interlocking issues are inherent in the regulatory approach which EPA proposed on February 5, 1981. For manageability, EPA has broken the issues down into three broad areas of discussion: releases from the facility, migration of constituents in the environment, and human and environmental exposures and effects.

The issues are in most cases presented as a series of questions rather than in discussion form. EPA is interested in obtaining commenters' views. We have refrained from setting forth a detailed discussion of EPA's tentative or firm answers to the various questions. Where necessary to properly explain an issue, we have prefaced or supplemented the questions with some discussion.

In reviewing the technical questions, the reader will probably find that the answer varies depending on site-specific or waste-specific factors. Therefore, in answering the questions, commenters should clearly state their factual assumptions. Furthermore, commenters are encouraged to identify situations where predictions can be made relatively easily even when they are difficult to make with confidence in the general case. Similarly, commenters are encouraged to identify situations where predictions are relatively difficult to make even when they are easy to make with confidence in the general case. Both average and worst-case approaches to analyzing the confidence in making prediction would be useful.

The relationship of confidence in data or of predictions based on data to the cost of generating the data is important. For example, more extensive and expensive studies of local hydrogeological factors may yield greater confidence in predictions of the fate and transport of constituents in the ground. EPA encourages commenters to state how their confidence in predictions relates to cost. EPA also solicits comments on the ease or difficulty of developing the necessary data, including the time required to gather and analyze the data and the degree of expertise required to gather or analyze it. Also, EPA solicits comment on the current availability of such expertise as well as on the prospects for developing expertise through education and training where shortages exist.

A similar issue of confidence is the relationship of variability in data to variability in conclusions as to rates, velocities and concentrations of leached constituents. For example, mathematical models used to simulate contaminant plumes rely on series of equations which relate the many variables regarding the plume and its movement to one another. If one output of a model (e.g., concentration) is related exponentially or logarithmically to an input, it is possible that variability (or low confidence in prediction) of the output will be much larger or smaller than that of the input. In practice, the sensitivity of a particular output to a particular input is very complicated and may require several computer runs to be precisely determined. Moreover, different models incorporating different assumptions may yield somewhat different sensitivities. Therefore, EPA invites commenters to identify those factors whose variabilities either greatly or only minutely influence output (concentration or mass rate) variability and which therefore require a correspondingly large or relatively small data base. In short, we invite commenters to suggest which factors are most critical in plume migration models.

Finally, EPA requests that commenters consider management practices (e.g., waste separation) which could improve the reliability of predictions.

B. Releases from the Facility

In regard to surface-water and ground-water protection, the key concern is the mass rate (quantity per unit time) and quality of leachate produced at the facility. The following questions concern how leachate rate and quality may be predicted and managed at the facility:

1. What level of specificity of information must one have about the waste in order to predict the rate and quality of leachate produced? Is a detailed analysis of each waste's constituents required or will more general information suffice? Is prediction more easily made for particular classes of waste than others? How sensitive is prediction of leachate rate and quality to inadequate information on wastes?

2. a. What impact does disposing different wastes in the same cell or impoundment have on the reliability of predicting leachate discharge? How confidently can one account for reactions among wastes when predicting leachate quality? How sensitive is prediction of leachate rate and quality to errors in predicting such reactions?

b. How confidently can one predict the rates of decomposition of organic wastes and the most likely degradation by-products? How sensitive is prediction of leachate rate and quality to errors in predicting these factors?

c. Is it possible to confidently predict leachate quality by analyzing in detail the fate of a few representative or prominent constituents in the waste? What would be the most appropriate selection factors?

3. How sensitive is the prediction of leachate volume, rate and quality to errors in predicting water balance? How accurate are water balance methods and what are their primary limitations? Does the use of monthly averages for precipitation, evaporation, etc., provide reliable predictions? Under what circumstances will the moisture in the waste or the moisture resulting from decomposition of the waste be a significant source of liquid affecting leachate generation? Where these are significant, to what extent can one predict the contribution to leachate from moisture in the waste and moisture resulting from waste decomposition? To what extent can one predict subsurface migration of water into the facility? To what extent can one prevent such migration where the water table is high? Can prevention be maintained even after the facility is closed?

4. How sensitive is prediction of leachate rate and quality to correct and

precise analysis of clay liner materials, waste cells, and the unsaturated zone as to permeability, uniformity, moisture content, clay content and organic content?

5. With what confidence can one predict when leachate will first emerge from the waste? How sensitive is prediction of leachate rate and quality to errors in this factor?

6. How well can the following factors be accounted for in predictions of leachate rate and quality, and how sensitive are such predictions to these factors?

a. Differential settling of wastes (in a landfill) or of liner material;

b. Dessication of clay liners;

c. Degradation of synthetic liners;

d. Reactions between wastes and liner material;

e. Freeze-thaw cycles;

f. Contact time between waste and liquid; and

g. Other factors which lead to deviations of a facility from its routinely "expected" performance.

7. What costs and burdens are associated with predicting (calculating or estimating) each of the above-mentioned factors to the degree necessary to confidently predict leachate rate and quality? What type and degree of expertise is needed? How many experts among the regulated community and private consultants are currently qualified to perform such analyses? How capable are state regulatory agencies of reviewing and judging the correctness of such analyses? Where gaps in expertise exist, how much time is needed to close the gaps through education and training?

8. Which techniques are most useful for managing the rate and quality of leachate produced at the facility? EPA is particularly interested in comments concerning selective receipt of wastes, diversion systems, protective caps and waste stabilization and other pretreatment techniques. To what extent can these techniques be used to "fine-tune" leachate volume, rate and quality? For example, to what extent can these techniques be used to selectively reduce the concentration of particular constituents in leachate produced at the facility? For what constituents, or classes of constituents, are such techniques sufficient to achieve the required fine-tuning?

9. Given the absence of very long-term data, what confidence can we have that any particular management technique will, for a long period of time, result in the predicted leachate rate and quality? What is the risk that pretreatment reactions, sorption or other reactions may reverse themselves as the result of acid rain, microbial action or other factors?

In regard to air protection, the key concern is the mass rate and concentration of air emissions from the facility due to volatilization or wind dispersal. The following questions concern how air emissions may be predicted and managed at the facility.

10. What level of specificity of information must one have about the waste in order to predict the rate and concentration of air emissions from the facility? Is a detailed analysis of each waste's constituents required or will more general information suffice? Is prediction more easily made for particular classes of wastes than others? How sensitive are predictions of air emissions to errors in analyzing the wastes?

11. With what confidence can one predict the decomposition by-products of disposed hazardous waste which will volatilize or be dispersed by the wind? How sensitive are predictions of air emissions to errors in predicting the by-products?

12. With what confidence can one predict the upward migration of volatile constituents through the waste itself? How dependent is the prediction upon permeability, clay content, moisture content and organic matter content of cover materials?

13. How good is the present state of the art for monitoring and modeling emission rates of volatile compounds from land disposal facilities? What are the factors that may undercut accuracy in predicting the rates or concentrations of air emissions? How, if at all, can predictions account for such factors? (See, for example, the factors listed in question (f) above.) How sensitive are predictions of air emissions to errors in predicting these factors?

14. What costs and burdens are associated with developing adequate data with respect to each of the factors shown above to be necessary to confidently predict volume, rate and concentration of air emissions? What type and degree of expertise is needed? How many experts are currently qualified to do such analyses? What is the current capacity of state regulatory agencies to review such analyses?

15. Which techniques are most useful for managing the rate and concentrations of air emissions? EPA is particularly interested in comments concerning selective receipt of waste, protective caps, venting and treatment systems, and waste pretreatment. To what extent can these techniques be used to "fine-tune" the volume, rate and concentration of air emissions from the facility? For what constituents, or classes of constituents, can this "fine tuning" be accomplished?

16. Given the absence of very long-term data, what confidence can one have that a particular management technique will, for a long period of time, result in the predicted rate or concentration of air emissions?

Predictions of leachate or air emission characteristics require a substantial knowledge during the permit application process about the characteristics of waste which will be received at the facility throughout its operating life. It may be difficult for an owner or operator of a disposal facility, particularly a new facility, to have detailed knowledge about the wastes that he will receive. To what extent can a permit applicant predict the quality and quantity of waste that his facility will receive in the future?

C. Migration of Constituents in the Environment

In regard to surface-water and ground-water protection, the permit-issuing authority will need to know the extent of migration of waste constituents in the subsurface environment and in hydraulically-connected surface water. In addition, the permit-issuing authority will need to know the concentration of waste constituents at any affected point of ground-water use, which depends in turn on ground-water velocity and the extent to which the constituents diffuse, mix with ground water and are attenuated (e.g., degraded, sorbed, etc.). Furthermore, an analysis of the fate and transport of degradation products is required. The totality of possible events are referred to as "fate and transport" of constituents.

1. *Ground-water flow:* With what degree of confidence can we predict the direction and velocity of ground-water flow prior to contamination of the ground water by the leachate plume?

a. Are there certain types of geological systems (e.g., fractured strata or strata which may easily be dissolved) for which predictions of the direction of ground water flow would be too speculative to be made with any confidence? Where are such systems predominantly located?

b. Are there certain types of geological systems for which predictions of the direction of ground-water flow can be made with a high degree of confidence? Where are such systems predominantly located?

c. How good is the current state-of-the-art for estimating ground-water velocity throughout a hydrogeological

system which may receive discharges from a land disposal facility?

d. How is any prediction affected by the nearby presence of wells which are used for withdrawal or recharge of ground water by use of pumps or other means? How good is the state-of-the-art for calculating how far from such wells the leachate plume must be to remain relatively unaffected by the use or cessation of use of these wells?

2. *General movement of constituents in ground water.* If one ignores all attenuation, how well can one predict the transport of leachate constituents?

a. *Separation of phases based on specific gravity.* (i) *Heavy organics.* If a leachate plume contains organic constituents which are heavier than water, will those constituents form a separate plume which does not move with the ground water? If so, how well can we predict the direction and rate of flow of this plume? Which type of organic constituents are most likely to be part of this separate plume? With what precision must one know the leachate quality to determine the likelihood that such a separate plume will form?

(ii) *Light organics.* Answer for light organics the same questions as raised in Question (1) above.

(iii) Is the answer to questions (i) and (ii) dependent on the salt or mineral content of the ground water? To what degree?

b. *Molecular diffusion.* How well can we predict the degree of which the leachate plume will expand and concentrations of constituents will decrease by virtue of molecular diffusion?

(i) To what extent, if any, does this effect depend on the initial concentrations in the plume? Does the rate of diffusion differ for different constituents? To what degree?

(ii) To what extent does this effect depend on ground-water velocity?

c. *Dilution with ground water.* How well can we predict the degree to which constituents' concentrations will be decreased by virtue of mixing with the ground water? (Disregard the effect of plume separation discussed in Question (a) above.) How dependent is the dilution effect on ground-water velocity?

d. *Degradation of constituents.* To what extent can the following mechanisms be expected to cause the decay of constituents in the saturated zone? For what types of constituents, if any, is such decay likely to be significant? If not significant, can any fate equation or model ignore the degradation effect? If significant, how well can the effect be predicted, and how sensitive is any fate/transport prediction to error in predicting the degradation effect?

(i) Biological degradation—both aerobic and anaerobic processes.

(ii) Degradation by hydrolysis.

(iii) Degradation by photolysis.

(iv) Radioactive Decay.

(v) Destruction by reaction with other constituents in the leachate plume, ground water, or geologic environment.

(vi) Other.

e. *Sorption of constituents.* With what degree of confidence can the attenuation of constituents by sorption be predicted?

(i) How dependent is sorption capacity and rate upon factors such as soil particle size, organic content, porosity and cation exchange capacity? How much data concerning these factors is needed to characterize the geology and confidently predict sorption capacity and rate? Does sufficient expertise and equipment exist to make the required analyses?

(ii) To what degree is sorption enhanced by a low ground-water velocity?

(iii) How dependent is the sorption rate for a particular constituent upon the concentrations and sorption rates of the constituent or other constituents in the leachate plume? Is it likely that constituents would compete for sorption sites, or are enough sites available for all leached constituents within a short distance from the facility?

(iv) Is there any difficulty in assessing sorbability of particular constituents?

(v) What other factors, if any, are highly significant in predicting sorption rates?

(vi) How likely is it that sorption will be reversed over time? What factors are significant in promoting such reversal? In cases of potential reversal, how well can one predict the extent to which constituent concentrations will be altered by the sorption and subsequent desorption? In such cases, will the temporary sorption have reduced constituent concentrations through a retardation effect? How well can this be modeled?

f. *Attenuation or retardation by means other than sorption.* Are any mechanisms other than sorption significant enough and predictable enough to be evaluated in predicting attenuation of constituents? (Consider, e.g., ion exchange and precipitation.) How reversible are these mechanisms?

g. *Simplified approaches.* Where knowledge of the leachate quality entering the ground water is highly uncertain, what simplified approaches can be used to characterize plume migration?

(i) Can particular constituents known to be prominent constituents in the leachate be selected for analysis as representative of all constituents? (For example, select one or two metals, organic acids, organic bases, neutral polar organics and neutral non-polar organics.) What factors would one apply to determine representativeness? Chemical structure? Mobility? Toxicity? Concentration in the leachate?

(ii) Rather than select representative constituents, could "worst-case" highly mobile constituents be selected to determine the maximum mobility of all constituents? Going one step further, is it reasonable, in light of data and modeling difficulties, to not consider attenuation and degradation and only consider dispersion and ground-water mixing?

h. *Summary on water quality.* Is it possible to predict the concentration of constituents in the ground water even within several orders of magnitude? Is the answer dependent on a detailed knowledge of leachate quality? Can qualitative predictions suffice for some situations? Can worst-case analyses be used to assure acceptability of facilities? Is there an adequate supply of trained professionals to make these predictions and to evaluate them? If not, how much time is needed to develop the supply through education and training?

i. *Air quality.* In regard to air quality protection, the permit-issuing authority will need to know the extent of migration of waste constituents as well as the concentration of waste constituents at points of exposure. The following questions concern how migration of waste constituents in the air may be predicted:

(i) What level of specificity of information must one have about waste constituents and reactions among them in order to predict dispersion in the air?

(ii) What information must one have about patterns of air circulation and weather to predict migration in the air? How can the dynamic character of air circulation be accounted for in predictions of waste migration? To what extent can averaging fluctuations over long periods of time increase confidence in predicting impacts of air emissions upon ambient concentrations?

(iii) What costs and burdens are associated with accurately predicting waste constituent migration in the air? How advanced is the technology for collecting data to verify predictive models? What type and degree of expertise is needed? How many experts are qualified to do such analysis? Is the current state-of-the-art advanced enough to allow predictions of short-term concentrations relevant to determining acute effects, or are they

capable of dealing only with long-term averages?

3. *Miscellaneous Questions.* a. The approach of calculating and assessing risk requires, at a minimum, some knowledge of the concentrations of waste constituents in the vadose zone. In meeting its goal of protecting human health and the environment, EPA must decide whether the regulations should protect the vadose zone *per se.* For example, should the regulations prevent contamination of the unsaturated zone to assure that future uses (e.g., housing development or farming) in the area will not be affected by later migration within the unsaturated zone? This issue is important because it affects one's ability to use the natural soil below the facility as part of his leachate control system.

b. This approach involves prediction of waste constituent migration to points of ground-water use. What is an appropriate "point of use" for purposes of regulation? For example, in considering ground-water use, should the point of use be the home tap or the cone of depression surrounding a withdrawal well?

c. The rates and directions of ground-water movement and of contaminant plumes depend to a large extent upon gradient (the driving force for the movement). Gradient can be radically altered at a particular location by inducing changes in the vicinity such as ground-water pumping, cessation of pumping, discharge or recharge. Should and can an owner or operator be required to negotiate agreements with neighboring landowners to assure that they will not take actions which could significantly alter the gradient in that portion of the ground water which may be reached by the contaminant plume? If not, what confidence can be placed in predictions based on the assumption that ground-water flow patterns will remain unchanged over long periods of time?

D. Assessing Exposures and Effects

The following questions apply to the methodology of assessing risks from both air and water pollution. The acceptable level of risk may be established in national regulations or in site-specific proceedings on individual permits. Wherever made, however, the determination of acceptable risk requires a consideration of the following questions, and EPA is interested in public comments on them. In formulating their responses, commenters should distinguish, when appropriate, between these two avenues for adverse effects.

1. What assumptions can one make about future ground-water and surface-water use and of future land-use patterns in order to predict future exposures?

2. What factors are most likely to undercut the accuracy of a prediction about environmental exposures? What range of uncertainty do they cause?

3. What degree of confidence can one attain in predicting environmental exposure? (Commenters may want to answer this question by indicating the range of error that might be expected in prediction.) To what extent does the absence of particular data significantly alter confidence in the prediction? Are there particular wastes or environments for which no confident prediction can be made? Identify these wastes or environments.

4. What costs and burdens are associated with accurately predicting near and long-term exposures? What type and degree of expertise is needed? How many experts are qualified to do such analysis?

5. What, if any, simplifying assumptions can one use to reduce the cost and burden of these predictions? How do assumptions affect the confidence in the prediction? Can a "worst-case" scenario be developed which provides high confidence that predictions of exposure to and adverse effects from waste constituents have not underestimated the significance of the effect?

6. Once the probable exposures to waste constituents are estimated, what methodologies are appropriate to predict human health effects? Consider effects such as acute toxicity, chronic toxicity, carcinogenicity, mutagenicity and teratogenicity. Consider Federal and State regulatory requirements (e.g., National Primary Drinking Water Standards under the Safe Drinking Water Act; toxic standards under the Clean Water Act; and National Ambient Air Quality Standards under the Clean Air Act); published, non-binding criteria (e.g., EPA's Water Quality Criteria and ACGIH's and OSHA's Threshold Limit Values); and published studies (e.g., by National Cancer Institute).

7. When published regulations, criteria or well-documented studies are unavailable, what is the cost of conducting tests adequate to demonstrate probable health effects? Are any screening mechanisms (e.g., Ames test) reliable enough to demonstrate that further testing is unnecessary (because the test results are either strongly positive or strongly negative)?

8. What methodologies, regulations, criteria or studies are appropriate for predicting environmental effects other than human health effects?

9. Does the state-of-the-art enable one to predict synergistic and antagonistic effects of several toxic or carcinogenic constituents?

10. In predicting human health effects, should EPA consider the number of people affected by exposure to waste constituents or should it focus on protecting any individual against a predetermined probability of risk? For example, should the level of "acceptable" contamination depend on the number of persons likely to be exposed to the contamination?

11. Should the EPA make assumptions about rates of ground-water use or should rate of use be determined on a site-specific basis, based on evidence submitted by the permittee? If commenters believe that assumptions about use are appropriate, they should suggest appropriate assumptions.

12. Even where a thorough analysis has been done, uncertainty may remain about what land-use patterns around a disposal facility are likely to be in the future. Where such uncertainty occurs, what presumptions should be made about future avenues of exposure?

13. In defining likely exposure levels, should the permit-issuing authority make any assumptions about whether water would be treated prior to consumption? If so, what assumptions should he make?

14. Should the risk calculations be aimed at the "normal" individual or should allowances be made for sensitive populations?

15. Should the permit-issuing authority apply a "margin of safety" when defining risk, particularly when the data on adverse effects is limited? What "margins of safety" should be applied?

16. What level of risk should be considered acceptable by the permit-writing authority or regulation-writing authority?

17. Should the regulations be concerned with the incremental risk posed by a facility or with the combined risk posed by the facility together with background concentrations? If the former, should background concentrations be considered at all? How does the answer to this question depend on the shape of assumed dose-response curves? If the latter, should any incremental risk be considered acceptable, provided that its combination with background yields an "acceptable" risk?

18. Should the regulations be concerned with distribution of risk by promoting the siting of facilities in areas where background concentrations are low? Is it inequitable to impose greater risks on some populations than others,

or does the freedom to move overcome any potential inequity?

V. Containment Approach to Land Disposal

The principal alternative to the risk assessment approach which EPA has considered to date has been the "containment" approach. In its original proposed rules of December 18, 1978 (43 FR 58946), EPA proposed the use of specific design and operating standards. As stated in the Preamble, the goal of those proposed regulations was "to prescribe design and operating standards which will provide maximum containment."

In the supplemental notice of proposed rulemaking issued on October 8, 1980, EPA outlined the major alternative approaches to land disposal being considered at that time. A containment approach was specifically discussed in that notice. Unlike the proposed rule, however, the supplemental notice presented the containment approach as a technical performance standard that would allow permit applicants to use various design and operating measures as long as they could demonstrate that the containment objective would be achieved.

EPA rejected the containment approach in its February 5, 1981 reproposed regulations because, while this approach can provide maximum environmental protection for a finite period, it does not, taken alone, address the environmental impact which will occur after the containment system is finally breached. For that reason EPA required in its reproposed regulations a site-specific assessment of both the short-term and long-term risks presented by a land disposal facility to human health and the environment.

A. General Approach

A containment approach would require that waste constituents not migrate beyond some boundaries within some period of time. In order to obtain a permit an applicant must demonstrate that the particular design and operating measures which he intends to use would achieve the specified containment goal.

Several variations of the containment approach are possible. First, the containment requirement may be limited to particular constitutents. For example, one could identify a set of high-risk constituents that must be contained in a facility for a certain period of time while ignoring the release of other components of the waste which may be more mobile but less toxic. Second, the boundaries for a containment zone could vary. Regulations could require containment within the facility or within a larger area around the facility, allowing some limited degradation in that area (*e.g.*, to the property boundary). Third, the time period for containment can vary (e.g., 50 years, 100 years, or 500 years). While a containment approach does not necessarily anticipate that all of the wastes in the facility will flush out of the facility once the containment period ends, it does imply that some quantity of waste material will begin to enter the environment after the containment period ends.

There are many approaches to designing a land disposal facility to contain wastes for a specified period. Although the reliability of most approaches is imperfect, the following factors generally will help contain the wastes:

1. Minimize exposure of the waste to water which would leach constituents out of the waste by, for example:

a. Locating in an arid area;

b. Preventing run-on of water from surrounding areas;

c. Placing the facility above the water table; and

d. Covering the facility, at the time of closure, with a highly impermeable cap.

2. Minimize the exit of leachate from the facility by use of leachate collection system.

The discussion below focuses on containment with respect to all environmental media except air. While this notice poses some technical questions about the applicability of the containment model to air emissions, EPA recognizes that it may be impossible to contain air emissions from certain land disposal facilities. (For example, it is not possible to completely contain volatile organic constitutents in surface impoundments. If such volatilization is considered a problem, pretreatment rather than containment would be appropriate.) Therefore, most of the discussion of containment will deal with prevention of discharges to soil, ground water and surface water.

B. Question

1. *Predicting Containment Life of a Particular Land Disposal Facility.* In a typical land disposal facility designed for containment, one would perform at least the following basic steps to estimate containment life:

a. Predict leachate generation by using water balance methods. These methods incorporate estimates or assumptions concerning precipitation and evaporation rates in the area of the facility runoff; vegetative cover which could contribute to transpiration of water from the facility; and permeability and thickness of soils and any liner overlying the waste, which indicate the extent to which contact of water with the waste will be prevented, thereby preventing leachate production. (For further information, see Tenn, D. G., K. J. Hanley and T. V. Degeare, *Use of the Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites*, EPA/630/SW-168 (1975), US-EPA, Cincinnati, Ohio; and Perner, E. R. and Gibson, A. C., *Hydrologic Simulation of Soild Waste Disposal Sites*, SW-868 (draft, September 1980), US-EPA, Cincinnati, Ohio.)

b. Predict when leachate causes any liner material beneath the waste to reach field capacity, after which any addition of leachate to the liner would result in the discharge of leachate through the bottom of the liner. This prediction involves analyzing the rate of leachate production (based primarily on the factors listed in paragraph (a) above), the efficiency of any leachate collection and removal system above the bottom liner, and the thickness, permeability and life (generally assumed to be 20 or 30 years) of any synthetic liner underlying the waste. (For further information, see Moore, C. A., *Landfill and Surface Impoundment Performance Evaluation Manual*, SW-869 (draft, September 1980), USEPA, Cincinnati, Ohio.)

In examining the appropriateness of a containment approach, EPA believes it is important to consider the uncertainties that arise in predicting the time of initial release and the rate of leachate migration into the environment. EPA, therefore solicits comments on the following questions:

i. Assuming that a water balance uses historical monthly net precipitation rates, how sensitive is the prediction of leachate generation rates and leachate containment periods to errors resulting from the inability to account in advance for catastrophic or unusual storm events occurring before or after closure of the facility? Are these factors significant in the case of surface impoundments or only in the case of landfills?

ii. How can one be assured that cap seepage due to dessication cracks, root channels, and channels caused by rain and freeze/thaw cycles will be completely prevented during a specified period? At what cost?

iii. How can one be assured that differential settlement (caused by waste consolidation) which causes cracks or slope slip will be completely prevented?

iv. How can one be assured that shrinking and swelling of caps or clay liners due to changes in moisture content will be prevented, thereby preventing channelization?

v. How detailed a knowledge must one have of the wastes which will be disposed of at the facility to assure that waste/liner reactions will not result in liner breaches (e.g., cracks in clay liners or degradation of synthetic liners) or increases in liner permeability? What, if any, waste/liner combinations (e.g., solvents and clay liners) should be banned in order to prevent premature discharge from the facility?

vi. What costs and burdens are associated with accurately predicting containment life of a disposal facility? How are the costs and burdens of predictions affected by variations in the factors identified in a–e above? For example, at a commercial facility which receives a variety of wastes, what costs (e.g., waste analysis) and burdens (e.g., modifications of predictive models) are needed to account for any incompatibility between the waste and the facility liner?

2. *Managing Land Disposal Facilities to Assure Containment.* The longer one wishes to contain waste, the more difficult the task becomes. Synthetic liners and caps will degrade; soil liners and caps may erode and crack. Therefore, it is assumed that some type of monitoring, inspection and maintenance program will usually be necessary to assure containment, even with a facility design that is expected to achieve long-term containment. EPA, therefore, solicits comments on the following questions:

a. Have any liner or cap designs been demonstrated to achieve long-term (e.g., greater than 25 years) containment without maintenance? EPA is not aware of any field data showing successful long-term containment of waste at facilities which have not been maintained over time. EPA urges commenters who are aware of such facilities to provide all relevant data (including ground-water monitoring information) about such facilities.

b. Under what conditions is it technically feasible to replace a cap? Can a cap be replaced without disrupting a landfill in a manner that accelerates leachate generation or release from the facility?

c. The roots of vegetation grown in the soil above a cap can penetrate the cap, creating channels which allow water to enter the facility. Assuring long-term containment, therefore, will generally require an ongoing vegetation management program by the facility owner or operator. What, if any, measures can be taken to reduce this responsibility? EPA is particularly interested in landfill design measures which have been demonstrated to obviate the need for vegetative management programs while achieving containment.

d. Are there any proven methods besides ground-water or leachate monitoring for detecting failure of a containment design? For any such alternative approach, commenters should describe any field experience with the technique.

e. Can a leachate detection system (e.g., collection and removal system below the liner) operate efficiently for long periods of time (e.g., 100 years)? What methods are available to unclog a leachate detection system? EPA urges commenters who address this question to report on any field experience with maintenance of leachate detection systems.

f. How often must ground-water monitoring equipment be replaced? What costs are associated with long-term maintenance of monitoring equipment? EPA is particularly interested in field demonstration of useful life of monitoring equipment.

3. *Subsequent Management of Buried Waste.* One rationale advanced in favor of a containment approach is that some time in the future, once waste management technology advances and the cost of resources increases, it may become reasonable to retrieve, treat or reclaim wastes that have been placed in land disposal facilities. This argument suggests the following questions:

a. Under what conditions is it now technically feasible to recover buried waste material? What risks are placed on those who exhume such material? Can commenters cite examples where waste recovery has been successful?

b. What design and operating measures can be taken in disposing of wastes today to facilitate their removal some time in the future?

c. What design and operating measures can be taken in disposing of waste today to facilitate in-situ treatment some time in the future?

4. *Containment with Respect to Air.* Organic chemical wastes placed in landfills, land treatment facilities and particularly surface impoundments may volatilize in the air. Metal wastes in most cases are not emitted in substantial volumes from land disposal facilities (except perhaps as particulate matter dispersed by the wind.)

Some measures are available to control air emissions. In landfills, sorption, biodegradation and other mechanisms may limit the amount of organic waste which may be volatilized. Cover may be used to limit the rate of migration of vapors or water rising to the ground surface where vapors may be released to the air. Furthermore, in a manner analogous to leachate collection systems, gas collection systems may be used to collect vapors and direct them to treatment systems (*e.g.*, burning or sorption). In surface impoundments, emissions may be substantially reduced by covering the surface with oily film. However, this interferes with aerobic processes, which are important for certain treatment processes in impoundments.

The containment approach has not generally been applied to air emissions. EPA solicits comments on whether containment approach is technically feasible for air emissions from land disposal facilities. In discussing this issue commenters are urged to consider whether a containment approach is feasible for particular facilities or waste types.

5. *Miscellaneous Questions.* a. The containment approach is one which provides maximum protection for a finite time period. One of the fundamental questions it raises is the attitude which should be taken toward risks that may be presented by releases to the environment occurring after the containment period. Any of the following approaches could be used:

i. Assume that any risks posed by the facility after the containment period passes are minimal or may be ignored for other reasons.

ii. Assess the risk to future generations caused by discharges from the facility, using the risk assessment methodology discussed in Section IV above. Such an assessment would involve predicting the quantity and quality of the discharged leachate, the degree to which people and the environment would be exposed to the discharge (which requires, for example, an assessment of future withdrawls and uses of ground-water near the closed facility), the risks which would result from those exposures, and future generations' technical and economic capability to avoid or minimize those risks through aquifer restoration or other methods.

iii. Require certain practices, such as leachate collection, to minimize leachate discharges. Some of these practices could be imposed during as well as after the containment period to minimize the post-containment discharges.

Commenters who favor using the containment approach should address the post-containment period issue, since its resolution is critical to any justification of a regulatory scheme based on containment. In addition, commenters should indicate their responses to issue A in section II of this notice, together with their views as to an appropriate containment period.

b. A closely related issue concerns the assumptions one makes about the likelihood of future waste management technology that will allow for retrieval, treatment or recycling of waste being placed in land disposal facilities today. One rationale for a containment approach may be an assumption that future generations will have the ability to better manage and prevent environmental damage from wastes being disposed of by today's society. Is that a reasonable assumption? Obviously, EPA does not except commenters to be omniscient. However, EPA does ask commenters who favor the containment approach based on this rationale to at least identify the current evidence which makes the assumption reasonable.

c. What is an appropriate containment zone? Should all wastes be contained within the facility (including its liner system)? Should the zone be extended to include the unsaturated zone or the facility property line?

VI. Alternatives to the Modifications of the Risk Assessment and Containment Approaches

Sections IV and V have set forth the two major alternative regulatory approaches which EPA has considered. The risk assessment approach attempts to define and then achieve an "acceptable" risk at each facility, while the containment approach seeks to attain a zero-risk level for a fixed period of time. While these two are reasonably comprehensive, there are good reasons to consider other approaches to replace, supplement, or modify either of these two basic approaches.

First, either approach involves many technical and institutional uncertainties. The present state of knowledge in designing facilities to contain wastes for long periods of time is limited, as is the ability to perform risk assessments. It is unclear whether the necessary institutions to prevent long-term risks can be established and maintained. Limited expertise, time and money further constrain our nation's ability to carefully design, assess, monitor and maintain each land disposal facility.

In light of these problems, it may properly be argued that both the risk assessment and containment approaches are inadequate. Some may argue that supplementary or alternative technical requirements are necessary in at least some situations. Others may argue that, for particular locations or wastes, the short and long-term risks created by land disposal facilities are so great that land disposal should not be allowed at all.

Second, it may be argued that particular alternatives to land disposal are environmentally superior and should be encouraged by restricting the permitting of landfills. For example, some have suggested that disposal of certain types of wastes in the deep portions of the ocean may be safer than land disposal. Still others may argue that no disposal is demonstrably safe and that treatment techniques should be encouraged to destroy wastes or allow their safe reuse. Ultimately, waste reduction and resource recovery probably provide the best alternative to land disposal. Some may contend that EPA's land disposal regulations should be designed to foster these alternatives.

Finally, it may be argued that some areas of the country need greater or lesser protection. On one hand, some areas may be so polluted or remote that they cannot or need not be protected. One may contend that such areas should be identified through federal or state rulemaking. Under a containment approach, requirements to contain wastes might then be waived in those areas. Under a risk assessment approach, an automatic assessment of no incremental risk might be made, thereby saving the time, expense and expertise otherwise needed to conduct a detailed risk assessment. On the other hand, some may contend that certain areas are entitled to absolute protection and that no facilities should be allowed in those areas regardless of how they are designed and how minimal their assessed risks appear to be.

EPA believes that these issues should be carefully considered in formulating a comprehensive policy on hazardous waste land disposal. EPA, therefore, solicits comments on alternatives to the risk assessment and containment approaches. The following discussion is designed to stimulate comment on these issues. Where an issue depends on particular facts, EPA requests that commenters submit relevant data together with their discussions of broad policy issues.

A. Supplementary or Alternative Design and Operating Requirements for Land Disposal Facilities

As mentioned above, a variety of factors may suggest that our current ability to achieve either a containment goal or an acceptable risk goal is uncertain. Therefore, it may be appropriate to provide an additional margin of safety by specifying particular design standards or operating practices.

One standard that might be applied is the required use of a leachate collection system which provides a specified minimum level of efficiency of removal. This would undoubtedly be a major feature of many facilities even without a regulatory requirement. However, for a facility which otherwise would not have a leachate collection system, this requirement would provide an additional margin of safety by lessening the amount of leachate which could exit through the bottom of the facility. This is especially important if a facility ultimately fails to contain or control the discharge of leachate as well as its permit requires.

A second set of standards, similar to those now contained in EPA's interim status regulations, are designed to limit the amount of liquid in a facility and thus minimize leachate generation. Such requirements might include the control of entry of liquids into landfills by the prevention of run-on, the collection of run-off, and keeping wastes containing or likely to produce (as a decomposition byproduct) free liquids out of landfills. For surface impoundments, an analagous requirement is the removal of standing liquids at the time of closure. On one hand, some may contend that in some situations (e.g., certain arid areas), these requirements are not necessary and should be subject to case-by-case determinations during permit proceedings. On the other hand, some may contend that the additional margin of safety provided by liquids controls are needed to protect against unforeseen circumstances (e.g., unusual storm events) and assure long-term protection of public health and the environment.

A third possible set of standards would involve requirements for liners above and/or below the buried wastes. The purpose of such requirements would be to delay or slow the rate of leachate generation and discharge. As in the case of the requirements mentioned above, arguments may be presented to oppose a requirement of liners as unnecessary in some instances or to support it as a necessary safety measure in all cases.

A fourth set of standards might require permittees to pretreat wastes prior to land disposal. To some extent, this may amount to a ban on disposing certain types of wastes in landfills. One example is banning wastes which contain more than a certain level of cyanide; this would in effect require cyanide destruction prior to land disposal. Another requirement might be to prohibit the codisposal (disposal in the same landfill cell or surface of impoundment) of certain wastes. Examples of waste combinations which could be regulated are acids with metals and solvents with certain highly toxic aromatic hydrocarbons. Finally, requirements for stabilization,

solidification or encapsulation of particular wastes might be required to reduce their leachability or mobility.

A fifth set of standards might require permittees to install equipment to control air emissions from landfills. For example, the regulations could require a gas venting system that channels air emissions to particular facilities where the vapors may be treated. Commenters who favor such a requirement are urged to discuss and recommend what performance standards might be appropriate for control of collected gases. For example, should land disposal operators achieve a destruction and removal efficiency comparable to that required for incineration of certain organic hazardous waste constituents, for any air emissions from its collection and treatment system?

In addition to using design standards to supplement a risk assessment or containment approach, they may be used independently where neither of the two approaches are deemed adequate, for the reasons discussed above. Thus, a set of minimum design and operating requirements could constitute a separate regulatory approach.

EPA requests that commenters favoring any of the above requirements as supplements to other approaches or as independent approaches explain fully why they are necessary and specify as much as possible what the requirements should be. Information on the reliability and cost of the suggested requirements should also be submitted. Commenters opposing particular requirements are urged to provide specific examples of situations where the requirements clearly would not be necessary to provide safety margins. EPA also welcomes comments suggesting further specific requirements which are not discussed above but which may be appropriate.

B. Requiring Selection of the Best Management Alternative

Several alternatives to land disposal are already used nationwide or in particular regions of the United States. These include incineration (including incineration-at-sea), thermal treatment, certain types of chemcial, physical and biological treatment, and ocean disposal. In addition, there are several alternative forms of land disposal (landfilling, placement in surface impoundments, land treatment and underground injection).

Many new hazardous waste treatment and disposal techniques are being studied or developed at present, and some may be expected to prove superior to land disposal for at least certain types of wastes in the future. A brief summary of some of these emerging technologies and a list of references for further information are provided in Booz, Allen & Hamilton, Inc. and Putnam, Hayes & Bartlett, Inc., *Hazardous Waste Generation and Commerical Hazardous Waste Management Capacity—An Assessment,* Appendix J ("Emerging Hazardous Waste Treatment and Disposal Technologies"), December 1980.

In addition, many of the existing technologies which currently handle only certain types of wastes may become able in the future to handle broader classes of wastes. For example, rotary kilns can incinerate more types of wastes than the more prevalent liquid incinerators can. As more rotary kilns become available, more types of wastes can be incinerated.

While it is premature to direct wastes away from land disposal facilities to technologies which are not yet available, one can at least direct wastes away from land disposal facilities when environmentally superior options are available. Under this approach, each operator of a particular type of land disposal facility, as part of the permit application process, would be required to demonstrate that no environmentally superior treatment or disposal option is available for handling the wastes in question. (Some states have begun to use this approach.)

This approach raises several issues. EPA asks commenters who address this alternative to consider the following:

i. How should the relative environmental merits of competing alternatives be judged? Can quantitative assessments of risks presented by each option be made in a manner that allows for quantitative comparisons between alternatives or must the permit writer ultimately make a comparison based on qualitative judgment alone?

ii. How can this approach account for the distribution of risks among the population? Various alternatives will present differing degrees of aggregate environmental risk. In addition, each alternative presents risk to differing groups of people and portions of the environment. Should any alternatives analysis consider the distribution of risk? If so, how?

iii. How should EPA determine that an alternative is "available" under this approach? Is this a question of technical feasibility or one that considers cost? How should cost be used in determining the availability of an alternative?

A broader approach for comparing environmental alternatives would be for EPA or a State agency to broadly assess various types of waste management techniques and the classes of waste for which they are most appropriate, considering technical, risk and cost factors. This type of effort is very difficult. However, EPA solicits suggestions on preferred options for particular types of waste.

C. Requirements Concerning Location

An additional approach which may be used to supplement or modify the risk assessment, containment, technical standards or alternative options approaches is one which allows broad regulatory decisions to be made with respect to particular locations.

Neither a containment approach nor a technical standards approach explicitly considers locational factors except as they relate to technical considerations such as local precipitation and evapotranspiration rates. The risk assessment approach does consider location on a case-by-case basis. However, it does not necessarily involve a general designation of geographical regions as acceptable or unacceptable locations for land disposal facilities. It is therefore appropriate to examine whether any specific provisions concerning location should be included in national hazardous waste regulations.

Several factors might be relied upon to justify placing land disposal facilities in particular locations. First, the ground water in an area may already be so contaminated by nature or by man as to be unsuitable for uses which could result in human exposures. Second, the area may be so remote that human exposures to buried wastes are unlikely at present and for the foreeseable future. Finally, it might be desirable to designate particular areas as waste sinks, provided that they are isolated from the public, to relieve the pressures for permitted waste disposal sites (or illegal disposal practices) in other areas where public exposure would be more likely to occur.

Several arguments, however, may be presented against encouraging land disposal at particular locations. First, the availability of a cheap land disposal option discourages the development and increased use of waste recycle and reuse, destruction and treatment. Second, as future water quality and quantity needs and land use patterns change, areas which are designated waste sinks today may be needed by future populations. Third, few areas are so remote that animals and plants cannot be placed at significant risk from unregulated waste disposal practices. Fourth, over long periods of time, ground water can move from a remote area to a less remote area. In some cases,

persistent constituents may migrate a significant distance from the waste burial site.

Several factors might be relied upon to justify prohibiting the location of land disposal facilities in particular areas. First, some areas may be so heavily populated that even a small risk that waste will be released to the environment may, when multiplied by the potentially exposed population, result in a significant risk to society. Similarly, areas underlain by ground water which is now or is likely in the future to be used for drinking water may deserve special protection. Third, environments which are sensitive to contamination (e.g., wetlands or areas with shallow water tables overlain by sandy soil) may deserve special protection.

An argument against banning land disposal facilities from particular locations is that facilities that might be designed to prevent unacceptable risk would be unfairly banned. This could create some hardship, particularly for existing generators in such areas who currently rely upon on-site disposal in landfills or on-site wastewater treatment in surface impoundments.

EPA recognizes that explicit regulation of location of hazardous waste land disposal facilities is a sensitive issue and believes that any such regulation should be carefully considered. EPA, therefore, urges commenters to provide any information relevant to this issue. What criteria should be applied to designate locations as waste sinks or waste-free zones? Can examples be provided of areas that might appropriately be designated as waste sinks or waste-free zones?

D. Prohibiting Land Disposal (Treatment and Long-Term Storage)

Given the current state of knowledge about hazardous waste management, some may contend that the risks of land disposal are too great to be borne. They might suggest that the land disposal of hazardous waste should be banned. Even if a ban is not imposed for all wastes, it may be unnecessary to assume the risks associated with land disposal of hazardous wastes for those wastes for which treatment (e.g., incineration) is now available. EPA invites commenters to suggest how this approach might be used and to identify those waste types which can be adequately treated with available technology.

In addition, it may be possible to safely store certain wastes above ground for long periods of time, avoiding the need for disposal with current technology. For example, it is possible to store liquid wastes in tanks and to completely contain them for 10, 20 or 30 years depending on design and maintenance. Indeed, storage tanks are already used for this purpose, although the contents of the tanks may be changed frequently. It should be possible to construct above-ground vaults to store various other wastes for significant periods of time.

If long-term storage is practicable, it could provide a bridge between any current shortage of environmentally-acceptable alternatives to land disposal and future capacity to handle today's excess wastes. This would allow a regulatory strategy which phases out at least some land disposal practices even where adequate treatment or disposal alternatives do not yet exist. It could also provide society more time to improve land disposal techniques and to develop a regulatory strategy for land disposal which is acceptable to the public.

EPA solicits public comment on the use of a long-term storage strategy for hazardous wastes. EPA is particularly interested in public comment (with appropriate data) identifying the particular wastes or waste types that should be placed in long-term storage and the types of storage facility designs that would be appropriate, together with associated costs of storage as well as of ultimate removal for treatment or destruction.

VII. Existing Facilities

A. Regulatory Approach to Existing Facilities

EPA is concerned about the problem of permitting existing land disposal facilities. At present, thousands of landfills and surface impoundments which dispose or treat hazardous waste are operating with interim status under section 3005(e) of RCRA. All of these require permits to be issued under the Part 264 standards.

The interim status standards promulgated on May 19, 1980, which contain certain minimum operating and ground-water monitoring requirements, should result in the improved operation of facilities and the identification of significant ground-water contamination. In addition, the closure and post-closure requirements and financial responsibility requirements promulgated on May 19, 1980, and January 12, 1981 should help assure proper closure and post-closure care of these facilities. Furthermore, the worst existing practices may be stopped under the authority of section 7003 of RCRA, which allows the EPA Administrator to sue in Federal court to restrain any hazardous waste management activity that may present an imminent and substantial endangerment to health or the environment. Section 3008 of RCRA provides further enforcement authority by authorizing EPA to issue a compliance or order to commence a civil action for appropiate relief, including a temporary or permanent injunction for violations of the regulations which have been promulgated to date under Subtitle C of RCRA, and by subjecting any person who knowingly commits certain types of illegal acts to criminal penalties, including a fine, imprisonment, or both. Finally, the recently-enacted Comprehensive Environmental Response, Compensation and Liability Act of 1980 has established a fund (commonly referred to as "Superfund") to help finance cleanups or other appropriate responses to the worst environmental emergencies.

While the interim status regulations and section 3008 and 7003 actions can go a long way toward addressing the problems presented by existing facilities, these two mechanisms are ultimately somewhat incomplete. On one hand, the interim status regulations, for example, do not address directly the complex issue of how EPA will protect ground water and air. On the other hand, compliance orders and lawsuits cannot be used to address the large number of existing land disposal facilities.

The first problem relating to existing facilities is that a large number of them exist and are potentially presenting human health and environmental risks. The Agency invites comments on the most efficient means for addressing this large number of existing facilities.

A second problem related to existing facilities is that many of them would need to be retrofitted to comply with EPA standards. Retrofitting may be more expensive than building a new facility. If land to build a new facility is unavailable, an existing facility may find it difficult to meet the permitting standards. The problem may be particularly acute for some facilities that rely upon on-site surface impoundments to treat their wastewater. Yet, many surface impoundments have in the past created significant risk to public health and the environment. Thus, upgrading these facilities will be necessary in some cases despite the costs.

Several options are available to balance the need to upgrade unacceptable facilities against the desire to avoid imposing unnecessary burdens on acceptable facilities.

One approach would be to conduct a detailed risk assessment at each facility.

This would assure that appropriate requirements are set for each reviewed facility. However, as noted above, this procedure would consume time and resources and could slow the permitting of many facilities. *See* 46 FR 11134 (February 5, 1981).

A second approach would be based on reviewing ground-water monitoring results under Part 265 Subpart F of the interim status standards. For example, one might impose additional requirements only on those facilities which appear to have leached any or some designated level of constituents to the ground water. A refinement of this approach would be to use the monitoring results to trigger a second and more detailed level or review prior to imposing particular requirements.

A variation on the second approach would be to first address those facilities which have already affected the ground water as a matter of first priority. After those facilities have been issued or denied permits, a more detailed assessment of the other facilities could be made to determine their future potential for creating risk and the need to require particular design or operation modifications.

EPA solicits comments on these options for handling existing facilities as well as on any strategies not mentioned above.

B. New Cells at Existing Facilities

EPA is also concerned about how to regulate new cells and impoundments at existing facilities. A "facility" is defined in 40 CFR 260.10 as "all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (*e.g.*, one or more landfills, surface impoundments, or combination of them)." Thus, it is possible to have several cells or impoundments at a single facility. Where a new cell or impoundment is constructed at an existing facility, it may or may not involve retrofit problems of the sort discussed above, depending on the extent to which it is integrated with the previously existing cells or impoundments. However, EPA could, as a matter of policy, prohibit the connection of new cells and impoundments to existing structures if the connection would impede imposition of all necessary requirements.

Should EPA assess the extent to which new cells and impoundments are integrally connected to existing structures before imposing requirements? Or should EPA subject new cells and impoundments to the same requirements as new facilities?

VIII. Comparison of Alternatives

The previous three sections have explained the principal alternatives available for regulation of hazardous waste land disposal. EPA urges public commenters to compare these alternatives and provide their opinions on which approach, or combination of approaches, provides the most effective regulatory scheme. EPA is, of course, interested in the public's opinion on the relative advantages and disadvantages of the risk assessment approach. If commenters raise objections to that approach, however, EPA asks them to identify an appropriate alternative regulatory scheme and explain why it is preferable.

To assist in the comparison of alternatives, EPA suggests that commenters address the following questions:

1. As indicated earlier, public confidence is dependent on a belief that EPA's regulations deal comprehensively with the environmental effects of hazardous waste and that the measures required by a permit are reasonably certain to provide the level of protection desired. Which approach is most likely to provide comprehensive consideration of all relevant effects of hazardous waste? Which approach provides greatest certainty that its proposed goal will be reached, particularly for long periods of time?

2. Whatever their theoretical approach, EPA's hazardous waste regulations must be capable of being implemented. This means that the expertise must be available to do the technical analyses required and that permit decisions must be deliberate but not unnecessarily time-consuming. Commenters are asked to suggest which approach is more likely to be resource-intensive (with respect to staff time, expertise, and money) in its implementation. As part of that discussion, commenters should identify these elements of either approach for which there is limited available technical expertise.

3. EPA is concerned that the money spent on hazardous waste management be used for these activities which best assure long-term protection of human health and the environment. EPA is interested in public comment on which regulatory approach provides the best use of money spent on environmental protection. In particular, the Agency seeks comments and data on how prospective permittees expect various approaches will affect the total and relative costs for capital equipment, operating methods and permit acquisition.

4. Taken as a whole, which approach is most likely to minimize the overall risk to society presented by hazardous waste disposal? This question ultimately subsumes all others. EPA's permit program for land disposal facilities must address all disposal facilities and must consider each facility carefully. To accomplish this with its limited resources EPA must engage in certain balancing. An approach which requires EPA to "fine tune" permit conditions to the unique characteristics of each facility will make it difficult for EPA to address all facilities. Likewise, an approach which too heavily emphasizes simplicity in permitting runs the risk of overregulating or underregulating certain individual facilities. EPA urges commenters to express their views on which approach best minimizes overall societal risk over time by allowing EPA to address as many facilities as possible in a manner that will assure adequate environmental protection at each one.

IX. Conclusion

EPA has attempted in this notice to clearly delineate the complex issues relating to permitting hazardous waste land disposal facilities and thus assist the public in analyzing and commenting on these issues. We recognize that few commenters will be able to offer responses to all of the questions set forth in this notice. Therefore, we invite all members of the public to comment on any of the issues about which they are knowledgable or able to form an opinion. In particular we urge that advocates of specific regulatory approaches comment upon the broad policy issues (especially those discussed in sections II and III of this notice) which underlie the selection of any approach.

Dated: May 7, 1981.

Walter C. Barber,

Acting Administrator.

[FR Doc. 81-15519 Filed 5-22-81; 8:45 am]

BILLING CODE 6560-30-M

federal register

Tuesday
May 26, 1981

Part VI

Department of Agriculture

Farmers Home Administration

Emergency Loans; Amendments to Policies

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1809, 1945 and 1951

Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its policies pertaining to insured Emergency (EM) loans. This action is needed to implement the provisions of Public Law (Pub. L. 96–438) which amended the Consolidated Farm and Rural Development Act and to implement other related administrative changes desired by FmHA. The intended effect of this action is to correct deficiencies identified under Supplementary Information and to restore fiscal integrity to the program.

DATES: Effective on May 26, 1981. Comments must be received by July 27, 1981.

ADDRESSES: Submit written comments in duplicate to Carl Opstad, Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346–S, Washington, DC 20250, Telephone 202–447–4057. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: James E. Vollmer, Emergency Loan Officer, Farmers Home Administration, USDA, Room 5336–S, Washington, DC 20250, Telephone 202–382–1647.

SUPPLEMENTARY INFORMATION: This final action has been reviewed and been classified as "significant" under Secretary's Memorandum 1955 and classified as a "major-action" under Executive Order 12291. The changes to 7 CFR, Part 1945, Subpart A and the changes to 7 CFR, Part 1951, Subpart A are internal management regulation changes. The majority of the changes to 7 CFR, Part 1945, Subpart B only implement the requirements imposed by Pub. L. 96–438. Dwight O. Calhoun, Acting Under Secretary for Small Community and Rural Development, has determined that an emergency situation exists which warrants publication of these changes and of 7 CFR, Part 1945, Subpart D, without opportunity for a public comment period prior to the effective date of this final action.

The requirements of sections 3 and 4 of Executive Order 12291 have been waived by David A. Stockman, Director, Office of Management and Budget.

The Farmers Home Administration has received criticism for its management of the disaster Emergency loan program from various sources, including hearings held October 17, 1979, by the Senate Subcommittee on Agriculture of the Committee on Appropriations; hearings held October 19, 1979, by the House of Representatives Subcommittee on Conservation and Credit of the Committee on Agriculture; Conference Report 96–533, dated October 24, 1979; and the General Accounting Office Report, CED–78–118, dated May 25, 1978, and CED–79–111, dated August 6, 1979. The USDA Office of the Inspector General agrees with much of this criticism. The Administration believes that these concerns are valid.

The Emergency loan program was established to restore farmers, who are victims of natural disasters, to their pre-disaster production capacity and living conditions. Under existing regulations, the loans are being used to expand the farming operations beyond pre-disaster levels. Program review reveals further that:

- Emergency loans are being made to farmers who have suffered losses to one crop despite offsetting good production in another crop(s).
- Applicants are obtaining Emergency loans even though they have valuable assets which are not involved in or essential to their farming operations. Such assets should be taken into consideration in determining the amount of government funds to be made available for disaster relief.
- Significant deviations from "normal" production are not unusual in agriculture. This fact is not always given adequate consideration in determining eligibility.
- The Emergency loan program was not intended to compete with commercial lenders but only to supplement commercial credit. In practice, Emergency loans often completely replace commercial financing by offering loans for purposes and on terms with which commercial lenders cannot compete.

Overly permissive regulations have allowed these practices to become widespread.

Although some corrective measures have been taken, there remains an urgent need for further revision of the regulations governing the Emergency loan program. It is important to take action immediately to prevent these practices from continuing, so that FmHA can direct its fiscal and staff resources toward more efficiently assisting farmers who truly need Federal financial assistance to overcome disaster-related difficulties. It is also important to act immediately so that the effect of these changes is not undercut by a potentially sizable number of loan awards—with terms that may last for several years involving several million dollars—made after announcement of the changes but before they are final. In order to further correct deficiencies and restore fiscal integrity to the program, the changes summarized below must be implemented immediately.

These regulations do not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

The Catalog of Federal Domestic Assistance number of Emergency Loans is 10.404.

FmHA amends Subpart A of Part 1809, Subparts A and B of Part 1945, and Subpart A of Part 1951 and adds a new Subpart D of Part 1945 in Chapter XVIII, Title 7, Code of Federal Regulations.

A summary of the changes made by this action are as follows:

Summary of Changes

7 CFR, Part 1945, Subpart A is completely revised and reissued to require that the Secretary of Agriculture designate natural disasters which have adversely affected more than 25 farmers, ranchers and/or aquaculture operators in any one county, and make emergency (EM) loan assistance available in those county(ies). When not more than 25 farmers, ranchers and/or aquaculture operators have been so affected by a natural disaster, the Farmers Home Administration (FmHA) State Directors through the FmHA Administrator may designate natural disasters. This action also discontinues the authority for making EM loans available in counties adjoining those designated as disaster areas, unless a separate disaster designation is obtained for those adjoining counties. (See §§1945.6, 1945.18, 1945.19, 1945.20, 1945.21, 1945.25, 1945.26, 1945.27, 1945.30, 1945.31, 1945.35, 1945.45 and Exhibit A).

7 CFR, Part 1945, Subpart B is amended to apply only to those applications for EM loans associated with FmHA disaster designations having a beginning incidence period predating May 26, 1981.

§1945.66(b)(2) (i) and (ii) are revised to implement time frame limitations on EM subsequent annual production loans as required by Pub. L. 96–438.

§ 1945.66 (d) and (e) are revised to implement loan ceilings for fiscal years 1981, 1982, 1983 and subsequent fiscal years on EM annual production and

major adjustment loans as required by Pub. L. 96–438.

§ 1945.69(t) is added to impose less stringent security requirements on applicants certifying that they can get their needed credit elsewhere.

§ 1945.80 (c) and (d) are removed to eliminate the requirement for County Committees to certify the amount of EM loan entitlement; this requirement was deleted by Pub. L. 96–438.

7 CFR, Part 1945, Subpart D is added to implement FmHA EM regulations for EM loan applications associated with disaster designations having a beginning incidence period date on or after May 26, 1981. Changes highlighted are those which are different than those requirements found in 7 CFR, Part 1945, Subpart B.

§ 1945.154(a)(12) defines a family size farm.

§ 1945.154(a)(15)(i) defines a single enterprise as categories of crops and livestock for use in EM loss loan eligibility determinations.

§ 1945.154(a)(23) requires the use of ASCS established yields prior to using county averages in EM loss loan eligibility and maximum EM actual loss loan entitlement determinations.

§ 1945.154(a)(30) requires EM production loss loan applicants to sustain at least a 30 percent loss of normal production in a single basic enterprise to qualify for EM loan assistance.

§ 1945.156(b)(3) stipulates that loan approval officials will require the disposition of any assets (farm and/or nonfarm) nonessential to the success of the farming operation prior to or within 12 months after the EM loan closing date.

§ 1945.161(c) requires ASCS established yields to be recorded on Form FmHA 1945–29.

§ 1945.163(a) requires EM production loss loan applicants to use the following record systems in order of priority as listed to establish the normal year's production: (a) Their own farm records; (b) ASCS established yields; (c) the 5-year county or State average yields as established by the State Statistical Reporting Service or similar source; and (d) under certain circumstances, combinations of the record systems in priority order of availability as listed in (a) through (c). This section also requires that prices used in EM loss loan calculations be based on the monthly average of the 36-month period immediately preceding the calendar year in which the disaster occurs, as indicated by State Crop and Livestock Reporting Service statistics. (See paragraphs (a)(1), (a)(2) (i) through (vi), and (a)(2(x)).

§ 1945.163(a)(2)(vii) requires that the maximum production loss loan be limited to *80 percent* of the total calculated actual production loss sustained by the applicant.

§ 195.166 deletes authority for FmHA EM loan funds to be used for *any* expansion of the pre-disaster normal farming operation. The dollar ceilings and time frame limitations authorized under Pub. L. 96–438 are also imposed in this section. A combined annual production and major adjustment outstanding principal indebtedness ceiling of $500,000 is imposed for the remainder of FY 1981. (See paragraphs (a)(1), (b)(1), (b)(2), (c), (c)(2), (c)(2)(i)(C), (c)(2)(ii), (c)(3)(iii), (c)(3)(xi), (c)(3)(xii), (d) and (e)).

§ 1945.167 prohibits the use of FmHA EM loan funds from being used to expand the pre-disaster normal farming operation. It also imposes a $300,000 principal indebtedness ceiling on the combined use of Major Adjustment Subtitle A and Subtitle B loan funds for refinancing debts which are to be secured with real estate. (See paragraph (a)).

§ 1945.168 prohibits scheduling of FmHA initial EM annual production loan repayment terms for longer than one production cycle. (See paragraphs (b)(1), (b)(1) (i) and (ii), (b)(2) and (b)(3) and (d).

§ 1945.169 revises conditions under which an applicant's potential repayment ability may be considered as "security" for EM loans.

Increases the limit of lending for FmHA EM annual production loans to the greater of $100,000 or 75 percent of the projected annual gross income, whenever an applicant can provide no security other than a first lien on the crop and/or livestock being financed with EM loan funds.

Directs EM loan approval officials to require at least the minimum level of comprehensive Federal Crop Insurance for all crops eligible under existing FCIC programs when any type of EM loan is primarily secured by crops and/or chattels. When required, the insurance is to be maintained over the full repayment period of the loan.

Directs that applicants who certify they can get credit elsewhere be required to pledge only that amount of security necessary to fully secure the loan and assure that the Government's interests will be fully protected. (See paragraphs (d), (e), (f), (i), (o), and (t)).

§ 1945.175 revises FmHA appraisal requirements when additional security is to be taken. (See paragraphs (c)(1) and (c)(4)).

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended by amending Subpart A of Part 1809, revising Subpart A and amending Subpart B and adding a new Subpart D of Part 1945, and amending Subpart A of Part 1951 as follows:

PART 1809—APPRAISALS

Subpart A—Appraisal of Farms and Leasehold Interests

1. In § 1809.1, paragraph (b) is amended by changing the words "and Subpart B of Part 1945 of this chapter" to "and Subpart B and Subpart D of Part 1945 of this chapter."

PART 1945—EMERGENCY

2. Subpart A is revised to read as follows:

Subpart A—Disaster Assistance—General

Sec.

1945.1 [Reserved]
1945.2 Purpose.
1945.3–1945.4 [Reserved]
1945.5 Abbreviations.
1945.6 Definitions.
1945.7–1945.17 [Reserved]
1945.18 United States Department of Agriculture (USDA) Emergency Boards.
1945.19 Reporting natural disasters.
1945.20 Making EM loans available.
1945.21 Notification and coordination requirements.
1945.22–1945.24 [Reserved]
1945.25 Relationship between FmHA and FEMA.
1945.26 Relationship between USDA, FmHA, and SBA.
1945.27 Relationship between FCIC and FmHA.
1945.28–1945.29 [Reserved]
1945.30 FmHA Emergency Loan Support Teams (ELST).
1945.31 FmHA Emergency Loan Assessment Teams (ELAT).
1945.32–1945.34 [Reserved]
1945.35 Special EM loan training.
1945.36–1945.44 [Reserved]
1945.45 Public information function.
1945.46–1945.50 [Reserved]

* * * * *

Subpart A—Disaster Assistance—General

§ 1945.1 [Reserved]

§ 1945.2 Purpose.

This Subpart prescribes the policies, procedures, and guidelines of the Farmers Home Administration (FmHA) for making emergency (EM) loans available in specified areas (counties); the relationship between FmHA and the Federal Emergency Management Agency (FEMA); the method for establishing and using Emergency Loan

Support Teams (ELST) and Emergency Loan Assessment Teams (ELAT); training of FmHA personnel; and the disaster public information functions.

§§ 1945.3-1945.4 [Reserved]

§ 1945.5 Abbreviations.

The following abbreviations are used in this Subpart.

(a) ASCS—Agricultural Stabilization and Conservation Service.

(b) CEB—USDA County Emergency Board.

(c) DAR—Damage Assessment Report.

(d) ELAT—Emergency Loan Assessment Team.

(e) ELST—Emergency Loan Support Team.

(f) EM—Emergency Loans.

(g) EOH—USDA Emergency Operations Handbook.

(h) FCIC—Federal Crop Insurance Corporation.

(i) FCO—Federal Coordinating Officer.

(j) FEMA—Federal Emergency Management Agency.

(k) FmHA—Farmers Home Administration.

(l) OMB—Office of Management and Budget.

(m) SBA—Small Business Administration.

(n) SEB—USDA State Emergency Board.

(o) USDA—United States Department of Agriculture.

§ 1945.6 Definitions.

The following definitions are applicable to this Subpart:

(a) *Disasters.* (1) *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant unusual assistance above and beyond normal emergency services available from the State and Federal Government. Major disaster assistance makes all Federal disaster programs available automatically, and is intended to supplement the efforts and available resources of States, local governments and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by disasters.

(2) *Natural disaster.* Any disaster caused by a natural phenomenon in any part of the United States; such as, hurricanes, tornadoes, cyclones, windstorms, excessive rainfalls, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, droughts, excessively high or low temperatures, and hailstorms; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fires resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to those diseases spreading into epidemic proportions.

(3) *Presidential emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration requiring certain Federal emergency programs to be implemented as a supplement to State and local efforts as a means of saving lives and protecting property, preserving public health and safety, and/or lessening the threat of a more severe disaster.

(b) *Farmers.* Individuals, cooperatives, corporations or partnerships who are farmers, ranchers or aquaculture operators.

(c) *Incidence period.* The specific date or dates during which a disaster occurred.

(d) *National Office.* The Director, Emergency Loan Division.

(e) *Substantially affected.* The degree of physical and/or production losses a farmer must have sustained from a disaster to meet the actual loss eligibility requirements for an EM loan. The actual loss must have had such an adverse impact on the farming operation that EM loan assistance is necessary to enable the farm operator to continue the pre-disaster operation on a sound basis. A farmer will be considered to have been substantially affected if any one of the following types of losses has been sustained due to a declared/designated/authorized disaster.

(1) Damage or destruction of physical property that is essential to the successful operation of the farm; and if the property is not repaired or replaced, the farmer would not be able to continue operating on a sound basis. Physical property includes: farmland; structures on the land, e.g., buildings, fences, dams, etc.; machinery, equipment, and tools; livestock and livestock products; harvested crops; and materials and supplies. *or:*

(2) A production loss of at least 30 percent of normal yield per acre or production per animal in a single enterprise which constitutes a basic part of the total farming operation.

(f) *Termination date.* The date specified in a disaster declaration/designation/authorization which establishes the final date after which EM actual loss loan applications can no longer be accepted. For both physical and production losses, the termination date will be 9 months from the date of the disaster declaration/designation/authorization. Applications may, however, be accepted for EM actual loss loans after the termination date has passed, if the applicant had filed an application for disaster loan assistance with the Small Business Administration (SBA) during the period SBA could accept applications, but when not more than 6 months have elapsed since the FmHA's termination date.

(g) *United States or State.* Each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§§ 1945.7-1945.17 [Reserved]

§ 1945.18 United States Department of Agriculture (USDA) Emergency Boards.

There is a USDA Emergency Board established to serve every State and every county (or comparable political subdivision) in the United States. The Boards are responsible for providing leadership to ensure that the Department's disaster programs are implemented when needed; to coordinate the Department's emergency disaster programs with those of other Federal Departments and Agencies; and to provide personnel, as needed and requested by FEMA, to help staff disaster assistance centers in major disaster areas.

(a) *State Emergency Boards (SEB).* These Boards are composed of representatives of the several USDA Agencies having emergency program responsibilities at the State level. The chairpersons of the SEBs are the ASCS State Executive Directors. FmHA State Directors are members of the SEBs.

(b) *County Emergency Boards (CEB).* These Boards are composed of representatives of the several USDA Agencies having available personnel at the county level. The chairpersons of the CEBs, in most cases, are the ASCS County Executive Directors. FmHA County Supervisors are members of the CEBs.

(c) *Emergency boards' policies and procedures.* These policies and procedures are set forth in the USDA Emergency Operations Handbook (EOH), available in any ASCS or FmHA Office.

§ 1945.19 Reporting natural disasters.

(a) *Purpose.* The purpose of reporting natural disasters is to provide a systematic procedure for rapid reporting of the occurrence and extent of damage and loss caused by such disasters, which may result in a need to make EM loans available in the disaster area.

(b) *Responsibility for reporting disasters.* USDA SEBs and CEBs representing their member agencies are best qualified at the State and county levels to accomplish the assessment of rural and agricultural losses resulting from disasters. These Boards are, therefore charged with the responsibility of reporting the occurrence of disasters and making recommendations whether or not to implement USDA disaster programs.

(c) *Actions to be taken.* Immediately after the occurrence of a natural disaster:

(1) The FmHA County Supervisor will report to the CEB chairperson, as specified in the EOH, all substantial property loss, damage or injury and severe production losses that have occurred in his/her County Office area, regardless of whether EM loans will be needed. The County Supervisor will assist the CEB in preparing the 24 hour report required in paragraph (c)(2) of this section. If the CEB has not completed its 24 hour report within two workdays after the disaster, the County Supervisor will report to the State Director on Form FmHA 1945-27, "Report of Natural Disaster." In urgent situations, the report may be made by telephone, followed by the CEB report or Form FmHA 1945-27. Either of these reports will be based on information obtained from personal knowledge and from farmers, agricultural and community leaders, representatives of other agricultural agencies, agricultural lenders, and from any other personally contacted reliable source(s). The County Supervisor will convey to the CEB chairperson all information pertaining to the disaster and provide the Chairperson with a copy of Form FmHA 1945-27, if prepared.

(2) The CEB will report the natural disaster, in accordance with the EOH to:

(i) The SEB; and

(ii) Appropriate county government representative(s).

(3) The SEB will provide copies of the CEB report to:

(i) The USDA Washington Offices of ASCS, FmHA and the Office of Intergovernmental Affairs; and

(ii) The State Governor's Emergency Coordinator and the State Department of Agriculture.

(4) The FmHA State Director will inform the National Office of each natural disaster as soon as possible and forward to the National Office a copy of the CEB report or Form FmHA 1945-27, with any attachments, and supplemented with the State Director's comments and recommendations. The State Director must include a statement as to the number of farmers, ranchers and aquaculture operators affected by the disaster. In urgent situations, the State Director will report to the National Office, Emergency Loan Division, by telephone, and immediately thereafter, send a written report to the National Office. The State Director will continue to notify the SEB chairperson of any additional information received concerning the natural disaster.

(5) The FmHA Administrator will notify the Office of the Secretary of Agriculture of the reported natural disaster and of any action taken or planned to be taken by the FmHA. The FmHA National Office will also provide the same information to members of the Congress and FEMA, if so requested.

(6) When inquiries are received from natural disaster victims, before the area is declared/designated/authorized, the following information will be provided the victims.

(i) Inquirers at the County Office will be advised:

(A) That EM loans are not available at this time;

(B) What assistance will be available if EM loans are authorized; and

(C) An application for EM loan assistance may be filed at that time, in which case it will *not* be processed until EM loans are authorized for the area; or the application can be filed after the EM loans are authorized, in which case it will be processed promptly. The inquirer should also be advised that in the event EM loans are not authorized, he/she can be considered for regular FmHA farm loan assistance.

(ii) Inquirers at the State or National Offices will be advised accordng to paragraph (c)(6)(i) of this section and referred to the appropriate county office.

(7) When inquiries are received from County Governing Bodies or Indian Tribal Councils concerning the designation of an area, they will be informed of the procedure for making EM loans available as specified in § 1945.20 of this Subpart.

(8) The actions required in paragraph (b) of this Section will be taken even if the Governor of a State has requested the President to declare a county(ies) a major disaster or Presidential emergency area.

§ 1945.20 Making EM loans available.

EM loans are made available in counties or similar political subdivisions named by (a) FEMA as eligible for Federal assistance under a major disaster or emergency declaration by the President, (b) the Secretary of Agriculture in any area where unusual and adverse weather conditions have resulted in severe production and/or physical losses, which have substantially and adversely affected more than 25 farmers, ranchers, and/or aquaculture operators in any given county; and (c) an FmHA State Director when 25 or fewer farmers, ranchers and/or aquaculture operators, in any given county, have been so affected by a natural disaster.

(a) *Declaration by the President.* When there is a Presidential major disaster or emergency declaration and FEMA has notified the National Office, the following actions *will* be taken:

(1) The National Office will immediately:

(i) Notify the State Director and the Director of the Finance Office by telephone and confirm in writing. The notification will contain:

(A) The date of the declaration;

(B) The name(s) of the county(ies) determined eligible for Federal disaster assistance;

(C) The type of disaster;

(D) The incidence period for the disaster;

(E) The termination date for accepting applications;

(F) The disaster declaration number (Examples: Major Disaster, M491; or Presidential Emergency, E061); and

(G) The date monthly loan activity reporting will commence. State Directors will consolidate the monthly reports and forward to the National Office within 10 working days after the last working day of each month.

(ii) Take the actions required by § 1945.21(a)(1) of this Subpart.

(2) The State Director will immediately:

(i) Notify the appropriate County Supervisor(s) and instruct him/her to make EM loans available in the declared counties. This notification will be confirmed by a State Supplement, or a revision thereof, containing that information listed in paragraphs (a)(1)(i) (A) through (G) of this section;

(ii) Notify the SEB chairperson in writing; and

(iii) Make such public announcements as are appropriate to adequately inform the farm community.

(3) The County Supervisor will immediately upon receiving notification that a county(ies) under his/her jurisdiction has been declared:

(i) Notify the CEB chairperson in writing;

(ii) Make such public announcements as are appropriate to adequately inform the local farm community;

(iii) Arrange and conduct meetings with local agricultural lenders and agricultural leaders to explain the purpose of and the assistance available under the EM loan program;

(iv) Make himself/herself available to help staff the FEMA disaster assistance centers, when requested to do so; and

(v) Establish and maintain a cumulative record of EM loan activity as set out in Exhibit A of this Subpart to be submitted monthly to the State Office. (Exhibit A is available in any FmHA Office).

(b) *Designation by the Secretary of Agriculture.* The Secretary of Agriculture shall designate a county(ies) as an EM loan area when a natural disaster has substantially and adversely affected farmers, ranchers and aquaculture operators; a written request from a State Governor for an EM loan designation has been received by the Secretary within 6 months from the last day of the occurrence of the natural disaster; the Secretary determines that unusual and adverse weather conditions have resulted in substantial production losses and/or damages or losses to livestock, farm machinery, farmland, farm buildings and structures, or aquaculture operations; and more than 25 farmers, ranchers, and aquaculture operators in a given county have been so affected by the disaster. A copy of the Governor's request will also be sent to the FmHA.

(1) Upon receipt of the Governor's request through the Secretary's Office, the FmHA National Office will immediately take the following actions:

(i) Acknowledge the Governor's request on behalf of the Secretary, and if any delay is anticipated in processing the request, state the reasons for such delay and when action will be taken;

(ii) Notify the FmHA State Director by phone and confirm in writing, the Governor's request; and

(iii) Notify the State Director that monthly reports of the action taken on the request will be sent to the Administrator, Attention: Director, Emergency Loan Division, giving a status report and the estimated date when complete information will be available for the Secretary to make a decision. These monthly reports will be identified by a Governor's Request (GR) number, which will be assigned by the National Office. Example: GR (State Abbreviations) 01, 02, 03, etc.

(2) The State Director will immediately:

(i) Notify the SEB chairperson that a Damage Assessment Report (DAR) is needed in accordance with the EOH for the requested county(ies); and

(ii) Review each DAR, when it becomes available, and forward it to the National Office with a transmittal memorandum containing his/her views, comments and recommendations concerning the need or lack of need for EM loans to be made available. Any additional supportive information not contained in the DAR should also be included in or attached to the transmittal memorandum.

(3) The National Office will immediately review the DAR and the State Director's recommendations and promptly forward recommendations with supporting information for approval or denial of the requested designation to the Secretary.

(i) If the Secretary denies the designation request, the Governor and the FmHA Administrator will be notified and the notice will set forth the reason(s) for denial. The National Office will provide the same information to the State Director.

(ii) When the Secretary approves the requested designation, the Governor and the FmHA Administrator will be notified.

(A) The National Office will immediately pursue the same course of action as described in paragraph (a)(1) of this section, except the disaster designation number will be coded S and 3 numbers (Example: S141).

(B) The State Director will immediately pursue the same course of action as described in paragraph (a)(2) of this section.

(C) The County Supervisor will immediately pursue the same course of action as described in paragraph (a)(3) of this section.

(c) *Authorization by State Directors.* (1) When a State Director determines that the requirements of paragraph (b) of this section are met in any single county, except that 25 or fewer farmers have been substantially affected by the natural disaster, EM loans may be authorized by the State Director. This authority of the FmHA State Director will be exercised only after the Governor, the County Governing Body or its authorized representative, or an Indian Tribal Council; and the CEB have formally recommended to the State Director that EM loans be authorized. The State Director must give notice to the National Office by telephone before authorizing EM loans.

(2) The State Director authorization will not be used to make EM loans available immediately after a disaster occurs in anticipaton of a later declaration by the President or designation by the Secretary based on that same disaster.

(3) Upon receipt of a positive recommendation from the appropriate sources, the State Director will promptly phone the National Office and:

(i) Identify:

(A) The type of disaster;

(B) The date the disaster occurred;

(C) The county(ies) affected by the disaster; and

(D) The number of farmers affected in each county.

(ii) Obtain from the National Office:

(A) The State Director authorization number (SDAN) (Example: N181);

(B) The incidence period for the disaster;

(C) The termination date for accepting applications; and

(D) The date monthly loan activity reporting to the National Office will commence.

(iii) Notify:

(A) Appropriate County Supervisor(s) to commence accepting EM loan applications in the authorized county(ies);

(B) The SEB chairperson; and

(C) The news media with appropriate announcements.

(iv) Send to the National Office:

(A) A confirmed copy of the authorization memorandum sent to the County Supervisor(s);

(B) A copy of the DAR; and

(C) One copy each of the formal written request from the Governor, or the County Governing Body or its authorized representative, or an Indian Tribal Council; and the CEB recommendation.

(4) The National Office will notify the Secretary of Agriculture and the Director of the Finance Office of the action taken by the State Director.

(5) Upon notification from the State Director that EM loans are authorized in a county, the County Supervisory will pursue the course of action described in paragraphs (a)(3) (i), (ii) and (v) of this section. Applications for EM loans will be accepted by County Supervisors only after authorization by the State Director, except as provided in § 1945.19(c)(6) of this subpart.

(d) *Subsequent natural disasters.* EM actual loss loans will be made available when a subsequent natural disaster(s) occurs in any area which had been designated/authorized to receive EM actual loss loan applications under paragraphs (a), (b) or (c) of this section during the same crop year, which substantially affects the same farming enterprises that suffered damages or loss due to the earlier disaster(s). When a subsequent natural disaster(s) occurs, the following actions will be taken:

(1) The County Supervisor will notify the State Director and provide the State Director with completed Form FmHA 1945–27, stating the new incidence period and requesting an extension of the termination date;

(2) The State Director will make a determination, after reviewing Form

FmHA 1945-27, and advise the County Supervisor whether or not losses from the subsequent natural disaster will be covered by the original disaster designation;

(3) The State Director will notify the National Office by a copy of Form FmHA 1945-27, and request an extension of the termination date;

(4) The National Office will provide the State Director with a new incidence period and termination date, when justified, in accordance with paragraph (f) of this section; and

(5) State Directors will *not* authorize extensions for areas authorized earlier if such extensions will result in more than 25 farmers in a county being affected by disasters in that production year. When the sum total of farmers affected by disaster exceeds 25, a secretarial designation will be initiated.

(e) *Continuing disaster conditions.* EM actual loss loans will be available when there is a continuation of the disaster conditions beyond the incidence period originally established for an ongoing disaster(s), such as, drought, flood, etc., in any area eligible for EM actual loss loans under paragraphs (a), (b) or (c) of this section. When a disaster(s) continues, the actions required by paragraphs (d) (1), (2), (3), (4) and (5) of this section will be taken.

(f) *Extension of termination dates.* Termination dates originally established when EM loans are made available may be extended by the National Office, when justified, due to subsequent disasters; continuing disasters; or when losses or damages, due to the original disaster which were not readily determinable at the time, show up at a later date. These extensions will be for certain periods, as determined necessary by the National Office, based on the State Director's recommendations; and will usually not exceed 60 days.

(g) *Limitations.* Actions authorized by paragraphs (b), (c), (d), (e), and (f) of this section cannot be taken if more than 6 months have passed since the original natural disaster occurred, except when the actions required by paragraph (b)(2) of this section have been delayed. Then the authorization must be no later than 9 months after the natural disaster. However, if the Administrator finds that an FmHA employee(s) has not acted in a timely and appropriate manner in response to a request for a disaster designation/authorization, he/she may authorize EM loans to be made available up to 12 months after the occurrence of the natural disaster.

§ 1945.21 Notification and coordination requirements.

After EM loans are made available under § 1945.20 of this Subpart, the following actions will be taken immediately:

(a) *By the National Office.* (1) When the President declares a major disaster or emergency, the Administrator or designee will notify the following, in writing, of the action taken under § 1945.20(a) of this subpart:

(i) Each member of the Congress (Senate and House) representing the area(s) involved;

(ii) The Secretary of Agriculture;

(iii) The Director of the FmHA Finance Office;

(iv) The FEMA;

(v) The SBA Central Office;

(vi) The ASCS National Office;

(vii) The FCIC National Office; and

(viii) The OMB.

(2) These notifications will contain the following information:

(i) The date of the declaration;

(ii) The name(s) of the county(ies) determined eligible for the EM loan program;

(iii) The nature of the damages and losses; and

(iv) The termination date for accepting EM loan applications.

(3) Subsequent to the initial notification, weekly reports will be sent to all recipients listed in paragraph (a)(1) of this section, except the Congressional delegates, informing them of the past week's disaster declaration/designation/authorization actions taken by FmHA. If no actions are taken in any particular week, negative reports will be made.

(4) When a natural disaster is designated by the Secretary under § 1945.20(b) of this Subpart, the Administrator, through the Secretary's Office, will simultaneously notify all those recipients listed in paragraph (a)(1) of this section; such notifications will contain the itemized details required in paragraph (a)(2) of this section.

(5) When an area is authorized by an FmHA State Director for EM loans under § 1945.20(c) of this Subpart, the Administrator or designee will simultaneously notify all those recipients listed in paragraph (a)(1) of this section; such notifications will contain the itemized details required in paragraph (a)(2) of this section.

(b) *By the State Director.* (1) Notify the appropriate County Supervisor(s) of the:

(i) Name(s) of the county(ies) declared/designated/authorized;

(ii) Date declared/designated/authorized;

(iii) Disaster number;

(iv) Type of disaster;

(v) Incidence period; and

(vi) Termination date for accepting applications.

(2) Notify the State ASCS Executive Director of the authority to make EM loans and promptly have a meeting with him/her to review and implement the provisions of the Memorandum of Understanding between ASCS and FmHA on Disaster Assistance, Exhibit C of Subparts B and D of Part 1945 of this Chapter, to arrive at a mutual understanding as to how ASCS disaster program benefits are to be handled in conjunction with the processing of FmHA EM actual loss loans so that duplication of benefits for the same losses are not received by disaster victims;

(3) Contact the FCIC Regional Director to review the Memorandum of Understanding between FCIC and FmHA, Exhibit A of Subpart N of Part 2000 of this Chapter (a copy of which is available in any FmHA office), and arrive at a mutual understanding as to how FCIC insurance payments are to be handled in conjunction with the processing of EM actual loss loans so that duplication of benefits for the same losses are not received by disaster victims;

(4) Make appropriate public announcements, including notices in Indian Tribal Council(s) news media. However, if the declaration was by the President, under § 1945.20 (a) of this Subpart, news releases should be cleared with the FEMA; and

(5) If the FEMA notices the State Director that an agreement between the State and Federal Government (FEMA) has been made to provide 408 grants in a major disaster area to those suffering damages and losses to housing and personal property, who are ineligible for disaster loan asssistance through the FmHA and/or SBA, the following actions will be taken:

(i) The State Director will notify the appropriate County Supervisor(s) of the address and phone number of the nearest FEMA office in the Supervisor's area; and

(ii) At the close of business each week, the County Supervisor will forward to the FEMA a list of applicants claiming physical losses who do not qualify for EM loan assistance, with the reason(s) they do not qualify.

(c) *By the County Supervisor.* (1) Notify the County ASCS Executive Director of the authorization and have a meeting with him/her to review and implement the provisions of the Memorandum of Understanding

between ASCS and FmHA on Disaster Assistance, Exhibit C of Subparts B and D of Part 1945 of this Chapter, to arrive at a mutual understanding as to how ASCS disaster program benefits and other information in ASCS's records will be made available and used in processing EM actual loss loans. Also, the County Supervisor will request that information regarding the availability of EM loans be placed in the ASCS's news letter;

(2) Notify the County Governing Body, Indian Tribal Council(s) and make appropriate public announcements including notices in Indian Tribal Council(s') news media; and

(3) Explain the assistance available under the EM program to agricultural lenders and leaders in the area including Indian agricultural lenders and leaders.

§§ 1945.22-1945.24 [Reserved]

§ 1945.25 Relationship between FmHA and FEMA.

(a) *General.* When a major disaster or emergency declaration is made by the President, the FEMA is charged with the responsibility for seeing that disaster assistance is made available to disaster victims. Also, FEMA is responsible for coordinating the actions of other Federal Agencies who have programs to provide disaster assistance. A Federal Coordinatng Officer (FCO) is appointed for each major disaster or emergency to coordinate Federal assistance in the disaster area.

(b) *Before the declaration.* (1) When a request for a major disaster or emergency declaration is made by the Governor of a State, the FEMA through its Regional Director is responsible for obtaining an assessment of the losses and damages to respond to the request.

(2) If the FEMA makes a request for information from FmHA on losses and damages caused by a natural disaster, the FEMA representative will be advised to contact the SEB Chairperson. The EOH provides that the SEB will request the CEB to prepare the DAR. State Directors and County Supervisors should cooperate with SEB and CEB Chairpersons in preparing the DAR's.

(c) *After the declaration.* Where a major disaster has been declared by the President and the FEMA establishes a disaster assistance center(s) in the local disaster area(s):

(1) The SEB Chairperson will be responsible for:

(i) Selecting qualified USDA employees to represent USDA at each center, after consulting with other board members in making the selection. FmHA State Directors will cooperate with the SEB Chairpersons in seeing that centers are properly staffed;

(ii) Orienting the selected employees on all current USDA disaster programs. FmHA State Directors will cooperate in this orientation to ensure that the USDA representatives at the center(s) are familiarized with the FmHA EM loan program and other FmHA loan programs that could be of assistance to the disaster victims; and

(iii) Informing the FEMA that USDA representatives are available to help at each of the assistance centers.

(2) The FmHA State Director will be responsible for pursuing the following policy in working with the FEMA and the FCO by:

(i) Authorizing receipt of EM loan applications in the counties named by the FEMA. However, no EM loan can be approved until the National Office has given such notification according to § 1945.20(a)(1) of this subpart;

(ii) Attending or delegating a representative to attend any meeting(s) called by the FCO to discuss Federal assistance under the disaster declaration;

(iii) Advising the FCO to contact the SEB Chairperson, if a request is made by the FCO for FmHA employees to help staff the FEMA's Disaster Assistance Centers; and

(iv) Advising the FCO that reports on FmHA EM loan activity will be provided periodically, if requested, but not more often than once a week.

§ 1945.26 Relationship between USDA, FmHA and SBA.

(a) *General.* Pub. L. 94-305 authorized SBA to assist farmers under its physical disaster and economic injury loan programs; and Pub. L. 96-302 increased FmHA's responsiblity to meet the financial and other needs of farmers caused by disasters. It is the policy of USDA and FmHA to cooperate with SBA in the use of each Agency's respective loan making authorities, both disaster type and regular authorities, to compliment the activities of each other; and, to the extent possible, improve the delivery of disaster assistance to the agricultural segment of the country.

(b) *How SBA disaster loans are made available.* SBA physical and economic injury disaster loans are available in counties;

(1) Named by the FEMA under a major disaster or emergency declaration by the President; or

(2) Declared by the SBA Administratror.

(c) *Notification of SBA disaster areas.* The SBA Central Office will notify the FmHA National Office when its disaster loan program is made available. The National Office will advise State Directors, by letter, of the SBA disaster areas and State Directors will notify the appropriate County Supervisor(s).

(d) *"Memorandum of Understanding Between SBA and FmHA Pertaining to Disaster Loan Assistance Programs".* Exhibit B of Subparts B and D of Part 1945 is a Memorandum of Understanding between SBA and FmHA pertaining to Disaster Loan Assistance Programs, which was entered into on September 26, 1980, and which sets forth how and to what extent the two agencies will cooperate in serving the farm and rural communities affected by disasters.

§ 1945.27 Relationship between FCIC and FmHA.

(a) *General.* Exhibit A of Subpart N of Part 2000 of this Chapter (a copy of which is available in any FmHA office) is a Memorandum of Understanding between FCIC and FmHA. This Memorandum of Understanding is intended to assist in maintaining and improving the working relationship between the FCIC and the FmHA by providing encouragement to regular FmHA borrowers to use Federal crop insurance, where available; requiring certain operating type emergency loan borrowers to obtain and maintain Federal Crop Insurance, where available; assisting FmHA borrowers to obtain crop or other agricultural commodity insurance coverage; and exchanging information essential to the elimination of duplicating compensatory disaster benefits from the FCIC and FmHA for the same disaster losses.

(b) *Annual meeting with FCIC.* FmHA State Directors will meet with FCIC Regional Directors at least once each year to review the Memorandum of Understanding and rededicate their efforts and those of their respective Agency employees to comply with the agreements contained in the Memorandum of Understanding.

(c) *Contact after EM actual loss loans are made available.* After each disaster when EM loans are made available, State Directors are required to promptly contact the FCIC Regional Director to review the Memorandum of Understanding and agree on how each agency will fulfill its responsibilities in dealing with the disaster situation.

(d) *Notification to County Offices.* State Directors *will* provide instructions for actions to be taken by County Supervisors in maintaining a good working relationship with the FCIC staff.

§ 1945.28–§ 1945.29 [Reserved]

§ 1945.30 FmHA Emergency Loan Support Teams (ELST).

(a) *Use of ELSTs.* ELSTs are to be used when a disaster warrants immediate attention by FmHA in implementing the EM loan program. Also, ELSTs are used when such unusually large numbers of EM loan applications are received that personnel from other areas are required to be temporarily assigned to assist in rendering prompt service to the affected area(s).

(b) *State Office ELST.* Each State Director shall form an ELST to be deployed, when needed, in areas affected by a major disaster, Presidential emergency, or a natural disaster. ELSTs shall assist the State Directors in expediting the making of EM loans to disaster victims.

(1) State Directors shall use the ELSTs formed in their State(s) and all other FmHA personnel within their State(s) in making EM loans available. If additional help is needed beyond that available in the State, including the use of overtime, temporary personnel, and/or private contractors, the State Director shall advise the National Office of these needs and request assistance.

(2) Upon request of a State Director, the Assistant Administrator, Farmer Programs, will consider detailing ELSTs from other States to assist in the making of EM loans.

(3) State ELSTs will consist of a team leader and team members, selected by the State Director.

(i) The State ELST can include Farmer Programs Specialists, County and Assistant County Supervisors, Office Management Assistants, County Office Assistants, and County Office Clerks.

(ii) So that no one person or County Office unit bears an unfair burden, State team members will be changed from time to time.

(iii) Team members will provide training in EM loan making and EM loan servicing to all County Office employees.

(iv) District Directors are responsible for notifying the State Director of any need to change a team member within their district.

(4) State ELSTs will be trained as follows:

(i) The National Office will hold training meetings or workshops for ELST leaders as needed; and

(ii) State ELST leaders will be responsible for training and keeping the State team and all other State personnel currently informed on all phases of EM loans.

(5) Each State Director will issue a State Supplement establishing an ELST for the State(s) under his/her jurisdiction. This Supplement will name the team leader and all members. A copy of this Supplement will be sent to the National Office, Attention: Director, Emergency Loan Division.

(c) *National Office ELST Leaders.* The National Office has established a cadre of ELST team leaders.

(1) National Office team leaders will be used as follows:

(i) Training of FmHA field personnel, other USDA personnel, and temporary personnel in the making of EM loans;

(ii) Assisting State Directors in the organizing and expediting of assistance to eligible disaster victims; and

(iii) Leading ELSTs in areas with an unusually large volume of EM loan applications.

(2) Upon request from a State Director, the Assistant Administrator, Farmer Programs, will consider detailing one or more National Office team leaders to assist in the training of personnel and organizing of EM loan processing activities.

§ 1945.31 FmHA Emergency Loan Assessment Teams (ELAT).

In widespread disaster areas where large numbers of EM loan applications are being received, the State Director will deploy ELATs to the affected areas to monitor EM loan processing activities, in order to minimize loan errors, especially in loss calculations and eligibility determinations. The team leader will keep the State Director informed by telephone and by submission of weekly written reports, setting forth the problems discovered and the corrective actions taken or to be taken. Such teams will be composed of State Office Farmer Programs staff members, District Directors or Assistant District Directors, Office Management Assistants, and auditors from the Office of Audit, if they desire to participate. State Directors will monitor the handling of this quality control measure and report their findings to the National Office.

§§ 1945.32–1945.34 [Reserved]

§ 1945.35 Special EM loan training.

(a) *General.* When it is evident that a large number of farmers were affected by a widespread disaster in a State, the National Office will send a qualified representative from the Emergency Loan Division to the State to assist the State Director in conducting a training meeting(s) with State, District and County employees, provided there has not been a recent training meeting in that State.

(b) *Purpose.* A good training program is a must in disaster areas. This program should adequately instruct State and County Office personnel so that when the training is completed they will be well qualified to process EM loans without undue delay. The training meeting will last 2 days (16 hours) and include a workshop and a test.

(c) *Objective.* The basic objective of this training program is to keep State and County personnel properly trained in the currently correct methods of EM loan processing and loan making. This will result in more expeditious service to disaster victims during critical times and minimize erroneous interpretations of regulations by FmHA employees in administering the EM loan program.

(d) *Comprehensive EM loan training package.* A comprehensive EM loan training package has been developed for use by National Office and State Office personnel in training all EM loan writers (both regular and temporary employees). This package, including an application kit, will be used for the EM loan training meetings, and any subsequent EM loan training meetings conducted by State or District personnel.

§§ 1945.36–1945.44 [Reserved]

§ 1945.45 Public information function.

A good public information program is a must in disaster areas. This program should inform farmers and the general public when and where EM loans are available. Also, the information will state the EM loan objectives, eligibility requirements, and type of assistance available. Public information functions will be performed according to Exhibit A of Subpart B of Part 2015 of this chapter, which is available in any FmHA office.

§§ 1945.46–1945.50 [Reserved]

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3. The title of Subpart B is revised to read as follows:

Subpart B—Emergency Loan Policies, Procedures and Authorizations for Those Applications Associated With Disaster Designations Having a Beginning Incidence Period Date Prior to May 26, 1981

4. In § 1945.66, paragraphs (b)(2) (i) and (ii), (d) and (e) are revised to read as follows:

§ 1945.66 Loan purposes.

* * * * *

(b) *Annual production purposes.*

* * * * *

(2) * * *

(i) Borrowers with loans outstanding for any EM purpose on December 15, 1979, may receive subsequent EM loans for annual production purposes, provided no more than five subsequent EM annual production loans are made per disaster, and provided they are made within six full calendar years after the disaster authorization date.

(ii) Borrowers not having outstanding EM loans on December 15, 1979, may receive subsequent EM loans for annual production purposes, provided no more than two subsequent EM annual production loans are made per disaster, and provided they are made within three full calendar years after the disaster authorization date.

* * * * *

(d) *Annual production and major adjustment loan indebtedness ceiling.* The total combined annual production and major adjustment loan(s) principal indebtedness owed by a borrower, insured and/or guaranteed, cannot exceed $1,000,000 at any time during fiscal year 1981, regardless of the number of disasters under which an applicant may qualify. During fiscal year 1982, no such loan assistance may be made or guaranteed in an amount that would cause the combined total of unpaid principal indebtedness to exceed $500,000; and during fiscal year 1983, and all fiscal years thereafter, no such loan assistance may be made or guaranteed in any amount. However, borrowers with EM loans outstanding on December 15, 1979, may receive subsequent EM annual production loans according to the provisions of paragraph (b) of this section in amounts necessary to continue their normal farming operation(s), without regard to this indebtedness ceiling.

(e) *Relationship with Ecomonic Emergency (EE) loans.* When an EM loan(s) for annual production and/or major adjustment purposes is made at the same time as, or after, an EE loan, the EE loan (outstanding principal only) will be subtracted from the loan ceilings set out in paragraph (d) of this section. The difference is the maximum loan which can be made for EM annual production and/or major adjustment loan purposes. However, borrowers indebted for any EM loan on December 15, 1979, will not have the amount of the EE loan subtracted from any subsequent EM annual production loan.

5. In § 1945.69, paragraph (t) is added to read as follows:

§ 1945.69 Security requirements.

* * * * *

(t) *Applicants who can get credit elsewhere.* Those applicants who are able to get credit elsewhere will be required to pledge only that amount of security necessary to fully secure the loan and assure that the Government's interest will be adequately protected.

§ 1945.80 [Amended]

6. In § 1945.80, paragraphs (c) and (d) are removed.

7. Subpart D is added and reads as follows:

* * * * *

Subpart D—Emergency Loan Policies, Procedures and Authorizations for Applications Associated With FmHA Disaster Designations Having a Beginning Incidence Period Date on or After May 26, 1981

Sec.

1945.151 Introduction.
1945.152 Program objectives.
1945.153 [Reserved]
1945.154 Definitions and abbreviations.
1945.155 Relationship between FmHA and other federal agencies.
1945.156 The test for credit and certification requirements for availability of credit elsewhere.
1945.157–1945.160 [Reserved]
1945.161 Receiving and processing applications.
1945.162 Eligibility requirements.
1945.163 Determining qualifying losses, eligibility for actual loss loan(s) and the maximum amount of actual loss loan(s), annual production and major adjustment loan(s).
1945.164–1945.165 [Reserved]
1945.166 Loan purposes.
1945.167 Loan limitations and special provisions.
1945.168 Rates and terms.
1945.169 Security requirements.
1945.170–1945.172 [Reserved]
1945.173 General provisions—compliance requirements.
1945.174 [Reserved]
1945.175 Options, planning, and appraisals.
1945.176–1945.179 [Reserved]
1945.180 County Committee certification.
1945.181 [Reserved]
1945.182 Loan docket preparation.
1945.183 Loan approval or rejection.
1945.184 [Reserved]
1945.185 Actions after loan approval.
1945.186–1945.187 [Reserved]
1945.188 Chattel lien search.
1945.189 Loan closing.
1945.190 Revision of the use of EM loan funds.
1945.191 [Reserved]
1945.192 Loan servicing.
1945.193–1945.200 [Reserved]

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Subpart D—Emergency Loan Policies, Procedures and Authorizations for Applications Associated With FmHA Disaster Designations Having a Beginning Incidence Period Date on or After May 26, 1981

§ 1945.151 Introduction.

(a) *Policy.* This Subpart prescribes the policies, procedures, and authorizations of the Farmers Home Administration (FmHA) for making Insured Emergency (EM) Loans to farmers, ranchers, and aquaculture operators (hereinafter referred to as farmers). FmHA's policy is to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract). These regulations apply to borrowers and FmHA personnel involved in making EM loans.

(b) *Program administration.* The County Supervisor is the local contact person for loan processing and servicing activities.

§ 1945.152 Program objectives.

The objective of EM loans is to provide financial assistance to cover actual losses sustained by eligible farmers, make major adjustments, and provide annual production credit so that they can maintain sound farming operations after they have sustained substantial losses as a result of an authorized disaster. EM loans are made to assist eligible disaster victims in sustaining and rehabilitating their normal operations. This objective will be accomplished through the extension of credit and such supervisory assistance as is determined necessary to achieve the objectives of the loan and protect the Government's interest. Supervisory assistance will be given in accordance with the provisions of Subpart B of Part 1924 of this Chapter.

§ 1945.153 [Reserved]

§ 1945.154 Definitions and abbreviations.

(a) *Definitions.* (1) *Applicant.* The person or entity carrying on the farming operation at the time of the disaster and requesting EM loan assistance from FmHA.

(2) *Approval official.* An FmHA official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA Office (see FmHA Instruction 1901-A, Exhibit C).

(3) *Aquaculture.* The husbandry of aquatic organisms in a controlled or selected environment. Aquatic organisms are fish (the term "fish"

includes any aquatic gilled animal commonly known as "fish," as well as mollusks, crustaceans, or other invertebrates produced under controlled conditions—that is, feeding, tending, harvesting, and such other activities as are necessary to properly raise and market the products—in ponds, lakes, streams, or similar holding areas), amphibians, reptiles, or acquatic plants. An aquaculture operation is considered to be a farm only if it is conducted on grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the applicant and the permit must specifically identify the waters available to be used by the applicant only.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Calendar year.* The 12-month period beginning January 1 and ending December 31.

(6) *Consolidate.* To combine and reschedule the rates and terms of two or more EM loans made for operating purposes. This also may include a new EM loan made for operating purposes.

(7) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm(s).

(8) *Corporation.* For the purpose of this Subpart, a private domestic corporation recognized as a corporation and authorized to carry on farming, ranching, or aquaculture operations under the laws of the State(s) in which the entity will operate a farm(s).

(9) *Deferment.* To postpone the payment of interest in part and/or principal in whole or in part.

(10) *Eligible area.* A county or similar political subdivision in which EM loans are made available.

(11) *Established farmer.* An individual or a principal of a legal entity who was actively participating in the operation and management of the farming operation at the time of the disaster, spends a substantial portion of time in carrying out the farming operation, and had planted a crop or had purchased livestock which were on the farm at the time of the disaster. If the applicant is a cooperative, a corporation or a partnership, it must be primarily engaged in farming, i.e., the entity applicant must derive over fifty percent (50%) of its gross income from the farming operation.

(12) *Family size farm.* A farm which:

(i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(ii) Provides enough agricultural income by itself, including production from rented land, or together with any other dependable income, to enable the borrower to:

(A) Pay necessary family living and farm operating expenses;

(B) Maintain essential chattel and real property; and

(C) Pay debts.

(iii) Is managed by:

(A) The borrower, when a loan is made to an individual.

(B) The members, stockholders or partners responsible for operating the farm when a loan is made to a cooperative, corporation or partnership.

(iv) Has a substantial amount of the labor requirements for the farm and nonfarm enterprises provided by:

(A) The borrower and any family member for a loan made to an individual.

(B) The members, stockholders or partners who are responsible for operating the farm, and the families of these members, stockholders or partners, for a loan made to a cooperative, corporation or partnership.

(v) May use a reasonable amount of full-time hired labor and seasonal labor during peak workload periods.

(13) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which are used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (a)(3) of this section and includes nonfarm operations which meet the requirements set forth in paragraph (a)(22) of this section. It also includes a residence which, although physically separate from the farm acreage; is ordinarily treated as a part of the farm in the local community.

(14) *Farmer.* One who conducts a farming or ranching enterprise. One who actively manages an aquatic operation or performs such duties as are necessary to properly raise and market the products of an aquatic operation. A farmer can be an individual, a cooperative, a corporation, or a partnership.

(15) *Farming enterprise.* The business of producing and marketing crops, livestock, livestock products, and aquatic organisms through the utilization and management of land, water, labor, capital, and basic raw materials.

(i) *Single enterprise.* An enterprise which constitutes an integral part of an applicant's total farming operation. The following are examples of single enterprises:

(A) All cash field crops;

(B) All cash vegetable crops;

(C) All cash fruit and nut crops;

(D) All feed crops fed by applicant;

(E) Beef operations;

(F) Dairy operations;

(G) Hog operations;

(H) Poultry operations;

(I) Aquaculture operations; and

(J) All other operations (*i.e.*, trees grown for timber, etc.)

Note.—Some crops such as corn may be produced as a cash or feed crop. In such cases the actual acres produced for each purpose for the best 4 of the past 5 years will be used in determining production losses for each single enterprise.

(ii) *Basic part of a farming operation.* Any single enterprise which normally generates sufficient income to be considered essential to the success of the total farming operation.

(16) *Fixture.* Generally, an item attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself.

(17) *Hazard insurance.* Includes coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, vehicles, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, workman's compensation, or any similar insurance that is available and needed to protect the security, or that which is required by law.

(18) *Incidence period.* The specific date or dates during which a disaster occured.

(19) *Insured loan.* An EM loan made directly by FmHA as lender from the Agricultural Credit Insurance Fund, and serviced by FmHA personnel.

(20) *Majority or controlling interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, or partnership.

(21) *Market value.* The amount which a willing buyer would pay a willing, but not forced, seller in a competely voluntary sale.

(22) *Nonfarm enterprise.* Any business enterprise, including a recreational enterprise, which provides less than 50 percent of the total net income from all sources (farm and nonfarm), which is needed to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(23) *Normal year's production.* The normal year's yield per acre or

production per animal is established by eliminating the poorest year of the 5-year production history immediately preceding the disaster and averaging the remaining 4 years' production. The applicant must select the year to be eliminated. The year selected to be eliminated must be the same year for all farm commodities (i.e., all crops, livestock and livestock products), which constituted a part of the applicant's farming operation that year. A State Supplement will be issued to establish a uniform source(s) of data for use when county or State average yield per acre or production per animal data is used in determining an applicant's normal year's production. This State Supplement will use records provided by the USDA State Crop and Livestock Reporting service, when available; if these records are not available, statistical data from similar State or Federal bodies may be used. When this information is published by county, county averages will be used. If published only by the State, the State average will be used throughout the State. In those States where neither a county nor State average is published for an agricultural commodity(ies), the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish county or State averages and advise County Offices of these averages in a State Supplement. State Directors and Farmer Programs Chiefs in adjoining States will consult with each other before releasing these figures. An applicant must select and use data from the production record source(s) as set out in paragraphs (a)(23) (i), (ii), and (iii) of this section in the order of priority as listed. This data will be used in determining the applicant's normal year's production for all farm commodities produced on all farms operated by the applicant in the disaster year; except that for tobacco under ASCS acreage-poundage control, the pounds per acre allotment as authorized by ASCS for the disaster year will be used as the applicant's normal year's production. The applicant will identify, on Form FmHA 1945-22, the production record source(s) to be used in determining the normal year's production. The priority order of production record use is:

(i) The applicant's actual reliable farm records.

(ii) The Agriculture Stabilization and Conservation Service (ASCS) established yields. When this production record source is used, an applicant need provide production data for only the disaster year. This production record source will be used only if the applicant's actual reliable farm records are not available.

(iii) County or State averages. When this production record source is used an applicant need provide production data for only the disaster year. This production record source will be used only if neither the applicant's actual reliable farm records nor ASCS established yields are available.

(iv) Combinations of the production record sources in priority of availability as listed in paragraphs (a)(23) (i), (ii) and (iii) of this section, provided the applicant has:

(A) Farmed for fewer than 6 production years; or

(B) Conducted different farming enterprises and/or produced different agricultural commodities from those conducted and/or produced in the disaster year, for one or more of the 5 years prior to the disaster.

(24) *Partnership.* An entity consisting of individuals or entities who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm, and must be authorized to own both real and personal property and to incur debts in its own name.

(25) *Physical loss.* Damages to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; livestock; livestock products; harvested crops; and supplies.

(26) *Principal Members, Stockholders, and Partners.* Any member, stockholder, or partner owning or controlling a 10 percent interest in a cooperative, corporation, or partnership is considered a principal member, principal stockholder, or principal partner. If no member, stockholder, or partner owns or controls at least a 10 percent interest, all members, partners, or stockholders will be considered principal members, partners, or stockholders.

(27) *Production loss.* The reduction in normal production, directly attributable to the natural disaster, of yield per acre and/or quality of crops produced, of quantity and/or quality of livestock products produced per animal unit, and of weight gain and/or natural increase in numbers of livestock units.

(28) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster as defined in Subpart A of Part 1945 of this chapter.

(29) *Qualifying physical loss.* To qualify for EM loan assistance, the damaged or destroyed physical property must be essential to the successful operation of the farm, and if it is not repaired or replaced, the farmer would be unable to continue operations on a reasonably sound basis.

(30) *Qualifying production loss.* To qualify for EM loan assistance based on production losses, the production loss an applicant sustained from the disaster must be equivalent to at least a 30 percent loss of normal per acre or per animal production in any single enterprise which is a basic part of the total farming operation. Losses of livestock increases, e.g., calves, pigs, etc., are considered production losses, except when live animals are destroyed. When an animal is killed, lost or sold because of injury or reduced production potential caused by the disaster, it is considered a physical loss. Reductions in the production of livestock, livestock products or reductions in weight gains of animals, due to homegrown feed crop and/or pasture losses, will not be considered production losses when replacement feed is available to purchase, regardless of the cost of that feed (normally production losses to livestock enterprises will be based on feed crop and pasture losses). When the disaster has severely disrupted the usual feeding schedule of a livestock enterprise because of extended utility failure or inaccessibility to the livestock, losses in production of milk, eggs, weight losses, etc., may be considered as production losses. Production losses will be calculated based on the reduction from normal which occurs during the disruption period and the period needed to bring production back up to the normal level.

(31) *Reamortize.* To rearrange the payments of an EM loan made for real estate purposes within either the remaining years of the original repayment period, or, when the repayment period has been extended to the maximum statutory repayment limit, within those years.

(32) *Reschedule.* To rewrite the rates and/or terms of EM loans made for operating purposes.

(33) *Security.* Property of any kind subject to a real or personal property lien.

(i) *Basic security.* Real estate and fixtures and personal property such as foundation herds, flocks, aquatic animals and plant organisms, machinery, and equipment, serving as security and crops when crops are the only security.

(ii) *Normal income security.* All security planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is

approved, such security becomes basic security.

(iii) *Additional security.* All security not covered by paragraphs (a)(33) (i) or (ii) of this section including general intangibles, accounts, and contract rights.

(34) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(35) *Subsequent loans.* Any EM loans processed by the Finance Office after it processed the first EM loan to a borrower. This includes any subsequent annual production loans. The disaster designation number has no effect in determining whether an EM loan is a subsequent loan.

(36) *Termination date.* The date specified in a disaster authorization which establishes the final date after which EM loan applications may no longer be accepted. For both physical and production losses, the termination date will be 9 months from the date of the disaster declaration/designation/authorization. However, applications will be accepted for EM loans after the termination date has passed, if the applicant had filed an application for disaster loan assistance with the Small Business Administration (SBA) during the period SBA would accept applications, provided not more than 6 months has elapsed since the FmHA's termination date.

(b) *Abbrevations.* The following abbreviations are used in this Subpart.

(1) ASCS—Agricultural Stabilization and Conservation Service.

(2) ECP—Emergency Conservation Program.

(3) EFP—Emergency Feed Program.

(4) EM—Emergency Loans.

(5) FCIC—Federal Crop Insurance Corporation.

(6) FmHA—Farmers Home Administration.

(7) FMI—Forms Manual Insert.

(8) OGC—Office of the General Counsel.

(9) SBA—Small Business Administration.

(10) UCC—Uniform Commercial Code.

(11) USDA—United States Department of Agriculture.

§ 1945.155 Relationship between FmHA and other federal agencies.

(a) *SBA and FmHA.* A Memorandum of Understanding between the SBA and USDA-FmHA pertaining to Disaster Loan Assistance is attached as Exhibit B.

(b) *ASCS and FmHA.* A Memorandum of Understanding between the ASCS and FmHA on Disaster Assistance is attached as Exhibit C.

(c) *FCIC and FmHA.* A Memorandum of Understanding between the FCIC and FmHA pertaining to crop insurance and exchanging information essential to the elimination of duplication of disaster compensatory benefits is Exhibit A of Subpart N of Part 2000 of this Chapter (available in any FmHA office).

§ 1945.156 The test for credit and certification requirements for availability of credit elsewhere.

(a) *Applicants who certify that other credit is available.* Applicants applying for EM actual loss loan assistance who certify they are *able* to obtain sufficient and suitable credit elsewhere to meet their actual farming and family living needs must meet the requirements set out in this section.

(1) Individual applicants or the authorized official(s) of entity applicants who submit the Form FmHA 410-1, "Application for FmHA Services," will evidence the applicant's ability to obtain needed credit elsewhere by striking through the word "unable" whenever the word appears in the certification statement at the end of the application form, writing in the word "able," and initialing above each such change.

(2) Applicants or applicants' representatives will be advised that they will be considered for an actual loss loan only. Such applicants will not be required to evidence compliance with the provisions of subsection (b) of this section.

(b) *Applicants who certify that other credit is NOT available.* Applicants who certify they are not able to obtain sufficient credit elsewhere to meet their actual farming and family living needs must meet the requirements set out in this subsection.

(1) *Test for credit for individuals and entities.* Applicants must be *unable* to obtain sufficient and suitable credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides, with loans for similar purposes and periods of time. If the applicant has been getting credit away from the local community where the farming operation is located, such source(s) of credit must also be contacted and considered. The applicant's equity in all assets, including, but not limited to, real estate, chattels, stocks, bonds, and Certificates of Deposit will be considered in determining the applicant's ability to obtain such credit from other sources. Also, the applicant must offer to pledge all assets as security when requesting credit from other lenders. Cooperatives, corporations, and partnerships and the principal members, principal stockholders, and principal partners, both individually and collectively, must be unable to provide the required financing from their own resources or with credit obtained from pledging those resources to other lenders. Form FmHA 1940-38, when appropriate, must be completed and filed in the applicant's County Office case folder, and any additional facts concerning the findings, in all cases, must be documented and recorded in the running case record.

(2) *Test for credit certification requirements.* Applicants will certify in writing on the application form, and the County Supervisor *shall* make the determination whether or not adequate and suitable credit is available elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides, with loans for similar purposes and periods of time. The County Supervisor will consider all such information obtained from other lenders in making the determination, but is required to make an independent decision concerning the applicant's ability to obtain the needed credit elsewhere. Should the County Supervisor determine that the applicant can obtain the necessary credit elsewhere to meet actual needs, the applicant will be notified, in writing, that he/she/it is eligible for only actual loss loan consideration, that the applicant must comply with the requirements set out in paragraph (a) of this section, and that a new certification must be signed by the applicant acknowledging the ability to obtain other credit. Should the applicant refuse to comply with the provisions of paragraph (a)(1) of this section, the County Supervisor will record this fact in the running record and notify the applicant that EM loan assistance has been denied, state the reason(s) for denial, and inform the applicant of the right of appeal.

(i) For applicants whose total EM loan(s) request is for $300,000 or less, the following actions will be taken:

(A) Applicants will be required to apply for the credit needed from their normal lender(s) and, if their normal lender(s) is located outside the local community, from at least one agricultural lender in the local community, to determine whether such

lender(s) will provide the credit, either with or without the benefit of an FmHA guarantee. Form(s) FmHA 1940–38 must be completed by all lending sources contacted unless an exception is made under the provisions of paragraph (b)(2)(i)(C) of this section. If it is determined the applicant cannot qualify for the needed credit from the lenders contacted, but one or more of them has indicated they would provide the credit with an FmHA guarantee, the applicant will be advised to file an application with that lender(s) so that a guaranteed EM loan request can be processed by the lender for consideration by FmHA. Only when the applicant is not able to obtain a loan, either with or without an FmHA guarantee, from one or more of the lending sources contacted, will the applicant be considered for an insured EM loan. If the County supervisor believes it necessary, the action required in subparagraph (b)(2)(ii) of this section will be taken.

(B) When the County Supervisor receives letters or other written evidence, including Form FmHA 1940–38, from a lender(s) indicating that the applicant is unable to obtain satisfactory credit from that source(s), such correspondence will be included in the loan docket.

(C) If it appears from a review of the application that it would be unduly burdensome for the applicant to obtain written declinations of credit from other lenders, the County Supervisor may make an exception to this requirement, provided the County Supervisor is familiar enough with other lenders' farm loan programs to determine that no possibility exists for the applicant to obtain the credit needed from those lenders. When this conclusion is reached, the basis for it will be recorded in the running case record, and further checks will not be necessary. However, when this exception is used, the applicant's normal lender(s) must be contacted in all cases and the results of that contact(s) must be well documented in the running case record.

(ii) For applicants whose total EM loan(s) request is for more than $300,000, the following actions will be taken:

(A) Applicants will be required to apply at not fewer than three conventional lending sources, including the Production Credit Association or Federal Land Bank, as appropriate, in the local community. In addition, when an applicant has a net worth of $1 million or more and produces evidence that the necessary credit cannot be obtained in the local community, either with or without an FmHA guarantee, the applicant will be required to contact at least two other lending sources outside the local area. One or more of those lenders contacted must be the applicant's normal lender(s).

(B) Form FmHA 1940–38 must be completed by all lending sources contacted, returned to the county office and handled in accordance with paragraph (b)(2)(i)(B) of this section.

(C) When the County Supervisor receives Forms FmHA 1940–38 indicating that the applicant is unable to obtain satisfactory credit, the forms will be placed in the loan docket. However, such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent determination of the applicant's ability to obtain credit elsewhere.

(3) *Use of nonessential assets (both farm and nonfarm) when seeking other credit, for those applicants who cannot obtain credit elsewhere.* When an EM loan(s) will be made, after other lenders have declined to provide needed credit to the applicant, the County Supervisor will, as a condition of loan approval, require the applicant and the principal owner(s) of the applicant entity to list all assets (both essential and nonessential) setting forth: why those assets and any income derived from them is needed; and how such assets and the income derived from them will be used for essential family living expenses and for maintaining a sound farming operation. The loan approval official must determine that the applicant's plan for use of all assets and the income derived therefrom is acceptable; and the loan approval official will require the applicant and the principal owner(s) to mortgage and/or assign their interest in such assets to FmHA. Any assets not contributing to essential family living expenses and maintenance of a sound farming operation will be considered nonessential; and the applicant and the principal owner(s) must, as a condition of loan approval, agree to sell the nonessential assets. The proceeds from such sale(s) will be used to reduce the amount of EM loan(s) requested, provided the assets can be sold prior to the EM loan(s) closing. If the nonessential asset(s) cannot be sold before loan(s) closing, the ownership interest in those assets will be mortgaged and/or assigned to FmHA; and a written agreement prepared and executed, in a manner approved by the OGC, to sell those assets at their present market value, within a specified period not to exceed one year from the date of loan(s) closing. The proceeds from the sale of such assets will be applied as an extra payment on the FmHA loan carrying the lowest interest rate, which is secured by the asset(s) sold.

§§ 1945.157–1945.160 [Reserved]

§ 1945.161 Receiving and processing applications.

(a) *Applications.* Applications for EM loans will be received and processed as outlined in Subpart A of Part 1910 of this Chapter. Form FmHA 410–1 will be used for this purpose.

(a) Applications for EM actual loss loans will be received only in areas where EM loans are made available in accordance with Subpart A of Part 1945 of this Chapter, and must be postmarked or received in the county office before the specified termination date has passed. These applications must be processed within twelve months after they are filed.

(2) An applicant conducting a farming operation in different counties or locations will be considered for only one application, and will file that application in the county in which the farm headquarters is located, unless determined otherwise by the State Director. When the operation is located in more than one State, the State Directors involved will consult and determine which State will process the application and service the loan(s).

(3) Applications for initial EM major adjustment and/or initial annual production loans may be processed only from applicants who will receive, or have received, an EM actual loss loan(s) and are unable to obtain their needed credit elsewhere. Such applications may not be received later than twelve months after the disaster authorization date and must be processed within one full calendar year after they are filed.

(4) Applications for subsequent EM annual production loans may be processed from indebted EM borrowers annually for such periods after the disaster year as indicated in § 1945.166(b)(2) of this Subpart, so long as the borrower is unable to obtain the needed production credit from other sources. Former EM borrowers who have paid their EM loan(s) in full, before the periods specified in § 1945.166(b)(2) of this Subpart have expired, and who cannot obtain sufficient credit elsewhere, may obtain subsequent EM loans for annual production purposes to satisfy their production credit needs, provided the loans are made within the authorized periods.

(5) Applications may be received from indebted SBA disaster loan borrowers for annual production and/or major adjustment loan(s) for up to twelve months after the FmHA disaster

authorization date, provided the applicant would have been eligible for an FmHA EM actual loss loan. Such applications must be processed within one full calendar year after they are filed with FmHA.

(6) Applications may be received and processed from FmHA EM loan borrowers or SBA disaster loan borrowers for that portion of the maximum actual loss loan originally authorized, but not requested initially from FmHA or SBA, provided the application is received within twelve months of the disaster authorization date.

(7) Applications for subsequent EM major adjustment loans to complete items financed with initial EM major adjustment loans may be received and processed only within one full calendar year after the initial application for major adjustment assistance is filed.

(8) Applicants who are determined to be ineligible for an EM actual loss loan may be considered for other types of FmHA farm loans, when appropriate.

(b) *Statement of losses.* Applicants' statements of loss or damage will be obtained in support of their applications by having them complete Form FmHA 1945–22, "Certification of Disaster Losses."

(c) *ASCS Verfication of Farm Acreages, Production and Benefits.* From information obtained on Form FmHA 1945–22, the County Supervisor will send a separate Form FmHA 1945–29, "ASCS Verification of Farm Acreages, Production and Benefits," to the appropriate ASCS county office for each ASCS farm number that the applicant has certified constituted a part of the disaster year's operation. ASCS records of acres of crops planted/grown in the disaster year, actual (proven) yields in the disaster year, ASCS established yields for the disaster year, ASCS emergency payments and the other information requested on that form must be obtained.

(d) *Evidence of operation.* If the applicant is a cooperative, corporation or partnership, it will provide evidence that it was operating as a qualifying farming entity at the time the disaster loss occurred, or has changed its form in accordance with § 1945.162(j) of this Subpart, after the loss occurred. The following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership, or stock held in the cooperative or corporation by each, or the percentage of interest held in the partnership by each.

(2) A current personal financial statement (not over 30 days old at the time of filing the application) from each of the principal members of a cooperative, principal partners of a partnership or principal stockholders of a corporation. Any other member, stockholder or partner whose financial statement, in the judgment of the loan approval official, is pertinent to consideration of the financial strength of the cooperative, corporation, or partnership will also be required to provide personal financial statements.

(3) A current financial statement (not over 30 days old at the time of filing the application) from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative's or corporation's charter, or written partnership agreement, articles of incorporation and by-laws; certificate or evidence of current registration (good standing), and a resolution(s) adopted by the board of directors, members or stockholders authorizing specified officers of the cooperative or the corporation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation or partnership which may be pertinent to a consideration of its application. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

§ 1945.162 Eligibility requirements.

To be eligible for EM loan assistance, applicants must meet the following requirements:

(a) *Test for credit.* All applicants will certify in writing at the end of Form FmHA 410–1, whether or not adequate and suitable credit is available elsewhere to finance their actual needs.

(1) Applicants who filed EM applications on or before July 2, 1980, requesting actual loss loan assistance based on FmHA disaster designations having beginning incidence period dates on or before July 2, 1980, must meet the "credit elsewhere" requirement set out in § 1945.156(b) of this Subpart. Applicants who filed after July 2, 1980, based on disaster incidence period dates on or before July 2, 1980, must also meet the requirement of section 1945.156(b) of this Subpart.

(2) Applicants who filed EM applications after July 2, 1980, requesting actual loss loan assistance, based on FmHA disaster designations having beginning incidence period dates after July 2, 1980, may meet the requirements set out in either § 1945.156(a) or § 1945.156(b) of this Subpart.

(3) Applicants requesting EM annual production and/or EM major adjustment loan assistance must meet the requirements set out in § 1945.156(b) of this Subpart.

(b) *Citizenship.* (1) An individual applicant must be a citizen of the United States (see § 1945.154(a)(34) of this Subpart for the definition of "United States").

(2) A cooperative, corportion or partnership applicant must meet the requirements set out in § 1945.154(a)(7), (a)(8) or (a)(24) of this subpart. In addition, more than a 50 percent interest in the cooperative, corporation or partnership must be owned by United States citizens (see § 1945.154(a)(34) of this Subpart for the definition of "United States"). The member, stockholder or partner who manages the farming operation must be a United States citizen. Also, if another entity owns any interest in the applicant entity, more than a 50 percent interest in that other entity must be owned by a United States citizen(s).

(c) *Established farmer.* An applicant must be an established farmer (as defined in § 1945.154(a)(11) of this Subpart) doing business either as an owner-operator or tenant-operator. An applicant who conducts the farming operation as an individual must manage the farming operation. If the applicant is a cooperative, corporation or partnership, it must derive over fifty percent (50%) of its gross income from farming, and at least one principal member, principal stockholder or principal partner must manage the farming operation. Also, the entity must be authorized to conduct the farming operation(s) in the State(s) in which the farming operation is conducted. One who does not devote full time to the farming operation may be considered the manager provided that person visits the farm at sufficiently frequent intervals to exercise control over the farming operation, makes decisions and gives directions on how the operation(s) should be run, and sees that the operation is being carried on properly. Any applicant that employs an outside full-time hired manager or management service does not qualify as an established farmer, regardless of the number of visits made by the individual applicant or the principal member, principal stockholder or principal partner.

(1) An estate or trust; a corporation with over 50 percent of the ownership held by an estate, trust, another corporation, or a partnership; a

partnership with over 50 percent of the ownership held by an estate, trust, corporation or another partnership is not considered to be an established farmer for EM loan purposes.

(2) An individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to be an established farmer for EM loan purposes.

(3) Integrated livestock, poultry, and fish processors who operate primarily and directly as commercial businesses through contracts or business arrangements with farmers are not considered to be established farmers and are not eligible. However, a grower under contract with an integrater or processor is considered an established farmer even though the applicant operates through a contract arrangement with an integrated processor, provided the operation is not managed by an outside full-time hired manager or management service. Farmers operating through contract may be considered for EM physical loss loan eligibility. However, eligibility for and the amount of their production losses will be determined from the applicant's share of the agricultural production as set forth in the contract.

(d) *Operate in a disaster area.* An applicant for an actual loss loan must have sustained qualifying losses in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of Part 1945 of this Chapter and has filed an application before the expiration of the termination date.

(e) *Losses.* An applicant must have suffered qualifying production and/or physical losses to be eligible for an actual loss loan. Production losses must be to property in which the applicant has an ownership interest or an interest in which a security interest may be obtained. Physical losses must be to property in which the applicant has an ownership interest. See § 1945.163 of this Subpart for the methods of determining qualifying losses.

(f) *Legal capacity.* An applicant must possess the legal capacity to contract for the loan.

(g) *County Committee Certification.* The county committee will certify that the applicant meets the following additional eligibility conditions by using Form FmHA 440–2, " County Committee Certification or Recommendation:"

(1) An applicant must possess the training and/or experience, character (emphasizing repayment ability and reliability), industry and ability necessary to carry out the proposed farming operations to assure a reasonable prospect of success with the assistance of the loan, and

(2) The applicant will honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(h) *Intent to Continue Farming.* An applicant must show an intent to continue the operation after the disaster. Those applicants who were required to stop temporarily because of the disaster loss or damage to their operations but intend to continue farming with EM loan assistance meet this requirement.

(i) *EM Loan(s) to Cooperatives, Corporations, or Partnerships.* When an EM loan is made to a cooperative, corporation, or partnership, only one initial EM actual loss loan can be made to the entity constituting the farming operation to cover the losses per disaster. However, an individual member, stockholder, or partner may obtain a separate EM actual loss loan to cover losses to a separate farming operation which the applicant conducts as an individual on a different farm tract.

(j) *Change in the form of an applicant.* A change in the form of an applicant between the time of a qualifying loss and the time an EM loan is closed does not make the applicant ineligible for EM loan assistance (Examples of changes in form are as follows. An entity may split into its individual members or into more than one entity. One or more individuals may leave an entity. An individual may incorporate. A partnership may become a corporation, a cooperative, or another partnership. A corporation may become a partnership, a cooperative, or another corporation. A cooperative may become a partnership, a corporation, or another cooperative. Joint operators may become a partnership, a corporation, a cooperative or may split into individual members.) Such an applicant is eligible for EM loan assistance subject to all of the following limitations and qualifications:

(1) The applicant must meet all FmHA eligibility requirements at the time of loan closing.

(2) The applicant must not conduct an operation larger than the operation at the time of the disaster as set forth in § 1945.167(a) of this Subpart.

(3) In the case of an entity applicant, all of the people who have an interest in the entity must have had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster and/or must be heirs of those who had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster. Heirs have to have been participating in the operation at the time the disaster occurred and have to be engaged in farming the operation at the time of loan approval.

(4) In the case of an individual applicant, that person must have had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster and/or must be an heir of those who had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster. An heir has to have been participating in the operation at the time the disaster occurred and has to be engaged in farming the operation at the time of loan approval.

(5) To determine the amount of an actual loss loan an applicant may receive, first calculate the actual loss suffered by the operation as it existed at the time of the disaster, in accordance with § 1945.163 of this Subpart. Then look at the individual applicant *or* the individual members, partners or stockholders of an entity applicant and determine each person's percentage of ownership interest (or interest in which a security interest could be obtained) in the operation as it existed at the time of the disaster. For an entity applicant, add the individual percentages together. Multiply the actual loss suffered by the operation as it existed at the time of the disaster by this percentage figure; the result is the amount of actual loss loan the applicant may receive. For example, if one partner withdraws from a four-partner partnership (each person owning a 25% interest), the remaining three partners are eligible for 75 percent of the actual loss suffered by the operation as it existed at the time of the disaster.

(6) The applicant may receive FmHA annual production and/or major adjustment assistance needed to conduct a sound farming operation in accordance with the loan purposes authorized in this Subpart.

(k) *Annual production and major adjustment loans.* For an applicant to be eligible for an annual production and/or major adjustment loan(s) the qualifying losses (as determined in accordance with § 1945.163 of this Subpart) and the actual loss must have had such an impact on the farming operation that an annual production and/or major adjustment loan(s) is actually needed to permit the applicant to continue the operation on a sound basis.

§ 1945.163 Determining qualifying losses, eligibility for actual loss loan(s) and the maximum amount of actual loss loan(s), annual production and major adjustment loan(s).

Disaster losses will be reported by applicants on Form FmHA 1945–22, "Certification of Disaster Losses," which states the physical and production losses suffered as the result of the qualifying disaster. The applicant will report, on Form FmHA 1945–22, total acres and actual yields for all crops planted and/or grown in the disaster year, and the number of all animal units and production per animal unit being maintained at the time of the disaster. This information will come from the applicant's own records or from ASCS records of acres grown and proven actual yields in the disaster year. Applicants will also report their previous 5-year production levels as set forth in subsection (a) of this section. This form will be completed and submitted to the county office with the application, as soon as the losses and/or damages can be accurately assessed. The information provided by applicants on Form FmHA 1945–22 will be the primary basis for FmHA's calculation of qualifying losses, eligibility for EM actual loss loan(s) based on production losses, and an applicant's maximum amount of actual loss loan eligibility. Therefore, applicants are required to certify, subject to penalties of law, that the accuracy and completeness of the information provided on Form FmHA 1945–22 can be supported by written records. Applicants will be asked to identify on that form any single farming enterprise they consider basic to the success of their total farming operation, and in which they have suffered a loss. When an applicant's certified production loss claims seem unreasonable, they will be verified. Physical loss claims will be verified by requiring the applicant to furnish evidence of ownership and proof of the property loss or damage. Proof of ownership could be by deeds, mortgages, financial statements, insurance policies, and the like. Proof of the loss or damage could be by the applicants' own pictures, written certification by other persons or, when practical, by visual inspections by FmHA employees.

(a) *Production losses.* (1) The normal year's production will be established and reported as set out in § 1945.154(a)(23) of this Subpart.

(2) FmHA loan official(s) will complete Form FmHA 1945–26, "Calculation of Actual Losses."

(i) Production loss calculations will use the same established unit prices for the disaster year and the normal year in computing the dollar value of each enterprise. Unit prices will be established in accordance with subparagraph (a)(2)(iii) of this section. Production loss calculations will use those crop production yields and production per animal unit records authorized in accordance with § 1945.154(a)(23) and § 1945.163 of this subpart.

(ii) Certified disaster year and normal year production information, for only those enterprises in which a loss occurred, will be transposed from Form FmHA 1945–22, for each crop grown in the disaster year and each livestock enterprise maintained at the time of the disaster, to the appropriate places on Form FmHA 1945–26. The FmHA official completing Form FmHA 1945–26 is responsible for verifying loss information provided by the applicant when there is any question concerning the accuracy of such information. Information obtained from ASCS on Form FmHA 1945–29 will be cross checked with information provided by the applicant on Form FmHA 1945–22. Any discrepancies will be checked out and the correct information will be recorded in the County Office case file. When the applicant's disaster loss is due to a reduction in quality, that can be substantiated rather than due to a reduction in quantity, the applicant will be given credit for this by adjusting actual production downward in a sufficient amount to compensate for the quality loss. When such an adjustment is made, the basis used in making the adjustment will be well documented by the County Supervisor.

(iii) The gross dollar value of production losses will be computed for each basic part of the farming operation by calculating the value of the disaster year's production and subtracting that amount from the calculated value of the normal year's production. Unit prices for all agricultural commodities produced commercially in each State will be established on a Statewide basis by all FmHA State Directors each year, and published in a State Supplement to be issued not later than February 15 of each year. These prices will be based on the average monthly market price of each commodity for the 36-month period preceding the calendar year in which the disaster occurs.

Example.—A disaster occurs anytime during calendar year 1981. The commodity prices will have been established by February 15, 1981, and they will be applicable for all disasters occurring between February 1, 1981, and January 31, 1982. Those prices will be the 36 months average monthly market price for each commodity commencing with December, 1980, and going back 36 months or 3 full calendar years, through January, 1978. The monthly average market prices will be provided by the USDA State Crop and Livestock Reporting Service, or similar State or Federal agency or body. Once established, these prices will not be changed for any EM actual production loss loan processed under any disaster occurring in the remainder of that calendar year and through January 30 of the next year. If Statewide figures are not available, the State Director will consult with other agricultural agency representatives and agricultural leaders in the local area before establishing commodity prices. State Directors and Farmer Programs Chiefs in adjoining States will consult each other before releasing their established commodity price lists.

(iv) The amount of actual production loss will be calculated by subtracting all compensatory disaster payments which are related to the disaster and which have been received or will be received; i.e., crop insurance claim settlements, ASCS disaster program payments, or any other compensation for that enterprise, from the gross dollar amount of production losses as determined in subparagraph (a)(2)(iii) of this section.

(v) The dollar value of the actual production loss for the single enterprise which is a basic part of the farming operation as designated by the applicant in item F, Form FmHA 1945–22, will be divided by the previously calculated normal year's gross income for that enterprise. This establishes the percentage reduction in production from normal for that enterprise. If the percentage loss in any single enterprise (see § 1945.154(a)(15)) which is a basic part of the farming operation equals or exceeds 30 percent, and the applicant is otherwise eligible, EM actual loss loan assistance will be considered.

(vi) Once eligibility is established, based on production losses, the total production loss sustained by the applicant, directly attributable to the disaster, is computed by adding the actual dollar amount of production losses of all single enterprises, whether or not they constitute a basic part of the farming operation, and subtracting from this total all compensatory disaster payments received or to be received.

(vii) The maximum production loss loan is limited to 80 percent of the total calculated actual production loss sustained by the applicant.

(viii) Losses to pasture to be grazed by livestock are production losses, and they may be calculated by one of three methods when approved by the State Director. The State Director will decide the method(s) that will be used throughout the State to calculate losses

to pasture by issuance of a State Supplement.

(A) The price per acre method. The price per acre method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year's gross dollar value. To calculate this, multiply the number of acres available to be grazed for the disaster year; by the established rental charge per acre per month (this figure is established by the State Director in accordance with subparagraph (a)(2)(iii) of this section); by the average number of months grazed per year during the highest 4 out of the 5 preceding years.

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply the number of acres grazed during the disaster year; by the established rental charge per acre per month (as determined in accordance with subparagraph (a)(2)(viii)(A)(*1*) of this section); by the number of months the livestock were able to be grazed during the disaster year.

(*3*) Subtract the disaster year gross dollar value (see paragraph (a)(2)(viii)(A)(*2*) of this section) from the normal year gross dollar value (see paragraph (a)(2)(viii)(A)(*1*) of this section) to determine the value of pasture loss suffered during the disaster year.

(B) The charge per head or animal unit method. The charge per head or per animal unit method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year gross dollar value. To calculate this, multiply the number of animals or animal units grazed per month during the disaster year; by the established rental charge per animal or per animal unit per month (this figure is established by the State Director in accordance with subparagraph (a)(2)(iii) of this section); by the average number of months grazed per year during the highest 4 out of the preceding 5 years.

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply the number of animals or animal units grazed per month during the disaster year; by the established normal rental charge per animal or per animal unit per month (as determined in accordance with paragraph (a)(2)(viii)(B)(*1*) of this section); by the number of months grazed during the disaster year.

(*3*) Subtract the disaster year gross dollar value (see paragraph (a)(2)(viii)(B)(*2*) of this section) from the normal year gross dollar value (see subparagraph (a)(2)(viii)(B)(*1*) of this section) to determine the value of pasture loss suffered during the disaster year.

(C) The forage equivalent method. The forage equivalent method is used to calculate pasture losses in the following manner:

1(*1*) Determine the normal year gross dollar value. To calculate this, multiply the number of acres grazed during the disaster year; by the established price per pound or ton (this figure is established by the State director in accordance with paragraph (a)(2)(iii) of this section); by the average number of pounds or tons of forage equivalent produced per acre per year during the highest 4 out of the preceding 5 years for forage of the type being used in this calculation. (The State Office will set forth the forage equivalent values to be used or the methodology to be used to derive this value in a State Supplement. This information may be set forth on a countywide or statewide basis. The State Director may contact the State's Extension Service or other knowledgeable sources to assist in establishing the forage equivalent determination).

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply the number of acres grazed during the disaster year; by the established price per pound or ton (this figure is established by the State Director in accordance with subparagraph (a)(2)(viii)(C)(*1*) of this section); by the number of pounds or tons of forage equivalent produced for forage of the type being used in this calculation produced in the disaster year. (See subparagraph (a)(2)(viii)(C)(*1*) of this section for further information.)

(*3*) Subtract the disaster year gross dollar value (see subparagraph (a)(2)(viii)(C)(*2*) of this section) from the normal year gross dollar value (see subparagraph (a)(2)(viii)(C)(*1*) of this section) to determine the value of pasture loss during the disaster year.

(ix) When a crop cannot be planted and the applicant chooses to treat the loss as a production loss, the loss will be calculated as set out in this paragraph. When a crop can be only partially planted due to a disaster or when perennial crops (such as fruits or nuts) already growing cannot be produced or harvested due to a disaster, the loss will be considered a production loss. Such loss will be calculated as follows: Add all income that is derived from the enterprise to the variable and fixed costs which are not incurred because of the disaster. (The cost figures will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists, based on normal farming conditions in the area.) Subtract this figure from the value of the normal year's production. The resulting figure is the gross dollar amount of production loss.

(x) When a crop is planted and completely destroyed by a disaster, a yield of "zero" may be shown on Form FmHA 1945–22 for the disaster year only if no part of the crop could be harvested and no substitute crop could be planted and harvested. When figuring the actual dollar amount of production losses, subtract the normal costs of harvesting and marketing which were not incurred for crops which were completely destroyed by a disaster. If a substitute crop is planted and harvested during the same crop year, a yield of "zero" should be shown for the original crop on Form FmHA 1945–22. On Form FmHA 1945–26, the dollar value of the substitute crop must be subtracted from the dollar value of the normal year's production.

(xi) When a crop cannot be planted, an applicant may treat the loss as a production loss (see paragraph (a)(2)(ix) of this section) or as a physical loss (see subsection (b) of this section).

(xii) Eligibility for production losses to livestock enterprises will usually be based on loss of feed crops to be fed and pasture to be grazed; and such losses should be calculated as crop losses rather than livestock losses. A livestock enterprise must be a basic part of the farming operation in order for losses to feed crops to be considered as a basic enterprise in determining eligible qualifying production losses.

(xiii) Losses to crops to be fed to livestock will be established by determining the normal year's gross dollar value of feed produced for livestock and subtracting the disaster year's gross dollar value of feed produced for livestock from this figure. The difference establishes the disaster year's gross dollar loss for crops to be fed to livestock. The gross value of feed produced for livestock is derived by multiplying the number of crop acres to be fed to livestock by the yield per acre by the unit price.

(xiv) When an applicant elects to sell livestock at an earlier date or lighter weight than usual rather than purchase feed to replace that which was lost as a result of the disaster, the difference between what the sale price would have been if the livestock had been fed for the normal period and the disaster year's sale price may not be claimed as a loss.

(xv) Claims of production losses from the applicant will be verified by FmHA when the applicant's claims appear to be unreasonable.

(xvi) Production losses for orchard crops (fruit or nut) will be only for the crop loss due to the qualifying disaster

and determined in accordance with paragraph (a)(2) of this section.

(b) *Physical losses.* (1) In order to qualify for EM loan assistance, the damaged or destroyed physical property must be essential to the successful operation of the farm and if not repaired or replaced, the farmer would be unable to continue operations on a reasonably sound basis. The financing necessary to recover from the physical loss must be actually needed to permit the applicant to continue the operation.

(2) The claimed value of all physical losses due to disaster damage or destruction must be supported by written estimates for the necessary repair or replacement requested.

(3) Physical loss loan funds can be used to pay for only contracted or hired labor and materials and supplies purchased. Labor, machinery, equipment, and materials contributed by the applicant or borrower will not be chargeable to the cost of necessary repair and replacement.

(4) Damage to or destruction of nonessential buildings, structures or other items will not be repaired or replaced with EM physical loss loan funds. Any insurance compensation received or to be received for such losses will be considered as compensation for losses to essential farm buildings, structures and other items which need to be repaired or replaced.

(5) The maximum physical loss loan(s) will be determined by subtracting all insurance claims and any other compensation received or to be received for physical disaster losses from the value of all actual physical losses caused by the disaster.

(6) The actual physical loss equals the market value at the time of the disaster for the following items lost or destroyed by or as a result of the disaster:

(i) Basic livestock.

(ii) Livestock products.

(iii) Harvested or stored crops.

(iv) Supplies on hand.

(7) The actual physical loss for farm dwellings to be used by the operator and existing labor is the lesser of:

(i) The market value of the property at the time it was damaged or destroyed: or

(ii) The amount required to repair the dwelling or replace it with one of like quality and size which will meet all applicable code requirements and which will provide permanent, adequate, decent, safe, sanitary, and modest living quarters.

(8) The actual physical loss for farm service buildings and farm real estate other than buildings is the amount required to repair the property or replace it with a building or property of like quality and capacity which will meet all applicable code requirements and which will adequately meet the needs of the farming operation. This amount cannot exceed the market value of the property at the time of the disaster.

(9) If, in addition to the maximum physical loss loan made under this Subpart, an additional loan must be made to repair, restore or replace damaged or destroyed essential farm property, it will be processed as a major adjustment loan.

(10) The actual physical loss for income-producing trees (fruit or nuts) is the cost of removing the damaged or destroyed trees, cleaning debris and preparing the land for replanting, plus the cost of suitable replacement trees and other expenses necessary to reestablish income-producing trees. Losses will not be determined by establishing a value for the trees destroyed or damaged. Any salvage value will be deducted from the loss. The applicant may choose to replace the damaged or destroyed trees with a different enterprise and many use actual loss loan funds for that purpose.

(11) The actual physical loss to trees (grown for timber) will be determined by establishing the value of trees less any salvage value. This estimate of value must be determined by a recognized forester who will cruise the timber and establish the value of the destroyed and damaged trees. The applicant may choose to replace the damaged tree enterprise with a different enterprise and use the actual loss loan funds for that purpose. Those applicants whose major farming enterprises are other than tree farming, but who have a wood lot that has been damaged, will have their tree losses considered as physical losses in the same manner as set forth for tree farms.

(12) The actual physical loss for crops or pasture is the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expenses necessary to reestablish the crops or pasture. These costs can exceed the market value of the crops or pasture at the time of the disaster.

(13) When a crop cannot be planted during the disaster year due to the disaster and the applicant chooses to treat the loss as a physical loss, the actual physical loss is limited to the cost of land preparation, other expenses incurred to the date of the disaster for crops that could not be planted, and a pro rata share of the total operation's fixed costs such as rent, taxes, and insurance. The applicant must provide an itemized list of all the claimed expenses incurred in the disaster year for those enterprises for which disaster losses are claimed. This list must be signed by the applicant. The amount of an actual lost loan cannot exceed the total itemized expenses listed by the applicant.

(14) EM actual loss loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(15) When an applicant has *only housing* losses and is eligible for an SBA physical loss loan in an area where SBA physical loss loans are available, only SBA will make the loans for restoration or replacement of farm housing.

(c) *Compensation for losses.* Compensation for losses from a disaster through insurance, government disaster program benefits or any other disaster program relief received by an EM loan applicant, which does not have to be repaid, will reduce the applicant's actual loss by the amount of such compensation, and thus will be considered in determining the applicant's eligibility for EM loan assistance and the maximum amount of actual loss loan entitlement. The amount of any disaster program benefits received from ASCS, including the Emergency Livestock Feed Program (ELFP), Emergency Conservation Program (ECP), and Disaster Program payments will be considered as compensation for losses (ASCS Deficiency Payments are not to be considered as Compensation). The amount of any SBA physical disaster loan assistance received for the same disaster, based on physical and/or production losses to the same property will *not* be considered as compensation in determining the applicant's eligibility, but will be deducted from the applicant's actual disaster losses in determining the applicant's maximum actual loss loan entitlement.

(d) *Maximum actual loss loan.* This amount will be limited to the amount necessary to restore the farm to pre-disaster condition; however, this amount will not exceed the sum of the maximum production loss (subsection (a) of this section) and the maximum physical loss (subsection (b) of this section) or $500,000, whichever is the lesser. If the applicant has also received an SBA disaster loan for the same losses, the sum of the actual loss EM loan and the SBA disaster loan cannot exceed $500,000. Indebted EM loan borrowers

could receive later actual loss loans not to exceed $500,000 for each additional qualifying disaster. However, for disasters occurring on or before September 30, 1978, the amount of the actual loss loan cannot exceed $250,000 or the amount of the actual loss, whichever is the lesser.

§§ 1945.164-1945.165 [Reserved]

§ 1945.166 Loan purposes.

EM loans may be made for the following purposes:

(a) *Loans for actual losses.* (1) The amount of the maximum actual loss loan(s) in addition to the limitations contained in § 1945.163(d) of this Subpart, is further limited to the actual dollar loss, or the actual amount of essential family, farm, and nonfarm enterprise credit that the applicant needs to carry on normal operations, whichever is the lesser. However, actual loss loan funds will not be used to finance a nonfarm enterprise, unless such enterprise is needed to support a reasonable standard of living for the family. The use of the loss funds will be identified in the farm and home plan so that a determination can be made as to whether such loan(s) covered all or a portion of the actual dollar loss.

(2) Actual loss loan funds may be used for any of the following:

(i) Repair or replacement of disaster damaged or destroyed farm property;

(ii) Payment of farm operating debts incurred during the disaster year;

(iii) Payment of current capital expenditure loan installments, e.g., for chattel, livestock and real estate debt payments;

(iv) Payment of essential family living expenses;

(v) Payment of current taxes due;

(vi) Payment of other current debts;

(vii) Payment on delinquent debts;

(viii) Any major adjustment loan purpose; however, refinancing of debts will be restricted to those debts (in whole or in part) that must be refinanced to provide a sound basis for making the EM actual loss loan;

(ix) Financing all or a part of the next year's production cost; and

(x) Payment of reasonable expenses customarily paid when obtaining, planning, and closing an actual loss loan, such as fees for legal, architectural and other technical services which are required to be paid by the borrower, and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of social security taxes for labor hired by the borrower in connection with land and building development. It is not intended that this subparagraph be interpreted to include fees charged applicants by management consultants and other professionals for preparation of EM loan dockets, including farm and home plans and other FmHA forms used in processing such loans.

(b) *Annual production purposes.* (1) When more than one annual production loan is made during the same production year, the loans will be considered a single loan. Annual production loans for operating purposes may be made to:

(i) Pay essential annual production expenses, including annual installments of principal and interest on debts;

(ii) Pay essential family living expenses; and

(iii) Refinance debts when the amount loaned for that purpose can be expected to be repaid from income received from crops and/or livestock produced during the production year being financed with EM loan funds.

(2) After the initial EM loan for annual production purposes is made, subsequent EM annual production loans, for subsequent production years, may be made until the borrower is able to return to normal credit sources or for the periods contained in paragraphs (b)(2)(i) and (ii) of this paragraph, whichever is the appropriate period.

(i) Borrowers with loans outstanding for any EM loan purpose on December 15, 1979, may receive subsequent EM loans for annual production purposes, provided no more than five (5) subsequent EM annual production loans are made per disaster, and provided they are made within six (6) full calendar years after the disaster authorization date.

(ii) Borrowers not having outstanding EM loans on December 15, 1979, may receive subsequent EM loans for annual production purposes, provided no more than two (2) subsequent EM annual production loans are made per disaster, and provided they are made within three full calendar years after the disaster authorization date.

(3) The total EM annual production loan indebtedness owed by a borrower cannot exceed the annual production and major adjustment loan principal indebtedness ceiling established in paragraph (d) of this section.

(c) *Major adjustment loans.* Major adjustment loans can be made subject to the time frame and loan ceiling provisions prescribed in subsection (d) of this section, but only to assure that applicants will have a reasonable prospect of maintaining a sound farming operation after they have sustained severe losses as a result of a qualifying disaster. A major adjustment loan(s) must be necessary to permit the applicant to continue in operation on a sound basis. Major adjustment loans must assist disaster victims in sustaining or rehabilitating their normal operations until such time as they are able to return to other sources of credit. These loans can be used for any crop or livestock changes needed to achieve these objectives, and to overcome financial difficulties caused by the disaster. Major adjustment loan funds may be used in conjunction with EM actual loss loan funds for any authorized loan purpose.

(1) The total major adjustment loan principal indebtedness owed by the borrower cannot exceed the annual production and/or major adjustment loan(s) principal indebtedness ceilings established in subsection (d) of this section.

(2) Real estate purposes (Subtitle A). The following are authorized real estate loan purposes and major adjustment loan funds may be used to:

(i) Purchase real estate necessary to:

(A) Replace land and/or water resources that cannot be restored due to the disaster;

(B) Establish a new site for farm dwellings and service buildings so that the applicant can relocate outside of a flood or mudslide prone area;

(C) Replace land necessary to restore an effective operation which was liquidated as a result of the disaster before an EM loan could be made.

(ii) Construct, buy, or improve buildings and facilities essential to the applicant's farming operation, including:

(A) The construction of an essential farm dwelling and service buildings of modest design and cost, including facilities and structures for nonfarm enterprises.

(B) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(C) The purchase and/or installation of water and sewage systems and other equipment, including pollution control and energy saving devices necessary to operate a farm and/or a nonfarm enterprise, provided the items upon installation become part of the real estate, or customarily pass with the farm when it is sold.

(iii) Provide land and water development, pollution control and energy saving measures, acquire water supplies and rights, and promote the use and conservation essential to the operation of the farm and any nonfarm

enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes, improving orchards, and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development, only when the total cost of the development and machinery or equipment would not exceed the cost of contracting the work or hiring the labor and machinery needed to do it. Loan funds may be used to pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs such as the Agricultural Conservation or Great Plains programs, but only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to FmHA.

(A) Funds may be used for development costs on land owned with defective title provided:

(*1*) There is adequate security for the loan,

(*2*) The tract with defective title is not included in the appraisal report, and

(*3*) Not more than $25,000 is loaned to an applicant to use for development costs on a tract with defective title.

(B) Funds may be used for real estate improvements or repairs on land leased by the applicant if all of the following conditions are met:

(*1*) EM loans will not be needed year after year to make substantial real estate improvements;

(*2*) The applicant is likely to continue to operate the farm for a sufficient period of time and under such terms as will yield a reasonable return on the investment;

(*3*) The applicant has reasonably secure tenure for a long enough priod to enable the tenant to realize adequate benefits to justify the expenditures;

(*4*) A written lease is obtained which provides for payment, to the tenant or assignee, for any unexhausted value of the improvement if the lease is terminated;

(*5*) There is adequate security for the loan; and

(*6*) Not more than $50,000 is loaned to a tenant for real estate improvements, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(iv) Refinance secured and unsecured debts, including FmHA debts subject to all of the following:

(A) The applicant's present creditors will not furnish credit, even with an FmHA guaranteed loan, at rates and terms the applicant can meet.

(B) When applicants request refinancing of loans owed normal lenders, such as banks, Production Credit Associations, Federal Land Banks or insurance companies, the County Supervisor will obtain early in the loan processing such lender's determination with respect to furnishing the applicant the additional credit necessary to accomplish the objectives of the EM loan and reestablish the borrower's operations on a sound basis within the borrower's ability to pay.

(C) Major adjustment loans will not normally be made to refinance intermediate and long-term debts. Only existing delinquent installments, plus the next installment which the applicant cannot pay, can be refinanced. In unusual circumstances, when the above refinancing is essential to enable the applicant to conduct a sound farming operation the above provisions may be waived. Ordinarily, in the case of old unsecured debts or inadequately secured debts, applicants will be requested to contact their creditor(s) and make every effort to obtain a substantial compromise reduction of such debts before they are refinanced.

(D) The County Supervisor must contact the appropriate lender; verify and document, either in the running record or by letter from the lender, the need to refinance secured debts and major unsecured debts; and determine the reason(s) the lender will not carry the debt, even with an FmHA guarantee. The unpaid balance of the debts to be refinanced will also be verified.

(v) Pay reasonable expenses customarily paid when obtaining, planning, making and closing a loan made for real estate purposes, such as fees for legal, architectural and other technical services, which are required to be paid by the applicant, and which cannot be paid by the applicant from other resources. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development. It is not intended that this subparagraph be interpreted to include fees charged applicants by agricultural management consultants and other professionals for preparation of EM loan dockets, including farm and home plans and other FmHA forms used in processing such loans.

(vi) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned acreage for such enterprise is not physically located on the farmland.

(vii) Pay the first year's premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone adequately secures the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect the applicant's own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(3) Operating purposes (Subtitle B). The following are authorized operating purposes and loan funds may be used to:

(i) Purchase machinery and equipment, livestock, poultry, fur bearing and other farm animals, aquatic organisms, worms, birds, tools, bees, and supplies; or to purchase an individual's or entity's undivided interest in such items; and to pay costs incidental to reorganizing the farming system which will provide for a sound operation.

(ii) Purchase and repair essential home equipment and furnishings, pay for family living expenses and pay for home equipment repairs required by the applicant's family to sustain itself in a reasonably satisfactory manner.

(iii) Refinance secured and unsecured operating type debts in whole or in part, including existing FmHA debts.

(iv) Purchase milk base, either with or without cows, when such action is necessary to assure the borrower a satisfactory market for dairy production.

(v) Purchase grazing licenses, permits, or rights which can be validly sold and transferred.

(vi) Augment and improve existing water supplies to alleviate the adverse effects of drought and other natural disasters.

(vii) Purchase membership and stock in farm purchasing, farm marketing, or farm service-type cooperative associations, including grazing associations.

(viii) Pay a secured creditor an amount not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under

prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is the lesser.

(ix) Purchase a franchise, contract, or privilege when essential to the operation of the planned enterprise.

(x) Make a partial payment on crop storage and drying facilities when the Commodity Credit Corporation (CCC), through the ASCS, is providing the rest of the credit under the CCC Farm Storage and Drying Equipment Loan Program.

(xi) Pay reasonable expenses customarily paid when obtaining, planning and closing a loan made for operating purposes, i.e., fees for legal, architectural and other technical services, which are required to be paid by the applicant, and which cannot be paid by the applicant from other resources. It is not intended that this subparagraph be interpreted to include fees charged applicants by agricultural management consultants and other professionals for preparation of EM loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(xii) Pay the borrower's share of Social Security taxes for the labor hired by the borrower in connection with land and building development.

(d) *Annual production and major adjustment loan indebtedness ceiling.* The total combined annual production and major adjustment loan(s) indebtedness owed by a borrower, insured and/or guaranteed, cannot exceed $500,000 outstanding principal indebtedness at any time during fiscal year 1981, regardless of the number of disasters under which an applicant may qualify. During fiscal year 1982, no such loan assistance may be made or guaranteed in an amount that would cause the combined total of unpaid principal indebtedness to exceed $500,000; and during fiscal year 1983, and all fiscal years thereafter, no such loan assistance may be made or guaranteed in any amount. The combined total of all EM insured and/or guaranteed major adjustment loan funds used for both Subtitle A and Subtitle B purposes, which are to be secured by real estate, and which will be used for financing secured and/or unsecured debts, will not exceed $300,000 outstanding principal indebtedness regardless of the number of qualifying disasters. Borrowers with EM loans outstanding on December 15, 1979, may receive subsequent EM annual production loans in accordance with the provisions of paragraph (b) of this section in amounts necessary to continue their normal farming operation(s) without regard to this indebtedness ceiling.

(e) *Relationship with Economic Emergency (EE) loans.* When an EM loan(s) for annual production or major adjustment purposes is made at the same time as, or after, an EE loan, subtract the amount of the EE loan (outstanding principal only) from the loan ceilings set out in paragraph (d) of this section. The difference is the maximum loan which can be made for EM annual production and/or major adjustment loan purposes.

§ 1945.167 Loan limitations and special provisions.

(a) *Use of EM loan funds not authorized for expansion purpose(s).* EM loan funds (actual loss, annual production and major adjustment Subtitle A and Subtitle B) *will not* be used to expand an applicant's farming, ranching or aquaculture operation beyond that which constituted the normal predisaster operation(s). This limitation is not intended to prohibit minor changes in minor crop or livestock enterprises provided:

(1) Any new or changed crop or livestock system is proven for the area; and

(2) The applicant has the knowledge and ability to manage the changed operation; and

(3) New or additional capital investment is not required.

EM applicants who will continue to conduct a family size farming operation (as defined in paragraph (a)(12) of § 1945.154 of this Subpart) may, if eligible, receive a regular FmHA farm ownership (FO), and/or operating (OL) loan(s) simultaneously with their initial EM loan assistance for the purpose of expanding their predisaster operation(s). Applicants applying for initial EM loan assistance will be advised that no expansion of their operation is permitted with EM loan funds; and that if, after receiving initial EM loan assistance under any given disaster, they do expand their farming operation(s) with conventional credit or with OL, or FO loan funds, such expansion will preclude them from any subsequent EM loan assistance under that disaster designation. If after receiving initial EM loan assistance under a given disaster, a borrower does expand his/her farming operation(s), no further EM loan assistance will be considered unless the borrower suffers qualifying losses under a new declared/designated/authorized disaster.

(b) *Applicants involved in more than one operation.* Loans to applicants involved in more than one farming operation will be considered as follows:

(1) If an applicant, in addition to the applicant's own farming operation, owns or controls 50 percent or more of another farming operation(s), and the applicant is actively engaged in both operations, both the applicant and the other farm operation(s) may be considered for separate loans provided the combined total does not exceed the loan limitations as set out in § 1945.163(d), § 1945.166(d) of this subpart.

(2) If the applicant is a cooperative, corporation, or partnership and any principal member, principal stockholder, or principal partner owns or controls 50 percent or more of another farming operation(s) and is actively engaged in both operations, both the applicant entity and the other farming operation(s) may be considered for separate loans provided the combined total does not exceed the loan limitations as set out in § 1945.163(d) and § 1945.166(d) of this subpart.

(3) If an applicant, including any principal member, principal stockholder, and principal partner who, in addition to the applicant's own farm operation, owns or controls less than 50 percent of another farm operation(s), and is actively engaged in a separate farm operation(s), the applicant and the other farm operation(s) will be considered as separate entities for application of the loan limitations.

(4) If the applicant described in paragraphs (b)(1), (2) and (3) of this section is deemed to be ineligible, such determination shall not preclude the other operation(s) in which the applicant holds an interest from being considered for an EM loan(s).

(c) *Insured and guaranteed loan making.* An insured EM loan will not be made simultaneously with a guaranteed EM loan or vice versa.

(d) *Refinancing guaranteed loans.* An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(1) The circumstances causing the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government.

(e) *Subsequent EM loans.* Subsequent (additional) EM loans may be made for the same purposes and under the same conditions as an initial EM loan.

(f) *New appraisals.* New "Appraisal of Real Estate Reports" are not required if the appraisal report in the file is not over two years old, unless the approval official requests a new appraisal report, or unless significant changes in the market value of real estate have occurred in an area within the two year period. Any changes in the value of real

estate or chattel security will be recorded, dated and initialed by the certified appraiser on the appropriate appraisal reports in the file.

(g) *Record Keeping.* EM borrowers receiving or indebted for EM loans of $100,000 or more are required to keep hard farm records on an approved format or use an accountant or a farm management service computer system as long as they are indebted for EM loans. EM borrowers are required to retain these records for three years. (See Subpart B of Part 1924 of this Chapter.)

(h) *Disbursement of loan funds.* Loan funds (either actual loss, annual production, or major adjustment) which will not be disbursed for specific purposes at loan closing will not be requested in the initial request for funds from the Finance Office. The "Loan Disbursement System" will be used to make funds available when they are actually needed. See § 1945.189(a)(8) of this Subpart for instructions on the use of supervised bank accounts.

§ 1945.168 Rates and terms.

(a) *Interest rates.* Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance. Interest rates are specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, available at any FmHA office.)

(b) *Terms of loans.* Loans will be scheduled for repayment at such time as the FmHA approval official may determine, consistent with the purpose of and need for the loan. The approval official will also consider the useful life of the security and the repayment ability of the applicant, as reflected in the completed Form FmHA 431-2, "Farm and Home Plan," when setting the term of each loan. Even with a deferment, there must be an interest installment scheduled at least annually.

(1) *Operating purposes (Subtitle B).* Actual production or physical loss loans for losses of crops, livestock and/or chattels; and annual production and major adjustment (Subtitle B) loans will be scheduled for repayment as follows:

(i) Actual production or physical loss loans made for operating purposes under § 1945.166(a), or major adjustment (Subtitle B) loans made for purposes under § 1945.166(c)(3) of this Subpart, will be for periods not to exceed 7 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer term, and the loan(s) can be secured for the longer term. Such longer period may be approved as warranted, but cannot exceed 20 years. This longer repayment period will be used only when the Farm and Home Plan projections indicate the applicant would be unable to repay the loan in a shorter period, taking into consideration rescheduling possibilities. The reason(s) that a term longer than 7 years is given must be documented in the county office case file. Generally, real estate will be needed as security when the longer repayment period is authorized. When the longer term is used, rescheduling is not authorized to extend beyond 20 years from the date of the original note.

(ii) Loans made for annual recurring production expenses under § 1945.166(b) of this Subpart, or for payment of bills incurred for such purposes for the operating or crop year being financed, will be scheduled for repayment when the principal income from the year's operations is normally received.

(iii) Loans made to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products is planned to be received.

(iv) When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which can be expected to be refinanced by other agricultural lenders or be repaid within a rescheduled period of not to exceed 7 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if rescheduling is warranted, and that there is no obligation for FmHA to continue with the borrower after the expiration of the initial loan term.

(2) *Real estate purposes* (Subtitle A). Physical loss loans made for actual losses to real estate (§ 1945.166(a) of this Subpart) and loans made for major adjustment (Subtitle A) purposes (§ 1945.166(c)(2) of this Subpart) will normally be scheduled for repayment in not to exceed 30 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. A longer term may be approved as warranted, but cannot exceed 40 years. The longer repayment period will be used only when it is evident the applicant will be unable to repay the loan in a shorter period. The reason(s) for giving the longer period must be well documented in the county office case file.

(3) *Repayment terms when debts are refinanced.* When secured or unsecured debts are refinanced with a major adjustment loan, the type of basic security taken will determine the terms and the interest rate charged and the type of assistance code used on Form FmHA 1940-1.

(i) When basic security is other than real estate, the loan may be scheduled for repayment in accordance with paragraph (b)(1) of this section, and the Subtitle B purpose interest rate will be charged.

(ii) When real estate will serve as basic security, the loan may be scheduled for repayment in accordance with paragraph (b)(2) of this section, and the Subtitle A purpose interest rate will be charged.

(c) *Consolidation, rescheduling, reamortization and deferral.* (1) *General requirements.* When the loan approval official determines that consolidation, rescheduling, reamortization, or deferral will assist in the orderly collection of an EM loan, the loan approval official may take such action. The requirements of this paragraph apply when a new loan is being made. If only existing loans are involved and no new loan is being made, see Subpart A of Part 1951 of this chapter.

(i) When deferring, consolidating or rescheduling EM loans made for operating purposes, the requirements set out in Subpart A of Part 1951 of this Chapter, § 1951.33(b)(1) through (b)(6) must be met.

(ii) When deferring or reamortizing EM loans made for real estate purposes, the requirements of Subpart A of Part 1951 of this Chapter, § 1951.40(b) that apply to EM loans must be met.

(2) *Consolidation and rescheduled.* EM loans made for operating purposes may be consolidated or rescheduling subject to the conditions set out in Subpart A of Part 1951 of this chapter, § 1951.33 (d)(1) through (d)(5) and (d)(7) that apply to EM loans.

(3) *Reamortization.* Existing EM loans made for real estate purposes may be reamortized when a new EM loan is made subject to the conditions set out in Subpart A of Part 1951 of this chapter, § 1951.40 (b)(1)(i) through (b)(1)(iii) that apply to EM loans.

(4) *Deferral.* Installments on EM loans, including loans which are consolidated, rescheduled or reamortized, may be deferred.

(i) When deferring installments on EM loans made for operating type purposes, the requirements set out in Subpart A of Part 1951 of this chapter, § 1951.33(e)(1) must be met.

(ii) When deferring installments on EM loans made for real estate purposes, the requirements set out in subpart A of Part 1951 of this chapter, § 1951.40(b)(2) must be met.

(iii) Deferred installments on EM loans made for operating type or real estate purposes should be scheduled and repaid in accordance with Subpart A of Part 1951 of this chapter, § 1951.33 (e)(2)(i) through (e)(2)(iv).

(5) *Terms.*

(i) *Consolidation and rescheduling.* All EM loans made for Subtitle B (operating) purposes will be repaid over a period consistent with the borrower's repayment ability, but not in excess of 7 years from the date of the consolidation or rescheduling except in special cases authorized in paragraph (b)(1) of this section, where a longer term is needed. Initial EM loans for operating type purposes may be rescheduled for up to 20 years from the date of the original note.

(ii) *Reamortization.* Existing EM loans made for real estate purposes may be reamoritized in accordance with § 1951.40(c)(1) of Subpart A of Part 1951 of this chapter.

(6) *Interest rates.* The interest rates for consolidated, rescheduled, and reamortized loans are as follows:

(i) For consolidated, reamortized, or rescheduled non-actual loss loans, the current rate specified in Subpart A of Part 1810 of this chapter (FmHA Instruction 440.1, Exhibit B, available in any FmHA office) at the time of consolidation, reamortization or rescheduling will apply.

(ii) For reamortized or rescheduled actual loss loans, the interest rate will not be changed from that in the original note.

(7) *Processing consolidation, rescheduling, and/or deferment.* These functions will be performed in accordance with the FMI to Form FmHA 1940–17, "Promissory Note."

(8) *Disposition of promissory notes.* The original and County Office copy of all notes that are consolidated, rescheduled, reamortized or deferred will be stamped "Consolidated," "Rescheduled," "Reamortized," or "Deferred," as appropriate, by the County Office. The original note will be filed with Form FmHA 452–2, "Reamortization and/or Deferral Agreement," when appropriate, and the copy filed in the borrower's case file. When consolidated, rescheduled, reamortized or deferred notes have been paid in full or otherwise satisfied, the notes will be handled in accordance with the provisions of Subpart A of Part 1951 and of Part 1864 (FmHA Instruction 456.1) of this chapter.

(d) *Graduation.* Borrowers will be required to graduate when FmHA determines they are able to obtain their needed credit from conventional sources. All borrowers will be advised that they will be reviewed for graduation periodically in accordance with the graduation procedure in Part 1865 of this chapter (FmHA Instruction 451.6, a copy of which is available in any FmHA County Office). EM borrowers will be reviewed for graduation three (3) years after their initial EM loan is made and every two (2) years thereafter, until graduation is achieved or the EM indebtedness is paid in full. Applicants who cannot get credit elsewhere as defined in § 1945.156(b) of this Subpart, will be advised during loan processing and again at loan closing that they will be required to refinance at any time when other satisfactory credit is available to them, even though their loans have not fully matured. Applicants who can get credit elsewhere will be advised during loan processing and again at loan closing that they will be required to refinance at any time after the initial 3 year waiting period when other satisfactory credit is available to them, even though their loans have not fully matured.

§ 1945.169 Security requirements.

(a) *Security.* (1) The County Supervisor is responsible for seeing that adequate and proper security is obtained and maintained, and that the security instruments have been properly executed and recorded to protect the interest of the Government.

(2) Except for the modifications contained in paragraph (d) of this section, security must be of such a nature and extent that repayment of the loan is reasonably assured, considering the applicant's managerial ability, soundness of the operation, and projected earnings. When a major adjustment loan for real estate purposes is made, the security will be not less than the best lien obtainable on all farm real estate and, when all other real estate security has been considered and found to be insufficient, the best lien obtainable on farm personal property will also be taken. Security for loans may include, but is not limited to the following: livestock, livestock products, crops, land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Security may also include assignments of leases or leasehold interests, revenues, patents, and copyrights. In unusual cases, the loan approval official may require a co-signer or a pledge of security by a third party. Generally, a pledge of security in lieu of a co-signer is preferable.

(3) A lien will not be taken on property that cannot be made subject to a valid lien, nor will a lien be taken on subsistence livestock, household goods, and small tools and small equipment such as handtools, power lawn mowers, and other items of like type not needed for security purposes. A lien on feed crops does not have to be taken if the crops produced by the borrower are used to feed livestock, other than livestock being fed for market, and the loan is otherwise well secured.

(4) When insured and guaranteed loans are involved to the same borrower, separate security must be clearly identified for both the insured and guaranteed loans.

(b) *Personal liability.* The signatures of all principal partners of a partnership, principal members of a cooperative and principal stockholders of a corporation are required to evidence their full personal liabilities on the promissory note as individuals, except in unusual circumstances including legal disability or extended absence from the country.

(1) When the applicant is an unincorporated farm cooperative, the promissory note will be executed so as to evidence the liability of the cooperative as well as each member as an individual. This will be accomplished by typing the name of the cooperative above the space provided for signatures and having the note executed by each member of the cooperative both as a member and as an individual. To evidence the liability of the cooperative, the words "As Members" will be typed immediately beneath the name of the cooperative and each member will sign thereunder. To evidence the members' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each member will sign thereunder.

(2) When the applicant is a corporation or an incorporated cooperative, the promissory note will be executed by the corporation or cooperative acting through its authorized officials. To evidence the principal stockholders' or members' liability as individuals, each principal stockholder or member will sign the note.

(3) When the applicant is a partnership, the promissory note will be executed so as to evidence the liability of the partnership as well as each principal partner as an indivdual. This will be accomplished by typing the

name of the partnership above the space provided for signatures and having the note executed by the members of the partnership both as partners and as individuals. To evidence liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each partner will sign thereunder. To evidence the principal partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures and each principal partner will sign thereunder.

(c) *Personal and corporate guarantees.* (1) If a review of all credit factors indicates the need for additional security, the loan approval official may require additional personal and/or corporate guarantees, including guarantees from principals of parent, subsidiary or affiliated companies. The loan approval official will require that such guarantees be secured by security which has an equity value. Any security referred to in paragraph (a)(2) of this section may be used to secure the gurantees.

(2) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 30 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 30 days old at time of filing), certified by an officer of the corporation.

(3) When security is taken under this subsection (c) of this section it will be serviced in accordance with Subpart A of Part 1962 of this chapter, if chattels, and Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1), if real estate.

(d) *Applicant's repayment ability.* When adequate security is not available because of the disaster, the loan approval official will accept as security such collateral as is available, if the following conditions are met:

(1) A portion or all of the security has depreciated in value due to the disaster; and

(2) The applicant will give FmHA a lien on *all* assets owned by the applicant and all assets owned personally by principal owners of the applicant entity; and

(3) The available security, together with the approval official's confidence in the applicant's repayment ability, is adequate to secure the loan. When considering "repayment ability" as a form of security, the reserve or margin between the balance available for debt repayment shown in Table "J" of Form FmHA 431-2, "Farm and Home Plan," and the principal and interest scheduled for payment in Table "K" of the plan is the "repayment ability" collateral which may be considered in loan making actions when this plan is developed for the typical year. The "typical year" plan must show that the portion of the loan secured by "repayment ability" will be paid back in a reasonable period of time, *i.e.*, the loan balance will be reduced to a fully secured loan within 3 years.

(e) *Life insurance.* If the loan approval official believes it is needed as additional security, life insurance may be required for the individual borrower or for the principals and key employees of an entity borrower listing FmHA as the beneficiary. This life insurance may be decreasing term insurance. A schedule of life insurance available as security for the loan will be included as part of the application.

(f) *Operating purposes.* (1) Loan funds used for annual production purposes will be secured by a first lien on the crop or livestock or both, being financed with EM loan funds, plus enough other security, including personal property, real estate and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide no security other than a first lien on the crop or livestock or both, the amount of the loan will be limited to the greater of $100,000 or 75 percent of the estimated gross farm income planned as shown on Form FmHA 431-2, or as shown on another acceptable plan of operation based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual operating loan which is secured only by a first lien on the crop or livestock or both, needs a subsequent EM loan for annual operating purposes during the current calendar year to complete that year's farming operation and the loan is needed to protect the Government's financial interest, the $100,000 or 75 percent gross income requirement will not apply, provided the loan is otherwise sound and proper.

(2) Loans made for operating purposes authorized in § 1945.166 (a) and (b) or (c)(3) of this Subpart will be secured by a lien on sufficient equity in livestock, crops, equipment and machinery (including trucks and automobiles) and, when necessary, other personal property to protect the Government's interest. A lien on part or all of the real estate owned by the applicant may be taken as additional security, if such additional security is needed to protect the interest of the Government. When the applicant can provide no security other than a first lien on crops or livestock or both, the policy outlined in subparagraph (f)(1) of this section will apply. A second crop lien may be taken when it has security value and is necessary to assure repayment of the loan(s).

(3) Loans *only* for the acquisitioin of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(i) An assignment, pledge, or other security interest in the stock or other evidence of membership will be obtained provided it has security value. A security interest may also be taken on significant amounts of patronage, dividends or refunds or on undivided profits and other holdings. The security interest will be in the form of an assignment, pledge, or other instrument, and will be taken on FmHA forms and in the manner approved by OGC. Stock certificates and similar security will be kept in the County Office. A notation will be made on Form FmHA 1905-1, "Management System Card-Individual," showing that such security has been retained.

(ii) In individual cases, loan approval officials may require a lien on crops or chattels as additional security for a loan made for the acquisition of a membership or stock, if they determine such additional security is necessary to protect the Government's interest.

(4) The advice of OGC will be obtained on how to perfect a security interest when milk base and grazing permits are financed or taken as security.

(5) General intangibles, accounts, or contract rights may be taken as security for production loss loans made to contract feeders, tenants with share-lease arrangements, or other farmers with similar arrangements. National Office approval will be obtained before taking such items as security for a loan.

(g) *Real estate purposes.* Loans for the purposes authorized in § 1945.166(a) (real estate purposes only) and (c)(2) of this Subpart will be secured by a lien on real estate. However, if the applicant does not have sufficient equity in the real estate to secure the entire amount of the loan, a lien also will be taken on personal property, plus, if necessary, a second lien on crops or livestock. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(h) *Abbreviated appraisals.* An abbreviated appraisal is one which is completed in accordance with

paragraph (h)(2)(i) of this section. See § 1945.175 of this Subpart for instructions on complete appraisals. Loans may be approved when an abbreviated appraisal is made on the property being taken as security for the loan, provided:

(1) The loan approval official determines that the applicant's equity in the security will adequately secure the EM loan.

(2) When abbreviated appraisals are prepared:

(i) For real estate, the following portions of Form FmHA 422-1, "Appraisal Report (Farm Tract)," will be completed: The heading of the report, Item A of Part 1, Part 2, Part 3, Part 6, Part 7, and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(ii) For chattel property, Form FmHA 440-21, "Appraisal of Chattel Property," will list, identify, and show the value of each chattel item and items A through E will be completed.

(i) *Combination of real estate and chattel security.* When an EM loan is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." However, notwithstanding the definition in § 1945.154(a)(33) of this Subpart, when chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's interest, only a certification of ownership and verification of equity in real estate is required, if the applicant is an individual. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and adknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, and for all loans to cooperatives, corporations, or partnerships, a title search is required.

(j) *Purchase contracts.* If the real estate offered as security is held under a purchase contract, the following conditions must exist:

(1) The applicant must be able to provide a mortgageable interest in the real estate.

(2) The applicant and the seller must agree in writing that any insurance proceeds received for real estate losses will be used only to replace or repair the damaged real estate improvements which are essential to the farming operation, used for other essential real estate improvements, or paid on the EM loan or on any prior real estate indebtedness including the purchase contract. If necessary, the applicant will negotiate with the seller to arrive at a new contract without any provisions objectionable to FmHA.

(3) If a satisfactory contract of sale cannot be negotiated or the seller refuses to enter into the agreement described in paragraph (j)(2) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract.

(4) If the conditions set out in paragraphs (j) (1), (2) and (3) of this section exist and an EM loan is approved, it can be closed provided the FmHA escrow agent or designated attorney certifies on Form FmHA 427-10, "Final Title Opinion," or in separate writing that:

(i) The purchase contract is not subject to summary cancellation on default and does not contain any other provisions which might jeopardize either the Government's security position or the borrower's ability to repay the loan.

(ii) The seller has agreed, in writing, to give FmHA notice of any breach by the purchaser, and has also agreed to give FmHA the option to rectify the conditions which amount to a breach within thirty days. The thirty days begin to run on the day FmHA receives written notice of the breach.

(k) *Prior liens which may jeopardize the Government's security position.* If any prior liens against real estate offered as security contain future advance provisions or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet the obligations of these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions to the interest of the Government. However, the Government's lien may be subject to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or calendar year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441-13, "Division of Income and Nondisturbance Agreement," or a similar form approved by the OGC.

(l) *Circumstances under which advance notice of foreclosure or assignment is required.* When a junior lien on real estate is to be taken as security for a loan in States where a prior lienholder may foreclose the security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice of the foreclosure proceedings, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(m) *Hazard insurance.* Hazard insurance with a standard mortgage clause naming FmHA as beneficiary may be required for every loan made. The minimum amount of insurance required is the lesser of the replacement cost of the property being insured or the amount of the loan. If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate hazard insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. Notwithstanding the requirements of Subpart A of Part 1806 (FmHA Instruction 426.1) of this chapter, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt (including the EM loan) and the owner has equity equal to or exceeding the amount of the debt (including the EM loan), real estate property insurance may not be required. However, the applicant will be encouraged to obtain such insurance, if the applicant does not already have it, to protect the applicant's interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that, when settlement is made, the proceeds of such claims will be used for replacement or repair of buildings, application on debts secured by prior liens, or application on the EM loan.

(n) *Special security requirements where personal possessions or home furnishings are involved.* Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(o) *Federal Crop Insurance.* Loan approval officials shall require at least the minimum level of comprehensive Federal Crop Insurance for all crops eligible under existing FCIC programs for any type of EM loans secured primarily by crops and/or chattels. The insurance need not be required for EM loans primarily secured by real estate.

When FCIC insurance is required it will be maintained over the repayment period of the loan. An assignment of Federal Crop Insurance proceeds will be prepared on Form FCI-20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance Program. The assignment must be approved by the Federal Crop Insurance Corporation and indicate FmHA's and any prior lienholder's lien position. An assignment of crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(p) *Indian trust lands.* EM loans which are secured by trust or restricted land will be handled as follows: USDA and the Department of the Interior have agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restrictions against alienation, subject to statutes under which they may, with the approval of the Secretary of the Interior, give valid and enforceable mortgages on their land. These statutes include, but are not limited to, the Act of March 29, 1956 (70 Stat. 62). When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State Supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under these conditions.

(q) *Unpatented public lands.* See Exhibit A of Subpart A of Part 1943 of this chapter for making EM loans to entrymen on unpatented public lands.

(r) *Taking security instruments.* The taking and filing of security instruments will be in accordance with Subpart B of Part 1941 of this Chapter (chattels and crops) and with §§ 1945.169 and 1945.189 of this Subpart (real estate). The borrower must have marketable title to the property which secures the loan and FmHA must ascertain that, when the security instruments are filed, no suits are pending or threatened which would adversely affect the interest of the borrower.

(s) *Assignments and consents.* (1) The value of stock required to be purchased by Federal Land Bank (FLB) Association borrowers may be added to the recommended market value of real estate, provided:

(i) An assignment can be obtained on the stock; or

(ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan as long as any FmHA loan is outstanding, or

(B) The stock refund check is made payable to the borrower and FmHA.

(iii) In either case the total of the stock value and the recommended market value of real estate are indicated in the comments section of Form FmHA 422-1.

(2) An assignment of all or part of the applicant's share of income is required when title to a livestock or crop enterprise is held by a contractor under a written contract or when the enterprise is to be managed by the applicant under a share lease or share agreement. The contract, share lease or share agreement will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a State Supplement) and so forth, in paragraph (1)(b) of the financing statement. A form approved by OGC will be used to obtain the assignment.

(3) An assignment of income can also be taken when the County Supervisor determines it is necessary to protect FmHA's interests.

(i) Form FmHA 443-16, "Assignment of Income from Real Estate Security," will be used for assignments of real estate security income unless that form is legally inadequate in a particular State, in which case it may be adapted with the approval of OGC.

(ii) Form FmHA 441-8, "Assignment of Proceeds from the Sale of Agricultural Products," will be used for products or income in which FmHA does not have a security interest under the UCC. Other forms approved by OGC may be used when this form is not adequate.

(iii) Form FmHA 441-25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," will be used for dairy products in which FmHA has a security interest under the UCC.

(iv) Form FmHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products," will be used for products or income, except dairy products, in which FmHA has a security interest under the UCC.

(v) Forms provided by ASCS will be used for assignments of incentive and other agricultural program payments.

(4) In UCC states, an assignment of income constitutes a security agreement and should be treated accordingly.

(t) *Applicants who can get credit elsewhere.* Those applicants who are able to get credit elsewhere will be required to pledge only that amount of security necessary to fully secure the loan and assure that the Government's interest will be adequately protected.

§§ 1945.170-1945.172 [Reserved]

§ 1945.173 General provisions—compliance requirements.

(a) *Scope of operation to be financed.* No ceiling has been established on the size of operations that may be financed with EM loans. Therefore, subject to the eligibility requirements, loan amount ceilings, repayment ability, need, available security and other provisions of this subpart, loans may be made to finance farming operations of any size.

(b) *Flood or mudslide hazard areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Agency (FEMA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The flood or mudslide hazard will be recognized in the appraisal report.

(1) In identified special flood or mudslide hazard areas as designated by FEMA, the following policies are applicable for EM loans being made to finance buildings or fixtures and furnishings contained therein.

(i) If flood or mudslide insurance is available and an applicant has not taken such insurance and had flood losses, an EM actual loss loan may be made provided flood or mudslide insurance is purchased before the EM loan is closed.

(ii) If flood or mudslide insurance is available and an applicant previously received and still is indebted for an EM loan, Rural Housing Disaster (RHD), or SBA disaster loan and a condition of the loan required the obtaining of flood insurance but the applicant allowed the insurance to lapse and the applicant had new flood or mudslide losses, the applicant will be considered to be in default on the loan agreement and dealt with accordingly. If it is determined to continue with the borrower and that the EM actual loss loan should be made, flood or mudslide insurance will be obtained before the EM loan is closed.

(iii) If flood or mudslide insurance is available and an applicant had previously received an EM, RHD, or SBA disaster loan, and a condition of the loan required obtaining flood or mudslide insurance and the applicant paid the loan in full and let the insurance lapse, the applicant will be handled in accordance with paragraph (b)(1)(i) of this section.

(iv) In those areas that have been designated by FEMA as special flood or mudslide hazard areas and flood or mudslide insurance is not available or has been withdrawn by FEMA, an applicant can receive an EM actual loss loan provided the farm buildings, including the dwelling, are relocated outside the 100-year flood area.

(v) EM loans to repair or replace farm buildings, including dwellings, must meet the requirements of § 1806.25 (a) or (b) of Subpart B of Part 1806 of this chapter (paragraph V A or B of FmHA Instruction 426.2) as applicable, or be relocated outside the 100-year flood area.

(2) When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

(i) The Corps of Engineers or the SCS will be consulted concerning:

(A) Likelihood of flooding.

(B) Probability of flood damage.

(C) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(ii) FmHA representatives will evaluate the proposal and record the decision in the loan docket.

(c) *Civil rights.* The provisions of Subpart E of Part 1901 of this chapter will be complied with on all loans made which involve:

(1) Funds used to finance nonfarm enterprises and recreation enterprises. Applicants will sign Form FmHA 400–4, "Nondiscrimination Agreement," in these cases.

(2) Any development financed by FmHA that will be performed by a contract or subcontract of more than $10,000.

(d) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 of this chapter will apply.

(e) *Environmental impact.* If EM loans are used in populated areas to finance an operation which has relatively large feedlots or holding facilities for livestock or aquatic organisms or smaller feedlots or holding facilities which are likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449–10, "Applicant's Environmental Impact Evaluation."

(1) The provisions of Subpart G of Part 1901 of this Chapter will be followed to the extent applicable for EM loans in making decisions on operations that may have a significant impact on the environment.

(2) The County Supervisor will complete Form FmHA 440–46, "Environmental Impact Assessment," considering information provided by the applicant in Form FmHA 449–10.

(3) The County Supervisor will forward a copy of the loan application, completed FmHA Forms 449–10 and 440–46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether an environmental impact statement should be prepared based on this submittal and any other available information.

(f) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in section 1901.406 apply when EM funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

(g) *Nondiscrimination requirements.* In accordance with Federal Law, the FmHA will not discriminate against any otherwise qualified applicant on the basis of race, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract), with respect to any aspect of a credit transaction. The policy statement set forth in § 1945.151(a) of this Subpart will also apply to credit transactions.

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State Supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and obtain any special licenses or permits needed for nonfarm, recreation, specialized or aquaculture farming enterprises.

§ 1945.174 [Reserved]

§ 1945.175 Options, planning and appraisals.

(a) *Optioning Land.* An applicant is responsible for obtaining options when purchasing real property in accordance with the provisions contained in § 1943.25(a) of Subpart A of Part 1943 of this Chapter.

(b) *Planning.* (1) Form FmHA 431–2 and Form FmHA 431–4, "Business Analysis—Nonagricultural Enterprise," when appropriate will be completed as provided in Subpart B of Part 1924 of this chapter and in accordance with the FMIs. This planning process with the applicant is essential to making sound loans and, therefore, must receive careful attention in development of the loan docket. However, when the EM loan will be for not more than $25,000, Tables A, D, and E of Form FmHA 431–2 may be left blank and only the totals in Tables G and J should be shown, provided Form FmHA 410–1 is completed and is believed to accurately reflect the applicant's current circumstances, and no supervision is planned. The plan will show any major items of expenditure and the reason(s) these items are needed. When preparing a plan of operation, it is usually necessary to plan for a capital expenditure reserve during interim years and the typical year. Realistically this will reflect the depreciating value of machinery, equipment or other essential capital expenditure items, which it is prudent to expect will need to be replaced or require major repair. Also, all recurring and carry-over debts should be considered in a typical year plan. In addition, when all of the loan funds are not to be disbursed at loan closing, a Monthly Budget will be prepared showing the specific amount to be disbursed for each associated loan purpose for each month. The funds will be disbursed through use of the loan disbursement system or, when needed, through supervised bank accounts.

(2) Development work will be planned and completed in accordance with Subpart A of Part 1924 of this Chapter. Also, the provisions of Subpart E of Part 1901 of this Chapter will be met in connection with EM loans involving recreational enterprises and the construction of buildings.

(c) *Appraisals.* (1) Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals, when real estate is taken as basic security. Appraisals are not required when:

(i) The amount of the EM loan(s) plus any existing FmHA principal indebtedness is $25,000 or less, and

(ii) The loan approval official determines the loan is adequately secured without an appraisal, and

(iii) The County Supervisor indicates in the loan docket an estimate of the market value of the real estate to be taken as security, and

(iv) The provisions of paragraph (4) of this section are applicable.

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

(3) See § 1945.169(s)(1) of this Subpart when FLB stock is to be used in establishing the recommended market value (RMV) of the real estate being appraised.

(4) When real estate is taken as additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops), no appraisal report will be required for the additional security provided the County Supervisor determines that the security is adequate and records the estimated value in the running case record, showing the date the property was inspected and certifying that in the County Supervisor's opinion the estimates are correct based on knowledge of the value of comparable assets in the area.

(5) A chattel appraisal will be required when chattels are taken as basic or normal income security.

(i) Form FmHA 440–21 will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) Its current market value or, if appropriate, the current cash value will be determined.

(6) See § 1945.169(h) of this Subpart for instruction on using abbreviated appraisals.

§§ 1945.176–1945.179 [Reserved]

§ 1945.180 County Committee certification.

The County Committee will review the application and determine whether or not the applicant meets EM loan eligibility requirements.

(a) *Certification.* If the County Committee finds the applicant eligible, it will prepare Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file. The County Committee will comply with Subpart A of Part 1910 of this chapter.

(b) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the applicant in writing of the reasons for rejection. Reasons for unfavorable action will be given in the space provided on Form FmHA 440–2 above the space for signatures. The County Committee will comply with Subpart A of Part 1910 of this chapter. Also, the County Supervisor will complete Part III of all Forms FmHA 1945–29 to show the rejection of the application, sign, date and forward to the appropriate ASCS county office in accordance with the FMI.

§ 1945.181 [Reserved]

§ 1945.182 Loan docket preparation.

(a) *Processing guide.* See Exhibit A of this Subpart for Insured Emergency Loan Processing Guide. When a packager has developed the loan docket the County Supervisor will fully analyze the docket to assure it is complete and conforms with this EM loan regulation. The County Supervisor will reverify calculations in accordance with § 1945.183(b) and insure that the provisions of § 1945.183 of this Subpart are met before final action is taken on the loan request.

(b) *Form FmHA 1940–1, "Request for Obligation of Funds."* A separate Form FmHA 1940–1 will be prepared for each EM loan which has a different interest rate and/or a different repayment period, as determined in accordance with § 1945.168 (a) and (b) of this Subpart. Also, on Form FmHA 1940–1, for EM loans approved for borrowers presently indebted for an EM loan, but having new qualifying losses from a subsequent authorized disaster, the new appropriate disaster authorization number will be shown. this new number will be used for all subsequent EM loans approved, unless the borrower has new qualifying losses under a later disaster to which another disaster authorization number has been assigned.

(c) *Promissory note.* A separate promissory note will be prepared for each Form FmHA 1940–1 used in approving and obligating each of the EM loans. Each scheduled installment on each promissory note will include interest in addition to principal, unless deferral is authorized in accordance with § 1945.168(c) of this Subpart.

(d) *Lease agreements.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement which are not clearly reflected in Form FmHA 431–2 will be prepared and made a part of the loan docket.

§ 1945.183 Loan approval or rejection.

Loans will be approved in accordance with the authorities and provisions contained in this Subpart and the loan approval conditions and authorities contained in Subpart A of Part 1901 of this Chapter.

(a) *Approval after termination date for receiving actual loss loan applications.* Applications for EM actual loss loans may be processed and approved after the termination date established for receiving such applications, provided they were filed in the County Office before that termination date had expired.

(b) *Reverification before approval.* Before an EM loan is approved the following actions must be taken:

(1) A County Office employee will verify information provided by ASCS on all Forms FmHA 1945–29 in accordance with the FMI. If there have been any changes from the information originally provided and used in the loan docket preparation, appropriate changes will be made.

(2) A County Office employee will verify information provided by the Federal Crop Insurance Corporation (FCIC) regarding any insurance benefits which have been paid or will be paid. If there have been any changes from the information originally provided and used in the loan docket preparation, appropriate changes will be made.

(3) All calculations on Form FmHA 1945–22 and Form FmHA 1945–26 will be checked by a County Office clerical employee (either regular or temporary), using a calculator with a paper tape, to assure that mathematical errors are detected. The County Supervisor or designee will make any changes necessary in the loan docket, when errors are located. The paper tape will be attached to Form FmHA 1945–22 or Form FmHA 1946–26 as appropriate.

(4) A County Office employee will contact the local SBA representative, if appropriate, to determine whether the applicant has applied for or received an SBA disaster loan for the same disaster, and document the result of this discussion in the County Office case file.

If the applicant has received an SBA disaster loan for the same disaster, an EM actual loss loan will not be approved until it is determined that the requirement of § 1945.163(d) of this Subpart will be met. If the EM actual loss loan(s) is approved the SBA will be advised by telephone and the call confirmed in writing by the County Office.

(5) If the applicant certifies that credit can be obtained elsewhere as evidenced by compliance with the provisions set out in § 1945.162(a) of this subpart, the County Office will make sure the applicant's certification statement on Form(s) FmHA 1940-1, "Request for Obligation of Funds," is modified. This will be done by striking through the word "unable" whenever that word appears in the certification statement and writing in the word "able." The applicant or the authorized official(s) of entity applicants must acknowledge each such change by initialing above it.

(c) *Administrative determination and responsibilities.* When the County Committee certification has been made and the reverification has been completed, the loan approval official will determine administratively whether:

(1) The applicant is eligible, likely to be successful in the proposed operations, and likely to achieve the objectives of the loan.

(2) The applicant has satisfactory tenure arrangements on the farm(s) to be operated.

(3) The proposed farm and home operations of the applicant are reasonably sound.

(4) The loan(s) being processed is proper and can be repaid from projected farm and/or non-farm income as scheduled, and that in the planned typical year the farming operation will be self-sustaining.

(5) The security requirements can be met.

(6) The certification(s) required of the applicant and the County Committee have been made and are a part of the loan docket.

(7) The proposed changes to be financed by a major adjustment loan(s) are needed, and that the county office case file reflects the need for those changes.

(8) The loan meets all other FmHA requirements.

(d) *Loan docket transmitted to the Administrator.* (1) Transmittal memoranda accompanying EM loan dockets requiring approval in the National Office must set forth, as a minimum, the following information:

(i) Proposed loan(s), amount(s), rate(s) of interest, and term(s) of each such loan.

(ii) Outstanding FmHA loan(s) balance(s) and the total proposed EM loan(s) indebtedness.

(iii) Status of outstanding FmHA loan(s).

(iv) Brief statements regarding:

(A) Cause and type of disaster losses.

(B) Inability to obtain other suitable credit.

(C) Purposes for which loan funds are to be used.

(D) Overall feasibility and soundness of the planned operation.

(E) Property offered as security for the loan(s).

(v) The State Director's specific positive recommendation that the requested loan(s) be approved.

(2) Loan dockets should not be forwarded to the National Office for approval unless the State Director is able to make a positive recommendation. Loan requests for which the State Director is unable to make a positive recommendation for approval, should be denied at the State level, and applicants advised of their appeal rights in accordance with Subpart B of Part 1900 of this chapter.

(3) Memoranda transmitting problem cases, on which State Directors are only seeking National Office counsel, should also contain their thinking, their interpretation of the appropriate FmHA regulations and policies, and their recommendations on how they believe the case in question should be handled.

(e) *Loan approval.* (1) The loan approval official will date, sign and distribute Form FmHA 1940-1 in accordance with the FMI and set forth any special conditions of approval, including any special security requirements, in the appropriate section on Form FmHA 1940-1.

(2) The County Supervisor will complete Part III of Form FmHA 1945-29 and forward the form to the appropriate ASCS county office(s).

(f) *Rejection of loans.* (1) If a loan is rejected, the loan approval official will indicate the reasons for the rejection in the running case record.

(2) The County Supervisor will notify the applicant by letter of the reason(s) for rejection and will advise the applicant in that letter of appeal rights as set out in Subpart B of Part 1900 of this chapter.

(3) The County Supervisor will complete Part III of Form FmHA 1945-29 and forward the form to the appropriate ASCS county office.

(4) In areas where EM loans are being made under a major disaster declaration, and where the FEMA has advised the State Director that Section 408 grants are available, a list of applicants with physical losses, who do not qualify for EM loans, will be prepared and sent to the FEMA by County Supervisors at the close of business each week. Those applicants who are not eligible for an EM loss loan because they are not farmers as defined in section 1945.154 of this Subpart will be screened and referred to the SBA for disaster loan assistance. The State Director will be advised by the FEMA where to send the list and the State Director will so advise the County Supervisors. The list will be prepared in the following format:

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration

TO: _____

_____

The following is a list of applicants not qualifying for Farmers Home Administration's Emergency loans in _____ County during the week ending _____, 19—.

Name _____

Address _____

County Supervisor _____

§ 1945.184 [Reserved]

§ 1945.185 Actions after loan approval.

(a) *Cancellation of loan check and/or obligation.* The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," and the appropriate FMI. If a check received in the County Office is to be cancelled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440-10 (see FmHA Instruction 102.1, a copy of which is available in any FmHA Office).

(b) *Cancellation of advances.* When an advance is to be cancelled the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 440-10.

(2) When necessary, obtain a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not necessary to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440-10 the revised amount of the loan and the revised repayment schedule.

(c) *Increase or decrease in loan amount.* If it becomes necessary to increase or decrease the amount of the loan before closing, the County

Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing, unless the change is minor and replacement forms can be readily completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office.

§§ 1945.186-1945.187 [Reserved]

§ 1945.188 Chattel lien search.

See § 1941.63 of Subpart B of Part 1941 of this chapter for regulations concerning lien searches covering chattels.

§ 1945.189 Loan closing.

(a) *Closing loans secured by real estate.* (1) *General.* Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHA Instruction 427.1).

(2) *Security instruments.* Security instruments referred to in this paragraph (a) are real estate mortgages or deeds of trust.

(i) FmHA real estate mortgage or deed of trust Form FmHA 427-1 (State), "Real Estate Mortgage for ———," will be used in all cases where real estate is taken as security.

(ii) Promissory note(s) will be prepared and completed at the time of loan closing in accordance with the FMI. If insured Rural Housing (RH) funds are advanced simultaneously with EM funds the RH loan will be evidenced by a separate note on the proper form as provided in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1). However, all notes will be described on the same security instruments. When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved.

(iii) When subsequent loans are made, a new security instrument is required only when the existing instruments do not cover all required security or do not secure the subsequent loan.

(iv) A subsequent loan for any authorized purpose may be made without taking new security instruments when the existing security instruments cover all the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan. A new security instrument will be taken if one of these requirements is not met.

(3) *Leaseholds.* Security instruments for loans secured by leaseholds will describe security in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(i) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of ——— years beginning on ———, 19—, created and established by a certain lease dated ———, 19—, executed by ———, as lessor(s), recorded on ———, 19—, in Book ———, page — of the ———. Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(ii) an additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(iii) A copy of the lease will be made part of the loan docket.

(4) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(i) If the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. If the original is retained by the recording official, a conformed copy, showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A conformed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder, or if it is required by a working agreement provision with that lienholder.

(ii) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(5) *Abstracts of Title.* Any abstract of title will be delivered to the borrower and Form FmHA 140-4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the FMI. However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(6) *Requesting title service.* When the loan is approved, the County supervisor will see that title service is requested in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), if this has not already been done.

(7) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes form FmHA 440-12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower, and is not accepted as partial payment on a loan.

(8) *Supervised bank accounts.* If a supervised bank account is required, loan funds will be deposited following loan closing. Supervised bank accounts will be established in accordance with subpart A of part 1902 of this Chapter. Loan funds not to be disbursed for specific purposes at loan closing and not needed within 30 days after closing, will not be requested until they are needed. The "Loan Disbursement System" will be used to request future advances at 30 day intervals or as needed. Only in unusual cases will loan funds be kept in supervised bank accounts for more than 60 days, and when such funds are placed in an interest bearing supervised bank account, the interest earned will be applied on the EM loan immediately or used for an authorized EM loan purpose, if the planned EM funds are not sufficient to cover all of the planned items.

(b) *Closing loans secured by chattels and crops.* See Subpart B of Part 1941 of this chapter.

(c) *Loan closing review.* Immediately prior to loan closing, the FmHA official responsible for closing the loan(s) will review the file for compliance with Agency regulations.

§ 1945.190 Revision of the use of EM loan funds.

(a) *Requirements.* Loan approval officials or their delegates are authorized to approve changes in the purposes for which loan funds were planned to be used, provided:

(1) the loan, as changed, is within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such a change will not adversely affect either the feasibility of the operation or the Government's interest.

(4) Such a change is approved in advance of the loan funds being used for the new purpose(s).

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to the repayment will be made in Table K of Form FmHA 431-2 and will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of Form FmHA 1905-1.

§ 1945.191 [Reserved]

§ 1945.192 Loan servicing.

Loans will be serviced in accordance with Subpart A of Part 1806, Part 1863 and Subpart A of Part 1872 of this chapter (FmHA Instructions 426.1, 425.1, and 465.1, respectively) and Subpart A of Part 1962 of this chapter.

§§ 1945.193-1945.200 [Reserved]

Exhibit A—Processing Guide—Insured Emergency (EM) Loans

I. Purpose

This Exhibit outlines the basic steps involved in processing a loan application including an application kit, and identifies the FmHA forms which should be considered for use at each step as appropriate for EM loans.

II. General

A. The forms listed in this Exhibit will be considered in development of the application. Forms designated with an "x" are required and those designated with a "*" are used when applicable.

B. Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural reference for each form.

III. Application Processing

A. Application Filing. The following should be done at the time the applicants file their applications.

1. County Office Assistants (COA) normally will have the first contact with potential applicants. During these contacts the COA should:

a. Be sympathetic and sensitive to applicants' needs.

b. Set up appointments for applicants to meet with supervisory personnel.

c. Inform applicants of the last date for receiving applications.

d. Discuss credit needs and FmHA's services.

e. Advise applicants eligible for other credit they will be considered for a *loss loan(s) only* at the rate of interest set by the Secretary; and advise applicants appearing eligible for other credit who certified they were unable to get other credit, that they will be referred to other lenders to obtain written evidence they are unable to obtain their needed credit from such other lenders.

f. Begin running case record.

g. Provide applicants with an application kit and any other instructions that are needed to help expedite processing of the application and FmHA forms to be completed.

2. The application kit should have a cover sheet with instructions to the applicant, as is appropriate for individuals, corporations, cooperatives and partnerships. The cover sheet will include a notice to the applicant that the completed application must be returned by the termination date shown on the cover sheet in order to be accepted and considered for EM loan assistance. The following FmHA Forms should be included in the kit: 410-1, 410-9, "Statement Required by the Privacy Act," 431-1, "Long Time Farm and Home Plan," 431-2, and 1945-22.

3. The County Office Assistant (COA) will set up a list of names and addresses for all recipients of EM applications given out. This list will be monitored daily or weekly and if an applicant does not keep a scheduled appointment, follow up will be accomplished with a letter or telephone call and recorded in the County Case File.

4. Applications should normally be acted upon by the County Committee within 15 days, and in any event, not later than 30 days from receipt of a completed application by the county office.

5. Applicants will be promptly notified in writing of their eligibility status, and if additional information is needed to make an eligibility determination, it will be requested in writing.

6. The following FmHA Forms will be used as appropriate:

Form No.	Name	Use
410-1	Application for FmHA Services	x
410-5	Request for Verification of Employment.	*
410-7	Notification to Applicant on Use of Financial Information from Financial Institution.	x
410-8	Applicant Reference Letter	*
410-9	Statement Required by the Privacy Act.	x
410-10	Privacy Act Statement to References.	*
431-1	Long-Time Farm and Home Plan	*
431-2	Farm and Home Plan	x
431-4	Business Analysis—Nonagricultural Enterprise.	*
440-32	Request for Statement of Debts and Collateral.	*
440-34	Option to Purchase Real Property	*
440-58	Estimate of Settlement Costs "Settlement Costs" Booklet.	*
443-2	Option for Purchase of Farm—Land to be Subdivided.	*
443-3	Assignment of Interest in Option (Land to be Subdivided).	*
449-10	Applicant's Environmental Impact Evaluation.	*
1940-38	Request for Lender's Verification of Loan Application.	*
1940-51	Crop-Share-Cash Farm Lease	*
1940-53	Cash Farm Lease	*
1940-55	Livestock-Share Farm Lease	*
1940-56	Annual Supplement to Farm Lease	*
1945-22	Certification of Disaster Losses	x
1945-29	ASCS Verification of Farm Acreages, Production and Benefits.	x

B. Field Visit. Notify applicant of planned visit and its purpose.

1. Verification of disaster losses.

2. Evaluate the resorces available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.

3. Obtain information needed to complete required appraisals (chattel and real estate).

4. If development is planned, discuss plans, specifications, and estimates.

5. Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.

6. Determine security requirements and record in running case record.

7. The following FmHA forms will be used as appropriate.

Form No.	Name	Use
422-1	Appraisal Report—Farm Tract	*
422-2	Supplemental Report—Irrigation, Drainage, Levee and Minerals.	*
422-3	Map of Property	*
422-10	Appraiser's Worksheet-Farm Tracts for Study of Comparable Properties.	*
424-1	Development Plan	*
424-2	Description of Materials	*
440-13	Report of Lien Search	*
440-21	Appraisal of Chattel Property	*
1945-26	Calculation of Actual Losses	x

C. Eligibility Determination.

1. Obtain all needed application forms and other information from the applicant. Assist the applicant in completing these forms and/or in obtaining needed information, as necessary.

2. Request deed or other evidence of title.

3. Schedule meeting for County Committee, review application and determine eligibility.

4. Inform applicant of the results of Committee action.

5. The following FmHA forms will be used as appropriate:

Form No.	Name	Use
403-1	Debt Adjustment Agreement	*
440-2	County Committee Certification or Recommendation.	x

IV. Docket Preparation

A. Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.

B. Check to assure all security requirements have been or will be met by loan closing.

C. Prepare a loan narrative and enter it into the running case record.

D. The following FmHA forms will be used as appropriate:

Form No.	Name	Use
400-4	Nondiscrimination Agreement	x
427-8	Agreement with Prior Lienholder	*
440-4	Security Agreement (Chattels and Crops).	*
440-4A	Security Agreement (Crops)	*
440-6	Severance Agreement	*
440-15	Security Agreement (Insured Loans to Individuals).	*
440-25	Financing Statement	*
440-A25	Financing Statement (Carbon-Interleaved).	*
440-26	Consent and Subordination Agreement.	*
440-41	Disclosure Statement for Loans Secured by Real Estate.	*
440-41A	Disclosure Statement for Loans Not Secured by Real Estate.	*
440-43	Notice of Right to Rescind	x
440-46	Environmental Impact Assessment	*
441-5	Subordination Agreement	*
441-8	Assignment of Proceeds From the Sale of Agricultural Products.	*
441-10	Nondisturbance Agreement	*
441-12	Agreement for Disposition of Jointly Owned Property.	*
441-13	Division of Income and Nondisturbance Agreement.	*
441-17	Certification of Obligation to Landlord.	*
441-18	Consent to Payment of Proceeds from Sale of Farm Products.	*
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	*
443-16	Assignment of Income From Real Estate Security.	*
443-17	Agreement to Sell Nonessential Real Estate.	*
1940-1	Request for Obligation of Funds	x

V. Loan Approval and Closing

A. Loan Approval.

1. Establish loan closing conditions and enter them in the running case record.

2. Execute and distribute all forms necessary for loan approval.

3. For chattel loan—file financing statement or chattel mortgage, and obtain a lien search.

4. For real estate loan—request preliminary title opinion.

B. Loan Closing.

1. Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

2. The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	Use
140-4	Transmittal of Documents	*
400-1	Equal Opportunity Agreement	*
400-3	Notice to Contractors and Applicants.	*
400-6	Compliance Statement	*
402-1	Deposit Agreement	*
402-2	Statement of Deposits and Withdrawals.	*
402-5	Deposit Agreement (Non FmHA Funds).	*
426-2	Property Insurance Mortgage Clause (Without Contribution).	*
427-1	Real Estate Mortgage or Deed of Trust for ——.	*
427-4	Transmittal of Title Information	*
427-5	Affidavit of Borrowers (or Transferees).	*
427-6	Affidavit of Sellers (or Transferors)	*
427-9	Preliminary Title Opinion	*
427-10	Final Title Opinion	*
427-11	Warranty Deed	*
440-45	Nondiscrimination Certificate (Individual Housing).	*
440-59	Settlement Statement	*
1940-17	Promissory Note	x
1951-4	Change in Rates and Terms	*

Exhibit B—Memorandum of Understanding Between the Small Business Administration (SBA) and the United States Department of Agriculture (USDA)—Farmers Home Administration (FmHA) Pertaining to Disaster Loan Assistance Programs

I. Preamble

Pub. L. 96-302, which amended the Small Business Act and the Consolidated Farm and Rural Development Act, amends Section 18 of the Small Business Act by—"(1) striking the comma after the phrase 'agricultural related industries' and inserting the following: ': Provided, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar rates from the Farmers Home Administration under Subchapter III of the Consolidated Farm and Rural Development Act,' and * * *."

This legislation makes it clear that farmers are to be directed to the FmHA for disaster loan assistance once a disaster declaration has been made as a result of disasters commencing on or after July 3, 1980.

This joint Memorandum reaffirms the mutual desire of SBA and FmHA to cooperate in the use of their respective disaster loan-making authorities to compliment the disaster program activities of each other, consistent with the basic purpose of the legislation.

It is *not* intended that this Memorandum alter the relationship that currently exists between FmHA and SBA regarding the handling of each Agencies' regular lending programs.

With respect to their regular programs, FmHA and SBA will continue, to the extent possible, to improve and expand the delivery of financial assistance to the agricultural community.

II. Definitions

1. *Farming* is the business of producing crops, livestock, livestock products, and aquatic organisms through the management of land, water, labor, capital and basic raw materials, e.g., seed, feed, fertilizer and fuel.

2. *Natural Disaster* (As authorized by FmHA State Directors) is a disaster caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fire resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Physical Disaster* (As declared by the Administrator of SBA) is a disaster caused by a flood, riot, civil disorder, hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire, explosion or other catastrophic event.

4. *Major Disaster* (As declared by the President) is a disaster caused by any catastrophic event of sufficient magnitude to warrent major disaster assistance by the Federal Government, under the Disaster Relief Act of 1974.

5. *Housing Losses* are losses sustained to the farmowner's personal dwelling, tenant housing or farm labor housing and their contents, and other personal property contained therein.

6. *Agricultural Enterprises* are those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries.

7. *Credit Elsewhere:*

(a) For SBA purposes, is the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the disaster loan applicant transacts business for similar purposes and periods of time.

(b) For FmHA purposes, is the availability of sufficient credit elsewhere taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

8. *Federal Individual Assistance* is the Federal disaster assistance made available to private individuals and privately owned and operated agricultural enterprises as compared to public assistance disaster programs which are available to governing bodies and quasi-governing bodies of political subdivisions.

9. *Presidential Emergency* is any disaster in any part of the United States which is of such magnitude that the President makes a declaration and which requires certain Federal emergency programs to supplement State and local efforts in the preservation of lives and protection of property, public health and safety, or to avert or lessen the threat of a more severe disaster.

III. General Guidelines

1. The FmHA administers its financial assistance programs through its State, District and County offices.

The SBA administers its financial assistance programs through its Regional, District and Branch offices.

2. All farm disaster loss loan applications heretofore and hereafter approved by SBA will be serviced by SBA.

3. The SBA and FmHA will have substantially similar interest rates for their respective loss loans. It is agreed, therefore, that such interest rates will not differ by more than one percent per annum at any given time, and will be applied in accordance with Section 114 of Pub. L. 94-305; and that the FmHA Deputy Administrator for Farm and Family Programs and the SBA Associate Administrator for Financial Assistance will

consult before either Agency changes its loss loan rate of interest.

4. FmHA State Directors and SBA District Directors will consult with each other when either is contemplating authorizing or recommending that an area(s) be named where farm disaster financial assistance is to be made available. Each Agency, at the National level, will notify the other in writing when such declaration or authorization is officially made.

5. FmHA State Directors and SBA District Directors will exchange addresses of their respective offices and identify the geographical area(s) served by each. This specific information will be available in all field offices of both Agencies so applicants can be referred to the appropriate offices with a minimum of delay. The FmHA uses its local county offices to administer disaster emergency programs. SBA will either establish special local offices for administering its disaster assistance programs, or utilize permanent SBA offices, as appropriate.

6. SBA Disaster Branch Offices and FmHA County Offices will cooperate to avoid overlapping and duplication of disaster benefits by exchanging loan application and loan approval information while ensuring that farmers and rural resident disaster victims receive the assistance to which they are entitled.

7. FmHA State Directors and SBA District Directors will meet on a frequency of not less than annually to review this Memorandum of Understanding, clarify and agree on each Agency's disaster program responsibilities, and plan appropriate training meetings for their respective employees to assure familiarity with and common understanding of the contents of this Memorandum of Understanding.

IV. How Loans are Made Available

1. *FmHA Emergency (EM) Loans.* EM Loans will be made available in counties named by the Federal Emergency Management Agency (FEMA) as eligible for Federal Individual Assistance under a major disaster or emergency declaration by the President, or in counties where EM Loans are authorized by the FmHA State Director because of a natural disaster.

2. *SBA Disaster Loans.* SBA Physical Loss and Economic Injury Disaster Loans will, as determined to be necessary and appropriate, be made available in counties named by FEMA, as well as in counties declared by the Administrator of SBA. Economic Injury Disaster Loans, as a separate program, will be made available to nonfarm small business concerns in counties where FmHA State Directors have authorized EM Loans, and furthermore, SBA Physical Disaster Loans will be made available to those agricultural enterprises referred to SBA by FmHA pursuant to paragraph IV 4 (e) of this Memorandum of Understanding.

3. FmHA and SBA will establish a liaison at both the State Director/District Director level and the National level and periodically coordinate their activities to: (a) exchange detailed information concerning the disaster loan programs, (b) define areas of cooperation between the two Agencies, (c) assure that their programs are serving the intended recipients, (d) establish new methods to serve the public more expeditiously, and (e) achieve maximum utilization of their respective resources.

4. The SBA and FmHA agree that the interests of agricultural enterprises will be best served, and that each Agency will achieve better utilization of available resources, through the operating guidelines discussed in this section relative to areas where these Agencies offer disaster assistance. Furthermore, National FmHA and Central SBA office representatives agree to meet on a frequency of not less than annually to review this Memorandum of Understanding, discuss matters of mutual concern relating to each Agency's disaster loan programs and to revise this document, if appropriate.

(a) When an applicant has sustained only housing and personal property losses in areas where SBA's Physical Loss Loans are available, *only* SBA will make loans for the restoration or replacement of disaster caused housing losses as defined in paragraph II 5 of this Memorandum of Understanding. When an agricultural enterprise has suffered farm production and/or physical farm losses, as well as housing losses, and SBA has not approved a physical disaster declaration for the affected area, FmHA will make the loan(s) for the production and physical farm losses as well as the housing losses.

In the event both Agencies have made their disaster assistance programs available for the area, applicants will have the option of going to FmHA *or* SBA for disaster loan assistance to restore or replace their housing losses; however, *in all cases,* farm production and farm physical loss loans will be made by FmHA, providing the applicant is otherwise eligible.

In those instances where an FmHA farm production and/or physical farm loss loan(s) is to be made, following approval of an SBA Housing Loss Loan, the SBA will, upon request from FmHA, subordinate its lien to FmHA, as may be required for approval of the FmHA loss loan(s).

(b) When an applicant makes an initial inquiry for disaster assistance from SBA and farm losses are evident, the applicant will be advised of the provisions of (a) above and referred to FmHA for the needed financing based on farm losses. When an applicant makes an initial inquiry with SBA seeking disaster assistance for housing losses *only,* the applicant will be referred to FmHA for consideration whenever the losses suffered were not in an SBA authorized area. Should such an applicant be in an SBA authorized area and be denied SBA assistance because of a lack of repayment ability due to low income, the applicant may be referred to FmHA for its consideration under FmHA's 502 Rural Housing Interest Credit Loan Program, provided the applicant resides in a rural community or in a community under 20,000 population. FmHA may be able to extend interest credit assistance to such borrowers at rates as low as 1 percent under that Loan Program.

(c) In any event, potential farm loan applicants should contact FmHA for an interview to determine whether they are eligible for disaster loan assistance from the FmHA. Those not eligible will be referred to the SBA for consideration, except those discussed in paragraph (e) below. Where a referral or denial action is taken by the FmHA, the referral or denial letter to the applicant will specify the reason(s) why the disaster type assistance requested by the applicant was not made available by FmHA.

(d) Potential applicants are not to be referred back and forth between FmHA and SBA. Representatives of each Agency must be reasonably certain the disaster victim is eligible for assistance from the other agency before a referral is made.

(e) FmHA personnel will refer, by letter, those applicants ineligible for FmHA EM Loan assistance for reasons such as alien status; corporations, partnerships and cooperatives not being primarily engaged in farming; and farm owners who do not operate their farm(s). Referral letters will state the specific reason(s) for ineligibility and will include the following statement, "Applicant has been informed that applicants for SBA Physical Disaster Loan assistance must meet minimum loss criteria substantially similar to that employed by FmHA." Referrals will not be made by FmHA when the reason(s) for loan denial is based on unfavorable credit determinations (includes inadequate security), lack of repayment ability, or when it is known to FmHA that sustained disaster losses are insufficient to meet its minimum loss criteria.

(f) Disaster victims filing for financial assistance from either Agency will give written permission for FmHA and SBA to exchange all prior and current loan application and loan experience information, including appraisals. The format for this permission must be developed in compliance with the Privacy Act.

(g) Applicants filing for financial assistance from either Agency must use the forms and procedures of the Agency being requested to provide such assistance. An applicant who is denied assistance by either Agency must file a new application with the other in accordance with that Agency's forms and procedures. However, the earliest filing date of an application for losses with either Agency will constitute the filing date with regard to termination dates for receiving applications by either Agency; provided *not more than six months* has elapsed since the termination date of the second Agency contacted, at the time that Agency is requested to process an application.

V. Description of Lending Policies

The FmHA guarantees EM Loans and also makes insured EM Loans. Guaranteed EM Loans are loans where an eligible lender advances the entire loan from its own resources and services the loan. The FmHA guarantees repayment to the lender of a certain percentage of any loss of principal and interest. Insured EM Loans are those made from the Agricultural Credit Insurance Fund (ACIF) by FmHA employees and serviced by FmHA employees.

The SBA makes direct, immediate participation, and guaranteed loans. Direct loans are made with SBA funds only.

Immediate participation loans are those in which SBA agrees to purchase a specified percentage of a loan from a lender immediately after disbursement of such loan. Guaranteed loans are made by a conventional lender from its own funds and SBA guarantees a percentage of the unpaid balance.

VI. Loan Programs

The Emergency and Disaster Loan Programs of FmHA and SBA are outlined in Table I which sets forth the comparative similarities and differences of each programs.

VII. Administrative Guidelines

1. The services of FmHA and SBA, which are available to lenders and applicants are, by mutual agreement, services that each Agency would provide any eligible applicant in the normal course of business; and normally there will be no reimbursement by either Agency to the other for such services.

2. The National Office of FmHA and the Central Office of SBA will cooperate in counseling their field offices and in resolving problems in specific cases.

3. This Memorandum of Understanding in no way alters or supersedes the existing Memoranda between the two Agencies covering FmHA's regular farmer loan authorities and its Business and Industrial Loan authorities, and all of SBA's regular loan programs. However, this Memorandum replaces the previous Memorandum of Understanding on disaster type loan assistance, signed by SBA on July 21, 1977, and by FmHA on August 25, 1977

4. This agreement may be amended at any time by written agreement of both parties.

5. This agreement shall take effect upon the later date shown below.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.
Date: ———

A. Vernon Weaver,
Administrator, Small Business Administration.
Date: ———

SBA/FmHA Memorandum of Understanding—Disaster Loan Assistance Programs

Table I.—*Comparative similarities and differences*

FmHA	SBA
Eligibility	
1. An individual applicant must be a citizen of the United States. For applicants which are organized as a partnership, a cooperative, or a corporation, the principal owners must be U.S. citizens; over 50 percent of the ownership of such entities must be held by U.S. citizens; and the manager of any such entity must have an ownership interest in the entity and be a U.S. citizen. Such entity must be recognized and authorized to farm in the State(s) in which it will operate a farm(s), and such entity will be in good standing in that State(s).	1. Citizenship is not required. However, use of disaster loan proceeds outside the United States or its possessions is not permitted.
2. EM loan applicants *able* to obtain their needed credit elsewhere may be considered for an *Actual Loss Loan only at a current market rate of interest.* EM Loan applicants *unable* to obtain their needed credit elsewhere, exclusive of an SBA Physical Disaster Loss Loan, may qualify for an *Actual Loss Loan(s) at 5 percent interest, and EM Annual Production and/or EM Major Adjustment Loan(s) at the current market rate of interest.*	2. Physical Disaster Loans are made to non-business loan applicants, without regard to the availability of other financing or resources, and business loan eligibility is similar. However, the SBA's judgment of the business' capacity to obtain credit elsewhere will determine the applicable interest rate. Applicants for Economic Injury Disaster Loan (EIDL) assistance *must* seek and fully utilize all alternate financing resources prior to obtaining an EIDL loan from SBA. EIDL applicants must be eligible *small* businesses according to SBA size standards.
3. The applicant must be an established farmer, rancher or aquaculture operator, either tenant-operator or owner-operator. If the applicant is a partnership, corporation, or cooperative, it must be primarily engaged in farming; i.e., it must derive over 50 percent of its gross income from all sources from the farming operation(s), and the farming operation(s) must be managed by one or more of the principal partners, principal stockholders, or principal members.	3. Most homeowners, businesses and nonprofit institutions are eligible for Physical Disaster Loan assistance.
4. The applicant must have been conducting a farming operation(s) at the time of the disaster in a county or counties where EM Loans have been authorized.	4. The applicant must be within the disaster area as defined by the SBA disaster declaration.
5. The applicant must have suffered qualifying property damage or production losses as a direct result of the declared or authorized disaster.	5. The applicant must have suffered real or personal property damage as a direct result of the declared disaster.
6. The applicant must be of good character, have the necessary experience and/or training, industry, and ability to carry out the proposed operation.	6. Applicants must be of good character and must be able to provide reasonable assurance of loan repayment ability.
7. Will take all farm disaster applications and approve EM Loans based on disasters commencing *after July 2, 1980,* regardless of whether or not an applicant can obtain the credit needed elsewhere.	7. Will take any farm disaster applications and approve disaster loans based on disasters commencing *on or before July 2, 1980.* Applicants applying for farm disaster loans based on disasters commencing *on or after July 3, 1980,* will be referred to FmHA.
Loan Purposes	
1. For those unable to obtain credit, to cover actual losses for damaged or destroyed farm property and production; provide essential annual farm production and family living expenses; and provide the financing necessary to make adjustments in the farming operation, which will assure the return of the operation to a financially sound pre-disaster base.	1. The purpose of Physical Disaster Loans is to restore the disaster victim's home or business property, real or personal, as nearly as possible to its pre-disaster condition. No upgrading is permitted except as required for code compliance.
2. Housing losses—Available under FmHA's Rural Housing Disaster Loan Program only when SBA's Physical Disaster Loan assistance is *not* available. When housing and farm losses are involved, the applicant may choose between SBA or FmHA for loan assistance on the housing loss, but all farm loss assistance will be provided by FmHA.	2. Housing losses—When only housing losses are sustained, SBA will make all Housing Loss Loans caused by the declared disaster. In those areas where both FmHA and SBA disaster programs are available, applicants may select the Agency from which they wish to obtain their Housing Loss Loan, but all applications for farm loss loans will be referred to FmHA.

Table I.—*Comparative similarities and differences*—Continued

FmHA	SBA
3. Initial EM Annual Production Loans may be applied for up to 12 months from the disaster authorization date. Subsequent Em Annual Production Loans may be applied for up to three full calendar years after the disaster authorization date. However, EM Annual Production Loans, initial or subsequent, are *not* available to applicants who are initially *able* to obtain their needed credit elsewhere.	3. Economic Injury Disaster Loans are somewhat similar; however, the need for these loans must be specifically related to the physical disaster as declared by SBA.
4. EM Major Adjustment Loans may be applied for up to 12 months after the disaster authorization date, but are *not* available to applicants who are initially *able* to obtain their needed credit elsewhere.	4. No comparable disaster loan program; however, SBA's Regular Business Loan Program is somewhat similar.
Rates and Terms	
1. Actual Loss Loans. (a) For applicants who are *able* to obtain their credit elsewhere, the interest rate for EM Actual Loss Loans is established by the Secretary of Agriculture, based on the cost of money to the Government using the statutory formula.	1. Interest rate on Physical Disaster Business Loans where credit elsewhere is available is determined by a statutory formula which is based upon the cost of money to the Government, and which will remain in effect for all disasters occurring on or after October 1, 1978, and prior to October 1, 1983.
(b) For applicants who are *unable* to obtain their credit elsewhere, the interest rates for EM Actual Loss Loans are as follows:	During the same period, October 1, 1978, through September 30, 1983, there is a 3 percent interest rate for losses to primary homes and personal property; and a 5 percent rate for loans to businesses, which in SBA's judgment are unable to obtain credit elsewhere.
(1) For disasters occurring through September 30, 1978, for which loans were approved on or after October 1, 1978, the rate is 3.00 percent.	Interest rates on loans for all other purposes are based upon a statutory formula.
(2) For disasters occurring on or after October 1, 1978, the rate is 5.00 percent.	
Actual Production Loss Loans are normally made for up to 7 years. Under certain circumstances loss loans for production and chattel losses may extend up to 20 years with special conditions, depending on the life expectancy of the collateral securing the loan(s). Actual Loss Loans for real estate purposes will normally be for 30 years, but may extend up to 40 years.	SBA Home, Personal Property, Business, and Economic Injury Disaster Loans may have maturities of up to 30 years. However, the repayment ability of the applicant will determine the actual maturity of the loan.
2. Annual Production Loans—at the current prevailing market rate established periodically by the Secretary and repayable when principal income from the year's operation is normally received.	2. Interest rate for Economic Injury Disaster Loans which are similar is based upon a statutory formula.
3. Major Adjustment Loans—at prevailing current market rate as established periodically by the Secretary. Such loans for chattels are normally made for up to 7 years, and for real estate, normally up to 30 years. Under certain circumstances loans for chattels may extend up to 20 years and loans for real estate may extend up to 40 years.	3. No comparable disaster loan program.
Loan Limits	
1. In addition to the ceiling limitations listed herein, the extent of loan assistance is also limited by the amount of actual loss, potential repayment ability, collateral available, the applicant's needs and other credit factors.	1. Home Loans—No statutory limit; however, the following administrative limits have been established: (a) $50,000 for real estate, (b) $10,000 for personal property, or (c) $55,000 for combined purposes and up to $50,000 for eligible refinancing.
(a) There is a statutory limit of $500,000 per disaster per applicant for Actual Loss Loan assistance for both those who *can obtain* and those who *cannot obtain* their credit elsewhere.	2. Business Loans, Physical Disasters—No statutory limit for disasters commencing prior to enactment of Pub. L. 96-302, i.e., July 2, 1980; however, a $500,000 administrative limit was in effect; exceptions permitted by SBA Regional Administrator to avoid undue financial hardship.
(b) Administrative ceilings for those who cannot obtain credit elsewhere have been established as follows:	*For disasters commencing on or after July 3, 1980, the statutory* limit is $500,000 per disaster per borrower.
(1) Actual Loss Loan—*$500,000 per applicant per disaster* designation for disasters occurring on or after October 1, 1978.	Limit may be waived by Administrator if applicant is a major source of employment in an area suffering a major disaster declared by the President.
(2) $250,000 per applicant per disaster designation for disasters occurring through September 30, 1978.	3. Business Loans, Economic Injury—No statutory limit, the amount of economic injury determines the size of the loan.
(3) Annual Production and/or Major Adjustment Loans—$1,500,000 outstanding principal balance authorized per EM borrower, regardless of the number of disasters. A further sub-limitation setting a $300,000 maximum outstanding principal balance on Major Adjustment Loans for refinancing debts, which are secured by real estate, is established within the above $1,500,000 ceiling. However, borrowers indebted for an EM Loan(s) on or before December 15, 1979, who cannot obtain credit elsewhere, may receive subsequent Annual Production Loans in amounts necessary to continue their normal operation(s) without regard to this indebtedness ceiling.	
Graduation Policy	
1. Reviewed to determine ability to obtain credit from other *credit sources after a three (3) year period following receipt* of the initial EM loan, and every two (2) years thereafter, until graduation is achieved or the loan(s) is paid in full. Refinancing, when available, is mandatory for borrowers who, when they received their initial loans, were unable to obtain credit from other sources.	1. Business loan applicants, who can obtain credit elsewhere *(loans approved at formula rate)*, will be reviewed for graduation three years after a Physical Disaster Business Loan is fully disbursed, and every two years thereafter for the term of the loan. Refinancing, when available, is mandatory.
Economic Injury Loans	
1. EM loans for annual production purposes are similar.	1. SBA is authorized to make Economic Injury Disaster Loans to small business concerns that have suffered cash flow problems related to the disaster. These loans are for working capital only and do not allow for any expansion.

Exhibit C—Memorandum of Understanding Between Agricultural Stabilization and Conservation Service and Farmers Home Administration on Disaster Assistance

I. General.

Federal agencies that provide financial assistance to farmers suffering losses as a result of a declared or authorized disaster are required to ensure that there is not duplication of benefits under other programs. Within USDA it is very important that the Agricultural Stabilization and Conservation Service (ASCS) and the Farmers Home Administration (FmHA) maintain close coordination of their assigned disaster programs.

II. Purpose.

The purpose of this memorandum of understanding is to coordinate certain ASCS disaster activities with the FmHA actual loss emergency loan program.

III. ASCS and FmHA Coordination on Disaster Activities to Farmers and Ranchers

The amount of any benefits received from ASCS disaster programs, including disaster payments and cost-sharing payments under the Emergency Conservation Program, Emergency Feed Program, will be considered by FmHA in determining the maximum amount of an actual loss emergency loan that a farmer can receive. This will be done in accordance with FmHA regulations.

IV. Understanding Reached

A. FmHA County Supervisors prior to determining the maximum amount of any actual loss emergency loan, will consult with ASCS County Executive directors regarding ASCS disaster benefits provided or to be provided to FmHA emergency loan applicants.

B. ASCS County Executive Directors, at the request of the FmHA County Supervisors, will provide FmHA with the following information from ASCS county office records: farmland and cropland acreages on the applicant's farm(s), production on crops, and amounts of payments or assistance provided or to be provided by ASCS to such applicant. Form FmHA 1945-29, "ASCS Verification of Farm Acreage, Production, and Benefits" will be used for this purpose.

C. FmHA County Supervisor will, in a timely manner, provide ASCS county offices with the names and addresses of farmers or ranchers who have had an actual loss emergency loan approved.

D. ASCS County Executive Directors will consult with FmHA County Supervisors before issuing disaster payments to farmers or ranchers for whom Form FmHA 1945-29 has been received. Sight drafts for payments of ASCS disaster benefits for farmers and ranchers whose FmHA loan application has been approved, will be prepared to show FmHA as joint payee and forwarded to the FmHA county office.

V Supersedure

This memorandum of understanding supersedes the one signed by the Administrator of FmHA on April 18, 1975, and the Administrator of ASCS on April 23, 1975.

VI. Amendment

This memorandum of understanding may be amended at any time by mutual consent of the agencies involved.

/s/ Ray V Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

Date 11-8-79.

/s/ Gordon Cavanaugh,

Administrator, Farmers Home Administration.

Date 10-30-79.

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

8. In § 1951.10, paragraph (a)(5) is revised to read as follows:

§ 1951.10 Application of payments on operating (OL), emergency (EM), economic emergency (EE), economic opportunity (EO) loans to individuals, soil and water conservation (SW) coded "24", and other production type loan accounts.

(a) *Rules for selection of accounts.*

* * *

* * * * *

(5) When nonfarm assets have been sold, the payments will be applied as set out in § 1945.56(b)(4) of Subpart B of Part 1945 and § 1945.156(b)(3) of Subpart D of Part 1945 of this Chapter if they were sold as a condition for EM loan assistance.

* * * * *

Note.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that this action does not constitute a major federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

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

Dated: May 20, 1981.

Dwight O. Calhoun,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 81-15584 Filed 5-22-81; 8:45 am]

BILLING CODE 3410-07-M

federal register

Tuesday
May 26, 1981

Part VII

Civil Aeronautics Board

Foreign Air Carriers

CIVIL AERONAUTICS BOARD

14 CFR Part 212

[Economic Regulations Amdt. No. 39 of Part 212; Docket 35046; Regulation ER-1220]

Charter Trips by Foreign Air Carriers; Updating of Regulations Governing Foreign Carrier Charter Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In response to a petition by the National Air Carrier Association, the CAB is amending its prior approval requirements for charters by foreign air carriers. Prior approval will normally be required for a charter flight between the U.S. and a country other than the carrier's home country, instead of for "off-route" charters as the rules formerly provided. Regulations governing charters by foreign air carriers will be consolidated into one part of the CFR. On its own initiative, the CAB is also making miscellaneous changes to the pro rata charter rules.

DATES: Adopted: May 8, 1981. Effective: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442. Copies of this document may be obtained by calling (202) 673-5432.

SUPPLEMENTARY INFORMATION: The Board proposed in EDR-394 (45 FR 2331, January 11, 1980) to revise its requirements for prior approval of charter flights by foreign air carriers. Under existing regulations, foreign carriers must apply for and obtain prior approval on a flight-by-flight basis for all charter flights that do not operate over routes listed in their section 402 permits. On-route flights do not need prior approval unless specifically required by the Board. EDR-394 proposed to replace the on-route/off-route dichotomy with a system under which prior approval would routinely be required for "fifth freedom" flights (between the U.S. and a country other than the home country of the carrier) but not for "third or fourth freedom" flights (between the U.S. and the carrier's home country). The Board tentatively found that this distinction was more closely related to the sorts of reciprocity problems that the prior approval procedures are designed to handle than the on-route/off-route distinction. EDR-394 reserved the Board's right in special cases to require approval for third and fourth freedom charters, or grant blanket approval (in effect, waive the prior approval requirement) for fifth freedom charters. Shortly after EDR-394 was issued, the Board issued Order 80-3-63 to show cause why the carriers of Argentina, Brazil, Colombia, Iran, Ireland, Japan, Peru, Philippine, U.S.S.R., and Venezuela should not be required to obtain prior approval for third and fourth freedom charter flights if EDR-394 were adopted.

In addition to the prior approval revisions, EDR-394 proposed numerous incidental changes to simplify and update the regulations applying to foreign air carrier charters. The different parts applying to foreign route carriers (Part 212) and foreign charter-only carriers (Part 214) were proposed to be merged into a single part (revised Part 212). Applications for prior approval would normally be due at least 5 days before departure, but 30 days in advance where filing had been specially required. Provisions for Presidential review of Board disapproval were proposed to be eliminated. Also, the Board proposed to delete certain requirements applicable to pro-rata (affinity) charters; these were unrelated to the prior approval procedures.

Comments

Comments were filed by the Department of State, the Department of Transportation (DOT), National Air Carrier Association (NACA), British Caledonian Airways (BCal), Trindad and Tobago International Airways (BWIA), Japan Airlines (JAL), and Singapore Airlines (SIA).

JAL, SIA, and BWIA opposed the proposal as more restrictive than current regulations. JAL noted that on-route fifth-freedom flights do not now require routine prior approval, as they would under EDR-394. It argued that the proposal would breach a 1953 Exchange of Notes between the U.S. and Japan allowing on-route charter flights by designated carriers of both countries without prior authorization. SIA claimed that the proposal would violate the bilateral agreement between the United States and Singapore by requiring prior approval for charters carrying traffic between the U.S. and points beyond Singapore via Singapore, which SIA contended are relieved from prior approval by the U.S.-Singapore agreement. SIA also observed that EDR-394 would require prior approval for off-route fifth freedom flights, which would further restrict its operations, since SIA has been granted blanket approval for all off-route flights under the current procedures. BWIA was concerned that its operations between the U.S. and Barbados, Antigua, St. Lucia, and Guyana would be considered fifth freedom flights under the new regulations, requiring prior approval. These Caribbean points have traditionally been viewed as part of BWIA's "homeland", and operations between them and the United States have been regarded as on-route, not requiring prior approval. BWIA suggested that requiring prior approval for those operations would amount to a permit amendment for which evidentiary hearings would be needed. BWIA proposed instead that the Board require prior approval only for those carriers and those flights specifically designated through show-cause procedures.

State, DOT, BCal, and NACA supported replacing the on-route/off-route distinction with a new test. BCal supported the fifth freedom test, but felt that the rule should explicitly provide for blanket approval where the prior approval mechanism was not needed to assure reciprocity or was not justified by the administrative burdens. BCal pointed out that U.S. carriers obtain more fifth freedom rights from Britain than British carriers obtain from the U.S., and that BCal has never been denied prior approval. They therefore viewed themselves as an example of a case in which blanket prior approval would be warranted. NACA and State favored a more stringent requirement that prior approval be obtained for every flight not subject to a bilateral agreement relieving U.S. carriers of prior approval. State was especially concerned that the Board's system will appear coercive and punitive to those carriers required to obtain prior approval for third and fourth freedom charters, since their requirement will be in contrast to a general rule that does not require prior approval for those flights. Thus, it advocated a more stringent general rule. However, both NACA and State viewed EDR-394 as an improvement over the current situation.

Some of the comments suggested alternatives to the specific filing times proposed in EDR-394. NACA felt that applications for prior approval should be filed 30 days before departure for charters of persons or livestock, instead of 5 days as proposed, to give carriers more opportunity to comment on the status of foreign government reciprocity. It also asked the Board to establish explicit procedures for dealing with late-filed applications so that opposing parties would have adequate opportunity to respond. BCal argued that applications for cargo charters should be allowed less than 5 days before departure if they are filed "promptly—

say, within two business days—after the flight is engaged by the charterer," since cargo charters are often fixed within 5 days of departure. JAL objected to the 30-day advance filing time for cases where the Board has specifically required prior approval for third and fourth freedom charters. It argued that other carriers would be able to undercut the prior-approval carrier's price within the 30 days, and that the carrier would not be able to provide the short-notice cargo service that the market often demands.

NACA objected to EDR-394's provision that applications be publicly posted rather than served directly on U.S. carriers, and it offered alternatives to limit the number of persons to serve. It suggested that the Board ask carriers to designate countries of interest to them, from which the Board could prepare a routine service list for each country. Alternatively, applications could be served on interested carrier associations, such as NACA or ATA, or the Board could delegate authority to its staff to require service in particular cases upon a showing of reciprocity problems by interested U.S. carriers. Publication of applications in the **Federal Register** was suggested as a less-preferred alternative.

NACA also urged that the Board use show-cause procedures before granting any blanket prior approval, to allow U.S. carriers fuller opportunity to comment. It argued that allowing comment solely on reconsideration, after the Board or its staff had unilaterally decided to grant blanket approval, would not be conducive to a fair assessment of the reciprocity situation.

State and DOT recommended more interagency review procedures before the Board could impose prior approval requirements for third and fourth freedom charters. Both agencies felt that the Board should consult with the Departments of State, Transportation, and Defense, and obtain Presidential approval, before imposing such requirements. DOT suggested that the Interagency Committee on International Aviation Policy would be a good forum for such consultations. State also urged that all such prior approval applications be served on itself and the Department of Defense, and that denials of any such application be subject to Presidential review. State thought that the final rule itself should be subject to Presidential approval.

NACA, in reply comments, argued that Presidential review would involve undesirable delays. NACA thought that State and DOT's desire for inclusion in the decision-making process could be best accommodated by allowing more notice and comment procedures before approval or disapproval, as NACA has suggested.

NACA suggested a change to the pro rata charter rule amendments in addition to those proposed in EDR-394. It argued that the Board should eliminate the existing requirement that carriers list addresses, phone numbers, and other personal data in their passenger manifests for affinity charters. NACA viewed this requirement as outdated, anticompetitive, and an invasion of passengers' privacy.

Prior Approval Requirements

We have decided to adopt the prior approval system described in EDR-394. Prior approval will routinely be required for fifth freedom charters and will not be routinely required for third and fourth freedom charters. A separate order will designate those carriers that must obtain prior approval for third and fourth freedom flights. We will also issue a separate order inviting applications from carriers for blanket prior approval of fifth freedom charters. Two other orders will list carriers who must obtain prior approval for all charter flights for national security reasons.

As explained in EDR-394, we are rejecting the more stringent prior approval standard suggested by State and NACA as less workable than the third-and-fourth vs fifth freedom test. Only 23 U.S. bilateral agreements refer to charter authority. For 106 countries with which we have aviation relations, including many with which we have scheduled service agreements, there is no agreed regime for regulating charters. Subjecting the carriers of over 80 percent of our bilateral partners to routine prior approval is unnecessary in view of the relatively infrequent reciprocity problems we have had on third and fourth freedom flights. Countries with whom third and fourth freedom flights pose problems can be more easily dealt with by *ad hoc* prior approval requirements.

We also do not accept BWIA's suggestion that prior approval be required only on an *ad hoc* basis through show cause procedures. Virtually none of our bilateral agreements cover fifth freedom charters, which are the operations subject to the greatest controversy. Requiring prior approval for those flights on a country-by-country basis would involve unreasonable delay and expenditure of resources. We find it more expedient to require routine prior approval and consider blanket prior approval in individual cases.

We recognize that the changes in this rule will require prior approval for some flights (on-route fifth freedom) for which approval has not been required in the past. However, the rule will also eliminate prior approval for a greater number of other flights now subject to it (off-route third and fourth freedom). The rule recognizes the areas in which charter flight reciprocity problems typically arise, but it does not change the principle that approval mainly depends on the extent of reciprocity between the two countries. A requirement of prior approval for certain flights does not imply that approval will often, or ever, be denied. It rather allows the Board to scrutinize the areas of greatest concern. Recognizing the areas of concern does not alter any carrier's basic permit authority, since all charter flights made under existing permits and regulations are subject to prior approval or other conditions. Where a foreign air carrier permit is subject to such a condition, the Board's invocation of that condition does not constitute an amendment, cancellation, suspension or revocation of the permit that would require a hearing. *Dan-Air Services v. CAB*, 475 F.2d 408 (D.C. Cir. 1973). Therefore, we reject BWIA's contention that evidentiary hearings are necessary in this proceeding.

Prior approval requirements must of course be consistent with bilateral agreements, and we will take care to ensure that ours are. In determining whether to approve a charter flight, the Board will consider "the extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party." § 212.6(a)(1). Where an agreement is clear and has been faithfuly adhered to, we will grant blanket prior approval to relieve carriers of the burden of filing applications. Where an agreement is unclear or there is a dispute about proper compliance with it, the application process provides a way of deciding whether the bilateral agreement governs.

Specifically, we do not consider this rule to be inconsistent with our bilateral agreement with Singapore or the 1953 Exchange of Notes with Japan. The U.S.-Singapore Agreement permits SIA to conduct without prior approval (1) charters between the United States and Singapore, and (2) charters between the United States and a third country via Singapore if the chartering group stops over in Singapore for at least two consective nights. This rule allows the operation of both types of charters without advance approval. The first type is a typical third/fourth freedom charter.

As to the second type—for Singapore as well as other countries with which we have similar charter agreements—we view the two-night homeland stopover as a break in the charter journey sufficient to make the U.S.-Singapore portion of the charter a third/fourth freedom flight, distinct from the subsequent Singapore-beyond movement. Under this approach, which is present in other U.S. bilateral aviation agreements, the beyond-Singapore portion is third/fourth freedom with respect to Singapore and not fifth freedom with respect to the United States, and we do not regard it as within the purview of Part 212. Thus, adoption of this rule does not diminish Singapore Airlines' operating freedom.

We disagree with the assertion of Japan Air Lines that the imposition of an approval requirement for on-route charters would violate both the letter and the spirit of the 1953 Exchange of Notes between the United States and Japan and would thus constitute abrogation of the Agreement. Rather, it is our view and that of the Department of State that the 1953 Exchange merely outlined a practice then followed by the Board, which was based upon circumstances existing at that time.[1] It did not confer any additional charter rights, but was merely a *precis* of our charter rules as they were then constructed. As conditions and policies change over time, we are not obligated to continue a practice simply because it was once described for the benefit of another government. We therefore reject JAL's contention that it is entitled to conduct any charter flights without prior authorization under the 1953 Exchange of Notes.

We disagree with State that adoption of this rule requires Presidential review under section 402(f)(2) of the Act, recently added by the International Transportation Competition Act of 1979. That section authorizes the Board to retaliate against foreign air carriers of any country by conditioning or limiting operations under the carrier's section 402 permit, subject to Presidential approval. State contended that "requiring authorization for third and fourth freedom charters in circumstances where, generally, other foreign carriers are not similarly restricted would effectively condition or limit a foreign air carrier's operations under its section 402 permit." We do not agree that requiring a carrier to apply for approval of a third or fourth freedom charter is a permit condition or limitation, requiring Presidential review, since foreign air carrier permits typically subject that carrier to the Board's charter rules. These permits have already been reviewed by the President under section 801 of the Act. The Board has long exercised power to require such approval for any5 flight without Presidential review and has done so without controversy. 27 CAB 196. Denials of such applications will be subject to Presidential approval as State requested. In any case, we do not agree that restructuring the existing prior approval requirements to make them more congruent within problem areas is a condition or limitation of permits within the meaning of Section 402(f). Congress intended the new provision as a source of new authority to deal with competitive problems, not a restriction on existing powers.

As under existing regulations, the Board has retained authority to require prior approval in cases where it is not routinely required. A show cause order (80-3-63) has been issued naming countries with whom the U.S. has had reciprocity problems and of whom the Board may require prior approval for third and fourth freedom flights. The final list of those carriers will be based on information submitted in Docket 37851.

We have also decided to issue orders subjecting some carriers to prior approval of their charters solely for national security reasons. A special prior approval list for national security matters is necessary to provide notice of off-route charter flights over U.S. territory, which would not otherwise be reported under the new rule. Inclusion in this list does not imply a lack of competitive reciprocity. While national security aspects of international civil aviation are primarily within the purview of the Federal Aviation Administration, it seems most convenient to use our established prior approval procedures to review those matters until the FAA has an opportunity to adopt appropriate procedures of its own. We expect to transfer this function to the FAA by December 31, 1981. Carriers whose charter flights are subject to prior approval for national security reasons should submit their applications at least 14 calendar days before the proposed flight, unless another time is specified by the Board. Other procedures for complying with national security prior approval will be discussed in the order naming affected carriers.

A separate order will invite foreign carriers to apply for blanket prior approval for fifth freedom charter flights. Other parties will be able to comment on the applications before any decision is made. Once the blanket approval list is established, we will not necessarily request third-party comments before adding to or deleting from the list, as NACA suggested. After the initial list is established, some changes may be necessary from time to time to carry out new bilateral agreements. The need for quick implementation of bilateral decisions will normally outweigh the importance of hearing third-party comments before the change, especially since bilateral agreements are binding on the Board. Carriers will have an opportunity to comment after the changes by requesting reconsideration or review of staff action taken under delegated authority. We retain discretion to obtain third-party comments before granting blanket approval in particular cases, but a rule requiring those procedures in all cases would be counterproductive, since many will simply implement bilateral agreements. Even where a bilateral agreement is not involved, situations may arise in which we will need to act quickly, and therefore we are unwilling to bind ourselves to a firm policy of always obtaining prior comments from outside parties.

Approval Procedures

For flights subject to prior approval, carriers must file an application on CAB Form 433 describing the flight and the extent of reciprocity between the United States and the carrier's home country. The application must be filed 5 business days before departure where prior approval is routinely required (fifth freedom flights) and 30 days before departure where prior approval has been specially required (third and fourth freedom flights). The longer requirement for third and fourth freedom flights is necessary because of the more difficult problems in reviewing the reciprocity issues, and because of the time needed for Presidential review in case of Board disapproval. We have found a 5-day period workable for reviewing routine applications in the past, and we believe that it will allow U.S. carriers adequate opportunity to inform us of any important reciprocity problems that we may not already be aware of. We plan to continue our current practices on

[1] A letter from the United States Ambassador to the Minister of Foreign Affairs, stated, in relevant part:

"With respect to the United States of America, the operating permission, known as a foreign air carrier permit, authorizes the foreign carrier to engage in foreign air transportation between specified points. Having granted such authorization, it is the practice of the Government of the United States to permit the carrier to operate nonscheduled and charter flights between the point specified in its foreign air carrier permit upon notification but without obtaining further authorization."

accepting late-filed applications, which are similar to our practices on granting emergency exemptions. However, it is not possible to set down hard and fast rules as NACA and BCal requested, since the handling of each case must depend on the specific circumstances involved.

Disapprovals of timely filed applications to conduct third or fourth freedom flights will be submitted for Presidential review. Although Presidential review in these cases is not required by the Act, we consider the procedure to be in the public interest, since issues may be raised by these prior approval applications that involve sensitive foreign policy issues. Also, Presidential review of denials of third and fourth freedom charters is consistent with our present practice of subjecting disapprovals of proposed on-route charters to Presidential review.

We have decided to post prior approval applications at our offices, where they will be open to public inspection, rather than requiring service on various parties as suggested by NACA. In making this decision, the inconvenience to U.S. carriers of checking with the Board at frequent intervals for new applications must be balanced against the burden to foreign carriers of serving a list of U.S. carriers with each prior approval application. We find the latter burden is heavier. NACA, representing two carriers, was the only commenter requesting applications to be served. Those carriers already keep close track of prior approval applications without benefit of a service requirement, and if other carriers are similarly interested, they could arrange a cooperative "application-watching" system to minimize inconvenience. This would be less burdensome than requiring each foreign carrier to serve each application on a list of carrier representatives that cannot easily be limited and could change from time to time.

We intend to consult with the Departments of State and Transportation and other relevant agencies before imposing special prior approval requirements and before taking any adverse action on third and fourth freedom prior approval applications. The means of communication may vary with the circumstances, so none is specified in the rule. In view of our plans to consult with other agencies and the provision for Presidential review of actual disapprovals, separate service of each application on other government agencies seems unnecessary.

Pro Rata Charter Provisions

There were no objections to any of the pro rata charter changes proposed in EDR-394, so those changes will be adopted. They were: eliminating the specific procedures in §§ 207.22(b), 208.201(b), and 212.22(b) for ensuring that the direct carrier has ascertained whether the chartering organization it transported was a legitimate affinity group, eliminating some of the paperwork and delay involved in identifying enplaning passengers that is required by §§ 207.26, 208.202c, and 212.26, and easing the conditions under which substitute transportation could be offered to charter passengers in an emergency. NACA suggested another change respecting passenger flight manifests that was recently raised and answered in a rulemaking proceeding dealing with other pro rata charter changes, ER-1176 (45 FR 34572, June 16, 1980). We continue to believe that passenger manifest requirements are necessary for carriers to check the legitimacy of affinity groups, a duty that is useful in assuring that pro rata charters are not abused, to the detriment of participants. We therefore reject the change suggested by NACA.

The reporting requirements of this rule are subject to approval by the Office of Management and Budget.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 212, *Charter Trips by Foreign Air Carriers,* as follows:

1. The authority for Part 212 is revised as follows:

Authority: Secs. 101(3), 102, 204, 401, 402, 403, 404, 407, 411, 416, 1002, P.L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1301, 1302, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482.

2. The table of contents is revised to read as follows:

Subpart A—General Provisions

Sec.
212.1 Applicability.
212.2 Definitions.
212.3 Charter flight limitations.
212.4 Prior authorization requirements.
212.5 Application for authorization.
212.6 Issuance of authorization.
212.7 Written contracts with charters.
212.8 Terms of service.
212.9 Substitute transporation in emergencies.
212.10 Payments to persons receiving commissions.
212.11 [Reserved]
212.12 Protection of customers' deposits.
212.13 Reports of emergency commercial charters for other direct air carriers.
212.14 [Reserved]
212.15 Waiver.

Subpart B—Provisions Relating to Pro Rata Charters

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212.30 [Reserved]

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Subpart C—Provisions Relating to Single Entity Charters

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Subpart D—Provisions Relating to Mixed Charters

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Subpart E—Direct Sales by Foreign Air Carriers

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Appendix B—Statement of Supporting Information
Appendix C—CAB Form 433

3. Subpart A is revised to read:

Subpart A—General Provisions

§ 212.1 Applicability.

This part applies to foreign air carriers that have a section 402 permit or an exemption authorizing direct foreign air transportation on a charter basis. Nothing in this part gives authority to operate a type or level of service not authorized by permit or exemption.

§ 212.2 Definitions.

For the purposes of this part:

"Charter," "charter flight," or "charter trip" means air transportation performed pursuant to § 212.3.

"Charter organization" means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

"Third freedom charter" means a charter carrying traffic that originates in the country of the carrier's nationality and terminates in another country.

"Fourth freedom charter" means a charter carrying traffic that terminates in the country of the carrier's nationality and originates in another country.

"Fifth freedom charter" means a charter carrying traffic that originates and terminates in countries other than the country of the carrier's nationality, regardless of whether the flight operates via the home country.

"Mixed charter" means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

"Pro rata charter" means a charter the cost of which is divided among the passengers transported.

"Single entity charter" means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

"Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

§ 212.3 Charter flight limitations.

(a) Passenger charter flights by foreign air carriers in foreign air transportation shall be limited to the movement of persons or their baggage on a time, mileage, or trip basis—

(1) Where all or part of an aircraft has been engaged by any of the following persons, except that the charterers must together engage all of that portion of the capacity of the aircraft configured for passengers other than any portion intended by the carrier for direct charter sales to the general public under paragraph (a)(2) of this section:

(i) By a person for his or her own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or company property, or for the transportation of commercial traffic; except that emergency charters of commercial traffic shall be reported in accordance with § 212.13);

(ii) By a person (no part whose business is the formation of groups for transportation or the consolidation of shipments for transportation or solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(2) In accordance with Subpart E. Any person may engage all or any portion of an aircraft from a direct foreign carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft, the remaining seats must be engaged as provided in paragraph (a)(1) of this section.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(1) of this section shall contract and pay for 20 or more seats.

(2) This section permits the carriage of charter cargo on the main deck or in the belly of a passenger charter flight.

(3) Charter passengers shall not be transported on flights carrying individually-waybilled or individually-ticketed traffic.

(c) Cargo charter flights in foreign air transportation by a foreign air carrier are permitted without limitation, except that emergency charters of commercial traffic by a direct air carrier or a direct foreign air carrier shall be reported in accordance with § 212.13. Charter cargo may be transported both on scheduled flights carrying individually-ticketed and/or individually-waybilled traffic and on flights carrying charter traffic only.

§ 212.4 Prior authorization requirements.

(a) A foreign air carrier shall not perform any charter trip for which a statement of authorization is required until one has been granted by the Board.

(b) Foreign air carriers shall obtain a statement of authorization for each—

(1) Fifth freedom charter flight to or from the United States,

(2) Charter by a direct carrier for the transportation of commercial traffic, except in cases of emergency, or

(3) Charter flight for which the Board specially requires prior authorization under paragraph (e) or (f) of this section.

(c) An emergency under paragraph (b)(2) of this section shall not include such circumstances as cancellation of flights due to periodic overhaul of aircraft or delay in the delivery of newly acquired aircraft, and a foreign air carrier may not provide emergency charter trips on any day in each of three or more successive calendar weeks for any single direct air carrier without a statement of authorization.

(d) The Board may issue blanket statements of authorization to foreign air carriers to conduct fifth freedom charters. The standards for issuing such blanket authorizations shall be those stated in § 212.6. The Board may revoke any authority granted under this paragraph at any time without hearing.

(e) The Board may at any time, with or without hearing, but with at least 30 days' notice require a foreign air carrier to obtain a statement of authorization before operating any charter flight. In deciding whether to impose such a requirement, the Board will consider (but not be limited to considering) whether the country of the carrier's nationality–

(1) Requires prior approval for third or fourth freedom charter flights by United States air carriers,

(2) Has, over the objection of U.S. government, denied rights of a United States air carrier guaranteed by a bilateral agreement, or

(3) Has otherwise impaired, limited, or denied the operating rights of U.S. air carriers, or engaged in unfair, discriminatory or restrictive practices with respect to air transportation services, to, from, through, or over its territory.

(f) The Board, in the interest of national security, may require the airline(s) of some countries to obtain a statement of authorization before operating any charter over U.S. territory.

§ 212.5 Application for authorization.

(a) Application for a statement of authorization shall be submitted on CAB Form 433 (Appendix C), in three copies, to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. Upon a showing of good cause, the application may be transmitted by cablegram or telegram or may be made by telephone.

(b) A copy of the application for the performance of a charter transporting commercial traffic for another direct air carrier or direct foreign air carrier shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated air carrier that is authorized to serve the same general area in which the proposed charter trip is to be performed.

(c) The application shall include documentation to establish the extent to which the country of the carrier's nationality deals with United States air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement and—

(1) The Board has not established that the country accords reciprocity,

(2) The Board has found reciprocity defective in the most recent prior approved application by a carrier from the country, or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question.

(d)(1) Applications shall be filed at least 5 business days before commencement of the proposed flight, except as specified in paragraphs (d)(2) and (d)(3) of this section. Late applications may be considered by the Board upon a showing of good cause for the lateness.

(2) Applications for charters by a direct carrier for the transportation of commercial traffic shall be filed at least 45 calendar days before the proposed flight.

(3) Applications specially required under § 212.4(e) shall be filed at least 30 calendar days before the proposed flight, unless otherwise specified by the Board.

(4) Applications required by a Board order under § 212.4(f) shall be filed at least 14 calendar days before the

proposed flight, unless otherwise specified by the Board.

(5) Where an application is required by more than one provision of this part and/or order of the Board, only one application need be filed, but it must conform to the earliest applicable filing deadline.

(e)(1) Any party in interest may file a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application or before the date of the proposed flight, whichever is earlier. Memoranda will be considered to the extent practicable; the Board may act on an application without waiting for supporting or opposing memoranda to be filed.

(2) Each memorandum shall set forth the reasons why the applications should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(3) A copy of each memorandum shall be served on the foreign air carrier applying for approval.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response shall be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications shall be published in the Board's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Board finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

§ 212.6 Issuance of authorization.

(a) The Board will issue a statement of authorization if it finds that the proposed charter trip meets the requirements of this part and that it is in the public interest. Statements of authorization may be conditioned or limited.

(b) In determining the pubic interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which the country of the carrier's nationality deals with United States air carriers on the basis of substantial reciprocity.

(3) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated the provisions of this part.

(4) Where the application concerns the performance of a charter trip for the transportation of commercial traffic for another direct air carrier or foreign air carrier—

(i) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated the provisions of Part 218 of this chapter.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement with the applicant's government.

(iii) To what extent the applicant owns and controls the charterer, or is owned and controlled by the charterer.

(c) The Board will submit any denial of an authorization specifically required under § 212.4(e) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Board where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President.

(d) The Board will publish notice of its actions on applications for statements of authorization in the Status of Charter Applications attachment to the Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters or endorsed forms advising applicants of action taken on their applications.

§ 212.7 Written contracts with charterers.

Every agreement to perform a charter trip shall be in writing and signed by an authorized representative of the foreign air carrier and the charterer prior to operation of a charter flight: *Provided,* That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within 7 days after commencement of the flight. The written agreement shall include, without limitation:

(a) Date and place of execution of the contract or agreement;

(b) Signature, printed or typed name of each signatory, and official position of each;

(c) Dates of flights and points involved;

(d) Type of aircraft and its capacity stated as the number of passenger seats or pounds of cargo capacity available;

(e) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges;

(f) The name and address of either the surety whose bond secures advance charter payments received by the carrier, or of the carrier's depository bank to which checks or money orders for the advance charter payments are to be made payable as escrow holder pending completion of the charter trip; and

(g) A statement that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such charter trip (see § 212.12(c)).

§ 212.8 Terms of service.

(a) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however,* That in the case of a passenger charter for less than the entire capacity of an aircraft under § 212.3(a)(2), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the passenger charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(b) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction, there shall be no intermingling of passengers, and each group shall move as a unit in both directions, except as provided in § 212.9. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is

chartered separately in order to avoid this 5 percent limitation.

§ 212.9 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his or her own or on a ferry flight (as defined in § 241.03 of this chapter) under the following circumstances:

(1) The transportation is for return passage only;

(2) The passenger is required to return at a time different from that of his or her own charter flight due to emergency circumstances beyond the passenger's control; and

(3) The charter group with which the passenger is to travel expresses no objection to his or her participation in the charter flight.

(b) For the purposes of this section, "emergency circumstances beyond the passenger's control" include, but are not limited to, illness or injury to the passenger or a member of his or her immediate family, death of a member of the passenger's immediate family, or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

§ 212.10 Payments to persons receiving commissions.

Payments for a U.S.-originating charter flight made to any person to whom the carrier, directly or indirectly, has paid a commission or has agreed to pay a commission for that flight shall be considered payments to the carrier.

§ 212.11 [Reserved]

§ 212.12 Protection of customers' deposits.

(a) Except as provided in paragraph (c) of this section, no foreign air carrier shall perform any charter trip (other than a cargo charter trip) originating in the United States or any overseas military personnel charter trip, as defined in Part 372 of this chapter, nor shall such carrier accept any advance payment in connection with any such charter trip, unless there is on file with the Board a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums payable in advance to the carrier by charterers, in connection with any such charter trip to be performed by said carrier shall be deposited with and maintained by the bank, as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay the carrier either by check or money order made payable to the depository bank. Such check or money order and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the check or money order or the cash, along with a statement showing the name and address of the charterer (or its agent): *Provided, however,* That where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may be authorized by the carrier to deduct its commission and remit the balance of the advance payment to the carrier either by check or money order made payable to the designated bank.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed: *Provided, however,* That the bank may be required by the terms of the agreement to pay over to the carrier a specified portion of such escrowed funds, as payment for the performance of the outbound segment of a round-trip charter upon the carrier's written certification that such segment has been so completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter: *Provided, however,* That, in the case of a split charter, escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight.

(5) As used in this section the term "bank" means a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The escrow agreement required under paragraph (a) shall not be effective until approved by the Board. Claims against the escrow may be made only with respect to the nonperformance of air transportation.

(c) The carrier may elect, in lieu of furnishing an escrow agreement pursuant to paragraph (a) of this section, to furnish and file with the Board a surety bond which guarantees to the United States Government the performance of all charter trips (other than cargo charter trips) originating in the United States and of all overseas military personnel charter trips, as defined in Part 372, to be performed, in whole or in part, by such carrier pursuant to any contracts entered into by such carrier, after the execution date of the bond. The amount of such bond shall be unlimited. Claims under the bond may be made only with respect to the nonperformance of air transportation.

(d) The bond permitted by this section shall be in the form set forth as Appendix A to this part. Such bond shall be issued by a bonding or surety company (1) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which there is located the office or usual residence of the agent designated by the carrier under section 1005(b) of the Act to receive service of notices, process and other documents issued by or filed with the Board. For the purposes of this section the term "State" includes any territory or possession of the United States, or the District of Columbia. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the foreign charter air carrier by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time limit set forth in the notification, no amounts payable in advance by customers for the subject charter trips shall be accepted by the carrier.

(e) The bond required by this section shall provide that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such charter trip. The contract between the carrier and the charterer shall contain notice of this provision.

§ 212.13 Reports of emergency commercial charters for other direct air carriers.

Each foreign air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of International Aviation within 30 days following each charter flight, containing the following information:

(a) Name of direct carrier performing the charter and the name of the direct carrier for which the charter was performed;

(b) Date of flight or flights;

(c) Points of origin and destination, and intermediate points, if any;

(d) Number of passengers transported;

(e) Description of circumstances creating the emergency;

(f) Date of initial contact by the chartering carrier regarding the charter;

(g) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

§ 212.14 [Reserved]

§ 212.15 Waiver.

(a) A waiver of any of the provisions of this part may be granted by the Board upon the submission by a foreign air carrier of a written request therefor not less than 30 days prior to the flight to which it relates, provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

(b) A request for a waiver of any of the provisions of § 212.25 shall be accompanied by a list of the names, addresses, and telephone numbers of all the passengers on the flight to which the request relates.

4. Section 212.20 is amended by removing the words "both on-route and off-route," to read:

§ 212.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters.

5. Section 212.22(b) is revised to read:

§ 212.22 Pretrip notification and charter contract.

(a) * * *

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, that authorizes the person who executes the contract to do so on behalf of the chartering organization. However, certification is not required where the charter is based on employment in one entity, or on employee or student status at a school. If the charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 212.45) of the outbound charter shall be attached to the charter contract.

6. Section 212.24 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 212.24 Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute a Statement of Supporting Information (Appendix B). If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

§ 212.25 [Amended]

7. The cross-reference in § 212.25(a) is changed to read "§ 212.8(a)" instead of "§ 212.10(b)."

8. Section 212.25(c) is removed and reserved, and § 212.25(d) is amended to remove references to paragraph (c) and to change cross-references, as follows:

§ 212.25 Charter trips originating in the United States.

* * * * *

(c) [Reserved]

(d) Every carrier which has entered into a charter contract covering only one-way foreign air transportation from the United States, to be performed in connection with a pro rata charter trip originating in the United States, must obtain, before performing such departing flight, either written confirmation from the returning carrier (as provided in paragraph (b) of this section), or a waiver granted by the Board pursuant to § 212.15, such waiver to be based either on the grounds set forth in said § 212.15, or on a showing that the arrangements between the chartering organization and the charter participants do not involve the provision of return transportation to the United States.

* * * * *

9. Section 212.26 is revised to read:

§ 212.26 Foreign air carrier to identify enplanements.

The carrier shall make reasonable efforts to assure that no person is enplaned whose name does not appear on the list of passengers supplied by the charterer under § 212.45.

10. Section 212.31 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 212.31 Statement of supporting information.

Travel agents shall execute, and furnish to foreign air carriers, section A of Part II of the Statement of Supporting Information (Appendix B) at such time as required by the carrier to afford it due time for review thereof.

11. The last sentence of § 212.41 is revised, and the cross-references are changed, to read:

§ 212.41 Passengers on charter flights.

* * * Where four or more round-trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, intermingling between flights or reforming of groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 212.9.

12. Section 212.47 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 212.47 Statement of supporting information.

Charterers shall execute and file with the foreign air carrier Section B of Part II of the Statement of Supporting Information (Appendix B) at such time as required by the carrier to afford it due time for review thereof.

13. Section 212.53 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 212.53 Statement of supporting information.

Part I of the Statement of Supporting Information (Appendix B) shall be applicable in the case of single entity charters.

14. The form for Statement of Supporting Information that currently follows Subpart E is designated as Appendix B and placed after Appendix A.

15. CAB Form 433 is designated as Appendix C, and changed to read as shown in the attachment.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

BILLING CODE 6320-01-M

CAB Form 433
(Rev. 1-81)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD

FOREIGN AIR CARRIER APPLICATION FOR STATEMENT OF AUTHORIZATION

(See Instructions on Reverse Side)

DO NOT WRITE – FOR OFFICIAL USE ONLY

Disposition of Application:

☐ Approved.
☐ Approved, subject to condition (s) on reverse.
☐ Disapproved/Dismissed for reason (s) cited on reverse.

Under delegated authority_____
Effective from_____to_____.

Director, Bureau of International Aviation

To: Civil Aeronautics Board
Attention: Bureau of International Aviation, B-58
Washington, D.C. 20428

Operations under this authorization shall conform to Part 212 of the Board's Regulations, to the terms, conditions and limitations of the applicant's foreign air carrier permit or exemption, and to Part 129 of the Federal Aviation Regulations.

Application is made for authorization to conduct charter flights under provisions of applicant's foreign air carrier permit and Economic Regulation Part 212 or Board Order.

1. Name of Applicant:

Nationality:

2. Send Authorization To:
a. Name and Address

b. Telephone

3. Name of Charterer:

Address:

4. Total Charter Price:

5. Dates of Flights Under This Authorization:

6. Aircraft Make, Model, and Capacity:

7. Country in Which Aircraft is Registered:

8. Planned Routing Of Flights (Indicate non-traffic stops by asterisks):

9. No. of Flights____and type: ☐ Passenger ☐ Cargo ☐ Mixed

For passenger flights: available passenger seats____, number of passengers to be carried____.

If cargo to be carried, weight and description of cargo:

10. If Application is Being Filed Late, State Reasons for Lateness:

11. Description of Chartering Organization and Purpose of Flights:

12. Does the nation which is the domicile of the applicant grant to United States carriers a privilege similar to that requested herein?_____ if so, has the fact of such reciprocity been established with the Civil Aeronautics Board?_____ If the fact has not been established with the Civil Aeronautics Board, provide documentation to establish such reciprocity.

13. Other information requested by the Board:

CERTIFICATION

I hereby certify that the charter flights for which authority is sought herein conform to the requirements of the Economic and Special Regulations and applicable orders of the Civil Aeronautics Board governing charters.

_____ (Date)

_____ (Signature and title of authorized officer)

INSTRUCTIONS

1. Prepare an original and two copies of this application according to Section 212.5 of the Board's Regulations, or Order of the Board requiring use of this form. If extra space is required to complete an item, continue on a separate sheet of paper.

2. Send the application to: "Civil Aeronautics Board, Attention: Bureau of International Aviation, B-58, Washington, D.C. 20428 (and if required by regulation or Order to Director of Flight Operations, Federal Aviation Administration, Washington, D.C. 20591).

DO NOT WRITE - FOR OFFICIAL USE ONLY

Exercise of this authorization is subject to the following condition(s):

OR Application is disapproved/dismissed for the following reason (s):

[FR Doc. 81-15599 Filed 5-22-81; 8:45 am]
BILLING CODE 6320-01-C

14 CFR Part 207

[Economic Regulation Amdt. No. 29 of Part 207; Docket 35046; Regulation ER-1221]

Charter Trips and Special Services Updating of Regulations Governing Foreign Carrier Charter Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For reasons discussed in ER-1220, issued simultaneously, the CAB is amending its pro rata charter rules to eliminate some restrictions and reporting requirements that no longer seem necessary. The action is taken on the Board's initiative in conjunction with a revision of charter requirements affecting foreign air carriers.

DATES: Adopted: May 8, 1981. Effective: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442. Copies of this document may be obtained by calling (202) 673-5432.

The Civil Aeronautics Board amends 14 CFR Part 207, *Charter Trips and Special Services,* as follows:

1. The authority for Part 207 is revised as follows:

Authority: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 418, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 758, 760, 766, 769, 771, 788, 91 Stat. 1284; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1388, 1482.

2. Sections 207.14 (a)(1) and (b) are removed and reserved, and the word "mean" in § 207.14(a) is replaced by the word "include," to read:

§ 207.14 Substitute transportation in emergencies.

(a) * * *

(1) [Reserved]

* * * * *

(4) * * *

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall include illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) [Reserved]

3. Section 207.22(b) is revised to read:

§ 207.22 Pretrip notification and charter contract.

(a) * * *

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, that authorizes the person who executes the contract to do so on behalf of the chartering organization. However, certification is not required where the charter is based on employment in one entity, or on employee or student status at a school. If the charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 207.45) of the outbound charter shall be attached to the charter contract.

4. Section 207.24 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 207.24 Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, a Statement of Supporting Information (Appendix B). If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or roundtrip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

5. Section 207.26 is revised to read:

§ 207.26 Air carrier to identify enplanements.

The carrier shall make reasonable efforts to assure that no person is enplaned whose name does not appear on the list of passengers supplied by the charterer under § 207.45.

6. Section 207.31 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 207.31 Statement of supporting information.

Travel agents shall execute, and furnish to foreign air carriers, section A of Part II of the Statement of Supporting Information (Appendix B) at such time as required by the carrier to afford it due time for review thereof.

7. Section 207.47 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 207.47 Statement of supporting information.

Charterers shall execute and file with the foreign air carrier Section B of Part II of the Statement of Supporting Information (Appendix B) at such time as required by the carrier to afford it due time for review thereof.

8. Section 207.53 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 207.53 Statement of supporting information.

Part I of the Statement of Supporting Information (Appendix B) shall be applicable in the case of single entity charters.

9. The form for Statement of Supporting Information that formerly followed Subpart E is designated as Appendix B and placed after Appendix A.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15600 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 208

[Economic Regulations Amdt. No. 29 to Part 208; Docket 35046; Regulation ER-1222]

Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation; Updating of Regulations Governing Foreign Carrier Charter Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: For reasons discussed in ER-1220, issued simultaneously, the CAB is amending its pro rata charter rules to eliminate some restrictions and reporting requirements that no longer seem necessary. The action is taken at the Board's initiative in conjunction with a revision of charter requirements affecting foreign air carriers.

DATES: Adopted: May 8, 1981. Effective: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442. Copies of this document may be obtained by calling (202) 673-5432.

The Civil Aeronautics Board amends 14 CFR Part 208, *Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation,* as follows:

1. The authority for Part 208 is revised as follows:

Authority: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 417, 1002, Pub. Law 85-726, as amended, 72 Stat. 737, 740, 743, 754, 758, 760, 766, 769, 771, 788, 76 Stat. 145; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387, 1482.

2. Sections 208.36 (a)(1) and (b) are removed and reserved, and the word "mean" in § 208.36(a) is replaced by the word "include," to read:

§ 208.36 Substitute transportation in emergencies.

(a) * * *

(1) [Reserved]

* * * * *

(4) * * *

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall include illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) [Reserved]

3. Section 208.201(b) is revised to read:

§ 208.201 Pretrip notification and charter contract.

(a) * * *

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, that authorizes the person who executes the contract to so do on behalf of the chartering organization. However, certification is not required where the charter is based on employment in one entity, or on employee or student status at a school. If the charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 208.215) of the outbound charter shall be attached to the charter contract.

4. Section 208.202a is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 208.202a Statement of supporting information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute a Statement of Supporting Information (Appendix B). If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

5. Section 208.202c is revised to read:

§ 208.202c Air carrier to identify enplanements.

The carrier shall make reasonable efforts to assure that no person is enplaned whose name does not appear on the list of passengers supplied by the charterer under § 208.215.

6. Section 208.204 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 208.204 Statement of supporting information.

Travel agents shall execute, and furnish to foreign air carriers, section A of Part II of the Statement of Supporting Information (Appendix B) at such time as required by the carrier to afford it due time for review thereof.

7. Section 208.217 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 208.217 Statement of supporting information.

Charterers shall execute and file with the foreign air carrier Section B of Part II of the Statement of Supporting Information (Appendix B) at such time as required by the carrier to afford it due time for review thereof.

8. Section 208.303 is revised to refer to the Statement of Supporting Information as Appendix B, as follows:

§ 208.303 Statement of supporting information.

Part I of the Statement of Supporting Information (Appendix B) shall be applicable in the case of single entity charters.

9. The form for Statement of Supporting Information that formerly followed Subpart F is designated as Appendix B and placed after Appendix A.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15601 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 214

[Economic Regulations Reissuance of Part 214; Docket 35046; Regulation ER-1223]

Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only; Updating of Regulations Governing Foreign Carrier Charter Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In response to a petition by the National Air Carrier Association, the CAB is amending its prior approval requirement for charters by foreign air carriers. Prior approval will normally be required for a charter flight between the U.S. and a country other than the carrier's home country, and regulations governing charters by foreign air carriers will be consolidated into one part of the CFR. The reasons for the changes are discussed in ER-1220, issued simultaneously.

DATES: Adopted: May 8, 1981. Effective: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: David E. Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442. Copies of this document may be obtained by calling (202) 673-5432.

The Civil Aeronautics Board removes and reissues 14 CFR Part 214, *Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only,* so that it reads:

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Sec.
214.1 Applicability.
214.2 Terms of service.

Authority: Sec. 204, 402 of Pub. L. 85-726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1371.

§ 214.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter foreign air transportation pursuant to foreign air carrier permits authorizing the holder to engage in charter transportation only.

§ 214.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of Part 212 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15602 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 385

[Organization Regulations Amdt. No.110 to Part 385; Docket: 35046; Regulation OR-180]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB delegates to the Director of its Bureau of International Aviation the authority to grant or deny requests of foreign airlines for approval of their charter flights for which prior

approval is required by CAB rules or orders.

DATES: Adopted: May 8, 1981. Effective: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By ER-1220, issued today, the Board changed its rules governing charters by foreign air carriers. Under this rule, these carriers will usually have to obtain approval from the Board before conducting fifth freedom charters. Some carriers, designated by Board order, will have to obtain approval for third and fourth freedom charters as well. ER-1220 establishes the procedures for requesting approval to conduct these flights. This rule amends paragraph (f) of 14 CFR 385.26 to delegate authority to the Director of our Bureau of International Aviation to act on these requests. We are also deleting paragraph (o) of that section as that delegation will be subsumed under the new paragraph (f).

Since this is a rule of agency procedure and practice, the Board finds that notice and public procedure are unnecessary and that the rule may take effect immediately.

Accordingly, the Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation: Nonhearing Matters,* as follows:

1. The authority for Part 385 is revised as follows:

Authority: Secs. 204(a), 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324(a) 1481; Reorganization Plan No. 3 of 1961, 75 Stat. 837 26 FR 5989, 49 U.S.C. 1324 (note), unless otherwise noted.

2. In § 385.26, paragraph (f) is revised to read:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation, the authority to:

* * * * *

(f) For air carrier operations that are predominantly in foreign air transportation and for foreign air carrier operations, grant or deny applications for authorizations to conduct charter trips for which prior approval is required under (1) any provision of this chapter or (2) an order of the Board. This shall include authority to waive a time limitation for advance filing of an application prescribed in any such order.

* * * * *

§ 385.26 [Amended]

3. Also in § 385.26, paragraph (o) is removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15603 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 399

[Policy Statement Docket: 39616; Amdt. No. 79 to Part 399; PS-103]

Statements of General Policy; Long-Term Wet Leases by U.S. Certificated Airlines to Foreign Airlines; Elimination of Policy Statement

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is eliminating an obsolete policy statement about long-term wet leases (leases of aircraft with crew) by U.S. certificated airlines to foreign airlines. This action will eliminate unnecessary regulatory burdens. The CAB is taking this action on its own initiative.

DATES: Adopted: May 8, 1981. Effective: May 22, 1981.

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

SUPPLEMENTARY INFORMATION: Supplementary information about this action appears in EDR-426, a notice of proposed rulemaking adopted simultaneously with this final rule.

Because this rule removes a general statement of policy that has become outdated, the Board finds that notice and public procedure are unnecessary and that the revocation may become effective immediately.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, *Policy Statements,* as follows:

1. The authority for Part 399 is revised as follows:

Authority: Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 407 408, 409, 411, 412, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85-726, as amended, 72 Stat. 737 740, 743, 754, 757 758, 760, 766, 767, 768, 769, 770, 771, 782, 788, 797 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1377, 1378, 1379, 1381, 1382, 1386, 1461, 1481, 1482, 1502, 1504.

§ 399.19 [Removed]

2. Section 399.19, *Wet leases to foreign air carriers,* is removed.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15604 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 245 and 246

[EDR-425; Economic Regulations Docket: 39599]

Reports of Ownership of Stock and Other Interests and Reports of Stock Ownership of Affiliates of Air Carriers

Dated: May 6, 1981.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to exempt officers and directors of air carriers from a reporting requirement of the Federal Aviation Act, because the information provided by the report is no longer needed. This action is at the Board's own initiative.

DATES: Comments by: July 21, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: June 8, 1981.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39599, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Fuss, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5082.

SUPPLEMENTARY INFORMATION: The CAB rules in Subpart A of 14 CFR Part 245 implement the shareholder reporting requirements in section 407(c) of the Federal Aviation Act of 1958 ("the Act"). Section 407(c) requires each officer and director of an air carrier to file annually with the CAB a report describing stock ownership, position, and other interests held in any air carrier, common carrier, or aeronautical enterprise. Section 245.1 defines "air carrier" as it is defined in section 101(3) of the Act, including, in addition, any person who owns 95 percent or more of the outstanding voting securities of such an air carrier. This definition ensures that officials of what is essentially an air carrier's "alter ego" cannot avoid this reporting requirement. Section 245.2 requires the filing of an additional report upon the election or appointment of a new officer or director. CAB Form 2786 is used for filing this information.

The purpose of the report is to disclose the allocation of management responsibility among an air carrier's officials and the extent of their ownership in one or more air carriers or related enterprises. This information enables the CAB to identify violations of the requirement of section 409 of the Act for prior CAB approval of interlocking relationships involving air carriers, or air carriers and common carriers or aeronautical enterprises.

The CAB recently re-evaluated its need for CAB Form 2786 as part of a general review of its data reporting requirements, and concluded that the report has outlived its usefulness. Compliance with section 409 now appears to be an accepted practice in the airline industry. The once-widespread occurrences of unapproved interlocking relationships have diminished to the extent that the CAB did not need to take enforcement action in response to any report filed in 1980. Moreover, fewer reports are filed now, because the CAB has exempted indirect air carriers and air taxis from section 407(c). The diminished value of the information still provided no longer appears to justify the administrative expense or industry burden imposed by this report. Furthermore, much of the information it provides is available from other sources.

We propose to amend Subpart A of 14 CFR Part 245 to exempt officers and directors of air carriers from the section 407(c) reporting requirement and, thus, eliminate further use of CAB Form 2786. The § 245.1 definition of "air carrier" would be retained to avoid confusion as to who would be exempt. Sections 245.2 and 245.3, which set out the time and schedule for reports, and the § 245.1 definition of "persons" would be removed because the proposed exemption would make them unnecessary. We also propose to make conforming amendments to remove the exceptions for airline officials who file section 407(c) reports from the shareholder reporting requirements in 14 CFR Parts 245 (Subpart B) and 246. These conforming changes would subject airline officials to those requirements if they qualify either as a shareholder of 5 percent or more of an air carrier's capital stock under § 245.12

or as an air carrier affiliate under § 246.1. Officials who do not meet these qualifications would no longer have to file any shareholder report. The CAB would continue to receive significant shareholder information from the Subpart B report and the Part 246 report. This proposal is not intended to affect the requirements of section 409 of the Act or the CAB's policy of enforcing those requirements.

The most recent due date for CAB Form 2786 was March 1, 1981. In order to spare airline officials any expense or effort that may prove unnecessary, the CAB, on January 16, 1981, waived the requirement to file CAB Form 2786 on March 1, 1981 pending the outcome of this rulemaking. If the CAB ultimately decides to ratain this report, the officers and directors will be notified and allowed 30 days to file.

Initial Regulatory Flexibility Requirement

The Regulatory Flexibility Act Pub. L. 96-354, which took effect on January 1, 1981, is designed to ensure that agencies consider alternate approaches to regulating small businesses and other small entities that take into account their special needs and problems. It requires the preparation of regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

The CAB certifies that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. 14 CFR 298.11 already exempts air taxis, which include most small air carriers, from the section 407(c) reporting requirement. The proposed rule would eliminate a report for some officials fo certificated air carriers, regardless of size, and would require an alternate report from the rest. This would have a favorable, but insignificant, net economic impact within the purview of the Regulatory Flexibility Act. Therefore, it is not necessary to perform an initial regulatory flexibility analysis in this case.

Accordingly, 14 CFR Chapter II would be amended as follows:

1. In Part 245, *Reports of Ownership of Stock and Other Interests*, Subpart A of the table of contents would be amended by changing the title of § 245.1 and removing §§ 245.2 and 245.3, as follows:

Subpart A—Exemption of Officers and Directors From Section 407(c) of the Act

Sec.
245.1 Exemption
245.2 [Reserved]
245.3 [Reserved]

* * * * *

2. Section 245.1, *Reports required*, would be revised read:

§ 245.1 Exemption.

Each officer and director of each air carrier is exempt from the reporting requirement in section 407(c) of the Act. For the purpose of this subpart, "air carrier" means any citizen of the United States that undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation, including any person that owns 95 percent or more of the outstanding voting securities of any air carrier.

§§ 245.2, 245.3 [Removed]

3. Sections 245.2, *Time for reporting*, and 245.3, *Schedule of data*, would be removed and reserved.

4. § 245.12, *Annual report*, paragraph (a) would be removed to read:

§ 245.12 Annual report.

(a) *Time for reporting*. On or before April 1 of each year, every person owning, either beneficially or as trustee, more than 5 percent of any class of the capital stock or capital, as the case may be, of an air carrier shall file with the Board (Attention, Director, Bureau of Domestic Aviation) a report covering such shares or other interest owned as of December 31 of the preceding year. This section shall not apply to bank or broker insofar as it is a trustee.

* * * * *

§ 246.3 [Amended]

5. In Part 246, *Reports of Stock Ownership of Affiliates of Air Carriers*, paragraph (b) of § 246.3 would be removed.

(Secs. 204, 407 409, Pub. L. 95-726, as amended; 72 Stat. 743, 766, 768; 49 U.S.C. 1324, 1377 1379)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15496 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212, and 218

[Economic Regulations Docket 39616; EOR-426]

Proposal To Liberalize Regulation of Wet Lease Agreements

Dated: May 8, 1981.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to liberalize its existing rules on wet leases (leases of aircraft with crew) between airlines. These proposals are being made because the existing rules are unnecessary barriers to competitive opportunities. The CAB is issuing the proposal on its own initiative. Simultaneously with this proposal, the CAB is eliminating an obsolete policy statement about when it will approve long-term wet leases to foreign airlines.

DATES: Comments by: July 21, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 8, 1981.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39616, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

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

SUPPLEMENTARY INFORMATION:

Background

A "wet lease" of aircraft is an agreement under which the lessor provides both the aircraft and the crew. When the lessor is an airline, the wet lease is technically a charter performed by the lessor. The lessor must have authority to perform charters between the points in question, and the wet lease is also subject to the specific limitations on charter flights that appear in the Board's rules (14 CFR Parts 207, 208, and 212). The lessee might itself be an airline, using the aircraft for either scheduled or charter service, in which case it must also have authority from the Board for whatever service it is providing. This notice of proposed rulemaking addresses the specific limitations on wet leases that appear in the charter rules.

Under Parts 207 and 208 U.S. certificated air carriers are prohibited from chartering their aircraft to other direct U.S. and foreign air carriers, except when the aircraft is used solely for the transportation of company personnel or company property, or for carrying commercial traffic in cases of emergency. In cases of emergency, the carrier chartering its aircraft (the lessor is required to file with the Board a report on the flight within 30 days. A lessor can carry commercial traffic of a lessee air carrier even when there is no emergency, by obtaining a waiver of the emergency condition that appears in § 207.11(a)(2)(i) or § 208.6(a)(2)(i).

In a policy statement appearing at 14 CFR 399.19, the Board has set forth the major factors that it will consider in exercising its jurisdiction over long-term wet leases by a U.S. air carrier to a foreign air carrier. Long-term wet leases are those that last more than 60 days, or that are part of a continuing arrangement lasting over 60 days.

The Board's rules for foreign air carrier lessors are somewhat different. They appear in 14 CFR Part 212, as recently amennded by ER-1220, adopted May 8, 1981.* Unlike U.S carriers, a foreign carrier is permitted to wet-lease its aircraft to other direct carriers when the aircraft is used for the carriage of commercial traffic, whether or not there is an emergency. In non-emergency situations, however, the foreign air carrier must obtain specific authority from the Board, in the form of a statement of authorization. Factors that the Board considers in acting on applications for statements of authorization are set forth in § 212.6(b). In emergencies a statement of authorization is ordinarily not required, but the foreign carrier must file a report like the one required of U.S. carriers.

The Proposal

In the Board's judgment, this close regulation of wet lease arrangements has become unnecessary. It made sense in an environment of pervasive regulation of air service, when routes were awarded only sparingly and vigorous competition was considered as potentially destructive instead of something to be encouraged. But carriers' competitive opportunities are expanding, and should not be hindered by government interference in management decisions unless there is a specific need for the interference. Such close regulation limits the ability of carriers to meet the immediate needs of the public. For these reasons, as amplified below, we are proposing to amend Parts 207, 208, and 212 to substantially liberalize the rules governing wet leases between direct carriers. Only long-term wet leases involving a foreign carrier (as lessor, lessee, or both) would continue to require prior Board approval, and the emergency reporting requirements would be eliminated. Anticompetitive wet lease arrangements would continue to be subject to full scrutiny under the antitrust laws, even where no prior approval is required. The Board's policy statement in § 399.19 for wet leases over 60 days by U.S. carriers to foreign carriers is being rescinded immediately by PS-103, issued along with this proposal.

The need for carriers to enter into a wet lease agreement can arise in a number of ways. One of the most common situations is where an aircraft must be removed from service for a limited time for maintenance or crew relief, and the carrier involved needs to "borrow" aircraft from another carrier to meet its scheduled or charter service commitments. Other situations include the loss of aircraft due to accidents, unusual peak traffic demands, and a carrier's need for assistance to institute new service.

In cases where the wet lease is for a short period and both the carrier-lessor and carrier-lessee hold the requisite operating authority to engage in air transportation in the affected markets, there is no apparent need for the Board to approve each arrangement. This is particularly so since waiver requests (or, for foreign carrier lessors, statements of authorization) for these wet leases have been approved routinely up to now. The wet leases enable the lessee cariers to accommodate consumers, who might find it difficult to obtain service from another carrier on their own. This liberalization would correspond to current Board policy on exemptions for charter service, described in 14 CFR 399.21. Under that policy, offers by an opponent of the exemption to perform the charter service and estimates of revenue or traffic diversion from an incumbent carrier are not, as a general rule, considered in themselves reason enough to deny applications for exemption from carriers seeking to perform charter service. That policy is discussed more fully in PS-78 (43 FR 31885; July 14, 1978).

Even for long-term wet leases, there is no apparent need that would justify

regulatory intervention, as long as only U.S. carriers are involved and both have the necessary operating authority. Where one or both carriers are foreign, however, there are two main reasons to retain special oversight. One is to make sure that a wet lease is not used to circumvent bilateral agreements. Where, for example, an agreement limits market participation by the carriers of each country a long-term wet lease could thwart the limitations to the detriment of U.S. carriers. The other more general reason is to enable the Board to step in when a foreign carrier's homeland does not afford adequate reciprocity. U.S. carriers can argue that reciprocity is inadequate in responding to applications for statements of authorization, and the Board can balance the need to take action against the foreign country against the immediate needs of the carriers and consumers.

In light of these circumstances, we are proposing to amend Parts 207 and 208 to eliminate the restrictions on all wet leases between U.S. carriers, and on short-term wet leases from a U.S. carrier to a foreign carrier. The lessor would still need underlying operating authority to provide the air transportation in question. For example, a carrier that is restricted by its certificate to North American operations would need an exemption to wet lease an aircraft to another carrier for transatlantic service.

Prior approval of long-term wet leases from a U.S. carrier to a foreign one would still be necessary, but it would be obtained through a statement of authorization procedure modeled on Part 212 (§§ 212.4–212.6) instead of through waiver of an emergency requirement. As in Part 212, the lessor should apply for the statement of authorization at least 45 days before the date of the first proposed flight. The application, in letter form, would describe the terms of the wet lease agreement and include information about reciprocity afforded by the lessee carrier's home country. Interested parties would have 7 days to file memoranda supporting or opposing the application. The Board would issue a statement of authorization if it found the wet lease to be in the public interest, with criteria derived from current § 212.6(b) and set out in proposed § 207.10(g).

Similarly, we propose to amend the statement of authorization requirement that appears in § 212.4(b)(2) for foreign carrier lessors, so that it would apply only to long-term wet leases. The lessor would still need to have underlying authority to perform the flights. For example, a were lease for service between the United States and a country other than the lessor's home country would, as a fifth freedom charter flight, need a statement of authorization under § 212.4(b)(1) even if it were for less than 60 days. And a wet lease for service within the United States would still be prohibited cabotage, unless it fell within the emergency exception established by section 13 of the International Air Transportation Competition Act, Pub. L. 96–192.

Also, § 212.5(a) would be amended so that wet lease applications could be submitted in letter form instead of on CAB Form 433, which is required for other statement of authorization requests but not well suited to wet leases. Either way, the application would have to describe the terms of the wet lease agreement. Requirements for the contents of applications (§ 212.5(c)) and criteria for issuing statements of authorization (§ 212.6(b)) would be revised to refer to *lessee* carriers and the reciprocity afforded by their homelands as well as lessor carriers.

Since the exception to the prior approval requirement for wet leases would not be based on the existence of emergency conditions, the post-flight reporting requirements of §§ 207.10, 208.5, and 212.13 and the definition of "emergency" in § 212.4(c) would be eliminated as no longer necessary.

These proposed changes would further the Board's objective of reducing unnecessary regulatory controls and constraints on competition, and reduce administrative burdens on both the Board and the carriers.

Finally, we are proposing to amend Part 218. That part applies to leases of aircraft with crew by foreign air carriers and other non-citizens to other foreign carriers for use in foreign air transportation. It establishes a presumption that the lessor is engaged in foreign air transportation, and a procedure by which the lessor may rebut the presumption and obtain from the Board a disclaimer of jurisdiction. Under § 218.3, the aircraft must not be leased unless the lessor either has authority from the Board or has obtained such a disclaimer. That section would be amended to conform to the changes in Part 212 that were recently made by ER-1220 and the changes proposed above in this notice, and to reflect the Board's power to grant exemptions. As amended, § 218.3 would prohibit the lease unless the lessor holds a section 402 permit and any statement of authorization required by Part 212, or obtains an exemption or disclaimer of jurisdiction. Redundant language in § 218.2 would be removed.

Revocation of policy statement

Wet leases for 60 days or more by a U.S. air carrier to a foreign air carrier are covered by the Board's policy statement in § 399.19 about when that approval will be granted. Each of the criteria in § 399.19 was designed to meet a problem that could, at least theoretically, arise from such arrangements. The policy statement was adopted on April 16, 1965 (PS–27, 30 FR 5625). At that time it represented a far less restrictive approach to such wet leases than the Board had been using in the 10 preceding years. While some of the criteria are still valid considerations in deciding whether the lease should be approved, others have lost their significance. For example, the criteria were designed to ensure that U.S. carriers did not unduly rely on wet leasing for revenues or did not damage their ability to conduct their own operations.

Our experience since adoption of the policy statement has shown little evidence of the problems envisioned in § 399.19. It also indicates that there is no reason to restrict U.S. carriers by requiring that they have an "urgent" or "compelling" need for additional equipment utilization or operating revenues before they can enter into a long-term wet lease. Furthermore, the time limitations specified in the statement in some cases run counter to the needs of the carriers and the public. In light of these circumstances, the policy statement in § 399.19 has outlived its regulatory significance and usefulness. We are therefore revoking it. By eliminating the criterion in paragraph (b)(3) of that section that the wet lease must not involve revenue or profit sharing by the U.S. carrier, however, we do not mean to indicate support for such arrangements. They will continue to be subject to full scrutiny under the antitrust laws.

Regulatory flexibility

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a subtantial number of small entites. Although some of the carriers that are subject to Parts 207, 208, and 212 are small businesses, they are not the ones that will be the most significantly affected by this proposal to lessen the restrictions on wet leasing.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Parts 207, 208, 212, and 218 as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. A new definition would be added to § 207.1, *Definitions*, as follows:

§ 207.1 Definitions.

* * * * *

"Long-term wet lease" means a lease by which the lessor provides both an aircraft and its crew, which either (a) lasts more than 60 days, or (b) is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

2. Section 207.10, *Reports of emergency commercial charters for other direct carriers*, would be retitled and revised to read:

§ 207.10 Prior authorization of long-term wet leases to foreign air carriers.

(a) A direct air carrier shall not perform any flights for a direct foreign air carrier under a long-term wet lease unless it has obtained a statement of authorization under this section.

(b) Applications for a statement of authorization shall be submitted in letter form in three copies to the civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. A copy of the application shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated air carrier that is authorized to serve the same general area in which the proposed transportation is to be performed.

(c) The application shall describe the purpose and terms of the wet lease agreement. It shall also include documentation to establish the extent to which the country of the lessee's nationality deals with United States air carriers on the basis of reciprocity for similar wet leases, if such wet leases are not subject to a bilateral agreement and—

(1) The Board has not established that the country accords reciprocity;

(2) The Board has found reciprocity defective in the most recent prior approval application involving the country; or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question;

(d) Applications for a statement of authorization under this section shall be filed at least 45 calendar days before the date of the first proposed flight.

(e) Any party in interest may file a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application, and a copy shall be served on the applicant air carrier. Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response will be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications will be published in the Board's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Board finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

(g) The Board will issue a statement of authorization if it finds that the proposed wet lease is in the public interest. Statements of authorization may be conditioned or limited. In determining the public interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party, or should be so covered;

(2) The extent to which the foreign country involved deals with United States carriers on the basis of substantial reciprocity; and

(3) Whether the applicant (lessor) or its agent has previously violated the provisions of this part, or the lessee or its agent has previously violated the provisions of Part 212 or 218 of this chapter.

(h) The Board will publish notice of its actions on applications for statements of authorization in the Status of Charter Applications attachment to the Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters advising applicants of action taken on their applications.

3. In § 207.11, paragraphs (a)(2)(i) and (c) would be revised to read:

§ 207.11 Charter flight limitations.

(a) Passenger charter flights (trips) in air transportation shall be limited to the following:

* * * * *

(2) Air transportation * * * where * * * an aircraft has been engaged * * *

(i) By a person for his or her own use, including a direct air carrier or a direct foreign air carrier, except that long-term wet leases to foreign air carriers are subject to prior authorization under § 207.10.

* * * * *

(c) Cargo charter flights in air transportation are permitted without limitation, except that long-term wet leases to foreign air carriers are subject to prior authorization under § 207.10. Charter cargo may be transported both on scheduled flights carrying individually-ticketed and/or individually-waybilled traffic and on flights carrying charter traffic only.

4. The Table of Contents would be amended accordingly.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

§ 208.3 [Amended]

1. In § 208.3, *Definitions*, a new paragraph (w) would be added, setting forth the definition of "long-term wet lease" proposed above for § 207.1.

§ 208.5 [Amended]

2. Section 208.5, *Reports of emergency commercial charters for other direct carriers*, would be retitled and revised as proposed above for § 207.10.

3. In § 208.6, *Charter flight limitations*, paragraphs (a)(2)(i) and (c) would be revised to read as proposed above for § 207.11, but with cross-references to § 208.5 instead of § 207.10.

4. The Table of Contents would be amended accordingly.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

1. A new definition would be added to § 212.2, *Definitions*, to read:

§ 212.2 Definitions.

* * * * *

"Long-term wet lease" means a lease by which the lessor provides both an aircraft and its crew, which either (a) lasts more than 60 days, or (b) is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

2. In § 212.3, paragraphs (a)(1)(i) and (c) would be revised to read:

§ 212.3 Charter flight limitations.

(a) Passenger charter flights by foreign air carriers in foreign air transportation shall be limited to the movement of persons or their baggage * * *

(1) Where * * * an aircraft has been engaged * * *

(i) By a person for his or her own use, including a direct air carrier or a direct foreign air carrier whether or not the

charter is a wet lease for the carriage of commercial traffic;

* * * * *

(c) Cargo charter flights in foreign air transportation by a foreign air carrier are permitted without limitation. Charter cargo may be transported both on scheduled flights carrying individually-ticketed and/or individually-way billed traffic and on flights carrying charter traffic only.

3. In § 212.4, paragraph (b)(2) would be revised and paragraph (c) would be removed, so that the section would read:

§ 212.4 Prior authorization requirements.

* * * * *

(b) Foreign air carrier shall obtain a statement of authorization for each—

* * * * *

(1)* * *

(2) Long-term wet lease to a direct air carrier or direct foreign air carrier, or

(3)* * *

(c)[Reserved]

* * * * *

4. In § 212.5, paragraphs (a), (b), (c), and (d)(2) would be revised to read:

§ 212.5 Application for authorization.

(a) Application for a statement of authorization shall be submitted on CAB Form 433 (Appendix C), except that for long-term wet leases the application may be submitted in letter form and shall describe the terms of the wet lease agreement. Applications shall be submitted in three copies to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. Upon a showing of good cause, the application may be transmitted by cablegram or telegram or may be made by telephone.

(b) A copy of the application for a long-term wet lease to a direct air carrier or direct foreign air carrier shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated air carrier that is authorized to serve the same general area in which the proposed transportation is to be performed.

(c) The application shall describe the purpose and terms of the wet lease agreement. It shall also include documentation to establish the extent to which the country of the applicant's nationality (and, in the case of a long-term wet lease, the country of the lessee's nationality) deals with United States air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement and—

(1) The Board has not established that the country accords reciprocity,

(2) The Board has found reciprocity defective in the most recent prior approval application involving the country, or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question.

(d)(1) * * *

(2) Applications for a long-term wet lease to a direct air carrier or direct foreign air carrier shall be filed at least 45 days before the date of the first proposed flight.

* * * * *

5. In § 212.6, paragraphs (b)(2) and (b)(4) would be revised so that the paragraph would read:

§ 212.6 Issuance of authorization.

* * * * *

(b) In determining the public interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which the country of the carrier's nationality (and, in the case of a long-term wet lease, the country of the lessee's nationality) deals with United States air carriers on the basis of substantial reciprocity.

(3) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease—

(i) Whether the foreign air carrier or its agent or the lessee (charterer) or its agent has previously violated the provisions of Part 207, 208, or 218 of this chapter.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the applicant owns or controls the lessee.

§ 212.13 [Removed]

6. Section 212.13, *Reports of emergency commercial charters for other direct carriers,* would be removed.

7 The Table of Contents would be amended accordingly.

PART 218—LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSON OF AIRCRAFT WITH CREW

§ 218.2 [Amended]

1. The last two sentences of § 218.2, *Applicability,* would be removed.

2. In § 218.3, paragraph (a) would be revised to read:

§ 218.3 Prohibition against unauthorized operations employing aircraft leased with crew.

(a) No foreign air carrier, or other person not a citizen of the United States, shall lease an aircraft with crew to a foreign air carrier for use by the latter in performing foreign air transportation unless either—

(1) The lessor holds a foreign air carrier permit issued under section 402 of the Act and any statement of authorization required by Part 212 of this chapter; or

(2) The Board has issued an exemption under section 416 of the Act specifically authorizing the lessor to engage in the foreign air transportation to be performed under the lease; or

(3) The Board has issued an order under § 218.6 disclaiming jurisdiction over the matter.

* * * * *

(Secs. 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 757 758, 760, 766, 769, 771, 76 Stat. 145; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1387)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–15605 Filed 5–22–81; 8:45 am]

BILLING CODE 6320–01–M

CIVIL AERONAUTICS BOARD

[Docket 39613; Order 81-5-41]

Empresa Consolidada Cubana de Aviacion (Cubana); Approval of Charter Operations

In the matter of Empresa Consolidada Cubana de Aviacion (Cubana), Ceskoslovenske Aerolinie (CSA—Czechoslvak Airlines), Transporturile Aeriene Romane (Tarom), General Department of International Air Services (Aeroflot Soviet Airlines), Department of International Affairs, General Administration of Civil Aviation of China d/b/a CAAC.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of May, 1981.

By ER-1220, adopted concurrently, we have revised Parts 212 and 214 of the Board's Economic Regulations (14 CFR 212 and 214) to change the structure under which we regulate the charter air services of foreign air carriers holding permits under section 402 of the Federal Aviation Act, as amended. As described in much greater detail in ER-1220, EDR-394 and in Order 80-3-63 (March 13, 1980), the new system enables foreign air carriers to conduct unlimited charter operations between their home countries and the United States (Third and Fourth Freedom) without prior approval for individual charter operations. Prior approval is required for Fifth Freedom flights. The purpose and effect of this revision is to abolish regulatory burdens—both on foreign air carriers and on our staff—wherever this can be achieved without compromising the public interest.

In the revised regulations we reserve the right to require prior approval even of Third and Fourth Freedom charter flights, whenever we find that it is in the public interest to do so. The three principal public interest considerations that may require us to maintain control over any charter flights are (1) national security considerations, (2) unfair, discriminatory, or restrictive practices by foreign governments of their instrumentalities against U.S. carriers, and (3) uncertain or indefinite reciprocity accorded to U.S. carriers. Order 81-5-44, issued concurrently deals with the latter considerations. We here address retention of control over charter operations for national security reasons.

We have decided to require that the airlines of Cuba, Czechoslovakia, the People's Republic of China, and the U.S.S.R. obtain prior approval for all passenger and cargo charter flights to and from the United States. We will require the airline of Romania to file only notices before operating the first thirty (30) charter flights each calendar year,[1] as determined by diplomatic agreement between the United States and Romania. Approval of any flights in excess of that number shall be obtained in advance as described in this order.

Our decision is based upon recommendations from the Departments of Defense and State,[2] and is taken under § 212.4(f) of the Board's Regulations. Based on the conclusions of the Departments that charter flights of these countries' flag carriers—*i.e.*, Empresa Consolidada Cubana de Aviacion (Cubana), Ceskoslovenske Aerolinie (CSA-Czechoslovak Airlines), Transporturile Aeriene Romane (Tarom) the Department of International Affairs, General Administration of Civil Aviation of China d/b/a CAAC, and General Department of International Air Services (Aeroflot Soviet Airlines)—might in some circumstances be harmful to the national security and defense, we find it is in the public interest to require these carriers to conform to the procedures set forth in this order. Our actions here are independent of considerations of reciprocity and are taken without any aspersion on the quality of our mutual aviation relations with the carrier's governments. In the case of Tarom, we emphasize that the requirement to file a notice does not impose a requirement for prior approval.

Section 102 of the Act requires us to "facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the National Defense."[3] Thus, in discharging our responsibilities under the Federal Aviation Act, we must consider foreign policy and national security and defense factors as elements of the public interest when those factors are relevant.

From time to time the Departments of State and Defense have advised us that certain charter operations which could have adverse foreign policy or national defense implications either should be disapproved in the public interest or, more often, should be required to operate over specified airway routings.

Under the previous foreign air carrier charter regime all charter flights were conducted between specific points named in the carriers' permits ("on-route" charters), or were individually approved as "off-route" charters, and thus, no further regulatory measures were necessary to insure that operations were controlled as required by the Public interest.[4] However, under the new charter rules, Third and Fourth Freedom charters will ordinarily be unrestricted, creating a potential for activities which the Departments of Defense and State believe could be adverse to the national defense. Accordingly, these agencies have asked us to take appropriate measures to control and reduce potential harm to U.S. interests, and we will defer to their expert judgment in this matter. For these reasons we now find it necessary to adopt procedures to give us advance notice and control of charter flights by the named foreign flag carriers to or from points in the United States.[5]

All requests for approval of charter flights shall be submitted on CAB Form 433 and must conform to the requirements of sections 212.4 and 212.5 of the Board's Regulations. Applications shall be filed, not later than 14 days before commencement of the proposed flight,[6] with both the Bureau of

[1] Pursuant to a Memorandum of Understanding, April 26, 1978, renewing and amending the bilateral Agreement between Romania and The United States, Romanian air carriers are presently permitted to operate thirty (30) off-route charter flights per year.

[2] These recommendations are contained in a classified letter dated February 16, 1980 from R.W. Komer, Under Secretary of Defense. A copy of this letter will be placed in the non-public section of this docket. The contents of this letter were discussed and endorsed by representatives of the Department of State at an interagency meeting held on August 25, 1980.

[3] 49 U.S.C. 1302(a)(5).

[4] Until recently, all foreign air carriers were obligated to notify the Federal Aviation Administration at least 72 hours before nonscheduled flights, as provided by Annex 9 (Facilitation) to the convention on International Aviation-1944 ("Chicago Convention"). Annex 9 was amended on October 15, 1980 to allow each contracting state to establish requirements for international operations of foreign carriers in the State's air space.

[5] An order is being issued concurrently requiring Polskie Linie Lotnicze (LOT Polish Airlines) only to give notice to the Board 14 days in advance of operation of any charter flights to the United States. This conforms to the January 31, 1979 Exchange of Notes between Poland and the United States which allows each party "to operate passenger and cargo charter air services . . . without requirement for prior approval . . ." See Order 79-12-205, December 31, 1979, and Order 80-6-111, April 17, 1980.

[6] Aeroflot Soviet Airlines presently is required to obtain Board approval before operating any charter trips, or any scheduled service in excess of two weekly round trips. Since that restriction requires all requests be filed with the Board 30 days before the flight, Aeroflot will continue to be subject to the more restrictive 30 day filing provisions of Order 80-3-23, March 5, 1980. Similarly, CAAC would be subject to the provisions of Annex II of the U.S.-P.R.C. Civil Air Transport Agreement and the condition in its foreign air carrier permit (issued by Order 81-1-13) requiring charter applications be filed at least 15 days in advance.

International Aviation of the Civil Aeronautics Board and the Office of International Aviation of the Federal Aviation Administration.[7] Forms must contain all the information called for, specifying in particular the date, time, itemized enroute itinerary of each flight, and a full description of the aircraft to be utilized, including type and registration of aircraft, type of and call signs to be used.[8] To permit resolution of any technical operational problems, the application must contain the name and telephone number of an individual authorized to speak on behalf of the carrier. We may request additional information before we act.[9]

Although Part 212 contains provisions under which the Board can entertain applications on less than the required notice period (upon a showing of good cause), action on late-filed applications cannot be guaranteed, and in no case may a flight be operated which has not, where required, been approved in advance.

It bears repeating that the conditions being imposed by this order do not arise from economic regulatory policy. Rather, they are merely operational procedures similar to those most governments impose on carriers and travelers to provide the reasonable notification and control they find necessary to maintain their national security and defense. In fact, U.S. air carriers already operate under similar approval procedures to some of the affected countries. We anticipate that, as in the past, the vast majority of all applications prior for approval will be granted after a satisfactory aircraft routing has been established. In addition, we expect the responsibilty for administering these controls on charter operations to be assumed at a later date by the Federal Aviation Administration, which has more direct operational responsibility and expertise with respect to aircraft routings.[10]

Accordingly, 1. Effective August 20, 1981, Empresa Consolidada Cubana De Aviacion (Cubana), Ceskoslovenske Aerolinie (CSA-Czechoslovak Airlines), Department of International Affairs, General Administration of China d/b/a CAAC, and General Department of International Air Services (Aeroflot Soviet Airlines) shall not perform any charter trip to or from the United States unless specific authority in the form of a Statement of Authorization to conduct such charter trip has been granted in advance;

2. Effective August 20, 1981, Transporturile Aeriene Romane (Tarom) shall not perform the first thirty (30) charter flights each calendar year (or any other number determined by appropriate diplomatic agreement) to or from the United States unless a Notice has been filed as provided herein, nor shall Tarom perform any charter flight in excess of the above number unless specific authority in the form of a Statement of Authorization to conduct such charter trip has been granted in advance; and

3. We shall serve copies of this order on Empresa Consolidada Cubana De Aviacion (Cubana), Ceskoslovenske Aerolinie (CSA-Czechoslovak Airlines), Transporturile Aeriene Romane (Tarom), Department of International Affairs, General Administration of China d/b/a/ CAAC, and the General Department of International Air Services (Aeroflot Soviet Airlines), the Cuban Interests Section of the Embassy of the Czechoslovak Socialist Republic, the Ambassador of the Czechoslovak Socialist Republic, the Ambassador of the Socialist Republic of Romania, the Ambassador of the People's Republic of China, the Ambassador of the Union of Soviet Socialist Republics in Washington, D.C., the Department of Transportation, the Administrator of the Federal Aviation Administration, and the Departments of Defense and State.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary

[FR Doc. 81-15459 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[7] The Notice required of Tarom shall be submitted in the same fashion as a request for approval but need not contain information on the charter price and the status of reciprocity. The notice is also not subject to approval, but will be used merely to enable a satisfactory flight routing to be established.

[8] Applications submitted by CAAC need only contain those items required by Annex II of The Agreement Between the Government of the United States and the Government of the People's Republic of China signed September 8, 1980.

[9] Under section 385.26(f) of the Board's Organization Regulations (14 CFR 385.26(f)), the Director of the Bureau of International Aviation has delegated authority to approve or deny requests for charter trips "for which prior approval is required under an order of the Board."

[10] Under section 103 of the Act (49 U.S.C. 1303) the Secretary of Transportation is obligated to regulate air commerce "to best promote its development and safety and fulfill the requirements of national defense." The Administrator of the FAA has indicated his agency's willingness to accept this function once satisfactory transfer procedures are developed.

[Docket Nos. 29977 and 39615; Order 81-5-43]

Foreign Air Carriers; Order Terminating Blanket Off-Route Charter Statements of Authorization and Inviting Requests for Fifth Freedom Statements of Authorization

In the matter of Foreign Air Carriers, blanket statements of authorization to operate off-route charter flights and Foreign Air Carriers, blanket statements of authorization to operate Fifth Freedom charter flights.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of May, 1981.

The Board exercises control over charters conducted by foreign air carriers by requiring prior authorization for certain types of individual flights. Historically, foreign scheduled air carriers could operate charters between points named in their permits (on-route charters) without prior approval; whereas they could perform off-route charters only after grant of a Statement of Authorization under Part 212 of the Board's Economic Regulations. Foreign charter air carriers could conduct charters only between points or within geographic areas defined in their permits, pursuant to the provisions of Part 214 of the Economic Regulations. Foreign charter carriers needed to obtain exemptions under section 416(b) of the Act to operate charters outside of those defined areas.

For the last several years, the Board has granted various foreign scheduled air carriers blanket Statements of Authorization to operate off-route Third, Fourth and Fifth Freedom charter flights for one calendar year at a time.[1] The Board granted these blanket authorizations primarily because the *ad hoc* applications for off-route charter authority filed by the carriers were granted routinely since they presented no significant reciprocity or other public interest problems. To preserve its ultimate control over the foreign carriers' off-route charter activity, the Board reserved the power to terminate the blanket authorizations of any of the subject carriers on 30 days' notice, where necessary for reciprocity or other public interest reasons.

By ER-1220, issued concurrently with this order, we have revised Parts 212 and 214 of the Board's Economic Regulations (14 CFR 212 and 214) to change the structure under which we

[1] Order 76-10-119 (October 27, 1976), Order 77-10-120 (October 27, 1977), Order 78-12-175 (December 27, 1978), and Order 79-12-205, December 31, 1979, as amended by 80-12-151, December 31, 1980.

regulate the charter air services of foreign air carriers. The new system will consolidate Parts 212 and 214 into a single rule, revised Part 212. The revised rule will permit foreign scheduled and charter airlines to conduct unlimited charter operations between their home countries and the United States (Third and Fourth Freedom charters) without individual prior approval, regardless of whether or not the operation is on-route or off-route or within the geographic area defined in a carrier's foreign air carrier permit. On the other hand, individual prior approval will now be required for all Fifth Freedom charter flights or programs, without regard to points or areas set forth in a foreign airline's permit. The revised regulation also reserves the Board's right to require prior approval of Third and Fourth Freedom charters for carriers whose governments follow restrictive or discriminatory practices.[2]

Under the revised Part 212, the terms "on-route" and "off-route" will no longer be used to differentiate between those charters requiring prior approval and those that do not, and thus those terms will no longer be defined. As a result, the existing blanket Statement of Authorization granting unlimited "off-route" charter authority will be rescinded. We will terminate all effective blanket Statements of Authorization granting off-route charter authority on August 20, 1981, the effective date of ER-1220.

We expect that under the revised charter regulatory system a majority of all foreign air carrier charter flights will be conducted without the need for individual approval, since most such charters are Third and Fourth Freedom flights. Our simple individual approval procedures in Part 212 will give foreign air carriers sufficient flexibility to seek authority for any Fifth Freedom charter opportunities, while, at the same time, enabling us to tailor our action on such requests to the degree of reciprocity exhibited by the applicant's homeland and other public interest considerations. The Fifth Freedom prior approval requirement does not signify that we will necessarily disapprove applications. Rather, we expect to approve such requests after determining that reciprocity and comity are satisfactory.

In some instances a blanket waiver of this prior approval requirement may be appropriate. We invite foreign air carriers to request such a waiver. Carriers for whom this relief is mandated by a bilateral agreement or understanding should cite the relevant documents and provisions. Where reciprocity is claimed but has not been memorialized in any sort of agreement, applicants should describe the administrative procedures followed in their home countries, including evidence that any request for comparable charter authority by any United States air carrier would be granted. These statements and evidence will assist the Board in determining, among other things, whether or not a bilateral obligation or adequate reciprocity exists to justify a blanket Statement of Authorization. We will consider, but not be limited to, the factors noted in new § 212.6 of the Board's Regulations.[3]

Applications for blanket Statements of Authorization shall be filed in Docket 39615 within 30 days after the service date of this order (*i.e.*, by June 22, 1981). A notice of each request will be published in the weekly digest of applications filed with the Civil Aeronautics Board. Persons wishing to submit answers in support of or against a particular request, shall submit comments and evidence not later than 14 days thereafter.[4] Seven days will be permitted for replies to the comments.

Accordingly, 1. Effective August 20, 1981, we terminate the blanket Statement of Authorization presently held by foreign air carriers under Order 79-12-205, as amended by Order 80-12-151;

2. We invite foreign air carriers wishing to request a blanket Statement of Authorization to perform charter air transportation in Fifth Freedom markets without prior approval under § 212.4 of the Board's Economic Regulations (14 CFR 212.4) to file a request as described above;

3. Any interested person having an objection to the grant of a blanket Statement of Authorization to a carrier so requesting, shall file in Docket 39615 and serve upon the affected carrier(s), a statement of objections specifying the basis for its objection, and such evidence relied upon in support of its objections. Any objection shall be filed by July 6, 1981. Replies to comments may be submitted not later than July 13, 1981. Objections and comments filed after that date will be considered only to the extent practicable. The filing of objections or replies with respect to a particular foreign air carrier shall affect only that carrier; and

4. This order will be served on all foreign air carriers holding permits under section 402 of the Act and all U.S. certificated air carriers.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15460 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[2] See § 212.4(e) of the Board's Regulations. By Order 81-5-44, issued concurrently, various foreign air carriers are being required to obtain prior approval of all Third and Fourth Freedom charters, pursuant to this section.

[3] These pertain to: (1) bilaterally agreed rights; (2) reciprocity; and (3) the carrier's compliance history.

[4] This order does not preclude a foreign air carrier from requesting a blanket Statement of Authorization at a later date. However, the Board intends to expedite action on any application submitted under the procedures described in this order.

[Docket No. 37851, et al.; Order 81-5-44]

Foreign Air Carriers, et al.; Order To Show Cause

In the matter of various Foreign Air Carriers, requirement to obtain prior approval of charter flights to or from the United States; Docket 37851.

In the matter of charter authority of Varig, S.A. (Viacao Aerea Rio-Grandense), requirement to obtain prior approval under Part 212; Docket 28202.

In the matter of on-route charter trips of Aerolineas Argentinas; Docket 27407.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of May, 1981.

By Order 80-3-63, March 13, 1980, we directed all interested persons to show cause why we should not require the foreign air carriers of the following ten countries to obtain prior approval of their charter flights between the United States and their home countries: Argentina, Brazil, Colombia, Iran, Ireland, Japan, Peru, the Philippines, the Union of Soviet Socialist Republics, and Venezuela. We tentatively found that U.S. carriers are subjected to unreasonable restrictions in operating charters to the named countries; that adequate charter reciprocity does not therefore exist; and that the public interest requires prior Board approval of those countries airlines' Third and Fourth Freedom charter flights.

Comments and/or objections were filed by Japan Air Lines Company, Ltd., Varig S.A. (Viacao aerea Rio Grandense), Aerlinte Eireann Teoranta, Air Manila, Inc., Philippine Air Lines, Inc., and the National Air Carrier Association (NACA).[1] Reply comments were received from NACA and Scandinavian Airlines System

We have decided to (1) make final our tentative findings and conclusions with respect to the foreign carriers of all the named countries except Ireland and the Philippines, and (2) subject the remaining carriers' Third and Fourth Freedom charter operations to prior approval by the Board. We have also decided to require Scandinavian Airlines System (SAS) to obtain our approval before operating Third and Fourth Freedom charters.

Background

By ER-1220, adopted concurrently, we have changed the structure under which we regulate the charter air services of foreign air carriers. ER-1220 now permits foreign air carriers to operate Third and Fourth Freedom charters without obtaining prior approval for each flight, and permits Fifth Freedom charters only after obtaining our approval.

Because the new regulation expands significantly the ability of foreign carriers to operate charters without obtaining individual Board approval, it is necessary for us to simultaneously restrict the rights of those carriers whose countries restrict similar U.S.-carrier operations. To permit advance notice to all interested persons of the Board's intent to subject these carriers' Third and Fourth Freedom charters to prior approval under § 212.4 of the Board's Economic Regulations, the Board issued Order 80-3-63.

Decision

Upon review of all comments and replies submitted, and all other relevant information, we have decided to finalize our tentative findings and conclusions with respect to the carriers of all countries except Ireland and the Philippines. In particular we find that the public interest requires the foreign air carriers of Argentina, Brazil, Colombia, Iran, Japan, Peru, the Union of Soviet Socialist Republics, and Venezuela to obtain prior individual approval of all charter flights to or from the United States under § 212.4(e) of the Board's Economic Regulations. We also find that the same treatment is warranted for Scandinavian Airlines System. We are vacating our tentative findings on Ireland and the Philippines because the conditions existing at the time of the issuance of Order 80-3-63 have changed. A discussion of the various countries follows.

Brazil

A Statement of Objections was submitted by Varig S.A. asserting, in part, that any disputes between the Governments of the United States and Brazil should be matters for inter-governmental discussion. Varig further states that while it cannot, and does not presume to, speak on behalf of the Government of Brazil, it does not believe the policies of the government discourage the operation of charter flights as alleged by the Board.[2]

Contrary to the assertions of Varig, U.S. carriers are restricted in the Brazil market, particularly in their attempts to conduct charters out of gateway cities such as New York. While we too hope that inter-governmental negotiations will ultimately produce a viable charter regime, until such a regime can be established and U.S. carriers are permitted to operate charters without restrictions, we believe Varig's charter operations must be individually considered by the Board.

On numerous occasions the Board has expressed its desire to minimize the operating restrictions imposed on foreign air carriers, thereby encouraging the expansion of competitive air transportation services. However, in this case, we are unable to conclude that the public interest would be served by permitting Varig to enjoy relatively unlimited market access while U.S. air carriers are denied comparable opportunities, and therefore we make final the tentative findings and conclusions stated in Order 80-3-63 with respect to Varig.

Ireland

Aerlinte filed a response asserting that circumstances have radically changed since Order 80-3-63 was issued. Specifically, Aerlinte points to the Memorandum of Consultations, dated March 29, 1980, in which Delegations of the United States and Ireland agreed to remove the uncertainties and restrictions affecting charter operations between the two countries.[3] We agree with Aerlinte and conclude that the public interest does not require Aerlinte to obtain prior approval of charter flights between Ireland and the United States. We are therefore vacating our tentative findings on air carriers of Ireland.

Japan

Japan Air Lines Company, Ltd. (JAL) filed an objection asserting, in part, that: The policy of its government has been to facilitate and allocate charter opportunities fairly; no prior authorization is required by Japan of designated carriers for on-route charters; unavoidable physical constraints have limited the operation of all desired charters; imposition of a prior approval requirement violates both the letter and spirit of the 1953 Exchange of Notes, and would constitute abrogation of the Agreement; and the Government of Japan's policies toward charter service of U.S. carriers do not qualify as restrictive under the Board's criteria. At a minimum, JAL requests that it be relieved from obtaining prior approval of its on-route charters.

[1] NACA submitted comments on behalf of its member carriers, Transamerica Airlines, Inc. and World Airways, Inc.

[2] By petition filed August 21, 1975, in Docket 28202, Trans International Airlines, Inc. (now Transamerica Airlines) requested the Board to require Varig to obtain prior Board approval before operating on-route charter trips in foreign air transportation. Since the action of the Board in this case will essentially grant the request of TIA in Docket 28202, we will dismiss that petition as moot.

[3] See Order 80-5-129, May 19, 1980.

NACA submitted comments in reply, arguing that JAL's objections should be dismissed, and asserting that: The Government of Japan has adopted a discriminatory policy under which only U.S. carriers designated to perform scheduled services are authorized to operate charter flights; the current bilateral agreement between the United States and Japan has no charter clause; the 1953 Exchange of Notes merely reflects the procedures under which reciprocity was accorded at that time; and the 1953 U.S. Note merely informed Japan of a U.S. "practice" and was not a guarantee of that practice.

Upon review of the objections and comments, we conclude that the public interest would best be served by requiring that Japan Air Lines obtain a Statement of Authorization prior to operating any charter flight between the United States and Japan, including those operated over its route system.

We are in essential agreement with the statements of NACA. As discussed in Order 80-3-63, we have on many occasions expressed dissatisfaction with the quality of Japanese reciprocity with respect to charters, and in particular, that government's policies of discriminating against and effectively precluding the operation of charters by carriers such as Transamerica and World. JAL has not disputed that these policies exist. Rather it contends that the Board is obligated by an Exchange of Notes in 1953 to permit JAL to operate any on-route charters, and that the policy of the Government of Japan is permitted by that Exchange and is thus not the basis for a countervailing action by the Board. We disagree. As noted by NACA, the 1953 Exchange of Notes merely reflected a practice followed by the Board, and was based upon considerations existing at that time. We are not bound to continue such a practice when, as here, we find that reciprocity and public interest considerations no longer support it. We will of course review the public interest in light of any changes in air transportation relations which may result from further negotiations.

The Philippines

Objections to the Board's tentative findings and conclusions were filed by both Philippine Airlines, Inc. and Air Manila, Inc. Philippine Airlines asserted, among other things, that: Imposition of a prior approval system will be counterproductive and inimical to aviation relations between the two countries because the 30-day requirement is "draconian" in comparison to the Philippine prior approval requirement, and will not elicit fair treatment of U.S. carriers; no U.S. carrier has ever encountered a delay in excess of forty-eight hours in receiving an approval; since Philippine Airlines does not operate charter flights, any adverse reaction will be borne by U.S. carriers; and, the Government of the Philippines has encouraged rather than obstructed operations of non-Philippine carriers. In turn, Air Manila states that: Since 1972 the Government of the Philippines has not denied requests by United States carriers to operate Third and Fourth Freedom charter flights; Philippine Resolution 3371, which confers first-refusal rights, has never been implemented; imposition of the 30-day requirement would effectively be a denial in advance; Air Manila has no responsibility for, or privity with, the actions of the Philippine Government; and, if the Board does not "particularize" the offending restrictive actions of the Philippine Government, Air Manila cannot respond to any changes in such actions.

NACA asserted in reply comments that: The practice of the Philippine Government is to require the filing of passenger charter flight applications 30 days in advance and cargo charter flight applications 10 days in advance; U.S. carriers must make formal written application to the Philippine Government even for over-flights; and if the Philippine-flag carriers find the Board's prior approval requirements to be objectionable they should request the Philippine Government to remove the operating restrictions which are now placed on U.S. carriers.

We have decided to vacate our tentative findings and conclusions with respect to the carriers of the Philippines.

Subsequent to our issuing Order 80-3-63, the United States and the Philippines signed on October 3, 1980 an *ad referendum* Agreement, which significantly expanded the air service opportunities of carriers of both countries. While the agreement does not address charter services specifically, it provides a generally liberal framework for the provision of competitive U.S. and Philippine carrier services. In keeping with the spirit of this agreement, and the improvement in aviation relations it is intended to foster, we conclude that it would be contrary to the public interest to require Philippine carriers to obtain prior approval of their Third and Fourth Freedom charter flights.

We anticipate that as a result of the new agreements, U.S. carriers should experience few difficulties in conducting charters to and from the Philippines. If significant problems should develop, we would be prepared to reconsider this decision and place the carriers of the Philippines on advance charter flight approval.

Scandinavia

NACA has requested that the Board require the Scandinavian airlines to obtain prior authorizations for all charter flights to and from the United States. In support of its request NACA generally alleges that the Scandinavian countries (Denmark, Norway, and Sweden) have traditionally followed a very strict and discriminatory policy toward charter flight authorizations in transatlantic markets.

On April 28, 1980, SAS replied to NACA, asserting that Scandinavian charter policies are applied equally and in a nondiscriminatory fashion to all carriers, domestic and foreign, scheduled and charter, and that U.S. carriers have the same opportunity to operate charters as do Scandinavian carriers. NACA responded to these assertions on May 12, 1980.

We find that present circumstances warrant requiring Scandinavian Airlines System to obtain our approval before operating any charter flights to or from the United States.[4]

In Order 81-2-57, on review of a staff action taken in Order 79-12-205, we found that various policies of the Scandinavian aviation authorities have denied U.S. carriers effective access to the U.S.-Scandinavian market and have deprived our carriers of a fair and equal opportunity to compete with Scandinavian Airlines System, Scandinavia's scheduled carrier. We cited problems U.S. carriers have encountered in implementing low-cost services, both scheduled and charter, and noted that the Scandinavian authorities require U.S. carriers to obtain prior approval to operate charters in the U.S.-Scandinavian market. Recently, the United States and Scandinavia held talks on these matters, which resulted in a temporary, narrowly drawn understanding. The Scandinavians have approved the then-proposed U.S. air carrier scheduled fares. We have decided to approve a 19-flight charter program of SAS as well as its summer fares. While the U.S. tabled at that time a proposed charter arrangement, substantive talks were deferred until a later date.

The recent accord, while resolving immediate operating problems facing

[4] Section 212.4(e) provides that we will give carriers 30 days' notice of our decision to require them to obtain statements of authorization before operating any charter flights. Since this order does not become effective until 90 days, our announcement today satisfies the notice requirement.

both sides, did not offer a long-term solution to aviation difficulties among the governments. We believe therefore that the general problems cited in Order 81-2-57 remain of concern. Under these circumstances, in light of the substantial operating problems, raised by NACA, that U.S. carriers face in conducting U.S.-Scandinavia charters, and in view of the unrefuted assertion that U.S. carriers must apply in advance to the Scandinavian Government for charter-flight authority, we find that requiring SAS to obtain prior approval for all charter flights between the United States and its homelands is necessary in the public interest.

Remaining Countries

No comments, objections, or replies were submitted with respect to the carriers of Argentina,[5] Colombia, Iran, Peru, the U.S.S.R., and Venezuela, and thus we will make final our tentative findings and conclusions and require those countries' carriers to obtain prior approval of all charter flights between the United States and their home countries.[6] [7]

Our actions in this case do not mean we will necessarily deny requests for individual Statements of Authorization. Rather, they are intended to permit us to monitor more closely aviation charter relations with the countries. We are, of course, prepared to recognize any changes in reciprocity. Meanwhile, we will treat each request for a Statement of Authorization based upon the particular circumstances that exist at that time.

Accordingly, 1. We make final our tentative findings and conclusions set forth in Order 80-3-63 as they pertain to Aerolineas Argentinas (for passenger charters only); "VARIG", S.A. (Viacao Aerea Rio-Grandense); Aerocosta, S.A., Aerolineas Territoriales de Colombia Ltda, "Aerotal"; Aerovias Colombianas Limitada (ARCA); Aerovias Condor de Colombia, S.A., Aerovias Nacionales de Colombia, S.A. (AVIANCA); Sociedad Aeronautica de Medellin Consolidada, S.A. (SAM); Iran National Airlines Corporation (Iran Air); Japan Air Lines Company, Ltd., Aeronaves del Peru, S.A., AeroPeru (Empresa de Transportes Aero del Peru); Compania de Aviacion "Faucett", S.A., General Department of International Air Services (Aeroflot Soviet Airlines); Transportes Aereos de Carga, S.A. (Transcarga); and Venezolana Internacional de Aviacion, S.A. (VIASA);

2. Effective August 20, 1981, we require all carriers listed in paragraph 1 and Scandinavian Airlines System, Lineas Aereas del Caribe, and Transportes Aereos Mercantiles Panamericanos S.A. "TAMPA" S.A. to obtain a statement of authorization before operating any charger flight(s) between the United States and their homelands;

3. Applications for statements of authorization shall be submitted on CAB Form 433, at least 30 calendar days before the flight, pursuant to the procedures in §§ 212.5 and 212.6.

4. We vacate our tenative findings, and conclusions set forth in Order 80-3-63 with respect to Aerlinte Eireann Teoranta, Air Manila, Inc., and Philippine Air Lines, Inc.,

5. We rescind Order 75-1-68, January 15, 1975 (Docket 27407) effective August 20, 1981;

6. We dismiss, without prejudice, the request of Trans International Airlines, Inc., in Docket 28202; and

7 We shall serve this order on Aerolineas Argentinas; "VARIG", S.A. (Viacao Aerea Rio-Grandense); Aerocosta, S.A., Aerolineas Territoriales de Colombia Ltda, "Aerotal"; Aerovias Colombianas Limitada (ARCA); Aerovias Condor de Colombia, S.A., Aerovias Nacionales de Colombia, S.A. (AVIANCA); Lineas Aereas del Caribe; Transportes Aereos Mercantiles Panamericanos S.A. "TAMPA" S.A., Sociedad Aeronautica de Medellin Consolidada, S.A. (SAM); Aerlinte Eireann Teoranta; Iran National Airlines Corporation (Iran Air); Japan Air Lines Company, Ltd., Aeronaves del Peru, S.A., AeroPeru (Empresa de Transportes Aero del Peru); Compania de Aviacion "Faucett" S.A., Air Manila, Inc., Philippine Air Lines, Inc., General Department of International Air Services (Aeroflot Soviet Airlines); Transportes Aereos de Carga, S.A. (Transcarga); Venezolana Internacional de Aviacion, S.A. (VIASA); Scandinavian Airlines System; the Ambassadors of Algeria (for the Iranian Interests Section), Argentina, Brazil, Colombia, Denmark, Ireland, Japan, Norway, Peru, the Philippines, Sweden, the Union of Soviet Socialist Republics, and Venezuela in Washington, D.C., and the Departments of State and Transportation.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[8]

Secretary.

[FR Doc. 81-15462 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[5] We note that by Order 75-1-68 (January 15, 1975) we required Aerolineas Argentinas to obtain a Statement of Authorization prior to operating any on-route charter flights. That order is still effective. Since this order will, in effect, provide a more current form of the same restriction, we will rescind Order 75-1-68.

[6] Aerolineas Argentinas (for passenger charters only); Aerocosta, S.A., Aerolineas Territoriales de Colombia Ltda., "Aerotal"; Aerovias Colombias Limitada (ARCA); Aerovias Condor de Colombia, S.A., Aerovias Nacionales de Colombia, S.A. (AVIANCA); Sociedad Aeronautica de Medellin Consolidada, S.A. (SAM); Iran National Airlines Corporation (Iran Air); Aeronaves del Peru, S.A., AeroPeru (Empresa de Transportes Aero del Peru); Compania de Aviacion "Faucett" S.A.; General Department of International Air Services (Aeroflot Soviet Airlines); Transportes Aereos de Carga, S.A. (Transcarga); and Venezolana Internacional de Aviacion, S.A. (VIASA).

[7] Since Order 80-3-63 was issued two additional Colombian carriers—Lineas Aereas del Caribe (LAC) and Transportes Aereos Mercantiles Panamericanos S.A. "TAMPA" S.A.—have prosecuted permit applications to serve the United States. Se Orders 81-4-110 and 81-2-59. We are therefore including these carriers with the other Colombia carriers affected by our decision today.

[8] All Members concurred.

[Docket 39614; Order 81-5-42]

Polskie Linie Lotnicze; Prior Notice of Charter Operations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of May, 1981.

As described in detail in ER-1220 and Order 81-5-41, issued concurrently, we have revised Parts 212 and 214 of the Board's Economic Regulations (14 CFR 212 and 214) to permit foreign airlines to conduct charter operations between their home countries and the United States (Third and Fourth Freedom) without prior approval for the individual operations.[1] The Department of Defense and the Department of State have advised us that this revision might, if universally applied, have serious foreign policy or national defense implications, and they have asked us to adopt procedures to minimize the potential harm to U.S. interests.[2] This order establishes prior notice procedures for the charter operations of Polskie Linie Lotnicze (LOT), consistent with the concerns of the two Departments and with our responsibilities under the terms and conditions of the U.S.-Poland bilateral agreement.

Section 102 of the Act requires us to "facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the National Defense."[3] Thus, in discharging our responsibilities under the Federal Aviation Act, we must consider foreign policy and national security and defense factors as elements of the public interest when those factors are relevant.

From time to time the Departments of State and Defense have advised us that certain charter operations which could have adverse foreign policy or national defense implications either should be disapproved in the public interest or, more often, should be required to operate over specified airway routings.

Under the previous foreign air carrier charter regime, all charter flights were conducted between specific points named in the carriers' permits ("on-route" charters), or were individually approved as "off-route" charters, and thus, no further regulatory measures were necessary to insure that operations were controlled as required by the public interest.[4] However, under the new charter rules, Third and Fourth Freedom charters will ordinarily be unrestricted, creating a potential for activities which the Departments of Defense and State believe could be adverse to the national defense. Accordingly, these agencies have asked us to take appropriate measures to control and reduce potential harm to U.S. interests, and we will defer to their expert judgment in this matter. For these reasons we now find it necessary to adopt procedures to give us advance notice and control of charter flights by the named foreign flag carrier to or from points in the United States.

In Order 81-5-41, we respond to the request of the Departments of Defense and State by requiring certain carriers to obtain our approval before operating any charter flights to or from the United States. As noted in Order 81-5-41, we perceive no conflict between this action and the terms of pertinent bilateral agreements.

However, the situation is slightly different as to LOT, the Polish airline, since by Exchange of Notes with the Government of Poland on January 31, 1979, the right of U.S. and Polish airlines to operate charter flights between the two countries was acknowledged. Under Section 1102 of the Federal Aviation Act, the Board must act consistently with any obligation assumed by the United States in any agreement "that may be in force between the United States and any foreign country. . .". In conformity with Section 1102 and the Exchange of Notes, Order 79-12-205 authorized LOT to operate off-route charter flights without Board approval.[5]

Against this background, we have concluded that it is in the public interest to require LOT to file a notice before operating any charter trip to or from the United States. While these procedures will enable a satisfactory routing to be established, they do not require LOT to obtain our approval before operating charter flights. In our judgment, this approach strikes an appropriate balance between the requirements of section 1102 of the Act and the need to advance the foreign policy, national security, and defense considerations raised by the Departments of Defense and State and included within the scope of our responsibilities under section 102 of the Act. We expect that the responsibility for administering the notice requirement will be assumed by the Federal Aviation Administration at a later date.

All notices of charter flights must conform to the requirements for the filing for prior approval as contained in revised §§ 212.4 and 212.5 of the Board's Regulations, with the following exceptions: First, all notices shall, not later than 14 days before commencement of the proposed flight, be filed with both the Bureau of International Aviation of the Civil Aeronautics Board and the Office of International Aviation of the Federal Aviation Administration. Second, two items can be omitted from the Form 433, even though it still must contain a full description of the operation including the date, time, enroute itinerary of each flight, and a full description of the aircraft to be utilized including type and registration of aircraft, and call signs to be used. The two items that would be relevant to an approval/disapproval decision would be superfluous in a mere notice and need not be included: charter price and status of reciprocity. To permit resolution of technical operational problems the notice must contain the name and number of an individual authorized to speak on behalf of the carrier. As soon as possible after receipt of a notice, we will advise LOT of any flight routing it may be required to follow by returning the notice statement specifying on it any such operational routing.

Accordingly, 1. Effective August 20, 1981, Polskie Linie Lotnicze shall not perform any charter trip to or from the United States unless a Notice has been filed as provided herein; and

2. We shall serve copies of this order on Polskie Linie Lotnicze, the Ambassador of the Polish People's Republic in Washington, D.C., the Federal Aviation Administration, and the Departments of Defense, State and Transportation.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15461 Filed 5-22-81; 8:45 am]

BILLING CODE 6320-01-M

[1] Prior approval is generally required for Fifth Freedom flights.

[2] This request is contained in a classified letter dated February 16, 1980 from R.W. Komer, Under Secretary of Defense, to the Chairman of the Civil Aeronautics Board. A copy of this letter will be placed in the nonpublic section of this docket. The contents of this letter were discussed and endorsed by representatives of the Department of State at an interagency meeting held on the subject on August 25, 1980.

[3] 49 U.S.C. 1302(a)(5).

[4] Until recently, all foreign air carriers were obligated to notify the Federal Aviation Administration at least 72 hours before nonscheduled flights, as provided by Annex 9 (Facilitation) to the Convention on International Aviation-1944 ("Chicago Convention"). Annex 9 was amended on October 15, 1980 to allow each contracting state to establish requirements for international operations of foreign carriers in the State's air space. Thus, the 14-day advance notice filing requirement is consistent with the convention.

[5] See also Order 80-6-111, April 17, 1980.

[Order 81-5-99]

Yukon Air Service Additional Points Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (81-5-99).

SUMMARY: The Board is proposing to award air route authority at Anchorage, Barrow, Kotzebue, Nome and Prudhoe Bay, to Yukon Air Service, Inc. d.b.a Air North and Nenana Air Service under expedited show-cause procedures.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by June 22, 1981, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 39395, which we have entitled the *Yukon Air Service Additional Points Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington. D.C. 20428.

In addition, copies of such filings should be served on Yukon Air Service; Alaska International Air; the mayor and airport manager of each city to which the pleading refers; the Alaska Transportation Commission; and the Alaska Division of Aviation, Department of Public Works.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5198.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-5-99 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-5-99 to that address.

By the Civil Aeronautics Board: May 18, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15463 Filed 5-22-81; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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