12-4-80
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# federal register

Thursday
December 4, 1980

## Highlights

80359 **Grant Programs—Health** HHS/PHS announces grants for traineeships for students in schools of public health for fiscal year 1981; apply by 12-12-80

80358 **Grant Programs—Health** HHS/PHS announces grants for traineeships for graduate programs in health administration for fiscal year 1981; apply by 1-9-81

80358 **Grant Programs—Health** HHS/PHS announces grants for graduate programs in health administration for fiscal year 1981; apply by 1-9-81

80309 **Taxes** Treasury/IRS proposes updating and revising regulations concerning manufacturers excise tax on tires, tubes and tread rubber; comments by 2-2-81

80460 **Commuter Flight Operations** DOT/FAA publishes regulations regarding commuter pilot-in-command operating experience requirements and extension of compliance date for instrument rating requirements; effective 12-1-80; comments by 1-5-81 (Part VI of this issue)

80438 **Petroleum** DOE/ERA publishes September 1980 Entitlements notice setting forth entitlements purchase or sale requirements of domestic refiners and eligible firms (Part III of this issue)

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# Highlights

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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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80295, 80296 **Medical Standards** DOT/FAA proposes to exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions; comments by 2-4-81 (2 documents)

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80434 **Aircraft** DOT/FAA extends comment period to 3-31-81 on aircraft and products design and procedural standards for type certificates, type certificate amendments, and supplemental type certificates (Part II of this issue)

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 330

### 9 CFR Part 94

### Handling of Certain Garbage Residues

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document amends garbage regulations concerning plant pests and livestock and poultry diseases, on an emergency basis, to allow materials extracted from residues of garbage that had been unloaded from certain means of conveyance arriving in States, Districts, Territories, or possessions of the United States and cooked at 212°F for 30 minutes, to be excepted from provisions providing for disposal by burying if such materials are determined by the Administrator of the Animal and Plant Health Inspection Service or his/her delegate to be unsuitable for use as food or as soil additives. This document also amends such regulations, on an emergency basis, to specify that such garbage residues after cooking may be disposed of by burying only if buried in a landfill. These actions are necessary as emergency measures in order to delete unnecessary requirements concerning the disposition of such garbage residues, and to provide criteria adequate to prevent the dissemination of plant pests and livestock or poultry diseases.

This document also gives notice of a request for public comments concerning these amendments.

**DATES:** Effective date of amendments December 4, 1980. Written comments concerning these amendments must be received on or before February 2, 1981.

**ADDRESSES:** Written comments concerning these amendments should be submitted to Ronald B. Caffey, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 664, Hyattsville, MD 20782.

**FOR FURTHER INFORMATION CONTACT:** Ronald B. Caffey, Assistant to Deputy Administrator for Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 64, Hyattsville, MD 20782, (301) 436-7633.

**SUPPLEMENTARY INFORMATION:**

#### Classification

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

#### Emergency Action

The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, had determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the finding that unnecessary restrictions are imposed concerning the disposal of residues of certain garbage, a situation exists requiring immediate action to lessen or delete such unnecessary restrictions. Also, a situation exists requiring immediate action to impose criteria necessary to prevent the introduction into the United States of plant pests and livestock or poultry diseases.

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

#### Written Comments

Interested persons are invited to submit written comments concerning these amendments. Comments should bear a reference to the date and page number of this issue of the Federal Register. All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 664, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

#### Background

The provisions in 7 CFR 330.400 and 9 CFR 94.5 (referred to below as the regulations) are essentially the same. They provide restrictions concerning the handling of garbage and associated material on or unloaded from certain means of conveyance arriving in States, Districts, Territories, or possessions of the United States (referred to below as the United States). These restrictions were established concerning such garbage derived from, or containing, any waste material from fruits, vegetables, meats, or other plant or animal material which originated outside of the territorial limits of the United States or Canada. Garbage derived from such plant or animal material poses a threat of the introduction into the United States of plant pests and livestock or poultry diseases which do not occur or are not widely prevalent or distributed within and throughout the United States, and which, if introduced into the United States, could have disastrous results on United States agriculture, horticulture, and livestock production. Examples of such plant pests are golden nematode, melon fly, and Mediterranean fruit fly. Examples of such livestock and poultry diseases are African swine fever, foot and mouth disease, and exotic Newcastle disease.

Under the regulations such garbage is not allowed to be unloaded from such means of conveyance unless it is removed in tight, leak-proof receptacles

under the direction of an inspector of the Animal and Plant Health Inspection Service (referred to below as APHIS) to an approved facility for handling, in accordance with the regulations. Sterilization is specified as one method of handling. Prior to the effective date of this document the regulations provided that sterilization would be accomplished by cooking garbage at 212°F for 30 minutes and disposal of the residue by burying.

A company involved in the business of recycling garbage requested that the sterilization procedures be amended to except from the burial provisions materials extracted from the residues of such garbage and found to be unsuitable for use as food. This request was based on the assertion that the burial provisions are not necessary to prevent the risk of dissemination of plant pests and livestock or poultry diseases for such materials. Materials excepted from the burial provisions could be used again.

Based on research and experience it has been determined that cooking the garbage at 212°F for 30 minutes is adequate to destroy any plant pests and livestock or poultry diseases. However, if such garbage were not adequately cooked it could be the means of disseminating plant pests if used as fertilizer or other soil additives, and could be the means of disseminating livestock or poultry diseases if used as food for livestock or poultry. The provision that the residues be disposed of by burying was added as a precautionary measure to assure that if the garbage were not adequately cooked, protection would be provided against the use of the residues of the garbage as food for livestock or poultry and against the use of such residues as fertilizer or other soil additives. In order to continue to provide such protection against the spread of plant pests or livestock or poultry diseases, it appears that it would be necessary to continue burying that portion of the residues of such garbage that would be suitable for use as food or as soil additives. However, it appears that this protection is not necessary for materials extracted from the residues after cooking and found to be unsuitable for use as food or as soil additives.

Therefore, in order to delete unnecessary restrictions, the regulations are amended by this document on an emergency basis to except from the burial provisions materials extracted from the residues of such garbage after cooking and determined by the Administrator of APHIS or his/her APHIS delegate to be unsuitable for use as food or as soil additives. These determinations are limited to the Administrator and his/her delegate for the purpose of assuring uniformity in the application of decisions concerning whether materials would be unsuitable for use as food or as soil additives.

The definition section in 9 CFR 1.1 contains a definition of the term Administrator which applies to the provisions in 9 CFR 94.5. The term Administrator is defined to include certain APHIS personnel delegated authority to act in place of the Administrator. Therefore, with respect to the provisions in 9 CFR 94.5 the use of the term Administrator in the final rule includes any such delegate of the Administrator. Prior to the effective date of this document the term Administrator was not defined for the provisions in 7 CFR 330.400. However, for informational purposes a similar definition of the term Administrator is added to the definition section of the provisions in 7 CFR 330.100 and applies to the provisions amended by this document in 7 CFR 330.400. Accordingly, the use of the term Administrator in 7 CFR 330.400 also includes certain APHIS personnel delegated authority to act in place of the Administrator.

In connection with the review of the request to amend the regulations, the Department has also determined that it is necessary to add criteria concerning the disposition of residues of garbage by burying. The regulations do not specify criteria concerning the disposition of residues of garbage by burying. As noted above, disposal of residues of garbage by burying was added as a precautionary measure to provide protection against the use of the residues of the garbage as food for livestock or poultry and against the use of such residues as fertilizer or other soil additives. Under current practices this protection is achieved by burying such garbage residues in landfills. This helps to assure that the residues of the garbage become mixed with soil and a variety of other garbage which would cause the residues to be unsuitable for use as food for livestock or poultry, or for use as soil additives. Also, it appears that a landfill is the only feasible place to accomplish such purposes for residues disposed of by burying. Accordingly, in order to provide protection against the use of the residues of the garbage as food for livestock or poultry or as soil additives, it is necessary on an emergency basis to amend the regulations to allow such residues to be buried only in landfills.

Also, in connection with enforcement of provisions affected by this document, it should be noted that the provisions in 7 CFR 330.400 and 9 CFR 94.5 contain procedures for a facility to obtain approval to conduct operations concerning the disposal of garbage residues, and contain provisions for the denial or withdrawal of such approval.

## Amendment of Regulations

Under the circumstances referred to above, the regulations are amended as follows:

## Title 7—Agriculture

## PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

1. In § 330.400 in 7 CFR Part 330, subparagraph (1) in paragraph (d) is revised to read as follows:

**§ 330.400 Garbage; quarantine; regulations on storage and movement on certain means of conveyance.**

* * * * *

(d) * * *

(1) "Sterilization" means cooking garbage at 212° F. for 30 minutes and disposal of the residue by burying in a landfill, except that the burial provisions do not apply to materials extracted from the residue after cooking and determined by the Administrator to be unsuitable for use as food or as soil additives.

* * * * *

2. In § 330.100 in 7 CFR Part 330, a new paragraph (w) is added to read as follows:

**§ 330.100 Definitions.**

* * * * *

(w) *Administrator.* The Administrator of the Animal and Plant Health Inspection Service of the Department, or any officer or employee of the Animal and Plant Health Inspection Service to whom authority has heretofore been delegated or may hereafter be delegated to act in his/her stead.

## Title 9—Agriculture

## PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMONENCEPHALITIS), AFRICAN SWINE FEVER AND HOG CHOLERA; PROHIBITED AND REGISTERED IMPORTATIONS

3. In § 94.5 of 9 CFR Part 94, subparagraph (2) in paragraph (d) is revised to read as follows:

**§ 94.5 Garbage; regulations on storage and movement on certain means of conveyance.**

* * * * *

(d) * * *

(2) "Sterilization" means cooking garbage at 212°F. for 30 minutes and disposal of the residue by burying in a landfill, except that the burial provisions do not apply to materials extracted from the residue after cooking and determined by the Administrator to be unsuitable for use as food or as soil additives.

* * * * *

(Sec. 106, 71 Stat. 33 (7 U.S.C. 150ee); secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sec. 102, 58 Stat. 735 as amended (7 U.S.C. 147a); sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); sec. 11, 23 Stat. 32, as added at 58 Stat. 734, as amended (21 U.S.C. 114a); 76 Stat. 663 (7 U.S.C. 450); secs. 101, 102, 83 Stat. 852, 853 (42 U.S.C. 4331, 4332); 37 FR 28464, 28477 as amended; 38 FR 19141)

Done at Washington, D.C., this 1st day of December 1980.

James O. Lee, Jr.,

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 80-37730 Filed 12-3-80; 8:45 am]

BILLING CODE 3410-34-M

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## Agricultural Marketing Service

## 7 CFR Part 905

**[Orange, Grapefruit, Tangerine, and Tangelo Regulation 4, Amdt. 3]**

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

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Amendment to final rule.

**SUMMARY:** This amendment allows each handler to ship a quantity of smaller size Dancy variety tangerines (2 4/16 inches in diameter) during the week December 1 to December 7, 1980, equal to 45 percent of total shipments during a specified prior period. In the absence of this amendment only tangerines 2 5/16 inches in diameter could be shipped. This action will allow an increase in the supply of tangerines during the period specified in recognition of market needs and the size composition of available supply in the interest of growers and consumers.

**EFFECTIVE DATE:** December 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures established in Secretary's memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement and Order No. 905, (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida Dancy tangerines during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is less than anticipated and there is a need to augment the supply by permitting shipment of a proportion of the smaller sized fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when both the Robinson and Dancy varieties are being shipped.

The Citrus Administrative Committee, at an open meeting on November 25, 1980, reported that the amendment would allow shipment of approximately 52 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for limited quantities of smaller size Dancy tangerines, but markets presently can absorb only a portion of the supply of the smaller fruit of such variety without disruption of the markets.

The Department's Crop Reporting Board estimates the 1980-81 season's crop of Florida tangerines at 3.9 million boxes (approximately 7.8 million cartons). Hence the volume of tangerines is slightly smaller than that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,500 carlots). Each carlot is equivalent to one-thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

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

Accordingly, it is found that the provisions of § 905.304 (Orange, Grapefruit, Tangerine and Tangelo Regulation 4; (45 FR 67047; 76651)), should be and are amended by revising paragraph (d) to read as follows:

**§ 905.304 Orange, Grapefruit, Tangerine, and Tangelo Regulation 4.**

* * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may, during the period December 1 through December 7, 1980, ship Dancy variety tangerines smaller than 2 5/16 inches in diameter: *Provided,* That such smaller tangerines are not smaller than 2 4/16 inches in diameter *And provided further,* That the quantity

of such smaller tangerines does not exceed 45 percent of the quantity shipped in the applicable prior period, as determined by the procedure specified in § 905.152.

* * * * *

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

Dated: November 28, 1980.

D. S. Kuryloski,

*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 80–37709 Filed 12–3–80; 8:45 am]

BILLING CODE 3410–02–M

## 7 CFR Part 907

**[Navel Orange Reg. 499]**

## Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 5–December 11, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

**EFFECTIVE DATE:** December 5, 1980.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, 202–447–5975.

**SUPPLEMENTARY INFORMATION:** *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on December 2, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.799 is added as follows:

**§ 907.799 Navel Orange Regulation 499.**

*Order.* (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 5, 1980, through December 11, 1980, are established as follows:

(1) District 1: 1,383,708 cartons;

(2) District 2: unlimited cartons;

(3) District 3: 111,504 cartons;

(4) District 4: unlimited cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

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

Dated: December 3, 11:32 am.

Charles S. Brader,

*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 80–37942 Filed 12–3–80; 11:32 am]

BILLING CODE 3410–02–M

## 7 CFR Parts 911 and 915

**[Lime Pack Reg. 9; Avocado Pack Reg. 6]**

## Limes Grown in Florida and Avocados Grown in South Florida; Subpart—Pack Regulation, and Subpart—Container and Pack Regulations

*Correction*

In FR Doc. 80–36268 appearing on page 76429 in the issue of Wednesday, November 19, 1980, make the following corrections:

(1) In § 911.311(a)(3), line 9, ". . . under § 911.45 of the marketing order" should have read ". . . under § 911.48 of the marketing order."

(2) In § 915.306(a), line 3, ". . . 2851.3000" should have read ". . . 2851.3069".

(3) In § 915.306(b), line 6, ". . . 2851.3000" should have read ". . . 2851.3069".

BILLING CODE 1505–01–M

## 7 CFR Part 966

## Tomatoes Grown in Florida; Approval of Amendment No. 1 to Handling Regulation

*Correction*

In FR Doc. 80–36939, published at page 78619, in the issue of Wednesday, November 26, 1980, make the following correction:

On page 78621, § 966.319(a)(3)(iii), second column, third paragraph, seventh line, the words "4¼ inches long" should read "4½ inches long".

BILLING CODE: 1505–01–M

# NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 1

## Title Change for Adjudicatory Panel Members

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission has revised its regulations to provide new titles for the members of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel. Instead of being referred to as a panel "Member" those individuals have been given the title "Administrative Judge".

**EFFECTIVE DATE:** December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (202–634–1465).

**SUPPLEMENTARY INFORMATION:** The Nuclear Regulatory Commission has amended its regulations to provide that members of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel shall have the title "Administrative Judge." This change is part of the Commission's ongoing program to improve the quality

and prestige of its adjudicatory panels. This nomenclature change also more accurately describes the work and functions of the panel members.

Since this amendment relates to internal NRC organization, good cause exists for making this rule immediately effective without seeking public comment.

Pursuant to section 2201(p) of Title 42 of the United States Code, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 1, are published as a document subject to codification, to be effective December 4, 1980.

1. Section 1.11 is revised to read:

**§ 1.11 Atomic Safety and Licensing Board Panel.**

The Atomic Safety and Licensing Board Panel is the organizational group from which Atomic Safety and Licensing Boards are selected. These three-member boards, named in accordance with the provisions of section 191 of the Atomic Energy Act, conduct such hearings as the Commission may authorize or direct, make such intermediate or final decisions as the Commission may authorize in proceedings to grant, suspend, revoke, or amend licenses or authorizations, and perform such other regulatory functions as the Commission may specify. The Panel develops procedures and makes recommendations to the Commission regarding activities of the hearing boards. The Panel shall be comprised of a Chief Administrative Judge who shall be Chairman and such other Administrative Judges as may be appointed members of the Panel.

2. Section 1.12 is revised to read:

**§ 1.12 Atomic Safety and Licensing Appeal Panel.**

The Atomic Safety and Licensing Appeal Panel is the organizational group from which Atomic Safety and Licensing Appeal Boards are selected. Under powers delegated by the Commission, these three-member Boards exercise the authority and perform the regulatory review functions which would otherwise be exercised and performed by the Commission. They perform these functions in proceedings on licenses under 10 CFR Part 50, and such other licensing proceedings as the Commission may specify, reviewing initial decisions and other issuances of Atomic Safety and Licensing Boards and other presiding officers. The Panel shall be comprised of a Chief Administrative Judge who shall be Chairman and such other Administrative Judges as may be appointed members of the Panel.

For the Commission.

Samuel J. Chilk,

*Secretary of the Commission.*

Dated at Washington, D.C., this 26th day of November 1980.

[FR Doc. 80-37707 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

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## 10 CFR Parts 72, 73, and 150

## Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final rule establishing Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation published in the Federal Register on November 12, 1980 (45 FR 74693). The action is necessary to correct typographical errors.

**FOR FURTHER INFORMATION CONTACT:** Dennis W. Reisenweaver, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Phone 301-443-5910).

The following corrections are made in FR Doc. 80-34865 beginning on page 74693 on November 12, 1980.

### PART 72—LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

**§ 72.3 [Corrected]**

1. On page 74700 in column one, in § 72.3(f)(3), "Procurement of . . ." is corrected to read "Procurement or . . .".

**§ 72.38 [Corrected]**

2. On page 74706 in column one, in § 72.38(b), the word "the" is inserted after "decommissioning of. . ." and before "ISFSI. . .".

**§ 72.53 [Corrected]**

On page 74706 in column three, in § 72.53, the "m" in the word "march" is corrected by being capitalized to read "M".

**§ 72.55 [Corrected]**

4. On page 74707 in column one, in § 72.55(d), the word "an" is corrected to read "and".

**§ 72.56 [Corrected]**

5. On page 74707 in column one, § 72.56(a), the word "effectuated" is corrected to read "effectuate".

**§ 72.65 [Corrected]**

6. On page 74708 in column two, in § 72.65(a), the word "usual" is corrected to read "unusual".

**§ 72.66 [Corrected]**

7. On page 74708 in column two, in § 72.66(a)(1), the word "achored" is corrected to read "anchored".

**§ 72.66 [Corrected]**

8. On page 74708 in column two, in § 72.66(a)(3), the word "instaility" is corrected to read "instability".

**§ 72.73 [Corrected]**

9. On page 74710 in column one, in § 72.73(a), the word "subscritical" is corrected to read "subcritical".

### PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

**§ 73.1 [Corrected]**

10. On page 74712 in colum one, in § 73.1(b), the amendatory language is corrected by inserting "(6)" after the word "paragraph". Also, in the regulatory text for that amendment to § 73.1(b), the symbol "(6)" is inserted following "(b)" and before "Scope".

### PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

**§ 150.15 [Corrected]**

11. On page 74712 in column two, in § 150.15(a), the amendatory language is corrected by replacing the symbol "(8)" with the symbol "(7)".

Dated at Washington, DC this 1st day of December 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

*Secretary of the Commission.*

[FR Doc. 80-37708 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 80-NW-59-AD, Amdt. 39-3985]

## Airworthiness Directives: Lockheed-California Co. Model L1011-385-1 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing Airworthiness Directive (AD) applicable to Lockheed-California Company Model L1011-385-1 series

airplanes by providing an alternate rigging procedure for the galley door ditch latches. The amendment is needed to establish terminating action for the repetitive inspections required by paragraph (a) of AD 75-10-02.

**DATES:** Effective Date: December 16, 1980. Compliance schedule—As prescribed in the body of the AD.

**ADDRESSES:** The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520; Attention: Commercial Support Contracts.

Also, a copy of the service information may be reviewed at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

**FOR FURTHER INFORMATION, CONTACT:** Harvey Chimerine, Aerospace Engineer, ANW-120L, Federal Aviation Administration, Northwest Region, Post Office Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6359.

**SUPPLEMENTARY INFORMATION:** This amendment further amends Amendment 39-2194 (40 FR 19193), AD 75-10-02, as amended by Amendment 39-2237 (40 FR 24996), which currently requires adjustments and repetitive inspections of galley door ditch latch engagement on Lockheed-California Company Model L1011-385-1 airplanes which incorporate below deck galley door configuration.

After issuing Amendment 39-2237, Lockheed-California Company Service Bulletin 093-52-074 Revision 3 dated April 6, 1976, was issued which contains an alternate rigging procedure for the Model L1011-385-1 series airplanes galley door ditch latches. The FAA has determined that upon accomplishment of Lockheed-California Company Service Bulletin 093-52-075 Revision 3 dated April 6, 1976, the repetitive inspections required by paragraph (a) of AD 75-10-02 may be discontinued. Therefore, the FAA is further amending Amendment 39-2194 as amended by Amendment 39-2237 by providing an alternate rigging procedure for the galley door ditch latches on the Lockheed-California Company Model L1011-385-1 airplanes which incorporate below deck galley door configuration.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the 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 39.39) is amended, by further amending Amendment 39-2194 (40 FR 19193) AD 75-10-02, as amended by Amendment 39-2237 (40 FR 24996) by deleting the NOTE of paragraph (a) and adding the following new paragraph (a)(3).

(a)(3) Modification of the door actuator mechanism and switch installation per Lockheed-California Company Service Bulletin 093-52-075 Revision 3 dated April 6, 1976, constitutes terminating action for the conduct of the repetitive inspections required by paragraph (a) of this AD.

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 may obtain copies upon request to Lockheed-California Company, Post Office Box 551, Burbank, California 91520, Attention: Commercial Support Contracts. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

This amendment becomes effective December 16, 1980.

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

Note.—The FAA has determined that this document involve. a final regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Wash., on November 26, 1980.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Jonathan Howe,

*Acting Director, Northwest Region.*

[FR Doc. 80-37644 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 80-WE-16]**

## Alteration of Transition Area

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

**ACTION:** Final rule.

**SUMMARY:** This rule alters a portion of the Tucson, Arizona 700-foot transition area. This action redescribes the controlled airspace required to protect instrument flight operations at Ryan Field, Tucson, Arizona.

**EFFECTIVE DATE:** November 27, 1980.

**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 October 2, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area for Tucson, Arizona (45 FR 65248). Redesignation of this transition area will provide controlled airspace for protection of instrument operations at the Ryan Field 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, 1980, (45 FR 445).

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the transition area at Tucson, Arizona. This transition area provides protection for instrument operations authorized for Ryan Field 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 (45 FR 445) is amended, effective 0901 G.m.t., November 27, 1980, as follows:

**§ 71.181 Tucson, Arizona [Amended]**

Following "* * * 30 miles NW of the VORTAC: * * *" delete the ":" and add "and within a 5-mile radius of Ryan Field Airport (latitude 32°08'20"N, longitude 111°10'00"W.) and within 4 miles each side of the Ryan Field localizer course extending from the 5-mile radius area to 8 miles west of the outer marker * * *."

(Secs. 307(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); 14 CFR 11.69)

Note.—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.

Issued in Los Angeles, Calif., on November 24, 1980.

John D. Mattson,

*Director, Western Region.*

[FR Doc. 80-37647 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 75

[Airspace Docket No. 80-ACE-20]

## Establishment of Jet Route—Correction

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

**ACTION:** Correction of final rule.

**SUMMARY:** An error was made in a rule published in the Federal Register on October 30, 1980, (45 FR 71775). New Jet Route J-182 was established between Goodland, Kans., and Razorback, Ark., via INT Wichita 115° and Razorback 285° radials. A mistake was noted in the true degree radials that describe the dogleg and this action corrects that mistake.

**EFFECTIVE DATE:** December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

**SUPPLEMENTARY INFORMATION:** FR Doc. 80-33614 was published on October 30, 1980, which established new Jet Route J-182 between Goodland, Kans., and Razorback, via Wichita, Kans., that would improve Air Traffic Control efficiency by providing better traffic flow in the Wichita area, and save fuel due to the shortened route. A mistake was discovered in the true degree radials that describe the dogleg between Wichita and Razorback. This action corrects that mistake.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80-33614 as published in the Federal Register on October 30, 1980, is corrected as follows:

Under § 75.100

In Jet Route No. 182, beginning on line 2:

"INT Wichita 115° and Razorback 285° radials;" is deleted and "INT Wichita 124° and Razorback 291° radials;" is substituted therefor.

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

Note.—The FAA has determined that this 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.

Issued in Washington, D.C., on November 28, 1980.

B. Keith Potts,

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-37640 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 75

[Airspace Docket No. 80-ARM-5]

## Establishment of Jet Route

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

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes a new jet route between Cheyenne, Wyo., and Dubois, Idaho. J-175 improves traffic flow in the Denver, Colo., terminal area. In addition, J-175 provides a direct route for aircraft departing Denver and proceeding northwest thereby saving a significant amount of fuel.

**EFFECTIVE DATE:** February 19, 1981.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

**SUPPLEMENTARY INFORMATION:** On August 25, 1980, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Route J-175 from Cheyenne, Wyo., to Dubois, Idaho, via Laramie, Wyo. (45 FR 56353). This new jet route improves traffic flow because it is aligned with the Standard Instrument Departures (SIDs) from Denver, Colo. In addition, a significant savings in fuel consumption is realized by a direct route for aircraft departing Denver and proceeding northwest. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 75.100 of Part 75 was republished in the Federal Register on January 2, 1980 (45 FR 732).

### The Rule

This amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) establishes new Jet Route J-175 from Cheyenne, Wyo., to Dubois, Idaho, via Laramie, Wyo. This action aligns J-175 with the SIDs from Denver, Colo. The shortened route also conserves fuel.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) is amended, effective 0901 G.m.t., February 19, 1981, as follows:

Under § 75.100

"Jet Route No. 175

From Cheyenne, Wyo., via Laramie, Wyo., to Dubois, Idaho." is added.

(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)); 14 CFR 11.69)

Note.—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.

Issued in Washington, D.C., on November 28, 1980.

B. Keith Potts,

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-37645 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

# DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

[Docket No. RM81-6]

## Maximum Lawful Price for Natural Gas From Stripper Wells

November 25, 1980.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Interim rule.

**SUMMARY:** The interim rule would allow a stripper well operator whose well exceeds the 60 Mcf per production day limitation to file an application for "recognized enhanced recovery technique" status more than 30 days after notice of disqualification has been filed. Currently, an enhanced recovery application must be filed within 30 days or stripper well status is lost. The amendment would allow continued collection of stripper well rates, subject to refund, only if the application is filed within the 30-day limit. In all other cases the price permitted by section 108 could be collected, subject to refund, only from the date of filing of an application for "recognized enhanced recovery." In addition, § 271.805(c) is amended to make paragraph (c) consistent with paragraph (a).

**DATES:** Effective date: November 25, 1980. Comments on the interim rule are due on January 23, 1981. Written requests for a public hearing are due on December 17, 1980.

**ADDRESSES:** Comments or requests for hearing must be filed with the Office of the Secretary, 825 North Capitol St. NE., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Randall S. Rich, (202) 357–8511 or Susan Tomasky, (202) 357–8461.

## I. Introduction

In Subpart H of its regulations, the Federal Energy Regulatory Commission (Commission) has established rules implementing section 108 of the Natural Gas Policy Act of 1978 (NGPA), which set a maximum lawful price for natural gas from stripper wells. The NGPA defines a stripper well as one that produces no more than 60 Mcf of non-associated natural gas per day in the 90-day production period preceding the date of application. However, it permits a well previously determined to be a stripper well, that exceeds the 60 Mcf per day production rate, to continue to qualify if the well operator demonstrates that the increased production is the result of "recognized enhanced recovery techniques." The Commission is adopting an interim rule amending § 271.805 of its regulations concerning stripper well disqualification and "recognized enhanced recovery techniques."

## II. Discussion

Section 108 of the NGPA provides that in order for a well to qualify as a stripper well it must produce 60 Mcf or less of nonassociated natural gas per production day during the qualifying 90-day production period. However, a well that has previously qualified as a stripper well, but subsequently exceeds the 60 Mcf limit may continue to qualify for the stripper well price if the increased production is shown to be the result of the application of "recognized enhanced recovery techniques." *See* section 108(b)(2).

Section 271.805(a) of the Commission's regulations implementing section 108 requires that the operator and purchaser give notice to the Commission and the appropriate jurisdictional agency when a stripper well exceeds the 60 Mcf limit. However, under § 271.805(b), the operator of such a well may continue to collect the stripper well price, if, within 30 days after notice is given, it files a petition with the jurisdictional agency for a determination that the increased production is the result of a "recognized enhanced recovery technique." Absent such a filing, the well ceases to be eligible for the section 108 price.

The Commission's intent in adopting the rule under § 271.805(b) was to permit a producer to continue collection of the stripper well price if the well in question exceeded the 60 Mcf limit as a result of the application of a "recognized enhanced recovery technique."

We continue to believe that this purpose is appropriate. However, the rule as presently stated does not address the circumstance of a producer that files a "recognized enhanced recovery technique" petition after the end of the 30 day period. Because the 30 day filing requirement is a condition to continued qualification for the section 108 price, the rule may be construed so as to permanently deprive an operator of the section 108 incentive price due solely to failure to make a timely filing.

This results because applying a "recognized enhanced recovery technique" may increase a stripper well's production beyond the 60 Mcf per day limit. If there is no notice to the Commission and the jurisdictional agency of the cause of the increase, stripper well status will be lost. Currently, the regulations contain no provision which would permit a well to qualify again unless production somehow drops below the limit.

We do not believe that such a result is required by the statute, nor is it necessary to effect the purpose of the 30 day filing requirement. Therefore, the Commission is adopting amendments to § 271.805 to provide that the failure to file within the prescribed 30 day period results in disqualification from section 108 eligibility only until such time as the operator complies with the filing requirement.

The Commission believes that the rationale underlying these amendments regarding the timely filing of recognized enhanced recovery technique petitions also applies to petitions to declare wells to be "seasonally affected" and motions by producers opposing purchaser notice of excessive production. We have therefore amended § 271.805(b) to effect this belief.

In addition, the Commission takes this opportunity to amend § 271.805(c) to reflect the effect of a notice of disqualification filed by either the operator or the purchaser, pursuant to § 271.805(a). This change makes § 271.805(c) consistent with the language in paragraph (a).

## III. Summary of Regulation

Accordingly, § 271.805(b) is being amended to eliminate the 30-day filing requirement for petitions for recognized enhanced recovery techniques, seasonally affected wells and motions opposing excess production notices. This amendment will permit the filing of such petitions at any time.

Section 271.805(c) is being amended, consistent with § 271.805(a), to reflect the effect if a notice of disqualification filed by either the operator or the purchaser of excess production. Section 271.805(d) is being added to provide that collections of the stripper well price subsequent to the filing of a notice of excess production may continue only if a "recognized enhanced recovery technique" petition, a "seasonally affected well" petition or a motion opposing purchaser notice is filed within 30 days after the notice is filed. If a petition is filed after the 30 day period, collection subject to refund may commence on the day such filing is made.

## IV. Effective Date

This interim rule relieves restrictions previously placed on applicants under the Commission's regulations. Accordingly, it is being made effective immediately for all determinations which have not become final as of the day before the date of issuance of this order. This rule shall not become final, however, until the Commission has had an opportunity to receive oral and written presentation of relevant data, views and arguments.

## V. Public Procedure

### *A. Written Comments*

Interested persons are invited to submit comments, data, views, or arguments with respect to this interim regulation. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should refer to Docket

No. RM81-6. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. January 23, 1981, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file that has been established in this docket. This file is available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

*B. Public Hearing*

Interested persons may request the opportunity for an oral presentation of their views at a public hearing. Requests for a hearing should be submitted no later than December 17, 1980, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, and should reference Docket No. RM81-6. If a public hearing is held in this docket, the time and place will be announced by December 22, 1980.

(Natural Gas Policy Act of 1978, (15 U.S.C. 3301-3432); Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission amends Subpart H, Chapter I, Title 18, Code of Federal Regulations, on an interim basis, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

*Secretary.*

1. Section 271.805 is amended in paragraph (b) by deleting the words "before 30 days" in the second sentence of the paragraph.

2. Section 271.805 is amended in paragraph (c) deleting the words "If the notice served pursuant to paragraph (a) of this section is filed by a purchaser," and inserting, in lieu thereof, the words "If notice is served pursuant to paragraph (a) of this section," and by inserting after the word "terminate" the words "subject to in paragraph (d)."

3. Section 271.805 is amended in paragraph (d) to read as follows:

**§ 271.805 Continuing qualification.**

* * * * *

(d) *Collection subject to refund.* An operator who files a petition or motion under paragraph (b) of this section may collect, subject to refund, the maximum lawful price set forth in § 271.802: (1) From the last day of the 90-day or the 12-month production period to which the notice applies, if such petition or motion is filed within 30 days of the date notice is served under paragraph (a) of this section, or (2) from the date such petition or motion is filed in all other cases.

[FR Doc. 80-37030 Filed 12-3-80; 8:45 am]
BILLING CODE 6450-01-M

## INTERNATIONAL TRADE COMMISSION

### 19 CFR Part 201

### Rules of General Application

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** These rules correct and clarify the Commission's *Rules of Practice and Procedure* to reflect new legislation concerning international trade, the Commission's change of name, the closing of the New York field office, and the new statutory schemes for dumping and countervailing duty investigations.

**EFFECTIVE DATE:** December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0143.

**SUPPLEMENTARY INFORMATION:** These rules amend Part 201 of the Commission's Rules of Practice and Procedure. The changes that have been made are minor and do not affect the substance of the rules involved.

Since the Commission's rules were last revised, Congress has enacted significant new legislation concerning international trade. The Commission's rules have been amended here to conform with various statutory changes.

In the Trade Act of 1974 (88 Stat. 1978), Congress changed the Commission's name from the "United States Tariff Commission" to the "United States International Trade Commission." The outdated references in § 201.3 to the "Tariff Commission" have been amended to reflect the Commission's change of name.

In the Trade Agreements Act of 1979, Congress enacted a new statutory scheme for dumping and countervailing duty investigations. The Antidumping Act, 1921, was repealed (93 Stat. 193) and replaced by a new antidumping provision (93 Stat. 162) to be codified at 19 U.S.C. 1673. Congress also enacted a new countervailing duty provision (93 Stat. 151) applicable to countries which have signed the Subsidies Code and a limited class of other countries entitled to special treatment because of agreements with the United States. The new countervailing duty provision is to be codified at 19 U.S.C. Section 1671. Congress retained the previous countervailing duty provision (19 U.S.C. 1303), but limited its application to countries which have not signed the Subsidies Code and are not entitled to special treatment. Statutory references in §§ 201.2 and 201.4 have been changed to reflect the new scheme.

In addition, the Commission has closed the Commission's New York field office located in Suite 629, 6 World Trade Center, New York, N.Y. 10048. Sections 201.3 and 201.10 refer to a Commission field office in New York City. These references have now become inaccurate, and might mislead and inconvenience members of the public. The Commission has, therefore, amended the rules by deleting any mention of a New York office.

Citations contained in certain rules have also been changed. The amendments are summarized below.

### Explanation of Amended Rules

*Section 201.2*

The definition of the "Tariff Act" has been changed to, "'Tariff Act' means the Tariff Act of 1930, 19 U.S.C. 1202-1677." The definition of the "Trade Expansion Act" formerly contained in subsection (c) has been changed to "'Trade Expansion Act' means the Trade Expansion Act of 1962, 19 U.S.C. 1801-1991."

The definition of the "Antidumping Act" previously contained in former subsection (d) has been deleted, and former subsection (e) has been renumbered subsection (d). In addition, the definition of the "Trade Act" formerly contained in subsection (e) and now contained in subsection (d) has been changed to: "'Trade Act' means the Trade Act of 1974, 19 U.S.C. 2101-2487." Former subsections (f), (g), and (h) have been renumbered (e), (f), and (g), respectively.

*Section 201.3*

The references to the "Tariff Commission" in subsection (a) and (b) have been changed to the "International Trade Commission." The reference to the New York branch office has been deleted from subsection (a), and the Secretary's address has been added to subsection (b).

*Section 201.4(d)*

The previous citation to "Pub. L. 93-618" has been changed to "19 U.S.C. 2251" to reflect the codification of the Trade Act of 1974 in the *United States Code.* The references to the "Antidumping Act, 1921" and to "sections 303 or 337 of the Tariff Act of

1930" have been removed, and in lieu thereof, a new reference to "the antidumping provisions (19 U.S.C. 1673) or the countervailing duties provisions (19 U.S.C. 1303, 19 U.S.C. 1671 *et seq.*) of the Tariff Act of 1930" has been inserted.

*Section 201.10*

The reference to the Commission's previous practice of posting formal notice of Commission actions in its New York field office has been deleted in view of the closing of that office.

*Section 201.12(b)*

The word "transcript" has been changed to "record" in order to more accurately reflect Commission practice.

The amended rules are set forth below:

Part 201 of the Commission's Rules of Practice and Procedure (19 CFR 201) is amended by revising §§ 201.2, 201.3, 201.4(d), 201.10, and 201.12(b) to read as follows:

**§ 201.2 Definitions.**

As used in this chapter—

(a) "Commission" means the United States International Trade Commission;

(b) "Tariff Act" means the Tariff Act of 1930, 19 U.S.C. 1202–1677;

(c) "Trade Expansion Act" means the Trade Expansion Act of 1962, 19 U.S.C. 1801–1991;

(d) "Trade Act" means the Trade Act of 1974, 19 U.S.C. 2101–2487;

(e) "Trade Agreements Act" means the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 144;

(f) "Rule" means a section of the Commission Rules of Practice and Procedure (19 CFR chapter II);

(g) "Secretary" means the Secretary of the Commission.

**§ 201.3 Commission offices, mailing address, and hours.**

(a) *Offices.* The Commission's offices are located in the United States International Trade Commission Building on E Street between 7th and 8th Streets NW., Washington, D.C.

(b) *Mailing Address.* All communications to the Commission should be addressed to the "Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436."

(c) *Hours.* The hours of the Commission are from 8:45 a.m. to 5:15 p.m., eastern standard or daylight savings time, whichever is in effect in Washington, D.C.

**§ 201.4 Performance of functions.**

* * * * *

*(d) Presentation of matter that may come within the purview of other laws.* Whenever any party or person, including the Commission staff, has reason to believe that (1) a matter under investigation pursuant to section 337 of the Tariff Act of 1930, or (2) a matter under an investigation pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251), which is causing increased imports may come within the purview of another remedial provision of law not the basis of such investigation, including but not limited to the antidumping provisions (19 U.S.C. 1673) or the countervailing duty provisions (19 U.S.C. 1303, 19 U.S.C. 1671 *et seq.*) of the Tariff Act of 1930, then the party or person may file a suggestion of notification with the Commission that the appropriate agency be notified of such matter or circumstances, together with such information as the party or person has available. The Commission Secretary shall promptly thereafter publish notice of the filing of such suggestion and information, and make them available for inspection and copying to the extent permitted by law. Any person may comment on the suggestion within 10 days after the publication of said notice. Thereafter, the Commission shall determine whether notification is appropriate under the law and, if so, shall notify the appropriate agency of such matters or circumstances. The Commission may at any time make such notification in the absence of a suggestion under this rule when the Commission has reason to believe, on the basis of information before it, that notification is appropriate under law.

**§ 201.10 Public notices.**

Formal notice of the receipt of documents properly filed, of the institution of investigations, of public hearings, and, as required or appropriate, of other formal actions of the Commission, will be given by publication in the **Federal Register.** In addition to such formal notice, a copy of each notice will be posted at the Office of the Secretary of the Commission in Washington, D.C., and copies will be sent to press associations, to trade and similar organizations of producers and importers, and to others known to the Commission to have an interest in the subject matter. An announcement regarding the notice will be furnished to the Treasury Department for publication in *Treasury Decisions* and to the Department of Commerce for publication in *International Commerce.*

**§ 201.12 Conduct of nonadjudicative hearings.**

* * * * *

*(b) Order of the Testimony.* Unless otherwise ordered by the presiding officials, witnesses will give testimony in the order designated by the Secretary of the Commission. Each witness, after being duly sworn, will be permitted to proceed with his or her testimony without interruption except by presiding officials. The Commission may permit witnesses to summarize any prepared statements orally. Prepared statements, however, will be made a part of the record.

Issued: November 25, 1980.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 80-37727 Filed 12-3-80; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing—Federal Housing Commissioner

### 24 CFR Part 241

**[Docket No. R-80-801]**

### Petroleum and Natural Gas Conservation; Supplementary Financing for Insured Project Mortgages

**AGENCY:** Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects an editorial error in a Section number contained in the final rule published on August 29, 1980 (45 FR 57982) in Docket No. R-80-801 relating to petroleum and natural gas conservation; supplementary financing for insured project mortgages. The rule amended Part 241.

**FOR FURTHER INFORMATION CONTACT:** Linda Cheatham, Development Division, Office of Multifamily Housing Programs, (202) 755-9280. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** The following correction is made to the final rule in FR Docket No. R-80-801 appearing at 45 FR 57982 in the issue of August 29, 1980. On page 57984, column three, second paragraph, "Section 241.530 Note and security form," is corrected to read "Section 241.530a Note and security form."

Issued at Washington, D.C. October 31, 1980.

Clyde McHenry,

*Deputy Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 80-37549 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF DEFENSE

## Department of the Navy

## 32 CFR Part 700

## United States Navy Regulations

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy amends its regulations to reflect internal changes issued by the Secretary in June, 1979. The intended effect of this document is to update the existing codified provisions in the Code of Federal Regulations.

**EFFECTIVE DATE:** The changes are effective December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Commander John J. Walsh, Head, Regulations Branch, Office of the Judge Advocate General (Administrative Law Division), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332, Telephone No. (202) 325-9860.

**SUPPLEMENTARY INFORMATION:** Part 700 is amended to eliminate inappropriate masculine personal pronouns.

Accordingly, the following changes are published:

### § 700.201 [Amended]

1. Section 700.201 is amended by deleting the word "he" in the second sentence and substituting therefor the words "the Secretary of the Navy."

### § 700.202 [Amended]

2. Section 700.202(a) is amended by deleting the words "his duties" in the second sentence and substituting therefor the words "the duties of that office."

### § 700.203 [Amended]

3. Section 700.203(a) is amended by deleting the word "and" which follows the words "The Civilian Executive Assistants to the Secretary of the Navy are the Under Secretary of the Navy" in the first sentence and substituting therefor a comma, and by inserting after the words "the Assistant Secretaries of the Navy" in the first sentence the words ", the General Counsel of the Navy,".

4. Section 700.203(b) is amended by deleting the word "Each" in the first sentence and substituting therefor the word "The".

5. Section 700.203(b) is amended by deleting the word "Assistant" following the words "Civilian Executive" in the first sentence and substituting therefor the word "Assistants" and by deleting the words "his area" in that first sentence and substituting therefor the words "their respective areas".

6. Section 700.203(b) is amended by deleting the word "is" which follows the words "area of responsibility," in the first sentence and substituting therefor the word "are", by deleting the word "adviser" and substituting therefor the word "advisers", and by deleting the word "assistant" and substituting therefor the word "assistants".

7. Section 700.203(b), is amended by deleting the words "the Civilian Executive Assistants" in the second sentence and substituting therefor the word "they".

8. Section 700.203(b) is amended by deleting the words "Each is" in the third sentence and substituting therefor the words "The Civilian Executive Assistants are" and by deleting the words "his" and "area" in that third sentence and substituting therefor the words "their" and "areas" respectively.

9. Section 700.203(d) is amended by deleting the word "his" in the second sentence and substituting therefor the word "performing", and by inserting the word "assigned" in that second sentence immediately after the word "duties".

10. Section 700.203(e) is deleted in its entirety.

11. Section 700.203(f) is amended by deleting the words "(Manpower and Reserve Affairs)" which follow the words "The Assistant Secretary of the Navy" and substituting therefor the words "(Manpower, Reserve Affairs and Logistics)".

12. Section 700.203(f) is amended by deleting the comma after the word "personnel" and substituting therefor a semicolon, and by deleting the words "and supervision of offices and organizations as assigned by the Secretary" and substituting therefor the words "all stages of the acquisition of naval ships funded by the appropriation "Ships Construction, Navy"; all Department of the Navy acquisition programs following full scale production decision (Milestone III); the business, contractual, manpower, and logistic support aspects of the Department of the Navy Acquisition programs, including policy and administration of affairs related thereto; the maintenance, alteration, supply, distribution, and disposal of material; all transportation matters; the acquisition, construction, utilization, improvement alteration, maintenance, and disposal of real estate and facilities, including capital equipment utilities, housing, and public quarters; printing and publications; labor relations with respect to contractors with the Department of the Navy; industrial security; the Mutual Defense Assistance Program, as related to the supplying of material, including Foreign Military Sales; and supervision of offices and organizations as assigned by the Secretary."

13. Section 700.203(f) is amended by deleting "(f)" and substituting therefor "(e)".

14. Section 700.203(g) is amended by deleting the words "(Research and Development)" and substituting therefor the words "(Research, Engineering and Systems)".

15. Section 700.203(g) is amended by deleting the words "matters related to research, development, engineering, test, and evaluation efforts within the Department of the Navy, including management of the appropriation, 'Research, Development, Test and Evaluation, Navy,' and for oceanography, ocean engineering and closely related matters, and supervision of offices and organizations as assigned by the Secretary" and substituting therefor the words "technical aspects of all stages of Department of the Navy acquisition programs through the full-scale production decision (Milestone III), including policy and administration of affairs related thereto, with the exception of the acquisition of naval ships funded by the appropriation 'Ships Construction, Navy'; the technical aspects of the maintenance or alteration of material; all matters related to research, development, engineering, test, and evaluation efforts within the Department of the Navy, including management of the appropriation, 'Research, Development, Test and Evaluation, Navy'; oceanography; ocean engineering and closely related matters; and supervision of offices and organizations as assigned by the Secretary".

16. Section 700.203(g) is amended by deleting "(g)" and substituting therefor "(f)".

17. Section 700.203 is amended by including a new subsection 700.203(g) as follows:

The General Counsel of the Navy is responsible for providing legal advice, counsel, and guidance to the Secretary and the other Civilian Executive Assistants on any matter that they may direct or that the General Counsel determines should be brought to their attention. The General Counsel is also responsible for providing all necessary legal advice, counsel, and guidance

to the staffs of the Secretary and the other Civilian Executive Assistants; the supervision of the Office of the General Counsel; and such other duties as the Secretary may assign. The responsibilities of the General Counsel are not intended to infringe upon, or interfere with, the responsibilities of the Judge Advocate General for the administration of military justice and such other matters as may be assigned to that officer by statute or by the Secretary.

18. Section 700.203(h) is amended by deleting the words "He shall maintain a general awareness of actual or potential problems and issues and take steps to prevent their development or aggravation" and substituting therefor the words "In addition, the Deputy Under Secretary is the major claimant for funds and manpower supporting the Department of the Navy Secretariat, Staff Offices, and the Department of the Navy General Gift Fund. The Deputy Under Secretary is responsible for general over-sight, policy and procedure formulation and coordination regarding environmental matters affecting the Department of the Navy, with the exception of occupational health and safety and employee working conditions".

**§ 700.204 [Amended]**

19. Section 700.204 is amended by deleting the words "Administrative Officer, Navy Department; the General Counsel; the Director of Civilian Manpower Management; the Chief of Information; the Chief of Legislative Affairs; the Director, Office of Management Information; the Director, Office of Naval Petroleum and Oil Shale Reserves; the Director, Office of Program Appraisal; and the heads of such other offices and boards as may be established by law or by the Secretary for the purpose of assisting the Secretary or one or more of his Civilian Executive Assistants in the administration of the Department of the Navy. Each of the foregoing shall supervise all functions and activities internal to his office and assigned shore activities, if any. Each shall be responsible to the Secretary or to one of his Civilian Executive Assistants for the utilization of resources by and the operating efficiency of all activities under his supervision. The duties of the individual Staff Assistants and their respective offices will be as provided by law or as assigned by the Secretary" and substituting therefor the words "Chief of Information; the Chief of Legislative Affairs; the Director, Office of Program Appraisal; and the heads of such other offices and boards as may be established by law or by the Secretary for the purpose of assisting the Secretary or one or more of the Civilian Executive Assistants in the administration of the Department of the Navy. The foregoing shall supervise all functions and activities internal to their offices and assigned shore activities, if any, and shall be responsible to the Secretary or to one of the Civilian Executive Assistants for the utilization of resources by and the operating efficiency of all activities under their supervision. The duties of the individual Staff Assistants and their respective offices will be as provided by law or as assigned by the Secretary".

**§ 700.205 [Amended]**

20. Section 700.205 is amended by deleting the word "his" in the third sentence and substituting therefor the word "the".

**§ 700.206 [Amended]**

21. Section 700.206(b) is amended by deleting the words "unto himself".

22. Section 700.206(b) is amended by deleting the word "him" following the words "procedures prescribed by" and substituting therefor the words "the Secretary".

**§ 700.301 [Amended]**

23. Section 700.301(c) is amended by inserting after the word "responsible" in the first sentence the phrase ", in coordination with the Commandant of the Marine Corps,".

**§ 700.305 [Amended]**

24. Section 700.305 is amended by deleting "(d)" and substituting therefor "(e)" and by adding a new subsection as follows:

Section 700.305(d). Ships and service craft designated "active status, in service," except those described by paragraph c of this article, shall be referred to by name, when assigned, classification, and hull number (e.g., "HIGHPOINT PCH-1" or "YOGN-8").

**§ 700.315 [Amended]**

25. Section 700.315 is amended by deleting the words "under the command of the Chief of Naval Operations, shall act as the Naval Oceanographic Program Director under the policy direction of the Secretary of the Navy. He shall be responsible for an integrated and effective Naval Oceanographic Program and the management of all national oceanographic facilities and efforts assigned to the Department of the Navy" and substituting therefor the words "within the Office of the Chief of Naval Operations, performs functions relating to external interfaces with national and international oceanographic organizations and bodies".

**§ 700.316 [Amended]**

26. Section 700.316 is amended by deleting the words "*Commander, Naval Weather Service Command.* The Commander, Naval Weather Service Command, under the command of the Chief of Naval Operations, shall insure that Department of the Navy meteorological requirements and Department of Defense requirements for oceanographic analyses and forecasts are met. He shall provide technical guidance in meteorological matters throughout the naval service" and substituting therefor the words "*Commander, Naval Oceanography Command.* The Commander, Naval Oceanography Command, under the command of the Chief of Naval Operations, shall be responsible for the management of assigned oceanographic, mapping, charting, geodetic and meteorological activities and efforts and shall provide technical guidance in such matters throughout the Department of the Navy".

**§ 700.320 [Amended]**

27. Section 700.320 is amended by deleting the words "under the Chief of Naval Reserve to command and administer such Naval Reserve activities and programs as may be assigned;".

28. Section 700.320 is amended by deleting the words "to carry out specified functions as assigned by the appropriate Sea Frontier Command;".

29. Section 700.320 is amended by inserting immediately after the words "to coordinate public affairs matters throughout the naval district" the words "and to perform such other functions as may be directed by the Chief of Naval Operations".

30. Section 700.320(b) is deleted in its entirety.

**§ 700.401 [Amended]**

31. Section 700.401(b) is amended by deleting the words "While matters which directly concern the Marine Corps are under consideration by the Joint Chiefs of Staff, and with respect to such matters, the Commandant has coequal status with the members of the Joint Chiefs of Staff. He is responsible for keeping the Secretary of the Navy fully informed on these matters. In this capacity as a coequal member of the Joint Chiefs of Staff, he is responsible to the President and the Secretary of Defense for duties external to the Department of the Navy as prescribed by law" and by substituting therefor the words "The Commandant of the Marine Corps is the Marine Corps member of the Joint Chiefs of Staff and is responsible, in coordination with the

Chief of Naval Operations, for keeping the Secretary of the Navy fully informed on matters considered or acted upon by the Joint Chiefs of Staff. In this capacity, he is responsible, under the President and the Secretary of Defense, for duties external to the Department of the Navy, as prescribed by law".

**§ 700.752 [Amended]**

32. Section 700.752(a) is amended by deleting the word "his" in the second sentence and substituting therefor the word "that", and also by deleting the word "that" in the second sentence and substituting therefor the word "the".

33. Section 700.752(b) is amended by deleting the word "his" in the first sentence and substituting therefor the word "the".

34. Section 700.752(c) is amended by deleting the word "him" and substituting therefor the words "the pilot" and by adding a second sentence to this subsection which reads: "Responsibility for such actions in a private shipyard will be assigned by contract to the contractor."

35. Section 700.752 is amended by deleting "(e)" and substituting therefor "(f)" and by adding a new subsection 700.752(e) as follows:

When a naval ship is to be drydocked in a private shipyard under a contract being administered by a supervisor of shipbuilding, the responsibilities of the commanding officer are the same as in the case of drydocking in a naval shipyard. The responsibilities for the safety of the actual drydocking, normally assigned to the commanding officer of a naval shipyard through his docking officer, will be assigned by contract to the contractor. The supervisor of shipbuilding is responsible, however, for ensuring that the contractor's facilities, methods, operations, and qualifications meet the standards of efficiency and safety prescribed by Navy directives.

**§ 700.753 [Amended]**

36. Section 700.753 is amended by inserting the words *"and Craft"* after the word *"Ships"* in the title thereto.

37. Section 700.753 is amended by adding a new subsection 700.753(d) as follows:

When a naval ship or craft is in drydock in a private shipyard, responsibility for actions normally assigned by the commanding officer of the docking activity will be assigned by contract to the contractor.

**§ 700.1116 [Amended]**

38. Section 700.1116(c) is amended by deleting the words ", other than in the discharge of his official duties,".

39. Section 700.1116(c) is amended by inserting after the last sentence of this subsection the words "The prohibitions prescribed by the first sentence of this subparagraph are not applicable to an officer or employee of the United States who is acting in the proper course of, and within the scope of, his official duties, provided that the disclosure of such information is otherwise authorized to be disclosed by statute, Executive order of the President, or departmental regulation."

**§ 700.1146 [Deleted]**

40. Section 700.1146 is deleted in its entirety.

(Ch. 1041, Section 70A, Stat. 375 (10 U.S.C. 6011))

Dated: November 17, 1980.

P. B. Walker,

*Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.*

[FR Doc. 80-37631 Filed 12-3-80; 8:45 am]
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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[A-9-FRL 1691-3]**

## Approval and Promulgation of Implementation Plans; North Central Coast Air Basin Nonattainment Area Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final rulemaking.

**SUMMARY:** On April 1, 1980 (45 FR 21266), the Environmental Protection Agency (EPA) published a notice of proposed rulemaking for the North Central Coast Air Basin nonattainment area plan (NAP) submitted on September 12, 1979. The April 1, 1980 notice proposed to disapprove the NAP because the lack of New Source Review (NSR) rules constituted a major deficiency with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas." On March 4, 1980, the State submitted NSR rules for the North Central Coast Air Basin. As a result, the NAP contains only minor deficiencies with respect to Part D. Further, the State has initiated the process to submit the material to correct the minor deficiencies. Therefore, EPA takes final action to conditionally approve the North Central Coast Air Basin NAP as a revision to the California State Implementation Plan (SIP). This action removes the prohibition on construction of certain major new or modified sources in the North Central Coast Air Basin.

This notice also provides a brief summary of the proposed rulemaking notice, describes recent revisions which supplement the NAP, discusses public comments, specifies deadlines by which the State is required to submit the material to correct the minor deficiencies, and describes EPA's final action on the NAP.

**DATES:** This action is effective December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Louise P. Giersch, Director, Air and Hazardous Materials Division, 215 Fremont Street, Environmental Protection Agency, Region IX, San Francisco, CA 94105, Attn: Douglas Grano (415) 556-2938

A copy of the revision is located at:

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

**SUPPLEMENTARY INFORMATION:**

### Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On September 12, 1979, the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted revisions to the California SIP consisting of a control strategy and regulations for the North Central Coast Air Basin. These revisions, submitted as the North Central Coast Air Basin NAP, are intended to provide for the attainment of the ozone NAAQS in the North Central Coast Air Basin.

On April 1, 1980 (45 FR 21266), EPA published a notice of proposed rulemaking for the North Central Coast Air Basin NAP. That notice provided a description of the NAP, summarized the applicable Clean Air Act requirements into 14 criteria, compared the NAP to those criteria, and, as described below, proposed to approve, conditionally approve or disapprove portions of the NAP. The April 1, 1980 notice should be used as a reference in reviewing today's action.

EPA proposed to approve the following portions of the NAP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, resources, public and government involvement, and public hearing. These portions of the NAP were found to be consistent with Part D of the Clean Air Act.

EPA proposed to conditionally approve the legally adopted measures portion of the NAP because the cutback asphalt rule did not reflect reasonably available control technology (RACT).

EPA also proposed to disapprove the permit program portion of the NAP because the lack of an NSR rule

constituted a major deficiency with respect to Part D.

As noted in the April 1, 1980 notice, approval or conditional approval of all portions of the NAP is sufficient to lift the current prohibition on construction of certain major new or modified sources in the North Central Coast Air Basin. As a result of the lack of an NSR rule, the April 1, 1980 notice proposed to disapprove the overall North Central Coast Air Basin NAP and continue the construction prohibition.

**Supplemental Revisions**

Subsequent to EPA's review, which appears in the April 1, 1980 notice, the State submitted revisions which supplement portions of the NAP. These revisions are discussed below.

*New Source Review*

As discussed in the April 1, 1980 notice, a legally enforceable NSR rule was not included in the NAP and this constituted a major deficiency. However, the State did submit a draft NSR rule. EPA reviewed the draft NSR rule (See EPA's Evaluation Report) and concluded that it contained only minor deficiencies with respect to the Part D requirements. Thus, EPA proposed that the permit program portion of the NAP could be conditionally approved if the State submitted an adopted NSR rule similar and equivalent to the draft NSR rule.

On March 4, 1980, the Governor's designee submitted the following NSR rules for the Monterey Bay Unified Air Pollution Control District (APCD):

Rule 207—Review of New or Modified Sources (Subparagraph B.4. of this rule, which addresses significant deterioration requirements, is not reviewed here, but will be addressed in a future Federal Register notice.)

Rule 208—Standards for Granting Permits To Operate. Section 173 of the Act contains the requirements for approval of a permit program. EPA has established guidance based on Section 173 in: (1) EPA's Emission Offset Interpretative Ruling (January 16, 1979, 44 FR 3274) and (2) EPA's proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling (September 5, 1979, 44 FR 51924).

EPA has reviewed the Monterey Bay Unified APCD's NSR rules with respect to the draft NSR rule, the guidance based on Section 173, and EPA policy regarding rural ozone areas. The Monterey Bay Unified APCD's NSR rules differ from both the draft NSR rule and the Section 173 guidance. The only significant differences are that subparagraph B.5. of Rule 207 exempts certain categories of sources from the "lowest achievable emission rate" (LAER) requirements and LAER and offsets are required for any increase in emissions of a nonattainment pollutant for modifications. The LAER exemptions are not authorized by the Clean Air Act. An NSR permit program cannot be approved or conditionally approved with these LAER exemptions. The Monterey Bay Unified APCD's NSR rules contain additional minor deficiencies with respect to the Section 173 requirements, including a definition of "stationary source" less stringent than is required and the failure to regulate some sources as required by EPA. These and other minor deficiencies are described in EPA's Evaluation Report Addendum which is available at the Region IX office, the ARB, the Monterey Bay Unified APCD, the Association of Monterey Bay Area Governments (AMBAG), and the EPA Library in Washington, D.C. Thus, with the exception of the LAER exemptions, the Monterey Bay Unified APCD's NSR rules (1) are similar to the draft NSR rule in that the definitions and requirements are substantially the same and are equivalent to the draft NSR rule in that they are at least as effective in meeting the requirements of Section 173, and (2) contain only minor deficiencies with respect to Section 173.

It should be noted that EPA is approving certain offset provisions in the Monterey Bay Unified APCD's NSR rules which would be disapproved in an urban area. (See Evaluation Report Addendum). These provisions are being approved because EPA's rural ozone policy does not require emission offsets for rural areas.

It should also be noted that EPA recently published two final rulemaking notices on the September 5, 1979 proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling and set out EPA's requirements for NSR under Section 173. These notices, published on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's NSR requirements. The State is required to comply with the August 7, 1980 requirements by May 7, 1981. In revising the Monterey Bay Unified APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not satisfy and (2) those deficiencies with respect to the September 5, 1979 notice cited in EPA's Evaluation Report Addendum (contained in Document File NAP-CA-14 at the EPA Library in Washington, D.C. and the Region IX office.)

**Public Comments**

*Comments Specific to the North Central Coast Air Basin NAP*

During the public comment period, EPA received several comments. These comments and EPA's responses follow.

Comment: The Monterey Bay Unified APCD and AMBAG believe that estimating emissions for military activities in the Monterey Bay area would not be accurate or reliable.

Response: EPA feels that the emissions associated with military activities in the Monterey Bay area should be included in the annual update of the emission inventory. The emissions should be estimated for both stationary sources and motor vehicles. These estimates should be accurate and reliable since Federal government establishments are required under Section 118 of the Act to comply with the Monterey Bay Unified APCD's record keeping and reporting requirements.

Comment: The Monterey Bay Unified APCD and AMBAG stated that the methods for estimating pesticide emissions are clearly limited at this time, and will continue to be until the pesticide emission factors are refined by EPA and ARB.

Response: Eureka Laboratories, located in Sacramento, California, conducted a study of pesticide emissions in California. Based upon this study ("Air Pollution Emissions Associated with Oil Pesticide Applications in California"), new emission factors were developed for estimating pesticide emissions. These emission factors should be used to update the emissions inventory for pesticide applications.

Comment: Several commenters objected to EPA's proposed approval of the State's use of the Empirical Kinetic Modeling Approach (EKMA) to determine the allowable hydrocarbon emission level. The commenters stated that the use of EKMA in rural areas may not accurately estimate the emission reductions needed to attain the ozone standard. The ARB also commented that work plans are being developed by the Monterey Bay Unified APCD, AMBAG and ARB to provide an improved air quality analysis for the 1982 NAP.

Response: EPA agrees that the EKMA analysis in the NAP may not accurately estimate the emission reductions needed to attain the standard and that further air quality analyses should be conducted. Further, EPA encourages the State to develop an improved air quality analysis.

Comment: The Urban Mass Transportation Administration stated

that the emission reduction differences between "Bicycle Lanes and Storage Facilities" and "Improved Public Transit" were "unrealistic." The commenter also stated that there was insufficient background information and data in the NAP to support either of these estimates.

Response: EPA has accepted these estimates for initial planning purposes, recognizing that a limited amount of data exist to make such estimates. While EPA is approving this portion of the NAP, it should be noted that the Annual Reports submitted to EPA each year by the State will include verification of emission reductions by monitoring of transportation control measures and updated emission reduction estimates for the transportation control measures as new data become available.

Comment: The Monterey Bay Unified APCD and AMBAG questioned EPA's recommendation that the inspection and maintenance (I/M) emission reduction estimates be revised by July 1980 using the MOBILE-I emission factors. The two agencies stated that EPA's MOBILE-I method of calculating the I/M emission reduction estimates differs from ARB's recommended method and therefore may not be accurate.

Response: MOBILE-I is currently the only method that has been approved by EPA for estimating emission reductions for I/M. As a result, if I/M is retained as a control measure, the two agencies should revise the emission reduction estimate for I/M using MOBILE-I or other emission factors that may be approved by EPA.

Comment: The Monterey Bay Unified APCD and AMBAG disagreed with EPA's statement that the NAP does not contain a policy level commitment for an emission reduction target for the transportation sector. The two agencies stated that a policy level commitment was made by the Board of Directors of AMBAG when they adopted the NAP, and that the targets are specified in Tables 7-3 and 7-10 of the NAP.

Response: EPA agrees that the commitment and emission reduction estimates specified in Tables 7-3 and 7-10 are satisfactory, based upon the clarification provided by AMBAG and the Monterey Bay Unified APCD.

Comment: The Monterey Bay Unified APCD and AMBAG stated that the commitments for the transportation monitoring programs have been developed and are being carried out as part of the FY-80 Section 175 grant. The two agencies also stated that the emission reduction effectiveness of the "Ridesharing Program" has been included in the 1980 Annual Report, and that the effectivenes of "Improved Public Transit" and "Improved Bicycle Facilities" should be included either in the semi-annual Transportation Report or in the July 1981 Annual Report.

Response: EPA agrees and a description of the transportation monitoring activities should be provided with the 1980 and 1981 Annual Reports.

Comment: The Federal Highway Administration stated that monitoring the emission reduction effectiveness of each transportation control measure is not feasible or reasonable due to financial constraints. They also stated that a coordinated program should be developed to measure select transportation parameters which will serve as "checkpoints" for evaluating the NAP's effectiveness.

Response: EPA agrees that it may not be feasible in all cases to monitor individual transportation control measures and that a coordinated program to evaluate transportation activity can be effective if the "checkpoints" are directly related to the specific measures or groups of measures. However, to be effective, EPA believes that the transportation verification programs should be as measure specific as possible.

Comment: The Monterey Bay Unified APCD and ARB provided commitments for satisfying the proposed condition of approval for the Monterey Bay Unified APCD's cutback asphalt rule (Rule 425). The Monterey Bay Unified APCD requested that EPA amend the date for satisfying the condition of approval to 90 days after the final rulemaking is published. ARB requested that EPA amend the date for satisfying the condition of approval to at least 60 days after the final is published.

Response: EPA feels that the commitments given by the two agencies provide sufficient assurance for EPA to proceed to conditional approval. Further, in response to the agencies request, EPA has revised the deadline for satisfying the condition of approval to March 4, 1981.

Comment: The Monterey Bay Unified APCD and AMBAG objected to EPA requiring an agency to commit to adopt and implement future RACT regulations (Control Technique Guideline (CTG) Group II) without knowing the cost of the development, implementation and enforcement, and the pragmatism of the actual RACT regulations to be developed.

Response: As noted in the General Preamble (44 FR 20376, April 4, 1979), the minimum acceptable level of stationary source control for rural ozone areas, such as the Monterey Bay area, includes the adoption of RACT regulations for major stationary sources of volatile organic compounds (VOC) covered by EPA's CTG documents. This requirement stems from Section 172(b)(2) and (3) of the Act. In addition, the definition of RACT includes only those measures that are reasonable.

Comment: In the April 1, 1980 proposal notice, EPA stated that the NAP contains three adopted transportation control measures (TCMs) and that a schedule and commitment for implementation and enforcement of these measures is necessary for approval as part of the SIP. In response AMBAG commented that the three adopted measures have been implemented, and that if any additional TCMs are adopted, then commitments for implementation and enforcement would be submitted.

Response: EPA policy was not correctly stated in the April 1, 1980 notice (page 21270). The notice should have indicated that schedules and commitments for implementation and (where appropriate) enforcement of each adopted TCM, including any developed out of those currently identified *for further study*, must be submitted before the measures may be approved as part of the SIP. In today's notice EPA is taking final action to approve the three adopted TCMs.

Comment: Several commenters stated that the major deficiency noted in the April 1, 1980 notice has been corrected because ARB submitted the Monterey Bay Unified APCD's legally adopted NSR rules to EPA.

Response: EPA's evaluation of the NSR rules determined that the NSR rules submitted on March 4, 1980 contain one deficiency that is not authorized by the Clean Air Act and several minor deficiencies (See Supplemental Revisions section).

Comment: ARB commented that they are committed to satisfying the proposed condition of approval regarding the Monterey Bay Unified APCD's NSR rules. ARB, however, recommended that the date for satisfying the condition of approval be amended to be consistent with the time frame specified in EPA's final NSR regulations.

Response: EPA feels that this commitment provides sufficient assurance for EPA to proceed to conditional approval. Further, in response to ARB's request, EPA has revised the deadline for satisfying the condition of approval to May 7, 1981.

Comment: ARB stated that EPA should be more specific in its final rulemaking notice with respect to identifying the deficiencies in the Monterey Bay Unified APCD's NSR

rules and how to correct the deficiencies.

Response: EPA's review of the NSR rules and the deficiencies found by EPA are summarized in the Supplemental Revisions section of this notice and are described in EPA's Evaluation Report Addendum.

The Western Oil and Gas Association (WOGA) submitted several comments concerning EPA's review of ARB's draft NSR rule for the Monterey Bay Unified APCD, South Coast Air Quality Management District (AQMD) and the Bay Area AQMD. Each of the points raised by WOGA and EPA's response concerning the North Central Coast Air Basin proposal are discussed below. The comments which concern the other two agencies will be addressed in the final rulemaking for those agencies.

Comment: WOGA noted that since the Monterey Bay Unified APCD's legally adopted NSR rules may differ substantially from ARB's draft NSR rule, review of any other rule is meaningless.

Response: As discussed in the Supplemental Revisions and EPA Actions sections, the Monterey Bay Unified APCD's NSR rules differ significantly only with respect to the LAER exemptions and the requirement of LAER and offsets for any increase in emissions for modifications. Otherwise, EPA has found that the rules are similar and equivalent and therefore EPA's review of the Monterey Bay Unified APCD's NSR rules is meaningful.

Comment: WOGA stated that EPA is ignoring the actual NSR rules adopted by the Monterey Bay Unified APCD and is explicitly encouraging them to merely parrot ARB, and not adopt rules adapted to the local needs of the Monterey Bay Unified APCD.

Response: Prior to the time EPA published its notice of proposed rulemaking the NSR rules had been adopted by the Monterey Bay Unified APCD. Thus, EPA's notice did not lead the Monterey Bay Unified APCD to parrot ARB's draft NSR rule. In addition, the proposal clearly stated that it is EPA's policy to approve any NSR rule that would meet the requirements of the January 16, 1979 Interpretative Ruling (44 FR 3274) or the criteria of the September 5, 1979 proposal (44 FR 51924). As a result, the Monterey Bay Unified APCD was provided the flexibility to adopt any NSR rules it shows, provided these rules were in conformity with either of the two sets of criteria above.

Comment: WOGA stated that in reviewing the Monterey Bay Unified APCD's legally adopted NSR rules, EPA should look at the overall stringency of the rules, and not be concerned with a point-by-point check of isolated portions of the rules. WOGA also commented that EPA should consider that ARB's draft NSR rule is more stringent than EPA's criteria.

Response: EPA's policy regarding NSR programs allows States to develop rules which differ in some respects from EPA's criteria (44 FR 3280, January 16, 1979 and 44 FR 51924, September 5, 1979). EPA may approve rules which differ in some respects from EPA's criteria if the State submits a demonstration that the overall impact on emissions in the areas where the rules apply is at least as stringent as EPA's criteria. Since the State did not provide such a demonstration, EPA reviewed the Monterey Bay Unified APCD's NSR rules by comparing them to both the January 16, 1979 and September 5, 1979 criteria.

Comment: WOGA argued that ARB's requirement that a new onshore source offset emissions generated by associated tankers while they are loading, unloading and operating on the outer continental shelf (OCS) constitutes regulation of such tankers and offshore facilities. This provision, according to WOGA, is beyond EPA, State and local jurisdiction. In addition, WOGA cited two recent court cases, *California* v. *Kleppe*, 13 E.R.C. 1577 (9th Cir., August 2, 1979) and *California* v. *Exxon* (U.S. District Court, Central District of California, No. 78–249 RMT, November 14, 1978), which held that neither EPA nor ARB have authority over sources on the OCS for the purpose of controlling air pollution.

Response: The ARB's draft NSR rule requires that a new *onshore* source offset emissions from tankers while they are operating on the OCS. Therefore, only the onshore facility is regulated and the cases cited by WOGA are not applicable.

Comment: WOGA noted that the recent Court decision on EPA's regulations for Prevention of Significant Deterioration (PSD) of Air Quality affect EPA's NSR requirements for NAPs as well. WOGA stated that EPA should not require APCD's to adopt either (1) the September 5, 1979 regulations until they have been finalized or (2) "de minimis" significance levels until adequate scientific studies have been conducted.

Response: In the September 5, 1979 proposal (44 FR 51924), EPA's views were presented on how the *Alabama Power* decision affects NSR requirements for NAPs. Further, EPA responded to the WOGA's concerns in the May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676) Federal Register. Finally, EPA has conditional approval of the NSR rules on revision on the rules to meet EPA's *final* NSR regulations published on May 13, 1980 and August 7, 1980 (45 FR 52676, 31307).

Comment: WOGA stated that EPA should disapprove ARB's oxides of nitrogen ($NO_x$) offset requirement for ozone if EPA does not approve provisions allowing interpollutant tradeoffs.

Response: This comment is not an issue because the NSR rules adopted by the Monterey Bay Unified APCD require only hydrocarbon offsets and do not require $NO_x$ offsets as a precursor to ozone.

Comment: Several commenters stated that the public should be given an opportunity to comment on EPA's evaluation of the Monterey Bay Unified APCD's legally adopted NSR rules. WOGA also commented that failure to allow an opportunity to comment on these rules would be a violation of the Administrative Procedure Act.

Response: Although ARB's draft NSR rule serves only as a guideline and local districts are not required to adopt rules identical to the draft NSR rule, EPA reviewed the draft rule and included a discussion of it in the proposal at the request of ARB. This was done to expedite final rulemaking on the NAP in the event the Monterey Bay Unified APCD used ARB's draft NSR rule as a guideline in adopting its own rules.

As stated in the Supplemental Revisions section, EPA has determined that the Monterey Bay Unified APCD's NSR rules are similar and equivalent to ARB's draft NSR rule and Section 173 of the Act, with the exception of the LAER exemptions in subparagraph B.5 of Rule 207. Since Subparagraph B.5 is not consistent with the requirements of Section 173, EPA must disapprove this subparagraph. As a result, the NSR rules being conditionally approved in this notice are similar and equivalent to ARB's draft NSR rule which was discussed in the April 1, 1980 notice.

Therefore, EPA feels that the public has been provided adequate opportunity to comment on the approvability of the Monterey Bay Unified APCD's NSR rules through EPA's evaluation and notice of proposed rulemaking on ARB's draft NSR rule.

Comment: The Monterey Bay Unified APCD and AMBAG questioned the legality and pragmatism of EPA requiring agencies to provide specific commitments and to identify specific resources to implement and enforce the NAP. The two agencies also stated that the resource commitments for implementing the transportation control measures were contained in the NAP and that the Monterey Bay Unified APCD has since provided evidence of

the resource commitments necessary for adopting the stationary source control measures.

Response: Section 172(b)(7) of the Act states that agencies shall identify and commit the financial and manpower resources necessary to carry out the NAP. EPA agrees that the commitments have been provided for the current year.

Comment: AMBAG commented that the tasks to fulfill the requirements of Section 176 (c) and (d) of the Act will be part of the activities funded in the FY-81 Section 175 grant. As a result, the final procedures that are required to satisfy these sections should be submitted with the 1981 Annual Report rather than the 1980 Annual Report as specified in the April 1, 1980 notice.

Response: EPA agrees that this information may be submitted in the 1981 Annual Report.

Comment: Several commenters stated that the area should be redesignated to attainment for ozone because it is attaining the NAAQS based upon EPA's February 8, 1979 revision to the ozone standard. Kaiser Refractories also stated that an extension of the ozone attainment date to 1987 was unnecessary.

Response: ARB has not requested a redesignation to attainment because emissions from projected growth in population and industrial activity in the Monterey Bay area are expected to cause violations in the near future. ARB believes that a 1982 NAP should be prepared to attain and maintain the NAAQS. Thus, EPA has not taken action to redesignate this area.

Comment: WOGA stated that the NAP appears to have been reviewed under EPA's urban ozone policy.

Response: The review of the NAP was based upon EPA's rural ozone policy (See April 1, 1980, 45 FR 21266).

Comment: The April 1, 1980 notice provided a 30 day public comment period. During the comment period, the Regional Office received several requests to extend the comment period.

Response: Prior to the May 1, 1980 deadline, the Regional Office contacted these commenters and informed them that comments would be accepted until May 16, 1980. All comments made during this period have been incorporated into this notice.

Comment: ARB commented that the application of EPA's rural ozone policy in California results in EPA disregarding important elements of the NAPs.

Response: EPA's review and proposed actions included consideration of all elements of the North Central Coast Air Basin NAP.

*National Comments*

One commenter submitted extensive comments and requested that they be considered part of the record for each state plan. Another commenter, a national environmental group, discussed EPA's action on permit fee systems and the composition of state boards. Although some of the issues raised are not relevant to provisions in the North Central Coast Air Basin NAP, the final rulemaking for the Imperial County NAP which was recently published in the Federal Register should be referred to for a discussion of these comments and EPA's responses.

EPA Actions

EPA's final actions on the North Central Coast Air Basin NAP are described below and are based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA.

The demonstration of attainment in the North Central Coast Air Basin NAP relies upon a vehicle inspection and maintenance (I/M) program as the principal control measure. The State legislature has failed to provide the necessary legal authority to implement the I/M program. Because EPA policy has established that I/M is not a mandatory control measure in an area with a population of less than 200,000 (according to the 1970 Census), such as the North Central Coast Air Basin, the NAP is not required to include I/M. Therefore, since EPA cannot approve the I/M program without legislative authority, EPA is deferring action on this control measure. A future Federal Register notice will address the I/M program.

*Approved Portions of the NAP*

As proposed in the April 1, 1980 notice and as discussed in the Public Comments section of this notice, EPA has determined that the following portions of the NAP are consistent with the Part D requirements. Therefore, EPA is taking final action under Part D to approve the following portions of the NAP: emission inventory, modeling, emission reducing estimates, attainment provision, reasonable further progress, emission growth, annual reporting, resources, public and governmental involvement, and public hearing. No supplemental revisions were received addressing these revisions.

Also as proposed, EPA is taking final action under Section 110 to approve all the VOC rules listed in the April 1, 1980 notice. It should be noted that certain VOC rules and regulations are being approved today and incorporated into the SIP because they strengthen existing requirements and thus are consistent with Section 110 of the Clean Air Act, even though they may not completely satisfy the RACT requirements of Part D. No supplemental revisions or public comments were received addressing EPA's proposed approval of these rules.

*Conditionally Approved Portions of the NAP*

Although the State did not officially submit the NSR rules with the NAP in September 1979, the State did submit their draft NSR rule and requested EPA to review this rule. As described in the April 1, 1980 notice, EPA reviewed the draft NSR rule, determined that it contained only minor deficiencies with respect to Section 173, stated that the NAP could be conditionally approved upon submittal of an NSR rule similar and equivalent to the draft NSR rule, and provided an opportunity for public comment on these actions.

As stated in the Supplemental Revisions section, EPA has found that the Monterey Bay Unified APCD's NSR rules submitted on March 4, 1980 are similar and equivalent to the State's draft NSR rule and contain only minor deficiencies with respect to section 173, with the exception of the LAER exemptions in subparagraph B.5. of Rule 207. Further, EPA found that a NAP containing these exemptions cannot be approved or conditionally approved.

Therefore, EPA disapproves this subparagraph. As a result, the Monterey Bay Unified APCD's NSR rules are conditionally approvable with respect to Section 173. Further, the conditionally approvable rules are similar and equivalent to the draft NSR rule which was subject to public comment and EPA therefore finds that good cause exists for taking final action on the Monterey Bay Unified APCD's NSR rules without first taking comment on those rules. Therefore, EPA takes final action to conditionally approve the Monterey Bay Unified APCD's NSR rules (permit program portion of the NAP) with the exception of subparagraph B.5. of Rule 207 which is disapproved.

As noted in the April 1, 1980 notice and as discussed in the Public Comments section, the legally adopted measures portion of the NAP contains a minor deficiency because the cutback asphalt rule is not fully consistent with the requirements of RACT. Therefore, EPA is conditionally approving the legally adopted measures portion of the NAP.

The conditions of approval and the associated deadlines are specified below:

1. By May 7, 1980, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the Monterey Bay Unified APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (2) those deficiencies with respect to the September 5, 1979 notice cited in EPA's Evaluation Report Addendum (contained in Document File NAP-CA-14 at the EPA Library in Washington, D.C. and the Region IX office).

2. By March 4, 1981, one of the following must be submitted as an SIP revision: (1) Adequate justification that the cutback asphalt rule represents RACT, (2) amendment of the cutback asphalt rule to conform with the controls recommended in the CTG document for cutback asphalt, or (3) adequate documentation that the cutback asphalt rule will result in emission reductions which are within 5 percent of the reductions achievable with the controls recommended in the cutback asphalt CTG document.

*Final Action on the NAP*

Since the major deficiency noted in the April 1, 1980 notice has been corrected and only minor deficiencies remain, EPA is taking final action to conditionally approve the overall North Central Coast Air Basin NAP with respect to Part D. As a result, the current prohibition on construction of certain major new or modified sources in the North Central Coast Air Basin is no longer in effect.

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for the North Central Coast Air Basin, EPA finds that good cause exists for making this action immediately effective.

Under Section 307(b)(1) of the Clean Air Act, judicial review of today's 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.

*Conditional Approval Procedure*

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble (44 FR 38583, July 2, 1979 and 44 FR 67192, November 23, 1979). Conditional approval of the NAP requires the State to submit additional material by the deadlines specified in today's notice. There will be no extensions granted to the condition of approval deadlines being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a **Federal Register** notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the NAP or (2) find the conditions have not been met, withdraw the conditional approval, and disapprove the NAP. If the NAP is disapproved, the Section 110(a)(2)(I) prohibitions on construction would be reimposed.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for the submittal. The notice will announce that the conditional approval is withdrawn, the NAP is disapproved, and the Section 110(a)(2)(I) prohibition on construction is in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (See 5 U.S.C. Section 553(b)(B), Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to the deadlines. In addition the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583, July 2, 1979 and 45 FR 21266, April 1, 1980).

*40 CFR Part 52 Recissions*

EPA is taking final action to rescind certain Federally promulgated regulations from 40 CFR Part 52 as proposed. No supplemental revisions or public comments addressed EPA's proposed rescissions.

*VOC RACT Requirements*

The April 4, 1979 General Preamble (44 FR 20376) requires agencies to submit VOC RACT regulations for certain sources located in ozone nonattainment areas. The first set of RACT regulations were required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I documents were to have been submitted by January 1, 1979. A second set of RACT regulations are required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II documents were to have been submitted by July 1, 1980 (44 FR 50371, August 28, 1979). Continued satisfaction of the Part D requirements for the ozone portion of the North Central Coast Air Basin NAP is contingent on the submittal of the Group II RACT regulations. Further, these requirements have been set forth in 40 CFR 52.223.

*Attainment Dates*

The 1979 edition of 40 CFR Part 52 lists, in the Subpart for California, the applicable deadlines for attaining the NAAQS (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on California's attainment date chart in 40 CFR Part 52. The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by

Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H 11958, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (44 FR 20373–74, April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Note.—EPA has determined that this action is "specialized," and therefore not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171–178, 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 4501–7508, 7601(a)))

Dated: November 26, 1980.

Douglas M. Costle,

*Administrator.*

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

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

## Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(51)(ii), (c)(57), (c)(58), and (c)(59), as follows:

**§ 52.220 Identification of plan.**

* * * * *

(51) * * *

(ii) Monterey Bay Unified APCD.

(A) Rule 417.

* * * * *

(57) The *North Central Coast Air Basin Strategy* (Chapter 10 of the comprehensive revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) submitted on September 12, 1979 by the Governor's designee.

* * * * *

(58) Revised regulations for the following APCDs submitted on December 17, 1979 by the Governor's designee.

(i) Monterey Bay Unified APCD.

(A) Rules 418, 425 and 426.

* * * * *

(59) Revised regulations for the following APCD submitted on March 4, 1980 by the Governor's designee.

(i) Monterey Bay Unified APCD.

(A) Rules 207 (except B.4.) and 208.

* * * * *

2. Section 52.222 is amended by adding paragraph (d)(1) as follows:

**§ 52.222 Extensions.**

* * * * *

(d) The Administrator hereby extends to December 31, 1987 certain attainment dates for the National Standards for ozone and CO in the following nonattainment areas:

(1) North Central Coast Air Basin for ozone.

* * * * *

3. Section 52.223 is amended by adding paragraph (b)(2), as follows:

**§ 52.223 Approval status.**

* * * * *

(b) * * *

(2) North Central Coast Air Basin for $O_3$.

* * * * *

4. Section 52.232 is amended by adding paragraph (a)(2), as follows:

**§ 52.232 Part D conditional approval.**

(a) * * *

(2) The North Central Coast Air Basin portion of the California SIP is approved as satisfying Part D requirements for ozone provided the following conditions are met:

(i) By May 7, 1981, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the Monterey Bay Unified APCD's NSR rules, the State/APCD must address (*a*) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (*b*) those deficiencies with respect to the September 5, 1979 notice cited in EPA's Evaluation Report Addendum (contained in Document File NAP–CA–14 at the EPA Library in Washington, D.C. and the Region IX office).

(ii) By March 4, 1981, one of the following must be submitted as an SIP revision: (*a*) Adequate justification that the cutback asphalt rule represents RACT, (*b*) amendment of the cutback asphalt rule to conform with the controls recommended in the CTG document for cutback asphalt, or (*c*) adequate documentation that the cutback asphalt rule will result in emission reductions which are within 5 percent of the reductions achievable with the controls recommended in the cutback asphalt CTG document.

* * * * *

5. Section 52.233 is revised by adding paragraph (a)(2), and rescinding and reserving paragraphs (d)(3) and (g)(1)(iii) as follows:

**§ 52.233 Review of new sources and modifications.**

(a) * * *

(2) Monterey Bay Unified APCD.

(i) Subparagraph B.5. of Rule 207, *Standards for Permit to Construct,* submitted March 17, 1980.

* * * * *

(d) * * *

(1)–(3) [Reserved].

* * * * *

(g) * * *

(1) * * *

(i)–(iii) [Reserved].

* * * * *

6. In § 52.238, the "North Central Coast Intrastate" line is revised to read as follows:

**§ 52.238 Attainment dates for national standards.**

* * * * *

| Air quality control region and nonattainment area | Pollutants | | | | | | |
|---|---|---|---|---|---|---|---|
| | TSP | | $SO_2$ | | $NO_2$ | CO | $O_3$ |
| | Primary | Secondary | Primary | Secondary | | | |
| * * * | * | * | * | * | * | * | * |
| North Central Coast Intrastate | (c) | (c) | (c) | (c) | (c) | May 31, 1977 | May 31, 1977 |
| * * * | * | * | * | * | * | * | * |

[FR Doc. 80-37651 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

**40 CFR Part 261**

**[SWH-FRL 1690-4]**

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste

**AGENCY:** United States Environmental Protection Agency.

**ACTION:** Interim final amendment to rule and request for comment.

**SUMMARY:** The Environmental Protection Agency ("EPA") is today amending 40 CFR 261.4 to provide that a hazardous waste that is generated in a product or raw material pipeline is not subject to regulation under 40 CFR Parts 262 through 265 or Parts 122 through 124 or the requirements of Section 3010 of the Resource Conservation and Recovery Act ("RCRA") until it is removed from the pipeline in which it was generated, unless it remains in the pipeline for more than 90 days after the pipeline ceases to be operated for the purpose of transporting product or raw materials. The purpose of this amendment is to clarify that such product or raw material pipelines are not treatment or storage facilities under Section 3004 of RCRA. The effect of this amendment is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations.

**DATES:** Effective date: November 19, 1980. Comment Date: This amendment is promulgated as an interim final rule. The Agency will accept comments on it until February 2, 1981.

**ADDRESSES:** Comments should be addressed to Docket Clerk (Docket No. 3001), Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:**

Alfred Lindsey 755-9185.

**SUPPLEMENTARY INFORMATION:**

### I. Authority

This amendment is issued under the authority of Sections 1006, 2002(a), 3001 and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), 6921 and 6924.

### II. Background

On February 26 and May 19, 1980, EPA promulgated hazardous waste regulations in 40 CFR Parts 260 through 265 (45 FR 12721 et seq. and 45 FR 33066 et seq.) and on May 19, 1980, promulgated consolidated permit regulations in 40 CFR Parts 122 through 124 (45 FR 33289 et seq.). Section 261.3 provides that a solid waste becomes a hazardous waste when (1) it first meets any of the listing descriptions set forth in Part 261, Subpart D; or (2) it first becomes a mixture containing a hazardous waste listed in Part 261, Subpart D; or (3) it first exhibits one or more of the characteristics of hazardous waste identified in Part 261 Subpart C. The effect of this provision was that hazardous sludges, sediments, and other wastes accumulating in product or raw material storage tanks or transport vehicles were subject to regulation before they were removed from the tanks or vehicles in which they were generated.

EPA did not intend to regulate these tanks and vehicles as hazardous waste storage units, except in certain limited situations. On October 30, 1980, the Agency promulgated an interim final amendment to § 261.4 in order to clarify its intent. 45 FR 72024. That amendment added a new § 261.4(c), which provides that a hazardous waste generated "in a product or raw material storage tank, a product or raw material transport vehicle or vessel, or in a manufacturing process unit or an associated non-waste treatment manufacturing unit" is not subject to regulation until it leaves the unit in which it was generated, unless the unit is a surface impoundment or ceases to be used for the storage or transportation of product or raw materials. 45 FR 72028.

As EPA explained in its October 30 Federal Register preamble, storage tanks, transport vehicles, and similar units are typically designed to hold valuable products or raw materials. Thus, they "are capable of holding, and are typically operated to hold, the hazardous wastes which are generated in them, until the wastes are purposefully removed." 45 FR 72025. As a result, any risks to human health or the environment posed by these wastes prior to removal "are very low and are only incidental to the risks posed by the valuable product or raw material with which they are associated." Id. EPA therefore decided that these wastes should not be subject to regulation before they are removed from the unit in which they were generated.

After that amendment was promulgated, members of the regulated community have asked whether hazardous wastes accumulating in pipelines used to transport product or raw materials should be included. These people point out that major pipeline systems are used throughout the United States to transport crude oil, petroleum products, chemicals, and other valuable products and raw materials. They contend that these pipelines are just as secure as the storage tanks and transport vehicles covered by EPA's October 30 amendment, and that wastes generated in these pipelines therefore present the same low level of risk as waste generated in storage tanks.

If wastes generated in pipelines used to transport products or raw materials were subject to regulation before removal, these pipelines would technically be hazardous waste storage facilities subject to Parts 264, 265, 122 and 124. EPA believes, however, that the reasoning of the October 30, 1980, amendments concerning product storage tanks, transportation vehicles and vessels supports inclusion of pipelines used to transport products and raw materials in the amendment. Pipelines, like product storage tanks, are designed and operated in a manner to hold the material and to prevent releases to the environment. The design and operation of many of the pipelines subject to today's amendments are governed by detailed federal regulation. See, e.g., 49 CFR Part 195 (pipelines transporting liquid hazardous materials, petroleum and petroleum products). Hazardous waste sludges and sediments, while in these pipelines, generally do not present dangers to human health and the environment. The need for the tight controls of the Subtitle C regulations is at the time that hazardous wastes are removed from these product and raw material pipelines.

Based on the foregoing, EPA is today amending § 261.4(c), which was added by the October 30 amendment, to provide that a hazardous waste generated in a product or raw material pipeline is not subject to regulation until it is removed from the pipeline, unless it remains in the pipeline for more than 90 days after the pipeline ceases to be operated for the transportation of

product or raw materials. For the reasons already discussed, EPA believes that this action will not diminish protection of human health and the environment.

### III. Effective Date and Regulatory Impacts

The Agency is setting November 19, 1980, as the effective date for this amendment, to insure conformity with the effective date of § 261.4(c) itself. The reasons for promulgating this amendment in interim final form and setting an immediate effective date are the same as those discussed in the preamble to the October 30, 1980, amendments. The regulatory impacts are also analogous. See 45 FR 72027–28.

EPA invites comments on all aspects of this amendment to § 261.4(c) and all of the issues discussed in this preamble. The Agency is providing a 60-day comment period and will carefully consider all comments received during that period.

Dated: November 26, 1980.

Douglas M. Costle,
*Administrator.*

For the reasons set out in the preamble, Part 261 of Title 40 of the Code of Federal Regulations is amended by revising § 261.4(c) to read as follows:

**§ 261.4 Exclusions.**

* * * * *

(c) Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under Parts 262 through 265 and Parts 122 through 124 of this chapter or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

[FR Doc. 80-37680 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-30-M

## DEPARTMENT OF ENERGY

### 41 CFR Part 109–40

### Property Management Regulations, Transportation and Traffic Management

**AGENCY:** Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** In the July 1, 1979, revision of Title 41 (Chapter 101 to End) of the Code of Federal Regulations, Part 109–40 appearing in Subchapter G—Transportation and Motor Vehicles, was inadvertently omitted. This Part was republished without revision appearing as 45 CFR 16489 on March 14, 1980, in a CFR Correction which permitted Part 109–40 to remain in force and effect, and to appear in the 1980 revision of Title 41. Part 109–40 is herewith updated and changed to reflect the transition from U.S. Energy Research and Development Administration (ERDA) to U.S. Department of Energy (DOE) under the DOE Organization Act (Pub. L. 95–91).

Part 109–40, as updated, was published in the Federal Register on Friday, July 25, 1980, at 45 FR 49601 as a proposed rule with a 30 day comment period. Only one comment was received during this period.

It was suggested that the proposed rule be revised at subpart 109–40.000 to read "* * * Government in terms of economy, efficiency, service, environment, safety and security." This comment has been incorporated verbatim into the final rule. The only additional change was in referencing the Director, Transportation Operations Staff from Transportation Officer due to a change in title. These changes are found at 40.109, 40.5001, and 40.5101.

**DATE:** Effective December 4, 1980.

**ADDRESS:** Mail Station B–107, Washington, D.C. 20545.

**FOR FURTHER INFORMATION CONTACT:**

Roy F. Garrison, Director, Transportation Operations Staff, Office of Transportation and Fuel Storage, Department of Energy (301) 353–5363.

Steve Miller, Office of the General Counsel, Department of Energy (202) 252–6947.

**SUPPLEMENTARY INFORMATION:** DOE and its contractors for the purposes of transportation and traffic management have certain exemptions from the Federal Property and Administrative Act of 1949, as amended (Pub. L. 152, 81st Congress, 63 Stat., 377) at Title II, Section 201(b) which provides "The Administrator (GSA) shall, as far as practicable provide any of the services specified * * * to any other Federal agency * * *, *upon request.*"

Title IV, Section 602(d) of the same Act provides "nothing in this act shall impair or affect any authority of * * * (13) the Atomic Energy Commission (AEC)."

Title 41 CFR Part 109–40 Transportation and Traffic Management iterates the applicability of and departure from Title 41 Parts 101 *et seq.* for the U.S. Department of Energy and its cost-type contractors in conducting transportation and traffic management type activities.

Traffic Management and Transportation Operations functions existed in AEC. These functions were transferred to ERDA by Section 104 of the Energy Reorganization Act of 1974 (Pub. L. 93–438) and then to DOE by Section 641 of the Department of Energy Organization Act of 1977 (Pub. L. 95–91).

The Department of Energy desires to continue in effect the exemption granted to it by the Congress and consequently adopts the following amended Transportation Management Regulations. Further implementation will be published in appropriate DOE Orders. The Department of Energy has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purpose of Executive Order 12044.

Issued in Washington, D.C. November 14, 1980.

George W. Cunningham,
*Assistant Secretary for Nuclear Energy.*

41 CFR Part 109–40 is revised to read as follows:

## PART 109–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Sec.
109–40.000 Scope of part.
109–40.000–50 Applicability to contractors.

Subpart 109–40.1—General Provisions

109–40.102 Representation before regulatory bodies.
109–40.103 Selection of carriers.
109–40.103–1 Domestic transportation.
109–40.103–2 Disqualification and suspension of carriers.
109–40.103–3 International transportation.
109–40.104 Use of Government owned transportation equipment.
109–40.109 Utilization of special contracts and agreements.
109–40.110 Assistance to economically disadvantaged transportation businesses.
109–40.110–1 Small business assistance.
109–40.110–2 Minority business enterprises.
109–40.112 Transportation factors in the location of Government facilities.
109–40.113 Insurance against transportation hazard.

**Subpart 109-40.3—Traffic Management**

Sec.

109-40.301 Traffic management functions administration.
109-40.302 Standard routing principle.
109-40.303-3 Most fuel efficient carrier/mode.
109-40.304 Rate tenders to the Government.
109-40.305-50 Negotiations involving national security.
109-40.306-1 Recommended rate tender format.
109-40.306-2 Required shipping documents and annotations.
109-40.306-3 Distribution.

**Subpart 109-40.50—Bills of Lading**

Sec.

109-40.5000 Scope of subpart.
109-40.5001 Policy.
109-40.5002 Applicability.
109-40.5003 Commercial bills of lading.
109-40.5004 Government bills of lading.
109-40.5005 Description of property for shipment.

**Subpart 109-40.51—Price-Anderson Coverage Certifications for Nuclear Shipments**

109-40.5100 Scope of subpart.
109-40.5101 Policy.

Authority: Sec. 161, as amended, 8 Stat. 948; 42 U.S.C. 2201; sec. 205, as amended, 63 Stat. 390; 40 U.S.C. 486; sec. 644, 91 Stat. 585, 42 U.S.C. 7254.

### § 109-40.000 Scope of part.

This part describes DOE regulations governing transportation and traffic management activities. It also covers arrangements for transportation and related services by bill of lading. These regulations are designed to ensure that all transportation and traffic management activities will be carried out in the manner most advantageous to the Government in terms of economy, efficiency, service, environment, safety, and security.

### § 109-40.000-50 Applicability to contractors.

DOE-PMR 109-40. Transportation and Traffic Management, should be applied to cost-type contractors' transportation and traffic management activities. Departure by cost-type contractors from the provisions of these regulations may be authorized by the contracting officer provided the practices and procedures followed are consistent with the basic policy objectives in these regulations and except to the extent such departure is prohibited by statute or executive order.

## Subpart 109-40.1—General Provisions

### § 109-40.102 Representation before regulatory bodies.

Participation in proceedings related to carrier applications to regulatory bodies for temporary or permanent authority to operate in specified geographical locations shall be confined to statements or testimony in support of a need for service and shall not extend to support of individual carriers or groups of carriers.

### § 109-40.103 Selection of carriers.

### § 109-40.103-1 Domestic transportation.

(a) Preferential treatment, normally, shall not be accorded to any mode of transportation (motor, rail, air, water) or to any particular carrier when arranging for domestic transportation service. However, where, for valid reasons, a particular mode of transportation or a particular carrier within that mode must be used to meet specific program requirements and/or limitations, only that mode or carrier shall be considered. Examples of valid reasons for considering only a particular mode or carrier are (1) where only a certain mode of transportation or individual carrier is able to provide the needed service or is able to meet the required delivery date; and (2) where the consignee's installation and related facilities preclude or are not conducive to service by all modes of transportation.

(b) The following factors are considered in determining whether a carrier or mode of transportation can meet DOE's transportation service requirements for each individual shipment:

(1) Availability and suitability of carrier equipment;

(2) Carrier terminal facilities at origin and destination;

(3) Pickup and delivery service, if required;

(4) Availability of required or accessorial and special services, if needed;

(5) Estimated time in transit;

(6) Record of past performance of the carrier; and

(7) Availability and suitability of transit privileges.

### § 109-40.103-2 Disqualification and suspension of carriers.

Disqualification and suspension are measures which exclude carriers from participation, for temporary periods of time, in DOE traffic. To ensure that the Government derives the benefits of full and free competition of interested carriers, disqualification and suspension shall not apply for any period of time longer than necesary to protect the interests of the Government.

### § 109-40.103-3 International transportation.

(See 4 CFR 52.2 for a certificate required in nonuse of U.S. flag vessels or U.S. flag certificated air carriers)

(a) U.S.-flag ocean carriers. Arrangements for international ocean transportation services shall be made in accordance with the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241(b) concerning the use of privately owned U.S.-flag vessels.

(b) U.S.-flag certificated air carriers. Arrangements for international air transportation services shall be made in accordance with the provisions of section 5(a) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517), which requires the use of U.S.-flag certificated air carriers for international travel of persons or property to the extent that service by these carriers is available.

### § 109-40.104 Use of Government owned transportation equipment.

The preferred method of transporting property for the Government is through use of the facilities and services of commercial carriers. However, Government vehicles may be used when they are available to meet emergencies, and accomplishment of program objectives which cannot be attained through use of commercial carriers.

### § 109-40.109 Utilization of special contracts and agreements.

From time to time special transportation agreements are entered into on a Government-wide or a DOE-wide basis and are applicable, generally to DOE shipments. The DOE-HQ Director, Transportation Operations Staff, will distribute information on such agreements to field offices as it becomes available.

### § 109-40.110 Assistance to economically disadvantaged transportation businesses.

### § 109-40.110-1 Small business assistance.

Consistent with the policies of the Government with respect to small businesses, DOE shall place with small business concerns a fair proportion of the total purchases and contracts for transportation and related services such as packing and crating, loading and unloading, and local drayage.

### § 109-40.110-2 Minority business enterprises.

Minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts. DOE shall identify transportation-related minority enterprises and encourage them to provide services that will support the DOE's transportation requirements.

**§ 109-40.112 Transportation factors in the location of Government facilities.**

Transportation rate, charges, and commercial carrier transportation services shall be considered and evaluated prior to the selection of new site locations and during the planning and construction phases in the established of leased or relocated Government installations or facilities to ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

**§ 109-40.113 Insurance against transportation hazards.**

The policy of the Government with respect to insurance of its property while in the possession of commercial carriers is set forth in 41 CFR 1-19.107.

## Subpart 109-40.3—Traffic Management

**§ 109-40.301 Traffic Management functions administration.**

The DOE traffic management functions are accomplished by established field traffic offices under provisions of appropriate Departmental directives and headquarters' staff traffic management supervision.

**§ 109-40.302 Standard routing principle.**

(a) Shipments shall be routed using the mode of transportation, or individual carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government.

(b) When more than one mode of transportation, or more than one carrier within a mode, can provide equally satisfactory service at the same overall cost the traffic shall be distributed as equitably as practicable among the modes and among the carriers within the modes.

**§ 109-40.303-3 Most fuel efficient carrier/mode.**

When more than one mode, or more than one carrier within a mode, can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the carrier/mode determined to be the most fuel efficient will be selected. In determining the most fuel efficient carrier/mode, consideration will be given to such factors as use of the carrier's equipment in "turn around" service, proximity of carrier equipment to the shipping activity, and ability of carriers to provide the most direct service to the destination points.

**§ 109-40.304 Rate tenders to the Government.**

Under the provisions of section 10721 (formerly section 22) of the Interstate Commerce Act (49 U.S.C. 10721), common carriers are permitted to submit to the Government tenders which contain rates lower than published tariff rates available to the general public. In addition, rate tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially bears the freight charges (323 ICC 347 and 332 ICC 161).

**§ 109-40.305-50 Negotiations involving national security.**

Title 49 U.S.C., section 10721(b)(2) provides that rate tenders to the Government must be filed by the carriers with the Interstate Commerce Commission unless "a carrier is advised by the U.S. Government that disclosure of a quotation or tender of a rate established . . . for transportation provided to the U.S. Government would endanger the National security." Carriers will be informed by the negotiating official if any quotation or tender to the Department of Energy involves such information.

**§ 109-40.306-1 Recommended rate tender format.**

Only those rate tenders which have been submitted by the carriers in writing shall be considered for use. Carriers should be encouraged to use the format "Uniform Tender of Rates and/or Charges for Transportation Services" when preparing and submitting rate tenders to the Government. Rate tenders that are ambiguous in meaning shall be resolved in favor of the Government.

**§ 109-40.306-2 Required shipping documents and annotations.**

(a) To qualify for transportation under section 10721 rates, property must be shipped by or for the Government on:

(1) Government bills of lading;

(2) Commercial bills of lading endorsed to show that these bills of lading are to be converted to Government bills of lading after delivery to the consignee:

(3) Commercial bills of lading showing that the Government is either the consignor or the consignee and endorsed with the following statement:

> Transportation hereunder is for the U.S. Department of Energy, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government.

(b) When a rate tender is used for transportation furnished under a cost-reimbursable contract, the following endorsement shall be used on covering commercial bills of lading:

> Transportation hereunder is for the U.S. Department of Energy and the actual total transportation charges paid to the carrier(s) by the consignor or the consignee are to be reimbursed by the Government, pursuant to cost-reimbursable contract number ( ). This may be confirmed by contacting the agency representative at (name and telephone number). (See 332 ICC 161.)

(c) To ensure proper application of a Government rate tender on all shipments qualifying for their use, the issuing officer shall show on the bills of lading covering such shipments the applicable rate tender number and carrier identification: such as, "Section 10721 tender, ABC Transportation Company, ICC No. 374." In addition, if commercial bills of lading are used, they shall be endorsed as specified above.

**§ 109-40.306-3 Distribution.**

Each agency receiving rate tenders shall promptly submit one signed copy to the Transportation and Public Utilities Service (WIT), General Services Administration, Washington, DC 20407. Also, two copies (including at least one signed copy) shall be promptly submitted to the General Services Administration (TA). Chester A. Arthur Building, Washington, DC 20406.

## Subpart 109-40.50—Bills of Lading

**§ 109-40.5000 Scope of subpart.**

This subpart sets forth the requirements under which commercial or Government bills of lading may be used.

**§ 109-40.5001 Policy.**

Generally DOE cost-type contractors will use commercial bills of lading in making shipments for the account of the DOE. Cost-type contractors may be authorized by the contracting officer to use Government bills of lading if such use will be advantageous to the Government. Such authorizations shall be coordinated with the DOE-HQ Director, Transportation Operations Staff.

**§ 109-40.5002 Applicability.**

The policy and procedures set forth in this subpart shall be applied when DOE's cost-type contractors use commercial bills of lading.

**§ 109-40.5003 Commercial bills of lading.**

(a) DOE's cost-type contractors using commercial bills of lading in making shipments for the account of the DOE shall include the following statement or

one substantially the same on all commercial bills of lading:

This shipment is for the account of the U.S. Government which will assume the freight charges and is subject to the terms and conditions set forth in the standard form of the U.S. Government bills of lading and to any available special rates or charges.

(b) The foregoing language may be varied without materially changing its substance to satisfy the needs of particular cost-type contractors for the purpose of obtaining the benefit of the lowest available rates for account of the Government.

(c) Where particable, commercial bills of lading shall provide for consignment of a shipment to the DOE c/o the cost-type contractor or by the contractor "for the DOE."

(d) Commercial bills of lading exceeding $10,000 issued by cost-type contractors shall be annotated with a typewritten, rubber stamp, or similar impression containing the following wording:

Equal Employment Opportunity. All provisions of Executive Order 11246 as amended by Executive Order 11375 and of the rules, regulations, and relevant orders of the Secretary of Labor are incorporated herein.

**§ 109-40.5004 Government bills of lading.**

(a) In those instances where DOE cost-type contractors are authorized to use Government bills of lading, specific employees of cost-type contractors will be authorized by the contracting officer to issue such Government bills of lading (see Title V, U.S. Government Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies).

**§ 109-40.5005 Description of property for shipment.**

(a) Each shipment shall be described on the bill of lading or other shipping document as specified by the governing freight classification, carrier's tariff, or rate tender. Shipments shall be described as specifically as possible. Trade names such as "Foamite" or "Formica" or general terms such as "vehicles," "furniture," or "Government supplies," shall not be used as bill of lading descriptions.

(b) A shipment containing hazardous materials, such as explosives, radioactives, flammable liquids, flammable solids, oxidizers, or poison A or poison B, shall be prepared for shipment and described on bills of lading or other shipping documents in accordance with the Department of Transportation Hazardous Materials Regulations, 49 CFR, parts 100–189.

## Subpart 109-40.51—Price-Anderson Coverge Certifications for Nuclear Shipments

**§ 109-40.5100 Scope of subpart.**

This subpart sets forth the policy for issuance of certifications regarding Price-Anderson coverage of particular shipments of nuclear materials.

**§ 109-50.5101 Policy.**

Upon request of a carrier, an appropriate certification will be issued by an authorized representative of the DOE to the carrier regarding the applicability of Price-Anderson indemnity to a particular shipment. Copies of such certifications if performed by a Field Manager or a DOE cost-type contractor shall be provided to the DOE/HQ Director, Transportation Operations Staff.

[FR Doc. 80-47839 Filed 12-3-80; 8:45 am]
BILLING CODE 6450-01-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Public Land Order 5778

[I-16254]

## Idaho; Powersite Restoration No. 761; Partial Revocation of Powersite Reserve No. 241

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order will partially revoke Powersite Reserve No. 241. It has been determined that these lands will not be developed for power purposes but will be restored to the operation of the public land laws.

**EFFECTIVE DATE:** January 3, 1981.

**FOR FURTHER INFORMATION CONTACT:** Larry R. Livesay, 208–334–1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA–627–Idaho, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 241, is hereby revoked so far as it affects the following described lands:

Boise Meridian

T. 7 S., R. 43 E.,
Sec. 19, SE¼NW¼, and NE¼SE¼;
Sec. 29, SE¼NE¼, NE¼NW¼, and W½SE¼;
Sec. 31, NE¼NE¼;
Sec. 34, SE¼SW¼.

The area described aggregates 320 acres in Caribou County.

2. The State of Idaho has waived its right to select lands for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m. on January 3, 1981, the above described 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 laws. All valid applications received at or prior to 10 a.m. on January 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The public lands in this order have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the State Director, Idaho State Office, Box 042, Federal Building, 550 West Fort Street, Boise, Idaho 83724.

Guy R. Martin,
*Assistant Secretary of the Interior.*
November 28, 1980.

[FR Doc. 80-37640 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5779

[OR 19471]

## Oregon; Revocation of Timber Preservation Area Withdrawal

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes a Secretarial order which withdrew 113.05 acres of land for timber preservation. This action will restore the land to operation of the public land laws generally. The lands involved will remain open to operation of the Mining Law of 1872.

**EFFECTIVE DATE:** January 3, 1981.

**FOR FURTHER INFORMATION CONTACT:** Champ C. Vaughan, Jr., 503–231–6905.

By virtue of the authority contained in 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. The Secretarial Order of March 18, 1947, which withdrew the following described lands for timber preservation purposes is hereby revoked:

Willamette Meridian

*Revested Oregon and California Railroad Grant Land*

T. 1 S., R. 5 E.,
Sec. 1, Lots 3 and 4;
Sec. 3, Lot 1.

The areas described aggregate 113.05 acres in Multnomah County.

2. At 10 a.m., on January 3, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands will be open to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Lands.

3. The lands have been and continue to 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 State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,

*Assistant Secretary of the Interior.*

November 28, 1980.

[FR Doc. 80-37637 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5780

[ORE-06519]

## Oregon; Partial Revocation of Public Land Order No. 2407

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes a public land order in part as to 30 acres of national forest land withdrawn as a Forest Service roadside zone. This action will restore the land to operation of the public land laws generally, including the mining laws.

**EFFECTIVE DATE:** January 3, 1981.

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

By virtue of the authority contained in Section 204(a) 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. 2407 of June 21, 1961, which withdrew certain national forest lands for roadside zone purposes is hereby revoked so far as it affects the following described land:

Willamette Meridian

*Winema National Forest*

T. 28 S., R. 8 E.,
Sec. 5, those portions of lot 1, SE¼NE¼, and NE¼SE¼ located within 330 feet on each side of the center line of the existing U.S. Highway No. 97 (the Dalles-California Highway).

The area described contains approximately 30 acres in Klamath County, Oregon.

2. At 10 a.m. on January 3, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land will be open to such forms of disposition as may by law be made of national forest land.

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

Guy R. Martin,

*Assistant Secretary of the Interior.*

November 28, 1980.

[FR Doc. 80-37641 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5781

[I-12800]

## Powersite Restoration No. 755; Partial Revocation of Powersite Reserve No. 440

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes 80 acres of national forest lands from a Powersite Reserve to permit consummation of a pending Forest Service exchange.

**EFFECTIVE DATE:** December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Larry Livesay, Idaho State Office, 208-334-1735.

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, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-620-Idaho, it is ordered as follows:

1. The Executive Order of June 6, 1914, creating Powersite Reserve No. 440, is hereby revoked so far as it affects the following described lands:

St. Joe National Forest

*Boise Meridian*

T. 41 N., R. 5 E.,
Sec. 2, SE¼SW¼;
Sec. 16, NW¼NW¼.

The area described contains 80 acres in Clearwater County.

2. The land described above shall immediately become available for consummation of a pending Forest Service exchange with the State of Idaho under the General Exchange Act of March 20, 1922, 16 U.S.C. 485.

Guy R. Martin,

*Assistant Secretary of the Interior.*

November 28, 1980.

[FR Doc. 80-37642 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5782

[R-1663]

## California; Withdrawal for National Forest Recreation and Administrative Sites; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This document will correct an error in the land description of Public Land Order No. 5747 of August 20, 1980, as published at 45 FR 57398 (August 28, 1980) and change a lot number as a result of a resurvey.

**EFFECTIVE DATE:** December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Marie Getsman, California State Office, 916-484-4431.

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. A description of the lands in Public Land Order No. 5747 of August 20, 1980, in FR Doc. 80-26316 appearing at page 57398 in the issue for Thursday, August 28, 1980, in the second column, second line under Rush Creek Campground reads "Sec. 33, E½SW¼SW¼, W½SE¼SE¼." It should be corrected to read "Sec. 33, E½SW¼SE¼, W½SE¼SE¼."

2. In accordance with a resurvey dated December 3, 1970, a description of the lands in the same public land order, column 3, third line under Gull Lake Campground reads "Sec. 15, E½E½ of lot 2." It should be described as "Sec. 15, E½E½ of lot 6."

Guy R. Martin,

*Assistant Secretary of the Interior.*

November 28, 1980.

[FR Doc. 80-37633 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5783

[I-3405]

## Idaho; Partial Revocation of Veterans Administration Withdrawal

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order restores 9.770 acres of public land to the mineral leasing laws and to the disposal of materials.

**EFFECTIVE DATE:** January 3, 1981.

**FOR FURTHER INFORMATION CONTACT:** Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority contained in Section 204(a) 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 No. 7798 of January 26, 1938, withdrawing public lands for the Veterans Administration is hereby revoked so far as it affects the following described land:

**Boise Meridian, Idaho**

T. 3 N., R. 2 E.,

Sec. 2: (Tract 44) described by metes and bounds as follows: Beginning at a iron post, 2 ins. diam., firmly set, 6 ins. showing, from which the cor. of secs. 2, 3, 10 and 11, T. 3 N., R. 2 E., Boise meridian bears S. 76°57′ W., 1,755.60 ft.

From corner No. 1, by metes and bounds,
N. 16°09′ W., 210.94 ft., to corner No. 2;
N. 13°58′ E., 518.56 ft., to corner No. 3;
N. 74°02′ W., 154.31 ft., to corner No. 4;
S. 58°18′ W., 264.53 ft., to corner No. 5;
N. 67°21′ W., 373.03 ft., to corner No. 6;
S. 64°32′ E., 795.30 ft., to corner No. 7;
N. 25°28′ E., 911.46 ft., to corner No. 8;
S. 59°18′ W., 534.14 ft., to corner No. 1, the place of beginning.

The tract as described contains 9.770 acres.

2. The above described tract has been classified under the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869; 869-4. The land, therefore, will not be subject to other use or disposition under the public land laws, including the mining laws.

3. At 10 a.m., on January 3, 1981, the tract will be open to applications and offers under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181-287; and to the disposal of materials under the Act of July 31, 1947, as amended, 30 U.S.C. 601-604.

Inquiries concerning the tract should be addressed to the State Director, Bureau of Land Management, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

Guy R. Martin,

*Assistant Secretary of the Interior.*

November 28, 1980.

[FR Doc. 80-37639 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1000

### Definition of Special Agents, Accountants, and Examiners

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this document is to revise the definition of special agents, accountants, and examiners in 49 CFR 1000.5(c) due to the reorganization of the Commission's Bureau of Enforcement and Bureau of Operations into the Office of Consumer Protection. Because this rule involves the internal organization of the Commission, it is issued in final form, and public comments are not being requested.

**EFFECTIVE DATE:** December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Pat McQuie Nagle, (202) 275-7587.

**SUPPLEMENTAL INFORMATION:** In May 1980, the Commission reorganized the Bureau of Enforcement and the Bureau of Operations and established the Office of Consumer Protection. This reorganization resulted in new titles for various employees who are defined under 49 CFR 1000.5(c), and the regulation is revised to reflect those changes.

Accordingly, 49 CFR 1000.5(c) is amended by revising the list of employee titles which follows the introductory text:

Chairman
Vice Chairman
Commissioners
Bureau and Office Heads and Directors; Associate, Assistant and Deputy Heads and Directors; Assistants to Heads and Directors; Chiefs and Assistant Chiefs of Sections; and Branch Chiefs of all Headquarters Bureaus, Offices and Sections
Public Information Officer and Assistant
Chairpersons of Employee Boards
Regional Directors
Assistant and Associate Regional Directors
Regional Counsel
Assistant Regional Counsel
Branch Chiefs, Field Offices
Trial Attorneys
Transportation Assistants and Consumer Specialists
Transportation Industry Analysts
Railroad Car Service Agents
District Supervisors
Auditors and Financial Analysts
Economists
Investigators

(49 U.S.C. 11144(b) and 5 U.S.C. 553)

Decided: November 20, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-37723 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

### 49 CFR Part 1033

**[S.O. No. 1491]**

### Louisiana & Arkansas Railway Co. Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Company

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Service Order No. 1491, and Notice of Modified Hearing Procedure for extension beyond 30 days.

**SUMMARY:** This order authorizes the Louisiana & Arkansas Railway Company to operate over the tracks of The Atchison, Topeka and Santa Fe Railway Company, and establishes a modified hearing procedure to consider extension of the order beyond its initial 30-day period.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,"* (emphasis added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

**DATES:** This order shall become effective at 12:01 a.m. on December 1, 1980, and shall remain in effect for 30 days unless otherwise modified, amended, or vacated by order of this Commission.

**COMMENTS:** Any interested party may file statements providing information and argument relating to the necessity and appropriateness of continuing this order in effect beyond the initial 30-day period by filing an original and 5 copies of a statement in affidavit form by December 9, 1980. Rebuttal statements in affidavit form (original and 5 copies) may be filed by December 15, 1980.

**ADDRESS:** All filings should be addressed to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Room 7115, Washington, D.C. 20423; and in the lower left hand corner in large letters, should have printed RSB-7115.

Interested parties wishing to review the docket file may do so in Room 7225 of the Commission in Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr. (202) 275-7840.

**SUPPLEMENTARY INFORMATION:**

Decision

Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96-448) revised 49 U.S.C. 11123(a) by limiting the Commission's authority to act in emergency situations to those where it finds that a "failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only after the full Commission, after a hearing, certifies the continued existence of the transportation emergency. This initial issuance contains the Notice of the modified hearing procedures (set forth in the Summary) to be followed with respect to any extension of the order.

It is the opinion of the Commission that the statutory criteria of Section 11123(a) for the issuance of a service order has been met, and more particularly that:

The Louisiana & Arkansas Railway Company (L&A) was granted temporary authority in Service Order No. 1267 to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between milepost 53 plus 1802.2 feet and milepost 50 plus 4,100 feet in Dallas, Texas.

Pursuant to Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96-448) and the Commission's Policy Statement on 49 U.S.C. 11123(a) Emergency Car Service Orders, dated October 24, 1980, temporary operating authority granted to L&A in Service Order No. 1267 must expire on November 30, 1980.

L&A has now submitted an application for an emergency service order, pursuant to 49 U.S.C. 11123(a), as amended by Section 226 of the Staggers Rail Act of 1980, to be effective December 1, 1980, to assure the shipping public of uninterrupted rail service.

L&A's lines extend from Dallas, Texas through Shreveport, Lousiana to New Orleans, Louisiana. In 1979, L&A moved 20,077 carloads of freight from, to or through the Dallas Terminal, both export and domestic traffic. An expiration of this authority will have a substantial adverse effect on rail service in the Southwestern region of the United States by the elimination of L&A's ability to handle this substantial volume of traffic through a vital gateway. ATSF has concurred with the operation of L&A trains over its tracks.

It is the opinion of the Commission that this emergency situation requires operation by the L&A over tracks of the ATSF; that prior notice of this action and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,*

**§ 1033.1491 Service Order No. 1491.**

(a) *Louisiana & Arkansas Railway Company authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Company—Authority.* The Louisiana & Arkansas Railway Company (L&A) is authorized to operate over the tracks of The Atchinson, Topeka and Santa Fe Railway Company (ATSF) between milepost 53 plus 1802.2 feet and milepost 50 plus 4,100 feet and ATSF connecting track sufficient to enter Cadiz yard.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment by the Commission to an application by L&A seeking permanent authority to operate over aforementioned tracks of ATSF.

(d) *Effective date.* This order shall be effective at 12:01 a.m., December 1, 1980.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under authority of 49 U.S.C. 10304, 10305, and 11123(a), and 49 CFR 1011.6(c)(6).

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

Decided: November 28, 1980.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-37732 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 20

## Emergency Closure of Canada Goose Season in Certain Illinois Counties

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rulemaking closes the Canada goose hunting season in the Illinois counties of Alexander, Jackson, Williamson and Union. The Canada goose season in these counties opened November 3, 1980, with a December 31, 1980, closing date, provided that the harvest quota of 27,000 birds was not filled prior to that date. It is now expected the quota will be filled by 3 p.m., Wednesday, December 3, 1980. Therefore, the season for taking Canada geese in the Illinois counties of Alexander, Jackson, Williamson and Union will close effective at 3 p.m., Wednesday, December 3, 1980, and no Canada geese shall be killed in those counties after 3 p.m. on that date. The season for taking Canada geese in the remaining counties of Illinois will close at sunset on Monday, December 22, 1980, in the north zone and at sunset on Wednesday, December 31, 1980, in the central and south zones, as previously established.

**EFFECTIVE DATE:** December 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-343-3207).

**SUPPLEMENTARY INFORMATION:** Regulations allowing the hunting of Canada geese in Illinois were published in the Federal Register dated September 4, 1980 (45 FR 58549) and September 16, 1980 (45 FR 61539 and 61541), and took effect immediately. The September 4, 1980, Federal Register established a harvest quota of 33,000 Canada geese of which 27,000 were allotted to Alexander, Jackson, Williamson and Union Counties. The September 16, 1980, Federal Register established a season closing date of December 31, 1980, for these four counties providing the 27,000 Canada goose quota was not filled prior to that date. The Service monitoring of the Canada goose take in the area leads it to conclude that the 27,000 quota will be filled by 3 p.m., Wednesday, December 3, 1980. Therefore, the Service gives notice as required by 50 CFR 20.26

that the season for taking Canada geese in the Illinois counties of Alexander, Jackson, Williamson, and Union will be closed at 3 p.m., Wednesday, December 3, 1980, and no Canada geese shall be killed in those four counties after 3 p.m. on December 3, 1980. The season for taking Canada geese in the remaining counties of Illinois will close at sunset on Monday, December 22, 1980, in the north zone and at sunset on Wednesday, December 31, 1980, in the central and south zones, as previously established under Section 20.105(d) in the September 16, 1980, **Federal Register.**

Because of time constraints, the Service finds that publication of a proposed rule and the solicitation of comments thereon are impracticable and contrary to the public interest and provide good cause for these regulations to take effect upon publication pursuant to 5 U.S.C. 553(b) and (d).

**Authorship**

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

**Exemption From Executive Order 12044 and 43 CFR Part 14**

As discussed in the **Federal Register** dated February 29, 1980 (45 FR 13630) the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the statutory requirements under Section 704 of the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the procedures for the development of significant rules and the preparation of a regulatory analysis established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines were to be achieved. Consequently, although the rules establishing the annual migratory bird hunting regulations are significant, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 42 CFR Part 14 which is provided for in § 14.3(f).

Dated: December 1, 1980.

**Lynn A. Greenwalt,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 80-37731 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-55-M

# Proposed Rules

Federal Register
Vol. 45, No. 235
Thursday, December 4, 1980

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 TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 67

[Docket No. 21130; Notice No. 80-24]

### Issuance of Airman Medical Certificates for Certain Conditions; Public Hearing

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

**ACTION:** Notice of public hearing.

**SUMMARY:** This notice announces a public hearing for the exchange of views by interested persons on the proposed exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions who do not initially qualify for certification under the medical standards in the Federal Aviation Regulations. An opportunity will be given to all participants to fully discuss all matters presented at the hearing.

**DATES:** The public hearing will be held on January 6 and 7, 1981.

**ADDRESS:** Meeting place: The public hearing will be held at: Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Auditorium, 3rd Floor, (202) 755-8714.

Requests to be heard should identify the docket or notice number, indicate the subject of the presentation and time required, and be sent in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Airmen and Airports Branch, AGC-240, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

Requests delivered must be marked "Public Hearing, Notice No. 80-24." Requests may be inspected at Room 916 between 8:30 am. and 5:00 pm.

**FOR FURTHER INFORMATION CONTACT:** Donald P. Byrne, Airmen and Airports Branch, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-3491.

**SUPPLEMENTARY INFORMATION:** Elsewhere in this issue of the Federal Register, the FAA has published Notice of Proposed Rule Making No. 80-24, proposing to amend Part 67 of the Federal Aviation Regulations to make it clear that applicants with medical conditions that exclude them from obtaining a special issuance under § 67.19 (Special issue: operational limitations) may petition for an exemption.

Under § 67.19 an applicant for a medical certificate with a medical condition not excluded from the section may be given a special flight test, practical test, or medical evaluation to determine that, notwithstanding the applicant's failure to meet an applicable medical standard, airman duties can be performed without endangering safety in air commerce. If this determination can be made, a medical certificate is issued with appropriate limitations to ensure safety.

Applicants with certain medical conditions may not now apply for the special issuance of a medical certificate under § 67.19. However, these applicants may petition for an exemption from the specific medical standard he or she has failed to meet, in accordance with § 11.25, "Petitions for rulemaking and exemptions." If the relief requested is in the public inferest and will provide a level of safety equivalent to that provided by the standard, an exemption may be issued authorizing an appropriate medical certificate.

The proposed amendment would explicitly state in Part 67 that applicants with medical conditions that exclude them from obtaining a special issuance under § 67.19 may petition for an exemption. The amendment would state what an airman with one of these initially disqualifying conditions must show to support such a petition.

The amendment would also provide for the issuance of airman medical certificates with functional limitations when they are needed to ensure a level of safety equivalent to that provided by persons who meet the certification standards in §§ 67.13, 67.15 and 67.17. However, the issuance of a functionally limited certificate would only come about after a medical determination by the Federal Air Surgeon and an operational determination by the Director, Office of Flight Operations. Appropriate delegations of authority for the issuance of these limitations would be made by the Administrator.

#### Revision of Cardiovascular Standard

The notice also proposes to revise the medical standard for applicants who have a history or clinical diagnosis of heart disease. This revision conforms the standard to the current medical understanding of the risks, symptoms, the findings associated with the presence of heart disease. The proposal would ensure that all individuals who may be subject to the adverse health effects of heart disease are screened during the initial application for a medical certificate, and that aviation safety is not compromised by the certification of any individual whose cardiovascular status represents an unacceptable risk.

#### Public Hearing

The FAA will hold a public hearing in connection with these proposals on January 6 and 7, 1981. All interested persons are invited to attend to present their views on any aspect of these proposals.

*Hearing Procedures*

Persons who plan to attend the hearing should be aware of the following procedures, which will be followed to facilitate the workings of the hearing:

(a) The hearing will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation. After all presentations have been made, an opportunity for rebuttal will be given.

(b) The hearing will begin at 10:00 a.m. on the morning of January 6, 1981, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C., in the 3rd floor auditorium. There will be no admission fee or other charge to attend and participate. All hearing sessions will be open to all persons on a space-available basis. The presiding officer may accelerate the hearing agenda to enable early adjournment if the progress of the hearing is more expeditious than planned.

(c) All hearing sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter. A copy of the court reporter's transcript will be filed in the docket. It is the FAA's intent to tape record the sessions.

(d) Position papers or other hand-out material may be accepted at the discretion of the presiding office.

(e) Statements made by the FAA participants at the hearing should not be taken as expressing a final FAA position.

*Request To Make a Presentation*

Interested persons are invited to attend the hearing and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the rules docket. Persons wishing to make oral statements at the hearing must notify the FAA on or before December 30, 1980, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come first-served basis as time may permit within the hearing schedule. Requests to be heard should indicate the subject matter of the presentation and time required, and be sent to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Airmen and Airports Branch, AGC-240, 800 Independence Avenue, S.W., Washington, D.C. 20591.

**Public Hearing Schedule**

The following is the schedule for the hearing:

*January 6, 1980*

Time and Topic

10:00 to 10:30—Opening Session
10:30 to 12:00—Public Presentation and Discussion
1:30 to 4:30—Public Presentation and Discussion

*January 7, 1980*

10:00 to 12:00—Public Presentation and Discussion
1:30 to 4:30—Public Presentation and Discussion

(Secs. 313(a), 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.33)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Washington, D.C., on December 1, 1980.

Jan L. Jordan,

*Acting Federal Air Surgeon.*

[FR Doc. 80-37736 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-13-M

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**14 CFR Part 67**

**[Docket No. 21130; Notice No. 80-24]**

## Medical Standards and Certification; Issuance of Airman Medical Certificates for Certain Conditions

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions who do not initially qualify for certification under the medical standards in the Federal Aviation Regulations. This proposal will benefit the public at large by explicating the public benefits of the FAA program and it will benefit future applicants by more clearly setting forth the criteria for obtaining an exemption, as they apply to particular kinds of diseases.

This notice also proposes to revise the medical standard for applicants who have a history or clinical diagnosis of heart disease. This revision conforms the standard to the current medical understanding of the risks, symptoms, and findings associated with the presence of heart disease. The proposal would ensure that all individuals who may be subject to the adverse health effects of heart disease are screened during the initial application for a medical certificate and that aviation safety is not compromised by the certification of any individual whose cardiovascular status represents an unacceptable risk.

**DATES:** Comments on these proposals must be received on or before February 4, 1981.

**ADDRESS:** Comments on this proposal may be sent in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21130, Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Comments delivered must be marked: Docket No. 21130 Comments may be inspected at Room 916 between 8:30 am and 5:00 pm.

**FOR FURTHER INFORMATION CONTACT:** William H. Hark, M.D., Aeromedical Standards Division, Office of Aviation Medicine, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 426-3802.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-204, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before February 4, 1981, will be considered by the Administrator 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, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 21130." The postcard will be date and time stamped and returned to the commenter.

**Availability of NPRM's**

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-3058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

**Background**

*Current Rule*

Sections 67.13, 67.15, and 67.17 of Part 67 of the Federal Aviation Regulations

(14 CFR 67.13, 67.15, and 67.17) prescribe the medical standards for issuing medical certificates to airmen. An applicant who is found to meet the appropriate medical standards, based on a medical examination and an evaluation of the applicant's history and condition, is entitled to a medical certificate.

Part 67 provides for the issuance of three classes of medical certificate. A first-class medical certificate is required in order to exercise the privileges of an airline transport pilot certificate. Second and third-class medical certificates are needed for commercial and private pilot certificates, respectively.

An applicant for a medical certificate who is unable to meet the standards in §§ 67.13, 67.15, or 67.17 may nevertheless be issued an appropriate medical certificate under one of two procedures.

Under § 67.19, "Special issue: operational limitations," at the discretion of the Federal Air Surgeon, a special flight test, practical test, or medical evaluation may be conducted to determine that, notwithstanding the applicant's failure to meet the applicable medical standard, airman duties can be performed without endangering safety in air commerce. If this determination can be made, a medical certificate is issued with appropriate limitations to ensure safety.

Applicants with certain medical conditions may not now apply for the special issuance of a certificate under § 67.19. Except for applicants seeking an air traffic control tower operator certificate, a special issuance may not be made to applicants who fail to meet the requirements of §§ 67.13(d)(1)(i), (d)(2)(i), (e)(1), or (f)(1), 67.15(d)(1)(i), (d)(2)(i), (e)(1), or (f)(1), or 67.17(d)(1)(i), (d)(2)(i), (e)(1), or (f)(1). These provisions disqualify an applicant with established medical history or clinical diagnosis of any of the following: (1) A personality disorder severe enough to have repeatedly manifested itself by overt acts; (2) a psychosis; (3) alcoholism; (4) drug dependence; (5) epilepsy; (6) a disturbance of consciousness without satisfactory medical explanation of the cause; (7) myocardial infarction; (8) angina pectoris or other evidence of coronary heart disease that the Federal Air Surgeon finds may reasonably be expected to lead to myocardial infarction; or (9) diabetes mellitus that requires insulin or other hypoglycemic drug for control.

The second procedure open to an applicant is to petition for an exemption from the specific medical standard he or she has failed to meet, in accordance with § 11.25, "Petitions for rulemaking and exemptions." If the relief requested is in the public interest and will provide a level of safety equivalent to that provided by the standard, an exemption may be issued authorizing an appropriate medical certificate. Should the need exist, a certificate issued under the authority of an exemption may be limited in such a way as to ensure safety will not be compromised.

*History*

Physical standards for airmen have been in effect for many years. Minimum requirements as to the physical condition of an airman were published in the Code of Federal Regulations in 1938 under the authority of the Air Commerce Act (14 CFR Parts 20 and 21, 1938). The early rules did not provide for the issuance of airman medical certificates, but merely prescribed general standards and required that the appropriate physical examination be given before any test for a pilot certificate. A system for the issuance of airman medical certificates was first adopted in 1942, when a new Part 29 established the three classes of medical certificates that are issued today.

The Federal Aviation Administration and its predecessor agencies have always reserved some discretion in the application of medical standards to applicants for airman certificates. Revisions were made to this provision over the years but the basic provision continued to allow for the issuance of a medical certificate to a person who did not meet the required medical standards. However, that person had to demonstrate by operational experience, special practical or flight testing, or special medical evaluation that he or she could carry out the appropriate airman duties in a manner which would not endanger safety in air commerce during the period of validity of the medical certificate.

In 1959 a number of significant changes in Part 29 took effect. One amendment required that applicants for first class certificates take electrocardiographic examinations to demonstrate an absence of myocardial infarction. A second amendment substantially revised Part 29 to provide additional specific standards relating to the applicant's general physical condition and nervous system. The revisions were based on a study conducted by the Flight Safety Foundation, Inc. The study recommended that the certification criteria in Part 67 by expanded to cover the following specific medical conditions:

(1) An established diagnosis of diabetes requiring insulin or other hypoglycemic agents for treatment;

(2) A history of myocardial infarction or other evidence of coronary artery disease; and

(3) A history of an established diagnosis of psychosis, severe psychoneurosis, severe personality abnormality, epilepsy, chronic alcoholism or drug addiction.

The Foundation recommended, in effect, that existence of any of the conditions in these three categories be an appropriate basis for disqualification for any class of medical certificate. The recommendation was based on the medical findings available at the time indicating that none of these three areas could be so precisely studied in the individual as to provide assurance that they would not interfere with the safe piloting of aircraft. The Foundation found that the likelihood of the occurrence of partially or totally incapacitating states directly attributable to these conditions was so great, and the ability to provide acceptable medical assurance of non-occurance of such states was so inadequate, that these conditions existing in airmen constitute a definite hazard to safety in flight.

Because of this recommendation, the waiver procedure then in Part 29 (the predecessor of § 67.19) was amended to preclude the special issuance of medical certificates to applicants with these initially disqualifying conditions (the same nine conditions that are now in § 67.19).

While this amendment limited the use of waiver procedures by excluding these conditions, the preamble pointed out that, in addition to the waiver procedures, the Federal Aviation Act of 1958 provided for the granting of exemptions by the Administrator. It also noted that this process had already been implemented by the procedures in Part 405 of the regulations.

In 1960 the FAA amended Part 405 to establish specific procedures for processing petitions for exemption from the medical standards in Part 29. The procedures provided that petitions for exemption would be referred to an appropriate advisory panel of medical specialists for their consideration and recommendations.

With the rapid advancements in medical knowledge about the nine disqualifying conditions and improved techniques for predicting the risk of incapacitation, the FAA almost immediately began to issue exemptions, with appropriate limitations, to persons with these conditions. As diagnostic techniques and procedures for

predicting improved, more applicants were certificated.

With one exception, exemptions are now available to persons with any of the conditions excluded from consideration under § 67.19, under appropriate circumstances. The exception is diabetes that is controlled by the use of insulin or another hypoglycemic drug. The FAA has not found circumstances under which an individual may be certificated without risk of impairment of his or her faculties from an insidious and undetected drop in blood sugar.

In 1971 the authority to grant or deny petitions for exemption from Part 67 was delegated to the Federal Air Surgeon (Amendment 11–11; 36 FR 3462; February 25, 1971). The amendment provided that the Federal Air Surgeon would perform this function with the assistance of consultant medical specialists where appropriate. The delegation to the Federal Air Surgeon was intended to reduce delay and cost in the issuance of exemptions. It was explained that while the service of an advisory panel of experts would no longer be required, the Federal Air Surgeon would obtain the opinions of consultant medical specialists in cases where it appeared to be appropriate, to ensure full objectivity and expertise in review of the petition for exemption.

Since 1960 the FAA has issued over 3,000 medical exemptions covering all forms of the disqualifying conditions, with the exception of diabetes. The exemption process, by promoting disease disclosure and providing the opportunity for the Federal Air Surgeon to study people with these conditions first hand, has greatly advanced the state of aviation medicine. It has also benefited the public by setting up an inducement for disclosure and treatment that has undoubtedly enhanced aviation safety. Overall, the safety record of those who have been granted exemptions has been at least as good as that of the general population of airmen holding similar medical certificates.

*Need for Rule Making*

This revision of Part 67 is being proposed in response to a recent Federal District Court decision in the case of *Delta Air Lines, Inc.*, v. *United States, et al.*, N.D. Ga., Civil No. 78–455A, May 16, 1980. In that case Delta Air Lines challenged the authority of the Federal Air Surgeon to place certain limitations on airman medical certificates issued under the authority of exemptions from Part 67 and questioned the propriety of issuing exemptions at all under the current regulatory structure of Part 67.

In its decision the Court found that the Federal Air Surgeon, in granting exemptions from Part 67, had acted improperly in placing functional limitations on the medical certificate. These functional limitations (such as "not valid for pilot-in-command duties") restrict the position which an airman can hold in the cockpit. The Court found that the Federal Air Surgeon had not been delegated authority to impose these limitations.

The Court distinguished these limitations from operational limitations which are properly placed on medical certificates and relate to procedures by which the applicant can be enabled to perform his or her duties (such as "pilot must wear corrective lenses" or, for pilots with defective color vision, "limited to flight during daylight hours only").

Secondly, the Court found that in issuing exemptions from the nine areas excepted from the special issuance procedures in § 67.19, the FAA had effectively amended Part 67. Although the FAA's envolving procedures were based on the advance of medical technology, the Court determined this change in policy had not been in accordance with the Administrative Procedure Act.

The FAA has represented to the Court that it will propose, through formal rule-making procedures, amendments to Part 67 to correct the deficiencies pointed out by the Court. To accomplish this purpose, the FAA is considering amending Part 67 to make it clear that applicants with medical conditions that exclude them from obtaining a special issuance under § 67.19 may petition for an exemption. The amendment would also explicitly state what applicants with one of these intitially disqualifying conditions must show to support such a petition.

In developing this proposal, the FAA considered alternative means for issuing certificates to these applicants. However, because of the need to carefully apply a broad range of medical expertise to the specific aspects of each applicant's medical condition, the FAA has determined that the current exemption procedure is the most appropriate means of accomplishing this task.

**Discussion of the Proposal**

It is proposed to add a new § 67.18 to Part 67 to specifically state that exemptions from §§ 67.13, 67.15 and 67.17 are issued in accordance with Part 11, and that petitions for exemption from that part are granted or denied by the Federal Air Surgeon.

Paragraph (b) of new § 67.18 would specify the limitations and conditions that the Federal Air Surgeon may place on a certificate authorized by an exemption. The rule would provide that the Federal Air Surgeon may limit the duration of the certificate, condition the continued effect of the certificate on the results of subsequent medical tests, examinations, or evaluations, and impose any operational limitation on the certificate needed for safety. Conditions and limitations such as these are currently being placed both on medical certificates issued under § 67.19 and on those issued under the authority of an exemption.

Paragraph (b) would also provide that the Federal Air Surgeon may condition the continued effect of the certificate on compliance with a statement of functional limitations issued to the applicant by the Director, Office of Flight Operations. Paragraph (c) would provide for the issuance by the Director of such a statement attesting to the ability of the applicant to provide an equivalent level of safety. Since they apply to the position which an airman can hold in the cockpit, authority for imposing them would be exercised by the Director instead of the Federal Air Surgeon under delegation from the Administrator.

New § 67.18 would specify the factors that are considered, and for which satisfactory evidence must be submitted, if the applicant has one of the medical conditions (other than diabetes) that are currently excluded from § 67.19. The factors would include, in each case, the nature and severity of the problem, and the period of satisfactory recovery since manifestation of the problem and any treatment, as well as any continuing requirements for treatment and its type. The rule would also specify the following factors appropriate to the specific condition.

*Personality Disorder, Psychosis, or Drug Dependence*

In the case of an applicant who has had a personality disorder, psychosis, or drug dependence, the factors would include: (1) Any current or recent psychiatric symptoms, aberrant behavior, or psychiatric or other medical findings; (2) the need for, or the use or abuse of, any chemical agents, either for therapeutic or recreational purposes; (3) any personality traits or other recognized factors involving the risk of future recurrence of the problem or the risk of other adverse events; and (4) the current psychiatric and psychological functional status and stability of the applicant, as determined by appropriate evaluative techniques.

*Alcoholism*

Where the applicant is an alcoholic, the factors would include: (1) The period of the applicant's abstention from alcohol; (2) the severity of the problem and how long it has existed; (3) the age of the applicant at onset and the stability and adjustment before the onset of alcoholism; (4) the number of times treatment was sought and relapse occurred; (5) the quality of the final treatment effort; (6) the presence of residual medical complications, especially neurologic manifestations; (7) progress in marital, social, vocational, and educational areas, as appropriate, since rehabilitation has begun; (8) commitment to rehabilitation by virtue of continuing contacts with social or professional agencies, or both, and their opinions and recommendations; (9) any underlying personality difficulties that would either be initially disqualifying independently or adversely affect sustained abstinence; and (10) recent psychiatric and psychologic evaluation.

*Epilepsy or Disturbance of Consciousness*

For an applicant with a history or diagnosis of epilepsy or disturbance of consciousness, the factors would include: (1) Any current or recent neurological symptoms or neurological or other medical findings; (2) the availability of an explanation for the cause of the problem that is acceptable in terms of risk for future recurrence; (3) any recognized factors involving the risk of future adverse neurological events or of other adverse events; and (4) the anatomic integrity and functional status of the nervous system as determined by appropriate evaluation techniques.

*Cardiovascular Problems*

In the case of an applicant who has had medical history or current diagnosis of an initially disqualifying cardiovascular problem, the factors would include: (1) Any current or recent cardiovascular symptoms, or cardiovascular or other medical findings; (2) the functional capacity of the heart as measured by appropriate techniques; (3) presence or absence of myocardial ischemia or of the anatomic propensity for it; (4) the presence of, or likelihood of, changes in heart rhythm that could affect the individual's level of consciousness or ability to perform in the aviation environment; and (5) any recognized factors involving the risk of future adverse cardiovascular events.

*Determination by the Federal Air Surgeon*

If the evidence submitted by the applicant is satisfactory, the Federal Air Surgeon will then make a finding as to whether the applicant possesses qualifications which, considering any appropriate limitation or restrictions, are equivalent to those of airmen certificated under § 67.13, § 67.15, or § 67.17, insofar as risk to safety in the performance of airman duties is concerned. In making this finding, the Federal Air Surgeon considers the factors applicable to specific medical conditions, as well as any other factor that may affect the ability of the applicant to perform airman duties without endangering safety in air commerce, including the combined effect on the applicant of failure to meet more than one requirement of Part 67. If this finding is made in the affirmative, the Federal Air Surgeon will issue a medical exemption with whatever limitations are appropriate.

*Public Interest*

This proposal is supported by the FAA's 20 year history with the medical exemption process. Through this experience, the FAA has determined that the public interest is best served when airmen who know, or have reason to believe, they are experiencing a medical problem, are encouraged to submit themselves as soon as possible to medical treatment and rehabilitation. These airmen include commercial and air carrier pilots who depend on their medical certificate for their livelihood and on whom, in turn, the public depends for safe air travel. They also include general aviation pilots who share the airspace with those pilots and the traveling public.

Providing means by which these airmen may subsequently apply for a medical certificate discourages the concealment of an initially disqualifying medical condition to avoid the permanent loss of employment or airman privileges. This incentive is necessary because, while there has been a marked improvement in the evaluation and treatment of many of these conditions, they cannot always be detected by a routine medical examination.

Encouraging airmen to seek medical treatment as early as possible benefits both the public and the airman. The public is protected from the risk that the airman may become incapacitated while operating an aircraft. The public also benefits because airmen who seek early treatment and voluntarily provide accurate medical information contribute to safety in air commerce. Voluntary disclosure to the FAA permits careful assessment of the condition and the opportunity for special periodic medical surveillance in the event that medical certification is considered appropriate. This contributes substantially to the fund of knowledge regarding these conditions and aviation medicine generally.

The airman's early recovery and return to flying is facilitated by disclosure, since early treatment substantially improves the prognosis for many conditions.

Years of experience with the issuance of exemptions from §§ 67.13, 67.15, and 67.17 support the FAA's position on this matter. Large numbers of these exemptions have involved alcoholism and coronary artery disease, and the following discussion of their specific aspects illustrates the public interest in granting this relief.

*Alcoholism*

In the 15 years prior to 1976, only 29 airline transport pilots requested exemptions from the alcoholism standard and only half of these requests were granted. Few alcoholic airmen were identified through the FAA's routine examination procedure without self-identification. In November 1976, a statement was issued confirming an evolving policy designed to encourage these airmen to recognize and voluntarily disclose their illness and to seek rehabilitation. This policy confirmation was based on several years experience with exemptions involving recovered alcoholic airline pilots.

Since the initiation of this policy, the number of airline pilots voluntarily seeking rehabilitation has increased dramatically and approximately 300 exemptions have been granted to those meeting the requirements. Most of these airmen are found to have maintained abstinence through their post-issuance follow-up periods. This experience has justified the issuance of exemptions to private pilots as well, where they meet the same or equivalent requirements.

*Cardiovascular Disease*

Cardiovascular disease is recognized as a leading cause of death among airmen and has been implicated as a causative factor in a number of general aviation accidents. Although the incidence of significant cardiovascular disease among active aviation personnel is unknown, available data indicate that the disease is the most frequent single medical cause of termination of flying careers and is the principal reason for the medical disqualification of airmen.

The importance of early detection and treatment of cardiovascular disease among airmen is well recognized. Significant advances in medical evaluation techniques and treatment of cardiovascular disease have substantially improved the prognosis for these disorders and have permitted a more knowledgeable assessment of the stability or progression of the disease.

Using the results of special detailed cardiovascular evaluations, including sophisticated clinical tests, the Federal Air Surgeon has been able to assess the degree and significance of coronary artery disease in a number of airmen applicants. Based upon this information and subject to special follow-up examinations, airmen with a favorable prognosis have been issued medical exemptions to allow them to return to limited aviation duties without compromising aviation safety. Since the early 1960s, over 1,300 persons with known coronary artery disease have been evaluated and determined, subject to special restrictions or follow-up examinations, to possess qualifications equivalent to those of airmen certificated under Part 67, insofar as risk to safety in the performance of airman duties is concerned. The issuance of medical certificates to these individuals has produced no ascertainable adverse impact on aviation safety.

*Economic and Social Benefits*

The issuance of these certificates to medically qualified airmen provides economic and social benefits for the airman, the aviation community, and the general public. The issuance of first and second-class medical certificates permits applicants to participate in commercial aviation activities without compromising safety and reduces the likelihood that the petitioner will become economically dependent upon the public. Training costs to replace individuals who would otherwise be unable to act as airmen in commercial operations or for private hire are avoided and the pool of qualified aviation personnel is maintained. The issuance of third-class medical certificates allows applicants to pursue aviation activities without compromising safety and thereby contributes to the promotion of civil aviation generally.

*Revision of Cardiovascular Standard*

Sections 67.13(e)(1), 67.15(e)(1), and 67.17(e)(1) specifically disqualify applicants with a medical history or clinical diagnosis of a "myocardial infarction" or "angina pectoris or other evidence of coronary heart disease that the Federal Air Surgeon finds may reasonably be expected to lead to myocardial infarction." This standard, which was adopted in 1959, has been interpreted to mean that angina pectoris is not initially disqualifying unless a finding is made that it can be expected to lead to myocardial infarction, a potentially incapacitating event. This was not the intent of the regulation, since it has been generally accepted in the medical profession that angina pectoris may be incapacitating in itself and, like myocardial infarction, is almost always caused by coronary artery disease. Moreover, all other manifestations of coronary heart disease, such as paroxysmal arrythmias, are generally regarded as potentially suddenly incapacitating, yet are not necessarily related to myocardial infarction. For this reason, it is proposed to revise §§ 67.13(e)(1)(ii), 67.15(e)(1)(ii), and 67.17(e)(1)(ii) to initially disqualify an applicant with a medical history or clinical diagnosis of angina pectoris. Persons who are disqualified as a result of this standard could be considered for an exemption under proposed § 67.18.

It is proposed to further amend paragraph (e)(1)(ii) to clarify the disqualifying nature of coronary artery disease. The current rule is based on the premises that significant coronary artery disease, even if treated, poses an increased risk of myocardial infarction or other adverse cardiac events, and that evidence of untreated disease is disqualifying in the absence of definitive evidence showing it to be insignificant.

Despite the intent of paragraph (e)(1)(ii), coronary artery disease that has been treated by surgery or medicine has occasionally been construed in adjudications of airman medical certification cases not to be disqualifying even in the presence of undisputed significant coronary artery disease. Therefore, in accordance with the Federal Air Surgeon's consistent policy to deny initial applications for unrestricted medical certificates to applicant with a known history of coronary artery disease it is proposed to amend §§ 67.13(e)(1)(ii), 67.15(e)(1)(ii), and 67.17(e)(1)(ii) to reflect this policy more clearly. As in the case of other disqualifying conditions, an airman with such a history is not precluded from petitioning for an exemption, with appropriate restrictions, requirements for medical follow-up, or other limitations.

*Public Hearing*

The FAA will hold a public hearing in connection with this rulemaking action on January 6 and 7, 1981. A notice of this hearing is published elsewhere in this issue of the Federal Register. All interested persons are invited to attend to present their views on any aspect of these proposals.

**The Proposed Amendments**

Accordingly, it is proposed to amend Part 67 of the Federal Aviation Regulations (14 CFR Part 67) as follows:

1. By amending § 67.13(e)(1) to read as follows:

**§ 67.13 First-class medical certificate.**

* * * * *

(e) Cardiovascular:

(1) No established medical history or clinical diagnosis of any of the following:

(i) Myocardial infarction.

(ii) Angina pectoris.

(iii) Coronary heart disease, treated or untreated.

* * * * *

2. By amending 67.15(e)(1) to read as follows:

**§ 67.15 Second-class medical certificate.**

* * * * *

(e) Cardiovascular:

(1) No established medical history or clinical diagnosis of any of the following:

(i) Myocardial infarction.

(ii) Angina pectoris.

(iii) Coronary heart disease, treated or untreated.

* * * * *

3. By amending 67.17(e)(1) to read as follows:

**§ 67.17 Third-class medical certificate.**

* * * * *

(e) Cardiovascular:

(1) No established medical history or clinical diagnosis of any of the following:

(i) Myocardial infarction.

(ii) Angina pectoris.

(iii) Coronary heart disease, treated or untreated.

* * * * *

4. By adding a new § 67.18 to read as follows:

**§ 67.18 Exemptions.**

(a) In accordance with Part 11 of this chapter, any interested person may petition for an exemption from any requirement of this part. In accordance with § 11.53 of this chapter, petitions for exemption from this part are granted or denied by the Federal Air Surgeon.

(b) In issuing an exemption from this part the Federal Air Surgeon may limit or condition the medical certificate authorized by the exemption in any of the following ways:

(1) Limit the duration of the certificate.

(2) Condition the continued effect of the certificate on the results of subsequent medical tests, examinations, or evaluations.

(3) Impose any operational limitation on the certificate needed for safety.

(4) Condition the continued effect of the certificate on compliance with a statement of functional limitations issued to the applicant by the Director, Office of Flight Operations.

(c) The Director, Office of Flight Operations, may issue a funding of equivalent level of safety setting forth functional limitations on the airman privileges for which a medical certificate authorized by an exemption from this part applies.

(d) An applicant for an exemption from § 67.13(d)(1)(i), (d)(2)(i), or (e)(i); § 67.15(d)(1)(i), (d)(2)(i), or (e)(1); or § 67.17(d)(1)(i), (d)(2)(i), (e)(1) must submit satisfactory evidence regarding the following factors which demonstrates that the applicant's medical condition has stabilized so that the exercise of the airman privileges sought will not adversely affect safety:

(1) For an applicant for an exemption from § 67.13(d)(1)(i) (*a*), (*b*) or (*d*), § 67.15(d)(1)(i) (*a*), (*b*) or (*d*), or § 67.17(d)(1)(i) (*a*), (*b*) or (*d*) [personality disorder, psychosis, or drug dependence]—

(i) The nature and severity of the problem, including its duration and natural history, and any complications;

(ii) The period of satisfactory recovery since manifestation of the problem and any treatment;

(iii) Any current or recent psychiatric symptons, aberrant behavior, or psychiatric or other medical findings;

(iv) Any continuing requirements for treatment and its nature;

(v) The need for, or the use or abuse of, any chemical agents, either for therapeutic or recreational purposes;

(vi) Any personality traits or other recognized factors involving the risk of future recurrence of the problem or the risk of other adverse events; and

(vii) The current psychiatric and psychological functional status and stability of the airman, as determined by appropriate evaluative techniques.

(2) For an applicant for an exemption from § 67.13(d)(1)(i)(*c*), § 67.15(d)(1)(i)(*c*), or § 67.17(d)(1)(i)(*c*) [alcoholism]—

(i) The period of the applicant's abstinence from alcohol;

(ii) The severity of the problem and how long it has existed;

(iii) The age of the applicant at onset and the stability and adjustment before the onset of alcoholism;

(iv) The number of times treatment was sought and relapse occurred;

(v) The quality of the final treatment effort;

(vi) The presence of residual medical complications, especially neurologic mainfestations;

(vii) Progress in marital, social, vocational, and educational areas, as appropriate, since rehabilitation has begun;

(viii) Commitment to rehabilitation by virtue of continuing contacts with social or professional agencies, or both, and their opinions and recommendations;

(ix) Any underlying personality difficulties that would either be initially disqualifying independently or adversely affect sustained abstinence; and

(x) The findings of a recent psychiatric and psychologic evaluation.

(3) For an applicant for an exemption from § 67.13(d)(2)(i) (*a*) or (*b*), § 67.15(d)(2)(i) (*a*) or (*b*), or § 67.17(d)(2)(i) (*a*) or (*b*) [epilepsy or disturbance of consciousness]—

(i) The nature and severity of the problem, including its duration and natural history, and any complications;

(ii) The period of satisfactory recovery since manifestation of the problem and any treatment;

(iii) Any current or recent neurological symptoms or neurological or other medical findings;

(iv) Any continuing requirements for treatment and its nature;

(v) The anatomic integrity and functional status of the nervous system as determined by appropriate evaluation techniques;

(vi) The acceptability in terms of risk for future recurrence and of aviation safety of the possible explanations for the cause of the problem; and

(vii) Any recognized factors involving the risk of future adverse neurological events or of other adverse events.

(4) For an applicant for an exemption from § 67.13(e)(1), § 67.15(e)(1), or § 67.17(e)(1) [myocardial infarction, angina pectoris, or coronary heart disease]—

(i) The nature and severity of the problem, including its duration and natural history, and any complications;

(ii) The period of satisfactory recovery since manifestation of the problem and any treatment;

(iii) Any current or recent cardiovascular symptoms, or cardiovascular or other medical findings;

(iv) The functional capacity of the heart as measured by appropriate techniques;

(v) Indications by any available means and under any conditions of the presence or absence of myocardial ischemia or of the anatomic propensity for it;

(vi) The presence of, or likelihood of, changes in heart rhythm that could affect the individual's level of consciousness or ability to perform in the aviation environment; and

(viii) Any recognized factors involving the risk of future adverse cardiovascular events.

(e) In granting or denying a petition for exemption from this part, the Federal Air Surgeon considers the factors described in paragraph (d) of this section, as well as any other medical factor that may affect the ability of the applicant to perform airman duties without endangering safety in air commerce, including:

(1) The combined effect on the applicant of failure to meet more than one requirement of this part.

(2) The prognosis derived from professional consideration of all available information regarding the airman.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.45)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Washington, D.C. on December 1, 1980.

H. L. Reighard, M.D.,

*Federal Air Surgeon.*

[FR Doc. 80-37735 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[File No. 802 3032]

### Boekamp, Inc., et al. and Energy Efficient Systems, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent orders, accepted subject to final Commission approval, would require,

among other things, a San Diego, Calif. manufacturer, and a Middleton, Conn. seller and distributor of electric space heaters, specifically, the Boekamp Quartz Heater, to cease misrepresenting the efficiency, energy consumption (and related cost savings), performance characteristics, or durability of their product. The companies will be prohibited from making any energy related claims in advertising which are not substantiated by competent and reliable scientifc tests, and, further, the firms would be prohibited from using the term "energy saver" or any similar term in the name of the product.

**DATE:** Comments must be received on or before February 2, 1981.

**ADDRESS:** Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, Mass. 02114. (617) 223-6621.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and explanations thereof, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

[File No. 802 3032]

## Energy Efficient Systems, Inc., and John P. White and Elaine B. Owen; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Energy Efficient Systems, Inc., a corporation, and John P. White and Elaine B. Owen, individually and as Officers of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Energy Efficient Systems, Inc., by its duly authorized officer, and John P. White and Elaine B. Owen, individually and as officers of said corporation, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Energy Efficient Systems, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of business located at 330 Middle Street, Middletown, Connecticut, 06457.

Proposed respondents John P. White and Elaine B. Owen are officers of said corporation. Together they formulate, direct and control the policies, acts and practices of said corporation and their business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

### Order

I

For the purposes of this Order, each of the terms listed below, as applied to the respondents named herein, is defined as follows:

1. A "competent and reliable scientific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the professions to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization that conducts such tests as one of its principal functions, (b) by an agency or department of the state or federal government, or (c) persons employed or retained by respondents if they are qualified (as defined above in this paragraph) and can conduct and evaluate the test in an objective manner.

2. An "energy related claim" is any oral or written, general or specific, representation that, directly or by

implication, describes or refers to the energy cost saving capability, energy saving capability, efficiency, conservation quality or insulating property of any product, or otherwise refers to the energy consumed or generated by any product.

II

*It is ordered,* That respondents, Energy Efficient Systems, Inc., a corporation, its successors and assigns, and its officers, and John P. White and Elaine B. Owen, individually and as officers of the corporate respondent, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the electric resistance heater now known as the Boekamp Quartz Energy Saver Heater ("Boekamp Heater"), or any other product for which an energy related claim is made, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Representing orally or in writing, directly or by implication, including through the use of testimonials that:

(i) The Boekamp Heater is more efficient or produces more heat than other electric resistance heaters of similar wattage;

(ii) The Boekamp Heater provides "free" heat of any kind at any time;

(iii) The Boekamp Heater is capable of heating objects which are far away from it in a short period of time;

(iv) The Boekamp Heater evenly distributes heat throughout a typical room;

(v) The quartz tubes contained in the Boekamp Heater are durable components;

(vi) The quartz tubes contained in the Boekamp Heater intensify or magnify the heat generated by the electricity sent through the resistance coils enclosed in the tubes, or that the quartz tubes in any way increase the amount of heat generated by the Boekamp Heater.

B. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, which relates to the heating capabilities, energy saving potential or other performance capabilities of the Boekamp Heater or making any energy related claim for any other product unless: (1) Such representation is true, and (2) at the time of making such representation, the representation is fully and completely substantiated in writing by competent and reliable scientific tests which remain available for inspection by the staff of the Federal Trade Commission for at least three (3) years following the final use of the representation.

C. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, respecting the energy consumption of or the cost of energy consumed by the Boekamp Heater or any other covered product (as "covered product" is defined in Sections 321(a)(2) and 322 of the Energy Policy and Conservation Act, 42 U.S.C. 6291(a)(2) and 6292 or any amendment thereto) unless: (1) Such substantiation includes tests conducted on the Boekamp Heater or other covered product in accordance with test procedures prescribed by the Secretary of the Department of Energy pursuant to Section 323 of the Energy Policy and Conservation Act, 42 U.S.C. 6293 or any amendments thereto, with complete written documentation of such tests remaining available for inspection by the staff of the Federal Trade Commission for at least three years following final use of the representation, and (2) such representation fairly discloses the results of such tests.

D. Misrepresenting orally or in writing, the purpose, content, or conclusion of any test or study pertaining to the Boekamp Heater or any product for which an energy related claim is made.

E. Using the term "energy saver", or any other words or phrases of similar import or meaning, to name or designate the Boekamp Heater.

F. Representing orally or in writing, directly or by implication, including through the use of testimonials, that use of the Boekamp Heater or any product for which an energy related claim is made will result in any energy savings or energy costs savings unless there is clear and conspicuous disclosure, in close conjunction with such representation, of all circumstances and conditions that must be met if the purchaser is to experience similar savings.

G. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, in connection with the advertisement or promotion of the Boekamp Heater or any product for which an energy related claim is made, which is inconsistent in any material respect with any representation concerning the Boekamp Heater or other said product made, directly or by implication, in post-purchase materials supplied to the purchasers of the Boekamp Heater or other said product.

H. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, regarding the durability or life span of the Boekamp Heater, including representations regarding warranties or guarantees for the Boekamp Heater, or regarding any life tests performed on the quartz tubes or resistance coils, without disclosing in close conjunction therewith, in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, that the quartz tubes are: (1) Fragile unless the quartz tubes are supported or protected in such a manner that they will not break when the Boekamp Heater is tipped over, and (2) not covered by the warranty or guarantee unless the quartz tubes are covered under the warranty or guarantee.

I. Representing, orally or in writing, directly or by implication, including through the use of testimonials, that the Boekamp Heater can heat or raise the temperature of a room, without disclosing in close conjunction therewith the following statement in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, with nothing to the contrary or in mitigation of this statement:

HEATING OR RAISING THE TEMPERATURE OF A ROOM IS ONLY POSSIBLE AFTER EXTENDED, CONTINUOUS USE OF THE BOEKAMP HEATER.

J. For the purpose of this Part II of the Order, when representations are made in television advertising which give rise to a required disclosure, such disclosure must be made simultaneously in both audio and visual without any distracting sounds and with a clear background.

III

*It is further ordered,* That each respondent, within twenty (20) days from the date of service of this Order, send a copy of the letter attached hereto and marked as Exhibit A via first class mail to each individual, partnership, corporation or other business entity engaged in the resale or distribution of the Boekamp Heater to whom the respondents sent advertisements or promotional materials relating or referring to the Boekamp Heater which contained a representation or testimonial prohibited by this Order or omitted a disclosure required by this Order and whom respondents are able to locate. Respondents shall use their best efforts to locate all such

individuals, partnerships and corporations.

IV

*It is further ordered,* That respondents forthwith deliver a copy of this Order to: (1) All present and future employees, agents and representatives engaged in any way in the advertising, promotion, offering for sale, sale or distribution of the Boekamp Heater or any other product for which an energy related claim is made; and (2) all present and future individuals, partnerships; corporations or other business entities to whom any of the respondents sell or distribute the Boekamp Heater or any other apparatus designed to provide heat or warmth and which are engaged in the resale or distribution of the Boekamp Heater or other said product; and that respondents secure a signed statement acknowledging receipt of the Order from each such person or entity referred to herein.

V

*It is further ordered,* That each individual respondent named herein promptly notify the Commission of the discontinuance of his/her present business or employment and of his/her affiliation with a new business or employment. In addition, for a period of ten (10) years from the date of service of this Order each individual respondent shall promptly notify the Commission of his/her affiliation with a new business or employment whose activities include the manufacture, purchase, advertising, promotion, offering for sale, sale or distribution of any product for which an energy related claim is made, or of his/her affiliation with a new business or employment in which his/her duties and responsibilities involve the manufacture, purchase, advertising, promotion, offering for sale, sale, or distribution of any product for which an energy related claim is made. Such notice shall include each respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of all duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VI

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

*A. It is further ordered,* That respondents shall maintain all records that relate to any compliance obligations arising out of this Order for a period of not less than three (3) years and shall make such records available to the staff of the Commission.

*B. It is further ordered,* That each respondent shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Exhibit A

Date:

330 Middle Street, Middletown, Connecticut 06457, (203) 635-2800

Re Recall of Advertisements and Promotional Materials.

Dear Customer: Some time ago as the distributor for Boekamp, Inc. we distributed to you advertisements and promotional materials concerning the Bekamp Quartz Energy Saver Heater. These materials contained a number of performance claims about the Boekamp Heater. As a result of an investigation regarding these claims by the Federal Trade Commission, we have entered into the enclosed Consent Agreement and Order.

We have agreed to recall all past advertisements and promotional materials regarding the Boekamp Heater which contain claims prohibited by the Order or which omit the disclosures required by the Order. To assure that no prohibited advertisements or promotional materials continue to be utilized, it is important that you return to us whatever advertisements and promotional materials you have received from us in the past.

Thank you for your attention.

Sincerely,

John P. White,

*President, Energy Efficient Systems, Inc.*

[File No. 802 3032]

**Boekamp, Inc. and Konrad Boekamp; Agreement Containing Consent Order To Cease and Desist**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Boekamp, Inc., a corporation, and Konrad Boekamp, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Boekamp, Inc., by its duly authorized officer, and Konrad Boekamp, individually and as an officer of said corporation, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Boekamp, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 8221 Arjons Drive, San Diego, California, 92126.

Proposed respondent Konrad Boekamp is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance

with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

**Order**

I

For the purposes of this Order, each of the terms listed below, as applied to the respondents named herein, is defined as follows:

1. A "competent and reliable sicentific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the professions to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization that conducts such tests as one of its principal functions, (b) by an agency or department of the state or federal government, or (c) persons employed or retained by respondents if they are qualified (as defined above in this paragraph) and can conduct and evaluate the test in an objective manner.

2. An "energy related claim" is any oral or written, general or specific, representation that, directly or by implication, describes or refers to the energy cost saving capability, energy saving capability, efficiency, conservation quality or insulating property of any product, or otherwise refers to the energy consumed or generated by any product.

II

*It is ordered,* That respondents, Boekamp, Inc., a corporation, its successors and assigns, and its officers, and Konrad Boekamp, individually and as an officer of the corporate respondent, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the electric resistance heater now known as the Quartz Energy Saver Heater ("Heater"), or any other product for which an energy related claim is made, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Representing orally or in writing, directly or by implication, including through the use of testimonials that:

(i) The Heater is more efficient or produces more heat than other electric resistance heaters of similar wattage;

(ii) The Heater provides "free" heat of any kind at any time;

(iii) The Heater is capable of heating objects which are far away from it in a short period of time;

(iv) The Heater evenly distributes heat throughout a typical room;

(v) The quartz tubes contained in the Heater are durable components;

(vi) The quartz tubes contained in the Heater intensify or magnify the heat generated by the electricity sent through the resistance coils enclosed in the tubes, or that the quartz tubes in any way increase the amount of heat generated by the Heater.

B. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, which relates to the heating capabilities, energy saving potential or other performance capabilities of the Heater or making any energy related claim for any other product unless: (1) Such representation is true, and (2) at the time of making such representation, the representation is fully and completely substantiated in writing by competent and reliable scientific tests which remain available for inspection by the staff of the Federal Trade Commission for at least three (3) years following the final use of the representation.

C. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, respecting the energy consumption of or the cost of energy consumed by the Heater or any other covered product (as "covered product" is defined in Sections 321(a)(2) and 322 of the Energy Policy and Conservation Act, 42 U.S.C. 6291(a)(2) and 6292 or any amendments thereto) unless: (1) Such substantiation includes tests conducted on the Heater or other covered product in accordance with test procedures prescribed by the Secretary of the Department of Energy pursuant to Section 323 of the Energy Policy and Conservation Act, 42 U.S.C. 6293 or any amendments thereto, with complete written documentation of such tests remaining available for inspection by the staff of the Federal Trade Commission for at least three years following the final use of the representation, and (2) such representation fairly discloses the results of such tests.

D. Misrepresenting orally or in writing, the purpose, content, or conclusion of any test or study pertaining to the Heater or any product for which an energy related claim is made.

E. Using the term "energy saver", or any other words or phrases of similar import or meaning, to name or designate the Heater.

F. Representing orally or in writing, directly or by implication, including through the use of testimonials, that use of the Heater or any product for which an energy related claim is made will result in any energy savings or energy cost savings unless there is clear and conspicuous disclosure, in close conjunction with such representation, of all the circumstances and conditions that must be met if the purchaser is to experience similar savings.

G. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, in connection with the advertisement or promotion of the Heater or any product for which an energy related claim is made, which is inconsistent in any material respect with any representation concerning the Heater or other said product made, directly or by implication, in post-purchase materials supplied to the purchasers of the Heater or other said product.

H. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, regarding the durability or life span of the Heater, including representations regarding warranties or guarantees for the Heater, or regarding any life tests performed on the quartz

tubes or resistance coils, without disclosing in close conjunction therewith, in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, that: (1) The quartz tubes contained in the Heater are fragile, unless the representation relates to a Heater in which the tubes are supported or protected in such manner that they will not break when the Heater is tipped over; and (2) the quartz tubes contained in the Heater are not covered by the warranty or guarantee for the Heater, unless the quartz tubes are in fact covered by the warranty or guarantee.

I. Representing, orally or in writing, directly or by implication, including through the use of testimonials, that the Heater can heat or raise the temperature of a room, without disclosing in close conjunction therewith the following statement in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, with nothing to the contrary or in mitigation of this statement:

HEATING OR RAISING THE TEMPERATURE OF A ROOM IS ONLY POSSIBLE AFTER EXTENDED, CONTINUOUS USE OF THE HEATER.

J. For purposes of this Part II of the Order, when representations are made in television advertising which give rise to a required disclosure, such disclosure must be made simultaneously in both audio and visual without any distracting sounds and with a clear background.

III

*It is further ordered,* That respondents, within twenty (20) days from the date of service of this Order, send a copy of the letter as set forth in Exhibit A hereto via first class mail to each individual, partnership, corporation or other business entity to whom advertisements or promotional materials relating or referring to the Heater which contained a representation or testimonial prohibited by this Order or omitted a disclosure required by this Order were disseminated in the past and whom respondents are able to locate. Respondents shall use their best efforts to locate all such individuals, partnerships and corporations.

IV

*It is further ordered,* That respondents, forthwith deliver a copy of this Order to: (1) All present and future employees, agents and representatives engaged in any way in the advertising, promotion, offering for sale, sale or distribution of the Heater or any other product for which an energy related claim is made; and (2) all present and future individuals, partnerships or corporations to whom the respondents sell or distribute the Heater or any other product for which an energy related claim is made, and which are engaged in the resale or distribution of the Heater or other said product; and that respondents secure a signed statement acknowledging receipt of the Order from each such person or entity referred to herein.

V

*It is further ordered,* That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten (10) years from the date of service of this Order the individual respondent shall promptly notify the Commission of his affiliation with a new business or employment whose activities include the manufacture, purchase, advertising, promotion, offering for sale, sale or distribution of any product for which an energy related claim is made, or of his affiliation with a new business or employment in which his duties and responsibilities involve the manufacture, purchase, advertising, promotion, offering for sale, sale, or distribution of any product for which an energy related claim is made. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of all duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VI

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order: *Provided, however,* That in the event the giving of notice thirty (30) days prior to a proposed transfer, sale of assignment of all or a substantial part of the business or assets of the corporate respondent would prevent the consummation of such transfer, sale or assignment, respondents will be deemed to have complied with this Part VI of the Order if the respondents:

(a) Give the Commission as much advance notice as possible regarding the proposed transfer, sale or assignment; and

(b) Obtain a signed written agreement from the transferee, purchaser or assignee to be bound by the terms of this Order and file such agreement with the Commission prior to the consummation of the transfer, sale or assignment.

VII

A. *It is further ordered,* That respondents shall maintain all records that relate to any compliance obligations arising out of this Order for a period of not less than three (3) years and shall make records available to the staff of the Commission.

B. *It is further ordered,* That respondents herein shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Exhibit A

Date:

8221 Arjons Drive, San Diego, California 92126, (714) 578–3710

Re Recall of Advertisements and Promotional Materials

Dear Customer: Some time ago we distributed to you advertisements and promotional materials concerning the Boekamp Quartz Energy Saver Heater. These materials contained a number of performance claims about the Quartz Heater. As a result of an investigation regarding these claims by the Federal Trade Commission, we have entered into the enclosed Consent Agreement and Order.

We have agreed to recall all past advertisements and promotional materials regarding the Heater which contain claims prohibited by the Order or which omit the disclosures required by the Order. To assure that no prohibited advertisements or promotional materials continue to be utilized, it is important that you return to us whatever advertisements and promotional materials you have received from us in the past.

Thank you for your attention.

Sincerely,

Konrad Boekamp,

*President, Boekamp, Inc.*

**Analysis of Proposed Consent Orders To Aid Public Comment**

The Federal Trade Commission has accepted agreements to proposed consent orders from Boekamp, Inc. and Energy Efficient Systems, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested

persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The complaints in this matter concern advertising claims made by Boekamp, Inc. and Energy Efficient Systems, Inc. ("the corporations") for a product they sell called the Boekamp Quartz Heater ("Quartz Heater"). The Quartz Heater is an electric space heater designed to provide supplemental heating in the home. The complaints, which were placed on the public record by the Commission along with the proposed consent orders, allege that the corporations have distributed advertisements and promotional materials containing false, unfair and deceptive claims about the Quartz Heater. The proposed consent orders are designed to remedy the violations alleged in the complaints.

The complaints allege that the corporations have falsely advertised that the Quartz Heater is twice as efficient as other electric space heaters and that it provides two to three times as much heat as other electric space heaters. The proposed consent orders expressly prohibit the corporations from claiming that the Quartz Heater is any more efficient or that it produces any more heat than other electric space heaters.

The complaints further allege that the corporations have advertised, without a reasonable basis, that use of the Quartz Heater will result in dramatic utility bill savings and drastic reductions in fuel bills. The proposed consent orders prohibit the corporations from making such unsubstantiated claims and also require that any future advertisements by the corporations concerning energy savings or fuel savings state the conditions required for purchasers to achieve the advertised savings. In addition, the corporations are prohibited by the proposed consent orders from making claims concerning the energy consumption or cost of energy consumed by the Quartz Heater, as well as certain other consumer products, unless these claims are based on the Department of Energy tests that apply to such products under Section 323 of the Energy Policy and Conservation Act. The corporations are also prohibited by the proposed consent orders from making any performance claims about the Quartz Heater, or any energy related claims for other products they sell, unless the claims are supported by competent and reliable tests or studies at the time they are made.

The complaints allege that the corporations have advertised, without a reasonable basis, that the Quartz Heater will heat a room more quickly than other electric space heaters. The proposed consent orders require that whenever the corporations make any room heating claims for the Quartz Heater, they also state that raising the temperature of a room with a Quartz Heater is only possible after its extended, continuous use. The complaints also allege that the corporations have falsely claimed that the Quartz Heater is capable of heating objects which are far away from it in a short period of time and that it evenly distributes heat throughout a typical room. The proposed consent orders prohibit the corporations from making any such advertising claims in the future.

The complaints further allege that the corporations have misleadingly used the phrase "energy saver" in the name of the Quartz Heater to claim that it uses less electricity than other electric space heaters to provide the same amount of heat. The proposed consent orders prohibit the corporations from using the phrase "energy saver," or any other similar phrase, in the name of the Quartz Heater. The complaints also allege that the quartz tubes contained in the Quartz Heater are fragile and the corporations have falsely implied in their advertisements that the quartz tubes are durable components. The proposed consent orders prohibit the corporations from making any claims about the durability of the quartz tubes.

Boekamp, Inc. and Energy Efficient Systems, Inc. remain free under the proposed consent orders to accurately represent the features of the Quartz Heater, or features of any other product for which they make energy related claims.

Loretta Johnson,

*Acting Secretary.*

[FR Doc. 80-37715 Filed 12-3-80; 8:45 am]

BILLING CODE 6750-01-M

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## 16 CFR Part 441

## Mobile Home Sales and Service; Extension of Comment Period

**AGENCY:** Federal Trade Commission.

**ACTION:** Extension of the time to file post-record comments.

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**SUMMARY:** In response to several requests for reconsideration of the Commission's decision to grant 60 days additional time to submit post-record comments on the Presiding Officer's Report and the Final Staff Report, the Commission is again extending the post-record comment period for another 60 days in the rulemaking proceeding on the proposed trade regulation rule on Mobile Home Sales and Service (40 FR 23334, 1975). Comments will now be accepted if received on or before February 13, 1981.

**DATE:** Written comments on both the Presiding Officer's Report and the Final Staff Report must be received by the Commission no later than February 13, 1981.

**ADDRESSES:** Copies of the Final Staff Report and the Presiding Officer's Report are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580; telephone: 202-523-3593.

Written comments, in four copies if possible, should be sent to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, 600 E Street, NW., Room 667, Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** Eloise Gore or Allen Hile, Attorneys, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580; telephone: 202-523-3500.

**SUPPLEMENTARY INFORMATION:** On August 13, 1980, the Director of the Bureau of Consumer Protection published in the Federal Register (45 FR 53839) notice of the publication of the Final Staff Report on the proposed Trade Regulation Rule on Mobile Home Sales and Service. Pursuant to § 1.13(h) of the Commission's Rules of Practice (16 CFR 1.13(h)) the publication of this report commenced the 60-day period for filing post-record comments on both the Final Staff Report and the Presiding Officer's Report (which was published on September 11, 1979; see 44 FR 53538). Therefore, the August 13, 1980 notice announced that comments would be accepted until October 14, 1980.

In response to three requests to extend the post-record comment period for from six to eleven and one-half months, the Commission, on September 26, 1980, determined that an extension of 60 days would be granted (45 FR 66809). The Commission subsequently received requests from two of the petitioners for reconsideration of their requests to extend the post-record comment period by more than 60 days. In response to these requests for reconsideration, the Commission has determined that the post-record comment period should again be extended by an additional 60 days. Therefore, comments will now be accepted if received on or before February 13, 1981.

Pursuant to § 1.13(i) of the Commission's Rules of Practice (16 CFR 1.13(i)) the Commission may allow persons who have previously participated in this rulemaking proceeding to make oral presentations to the Commission during its review of the rulemaking record. Requests to participate in such an oral presentation must be received by the Commission no later than the close of the post-record comment period. Since the Commission has extended the post-record comment period in this proceeding until February 13, 1981, requests to participate in an oral presentation will be accepted if received by the Commission on or before February 13, 1981.

By direction of the Commission. Chairman Pertschuk voted in the negative.

Carol M. Thomas,

*Secretary.*

[FR Doc. 80-37712 Filed 12-3-80; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 292

[Docket No. RM81-2]

### Eligibility, Rates and Exemptions for Qualifying and Utility-Owned Geothermal Small Power Production Facilities; Correction

Issued: November 26, 1980.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** This document corrects a proposed rule on the implementation of section 643 of the Energy Security Act concerning geothermal energy that appeared at page 74934 in the Federal Register of Thursday, November 13, 1980.

**FOR FURTHER INFORMATION CONTACT:**
Adam Wenner, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357-8033; or
Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357-8033

The following correction is made in FR Doc. 35391:

On page 74939, after the third line in the first full paragraph, the following language is inserted: acquisition and ownership of "qualifying" facilities or UGC's. By excluding a UGC from the definition of "electric utility company" under section 2(a)(3) of PUHCA, the FERC's proposed rules would eliminate the SEC's jurisdiction under section 9(a)(2) of PUHCA, thus rendering moot the exemption available under the SEC's proposed Rules 14 and 15, as it would pertain to geothermal facilities of 80 megawatts capacity or less.[31]

[31] This approach is similar to the exemption from PUHCA contained in section 9 of the Pacific Northwest Electric Power Planning and Conservation Act (S. 885), which would exempt a "generating company" from the definition of an electric utility company in PUHCA. The SEC has indicated its support, in principle, for that exemption.

### Environmental Considerations

The Commission issued in June 1980, a draft environmental impact statement (DEIS) on rulemakings implementing sections 201 and 210 of PURPA. In the DEIS the Commission determined that PURPA-induced development of geothermal small power production facilities would not create significant environmental effects. In compliance with the National Environmental Policy Act of 1969 (NEPA), the Commission is examining the environmental effects associated with these rules.

### Written Comments

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37658 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### 24 CFR Part 510

[Docket No. R-80-893]

### Section 312 Rehabilitation Loan Program; Congressional Waiver Request

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice of Congressional waiver request.

**SUMMARY:** Section 7(o)(4) of HUD rules permits the Secretary to request waiver of the review procedure in appropriate instances. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

**FOR FURTHER INFORMATION CONTACT:**
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451-7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

**SUPPLEMENTARY INFORMATION:**
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of the 30-day delayed effective date for the final rule under Section 7(o) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

### Final Rule—24 CFR Part 510, Section 312 Rehabilitation Loan Program

This rule amends 24 CFR Part 510 by including only changes to the Section 312 final Rule, 24 CFR Part 510, published September 10, 1980, that are necessary to implement legislative amendments in the Housing and Community Development Act of 1980, except for a single technical correction in § 510.36. Congress has changed the maximum loan amount for residential properties from $27,000 to $33,500 per dwelling unit and has included provisions making the maximum loan amounts for congregate dwelling properties and single room occupancy properties $25,000 and $15,000 per dwelling unit respectively. In addition, this Final Rule further limits refinancing to those cases deemed by the Secretary to be necessary and appropriate, based on a provision of the 1980 Act which states that this authority may not be delegated to any agency or organization outside the Department.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)); sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 26, 1980.

Victor Marrero,

*Under Secretary, Department of Housing and Urban Development.*

[FR Doc. 37695 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

### 24 CFR Part 3500

[Docket No. R-80-894]

### Real Estate Settlement Procedures Act; Transmittal of Interim Rule to Congress

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

**SUMMARY:** Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review. This interim rule would amend 24 CFR 3500.14, *Prohibition against kickbacks and unearned fees*, by adding a definition of the term "Referral".

**FOR FURTHER INFORMATION CONTACT:**
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel,

451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

**SUPPLEMENTARY INFORMATION:** Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following interim rulemaking document:

**24 CFR Part 3500—Real Estate Settlement Procedures Act**

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendements of 1978)

Issued at Washington, D.C., November 24, 1980.

Victor Marrero,

*Under Secretary, Department of Housing and Urban Development.*

[FR Doc. 80-37694 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Parts 48, 142, and 144

[LR-2114]

## Manufacturers Excise Tax on Tires, Tubes, and Tread Rubber

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed amendments which would update and revise the regulations concerning manufacturers excise tax on tires, tubes and tread rubber.

The proposed regulations include provisions concerning the imposition and rates of the excise tax on tires, the determination of the total weight of tires and tubes, the imposition of tax on tires and tubes delivered to the manufacturer's retail outlet, the imposition of tax upon original equipment tires on imported articles, exemptions for certain tires, and definitions of terms such as "tires of the type used on highway vehicles" and "manufacturers."

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by February 2, 1981. Except as otherwise provided in this document, the amendments are proposed to be effective on the date which is 30 days after their publication as a Treasury decision. However, the fact that the regulations in this document are to be prospective would not preclude the application of prior Internal Revenue Service positions to periods prior to the effective date of the regulations.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Ave., NW, Washington, DC 20224, Attention: CC:LR:T (LR-2114).

**FOR FURTHER INFORMATION CONTACT:** John A. Tolleris of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, Attention: CC:LR:T (202-566-3294).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4071 through 4073 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to certain provisions under section [1] (a) of the Act of Aug. 1, 1966, Pub. L. No. 89-523, 80 Stat. 331; section 401(f) of the Revenue Act of 1971, 85 Stat. 533; section 502(a)(4) of the Highway Revenue Act of 1978, 92 Stat. 2756; and section 108(c)(2)(C) of the Technical Corrections Act of 1979, 94 Stat. 227. These amendments are to be issued under the authority contained in sections 4071(b), 4071(c), 4073(c), and 7805 of the Code. (80 Stat. 331, 26 U.S.C. 4071(b); 68A Stat. 482, 26 U.S.C. 4071(c); 70 Stat. 389, 26 U.S.C. 4073(c); 68A Stat. 917, 26 U.S.C. 7805).

### Explanation of Provisions

The proposed regulations would update and revise the existing regulations regarding manufacturers excise tax on tires, tubes and tread rubber. If adopted, these amendments would supersede and delete §§ 48.4071-1 through 48.4073-4 of the Manufacturers and Retailers Excise Tax Regulations, § 142.3-1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971, and part 144 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet.

Proposed § 48.4071-1(b) revises the current provisions regarding the rates at which excise tax is imposed upon tires, inner tubes, and tread rubber to reflect modifications to the schedule for rate reduction made to Code section 4071(d) by section 502(a)(4) of the Highway Revenue Act of 1978.

Proposed § 48.4071-3 incorporates, with minor revisions, those rules now contained in § 144.1-1 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet. Proposed § 48.4071-4 incorporates, with minor revisions, those rules now contained in § 142.3-1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971.

Proposed § 48.4072-1 makes minor modifications to the definitions of such terms as "tread rubber" and "manufacturer". Paragraph (b) of this section would provide that tread rubber also includes a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing. This paragraph would also clarify the circumstances when tread rubber loses its identity for purposes of excise taxation. Paragraph (e) of this section would make clear that minibikes are among those vehicles whose tires may be taxable. Proposed paragraph (g) of this section provides the term "manufacturer" also includes producers and importers of tires, tubes, and tread rubber.

If these amendments are adopted, § 144.1-2 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet, which concerns the 1966 floor stock tax on certain tires and inner tubes, would be deleted. Section 4226 of the Code, to which § 144.1-2 relates, was repealed effective on February 1, 1977, by section 1904(a)(4) of the Tax Reform Act of 1976.

### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

### Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

*Proposed Amendments to the Regulations*

The proposed amendments to 26 CFR Part 48, 26 CFR Part 142, and 26 CFR Part 144 are as follows:

## PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

### §§ 48.4071-1, 48.4071-2, 48.4072-1, 48.4073—48.4073-4 [Removed]

## PART 142—TEMPORARY EXCISE TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

### § 142.3-1 [Removed]

## PART 144—TEMPORARY EXCISE TAX REGULATIONS RELATING TO TAX ON TIRES AND TUBES DELIVERED TO MANUFACTURER'S RETAIL OUTLET [Removed]

**Paragraph 1.** Sections 48.4071-1, 48.4071-2, 48.4072-1, 48.4073, 48.4073-1, 48.4073-2, 48.4073-3, and 48.4073-4 of the Manufacturers and Retailers Excise Tax Regulations, § 142.3-1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971, and all of Part 144, the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet, are deleted.

## PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

**Par. 2.** The following new sections are added immediately after § 48.4063-2 to the Manufacturers and Retailers Excise Tax Regulations. The new sections read as follows:

**Tires, Tubes, and Tread Rubber**

### § 48.4071-1 Imposition and rates of tax.

(a) *Imposition of tax.* Section 4071 imposes a tax upon the following articles sold by the manufacturer thereof:

(1) Tires made wholly or in part of rubber;

(2) Inner tubes (for tires) made wholly or in part of rubber, and

(3) Tread rubber.

For definitions of the terms "tires," "inner tubes," "tread rubber," "rubber," and "manufacturer," see § 48.4072-1.

(b) *Rates and computation of tax*—(1) *Rates of tax.* Tax is imposed upon each of the above-mentioned taxable articles at the rate applicable on the date on which the article is sold, as specified below:

| | Cents per pound |
|---|---|
| (i) *Tires:* | |
| (A) Of the type used on highway vehicles: | |
| (1) For the period July 1, 1965, to Sept. 30, 1984, inclusive | 10 |
| (2) On or after Oct. 1, 1984 | 5 |
| (B) Of the type used on other than highway vehicles. On or after July 1, 1965 | 5 |
| (C) Laminated tires. On or after July 1, 1965 | 1 |
| (ii) *Inner tubes:* | |
| (A) For the period July 1, 1965, to Sept. 30, 1984, inclusive | 10 |
| (B) On or after Oct. 1, 1984 | 9 |
| (iii) *Tread rubber:* For the period July 1, 1965, to Sept. 30, 1984, inclusive | 5 |

(2) *Computation of tax.* The tax on tires, inner tubes, and tread rubber is computed by applying to the total weight (including a fractional part of a pound) of the article the rate in effect at the time the article is sold. See § 48.4071-2, relating to determination of weight.

(c) *Liability for tax.* The tax imposed by section 4071 is payable by the manufacturer when the manufacturer makes a sale of a taxable article, or as provided in section 4071 (b) and § 48.4071-3 for a manufacturer who sells at retail, when the manufacturer delivers a taxable article to a retail store, or to a retail outlet, of the manufacturer.

(d) *Recapped or retreaded tires.* The recapping or retreading of a tire (other than from bead to bead) does not constitute manufacture of a taxable article. The tax imposed by section 4071 does not apply to the sale of a tire so recapped or retreaded, if before such sale there had been a sale of the tire in the United States and the tire was a taxable tire at the time of such previous sale in the United States as distinguished from a carcass that had lost its utility as a tire. The recapping or retreading of a tire from bead to bead (whether or not the original tire is a carcass that had lost its utility as a tire) does constitute manufacture of a taxable tire. The tax imposed by section 4071 applies to the sale or use of a tire that has been so recapped or retreaded.

### § 48.4071-2 Determination of weight.

(a) *In general*—(1) *Tires.* (i) Metal rims or rim bases are not to be included in determining the total weight of a tire. However, the wire, staples, darts, clips, and other material or fastening devices which form a part of the tire or are required for its use must be included in determining the total weight of the tire. Studs are considered to be part of a tire and are to be included when determining the weight of a tire. In the case of a tubeless tire, the total weight includes the weight of the air valve and stem or any other mechanism that functions as a part of the tire and is used in connection with inflating the tire or maintaining its air pressure.

(ii) When tires are sold with metal rims or rim bases attached, the manufacturer must maintain records that will establish what portion of the total weight of the finished product represents the tire exclusive of the metal rim or rim base.

(2) *Inner tubes.* The total weight of an inner tube includes the weight of the air valve and stem or any other mechanism attached to the inner tube that is used in connection with inflating the tube or maintaining its air pressure.

(b) *Alternative method of determining weight of tires and inner tubes.* A manufacturer who has received permission from the Commissioner may, subject to such conditions as the Commissioner may prescribe, determine total weight of tires and inner tubes manufactured and sold by the manufacturer on the basis of the average weight for each type, size grade, and classification shown in schedules published by the tire industry. The average weights must be established in accordance with the method approved by the Commissioner and apply for such periods as the Commissioner may prescribe. The Commissioner may terminate the approval granted any manufacturer. In the case of the termination of the approval granted any manufacturer, the termination becomes effective 10 days from the date of the receipt by the manufacturer of the notice of termination. A manufacturer may effect termination, as of a specified date, of the privilege to determine total weight in accordance with provisions of this paragraph by giving no less than 10 days written notice of such intention to the Commissioner. The termination of the approval given a manufacturer does not affect a manufacturer's tax liability for tires and inner tubes sold prior to the effective date of the notice of termination.

### § 48.4071-3 Imposition of tax on tires and tubes delivered to manufacturer's retail outlet.

(a) *General rule.* If, on or after October 1, 1966, a tire or inner tube is delivered by the manufacturer thereof to a retail outlet of the manufacturer, the manufacturer is liable for tax in respect of the tire or tube at the rate set forth in section 4071 in the same manner as if the tire or tube had been sold at the time it was delivered to the retail outlet. The amount of tax payable shall be computed in accordance with the provisions of paragraph (b)(2) of § 48.4071-1, and of § 48.4071-2.

(b) *Definition of retail outlet.* For purposes of this section, the term "retail outlet" includes the term "retail store." A retail outlet is a facility maintained by a manufacturer for selling tires or tubes at retail. A facility may be a retail outlet even though some sales are made at wholesale at such facility; see paragraph (d)(1) of this section. A facility may also be considered to be a retail outlet for the purposes of this section notwithstanding that its main activity is in another area than selling tires or inner tubes. For example, if a manufacturer operates a facility for both automotive repair and the selling of tires at retail, the facility is considered a retail outlet for the purposes of this section even if the primary activity of the facility is automotive repair. No facility is considered a retail outlet for the purposes of this section if it is determined that less than 15 percent of the taxable tires and inner tubes removed from such facility are sold at retail by such facility. The determination described in the preceding sentence is made on the basis of the experience of a representative period, of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. See also paragraph (c)(3) of this section, relating to imposition of tax where a retail outlet is maintained as an adjunct to a production facility or distribution center.

(c) *Delivery*—(1) *In general.* A manufacturer of tires or inner tubes may, at its option, treat either of the following events as constituting delivery to a retail outlet:

(i) Delivery of tires or inner tubes to a common carrier (or, where the tires or tubes are transported by the manufacturer, the placing of the tires or tubes into the manufacturer's over-the-road vehicle) for shipment from the plant in which the tires or tubes are manufactured, or from a regional distribution center of tires and inner tubes, to a retail outlet or to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.

(ii) Arrival of the tires or tubes at the retail outlet, or, where shipment is to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet, the arrival of the tires or tubes at such location.

In its excise tax return for the first return period beginning after September 30, 1966, a manufacturer of tires or inner tubes must elect to determine the date of delivery to retail outlets in accordance with one of the two subdivisions of this paragraph (c)(1) and must determine the dates of all deliveries made to all retail outlets in accordance with the subdivision which the manufacturer has elected to apply. The election may be made in a statement attached to the return for such period. Having elected to treat one of the events listed in subdivision (i) or (ii) of this paragraph (c)(1) as constituting delivery to a retail outlet for purposes of its return for the first return period after September 30, 1966, the manufacturer may not use a different criterion for a subsequent return period unless permission of the district director is obtained in advance.

(2) *Deliveries made in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.* (i) For purposes of this section, any delivery which is made in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet is deemed to be a delivery to the retail outlet. For the purpose of the preceding sentence, a location is considered to be in the immediate vicinity of a retail outlet if the distance between the location and the retail outlet is sufficiently small so that it is feasible to transport tires and inner tubes between the location and the retail outlet by means of dollies, fork lift trucks, pushcarts, and similar vehicles of the type normally used around the premises of factories and similar establishments, as opposed to highway motor vehicles. For the purpose of the preceding sentence, it is immateral that a public thorough-fare must be used in order to transport tires or inner tubes to a retail outlet from another location. Tires and inner tubes delivered to a location in the immediate vicinity of a retail outlet are considered to be delivered to the location "primarily for future delivery" to the retail outlet if it is determined that a majority (by number) of the tires and tubes removed from the location are delivered to the retail outlet. The determination described in the preceding sentence is made on the basis of the experience of a representative period of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. If it is determined that the majority of all tires and inner tubes removed from a given location are delivered to a retail outlet of the manufacturer in the immediate vicinity of the location, tax is imposed upon all tires and tubes delivered by the manufacturer to the location, even though all or part of the tires or tubes comprising a particular shipment to the location may be intended for further transportation to a location other than the retail outlet. If it is determined that a majority of all tires and inner tubes removed from a given location are not delivered to a retail outlet of the manufacturer in the immediate vicinity of the location, tax is imposed upon the removal of a tire or inner tube from the location to the premises of the retail outlet. See also paragraph (d)(2) of this section, relating to sales by the manufacturer at facilities other than retail outlets.

(ii) The provisions of this paragraph (c)(2) may be illustrated by the following example:

*Example.* A manufacturer of tires and tubes whose plant is located in City X operates two facilities in City Y; Warehouse A, and Store Q. Store Q is a retail outlet within the meaning of paragraph (b) of this section, and Warehouse A is in the immediate vicinity of Store Q. During the 12-month period ending September 30, 1966, 60 percent of the tires and inner tubes removed from Warehouse A were delivered to Store Q. All tires or inner tubes delivered by the manufacturer to Warehouse A are subject to tax under section 4071(b) and this section (unless, before such delivery, tax was imposed on the same tires and tubes).

(3) *Retail outlet maintained as adjunct of production or distribution facility.* If a retail outlet is maintained as an adjunct to and in the immediate vicinity of a facility which is not a retail outlet (as, for example, a production plant or a regional distribution center), delivery to the retail outlet is deemed to occur at the earlier of—

(i) The date when a tire or inner tube is removed from the general storage facilities in the facility which is not a retail outlet for transfer to the premises of the retail outlet, or

(ii) The date when a tire or inner tube is designated to be sold by or at the retail outlet.

(d) *Special rules*—(1) *Retail outlets which also sell at wholesale.* Tax applies to all shipments of tires and inner tubes delivered to a retail outlet, as defined in paragraph (b)(2) of this section. Thus, for the purposes of section 4071(b) and this section, it is immaterial that all or part of the tires or inner tubes of a particular delivery to a retail outlet are intended for sale at wholesale. See also paragraph (d)(3) of this section.

(2) *Sales by manufacturer at facilities other than retail outlets.* Sales by the manufacturer of tires and inner tubes at facilities other than retail outlets are subject to tax under section 4071(a).

(3) *Deliveries of tires or tubes on which tax has been previously imposed.* (i) Tax is not imposed under section 4071(b) and this section on any tire or inner tube in respect of which there was previously imposed a tax under section 4071(a). Similarly, a tire or inner tube is taxed only once under section 4071(b) and this section.

(ii) The provisions of this paragraph (d)(3) may be illustrated by the following example:

*Example.* A manufacturer has two selling facilities, Store No. 1 and Store No. 2. Only retail sales are made at Store No. 2, which obtains its merchandise from Store No. 1. Assume that, although wholesaling and distribution activities are conducted at Store No. 1, the sale of tires and tubes at retail is conducted at Store No. 1 to the extent that Store No. 1 is a retail outlet within the meaning of paragraph (b) of this section, with the result that tax is imposed on deliveries by the manufacturer of tires and tubes to Store No. 1. Tax is not imposed on a delivery of tires or inner tubes from Store No. 1 to Store No. 2.

**§ 48.4071-4 Original equipment tires on imported articles.**

The tax imposed by section 4071(a) applies with respect to tires and inner tubes (other than bicycle tires and inner tubes) that are original equipment for an imported article upon which no tax is imposed under section 4061 if the article is sold on or after December 11, 1971. In such a case, the importer of the article is treated as the manufacturer and vendor of the tires and inner tubes with which the article is equipped. However, the tax imposed by section 4071(a) is not imposed with respect to tires and inner tubes if the imported article is an automobile bus chassis or an automobile bus body. Solely for purposes of this section, the provisions of section 4218 (relating to use by a manufacturer or importer considered a sale) do not apply in cases where an individual imports an article having original equipment tires and tubes and on which article no tax is imposed under section 4061 if the article is imported solely for the individual's personal use and is so used.

**48.4072-1 Definitions.**

For purposes of the regulations in this part, unless otherwise expressly indicated:

(a) *Rubber.* The term "rubber" includes synthetic and substitute rubber.

(b) *Tread rubber.* The term "read rubber" means any material (1) which is commonly or commercially known as tread rubber or camelback, or (2) which is a substitute for any material commonly or commercially known as tread rubber or camelback and is of a type used in recapping or retreading tires. The term includes, for example, strips of material, wholly or partially of rubber, natural or synthetic, intended to be vulcanized or otherwise affixed to a tire casing to form the outside perimeter of the tire, smooth or treaded. It also includes treading material produced by reprocessing scrap, salvage, or junk rubber and a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing. Tread rubber loses it identity as such when it has been used in the recapping or retreading of a tire of a type used on a highway vehicle (without regard to the actual use ultimately made of the tire) or has deteriorated in quality to the point where it is no longer suitable for use in recapping or retreading of a tire. (In the case of such deterioration, see section 6416(b) (2) and § 48.6416 (b)-2 to secure a refund or credit of the tax paid.)

(c) *Tires of the type used on highway vehicles.* (1) The term "tires of the type used on highway vehicles", for purposes of §§ 48.4071-1 through 48.4073-3 means tires of the type used on—

(i) Motor vehicles that are highway vehicles (within the meaning of § 148.4061 (a)-1(d)), or

(ii) Vehicles of the type used in connection with motor vehicles that are highway vehicles (within the meaning of § 48.406(a)-1(d)).

The term "tires of the type used on highway vehicles" does not include bicycle tires. Bicycle tires, however, are included in the term "other tires" as used in section 4071(a)(2).

(2) For purposes of paragraph (c)(1)(i) of this section, tires of the type used on motor vehicles that are highway vehicles include tires used on motor trucks, buses, passenger automobiles, motor homes, highway tractors, trolley buses or coaches, and motorcycles.

(3) For purposes of paragraph (c)(1)(ii) of this section, tires of the type used on vehicles of the type used in connection with motor vehicles that are highway vehicles include tires used on truck or bus trailers, truck semitrailers, mobile homes, housetrailers, or utitlity trailers.

(d) *Inner tubes.* The term "inner tubes" includes air containers of all types made wholly or in part of rubber and designed and manufactured for use in pneumatic tires.

(e) *Tires.* The term "tires" includes rubber casings, hoops, and strips or bands of all kinds designed and shaped or built to form the tread of or to fit a vehicle wheel. Tires of either the pneumatic or solid type which fit or form the tread for wheels of any article which is capable of use as a means of transporting a person or burden are taxable as tires. Examples of articles which may be equipped with taxable tires are motor scooters, minibikes, industrial trucks, farm tractors, wheelbarrows, and similar articles. See section 4073(a) and § 48.4073-1 with respect to the exemption of tires of certain sizes, and section 4073(b) and § 48.4073-2 with respect to the exemption for tires with internal wire fastening.

(f) *Laminated tires.* For purposes of the tax imposed by section 4071, the term "laminated tires" means tires (1) which are not "tires of the type used on highway vehicles" within the meaning of paragraph (c) of this section, and (2) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent.

(g) *Manufacturer.* The term "manufacturer" means manufacturer, producer, or importer. A person who converts, by any process, a new tire taxable under section 4071 at one rate of tax into a tire taxable under section 4071 at a different rate (as for example, an off highway-type tire converted into a highway-type tire) is considered to be a manufacturer of the converted tire. If a conversion results in a reduced rate of tax for the converted tire, see section 6416(b)(2) and § 48.6416(b)-2 to secure a credit or refund of part of the tax paid. The term "manufactured" includes "produced" and "imported".

(h) *Cross references.* For other definitions, see § 48.0-2.

**§ 48.4073-1 Exemption of tires of certain sizes.**

The tax does not apply to sales of tires of all-rubber construction (whether hollow center or solid) if they have no fabric or metal reinforcement and do not exceed either of these measurements: (a) 20 inches in diameter measured to the outside circumferences, and (b) 1¾ inches in cross-section. The exemption provided by section 4073(a) is to be determined solely on the measurements of the tire and not on the purpose for which it is designed or used.

**§ 48.4073-2 Exemption of tires with internal wire fastening.**

The tax does not apply to sales of tires of any size or dimension manufactured from extruded tiring that is fastened or held together by means of internal wire or other metallic material.

**§ 48.4073–3 Exemption of tread rubber used for recapping nonhighway tires.**

(a) *Sold direct by manufacturer for nontaxable use.* The tax does not apply to the sale of tread rubber by the manufacturer to any person for use by that person otherwise than in the recapping or retreading of tires of the type used on highway vehicles. In determining whether tread rubber is sold for a taxable or nontaxable use, the type of vehicle on which the recapped or retreaded tire is to be used, or the actual or intended use of the recapped or retreaded tire, is immaterial. The controlling factor is whether the tire resulting from the recapping or retreading is of a type that is used otherwise than on a highway vehicle. For definition of "tires of the type used on highway vehicles", see paragraph (c) of § 48.4072–1.

(b) *Sales for resale for nontaxable use.* No sale of tread rubber may be made tax free for resale even thought it is known at the time of the sale that the tread rubber will be resold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles. However, where the tread rubber is resold for such use, the manufacturer who paid the tax on a sale of the tread rubber may secure a refund or credit in accordance with the provisions of section 6416(b)(2) and § 48.6416(b)–2.

(c) *Evidence required to establish exemption.* (1) To establish the right to sell tread rubber tax free under section 4073(c), the manufacturer must obtain from the purchaser and retain in its possession a properly executed exemption certificate.

(2) Where only occasional sales of tread rubber for exempt use are made to a purchaser, a separate exemption certificate should be furnished for each order. However, where sales are regularly and frequently made to a purchaser for exempt use, a certificate covering all purchases during the period not to exceed 12 calendar quarters is acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations in Subpart O.

(d) *Acceptable form of exemption certificate.* The following form of exemption certificate is acceptable for the purposes of this section and must be adhered to in substance:

**Exemption Certificate**

(For use by persons who purchase tread rubber from the manufacturer, producer, or importer thereof for use otherwise than in recapping or retreading tires of the type used on highway vehicles (section 4073(c) of the Internal Revenue Code).)

(Date) ——————, 19—

I, the undersigned, certify that I am the purchaser, or the (Title) ———— of (Name of purchaser if other than the undersigned) ———————— who is the purchaser of:

——— The tread rubber specified in the accompanying order or contract, or ———

All tread rubber specified in contracts or orders entered into or placed with (Name of seller) ———— for the period commencing ———— and ending ————, (period not to exceed 12 calendar quarters) and that such tread rubber will not be used in the recapping or retreading of tires of the type used on highway vehicles, but will be used for the following purposes:

———————————————

———————————————

The undersigned understands that if the tread rubber is used for the recapping or retreading of tires of the type used on highway vehicles, or is sold or otherwise disposed of, such fact must be promptly reported to the manufacturer. The undersigned also understands that the fraudulent use of this certificate for the purpose of securing this exemption will subject the undersigned or any other party making such fraudulent use to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. The purchaser also understands that the purchaser must be prepared to establish by satisfactory evidence the purpose for which the tread rubber was used.

(Signature) — ——————————

(Address) ——————————

(e) *Exemption certificate not obtained prior to filing of manufacturer's excise tax return.* If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on the sale may be filed, or a credit for the amount may be taken upon a subsequent return, as provided by section 6416(b)(2) and § 48.6416(b)–2.

**§ 48.4073–4 Other tax-free sales.**

(a) *Cross references.* For provisions relating to tax-free sales of articles referred to in section 4071, see:

(1) Section 4221, relating to certain tax-free sales, and the regulations thereunder in Subpart H;

(2) Section 4222, relating to registration, and the regulations thereunder in Subpart H;

(3) Section 4223, relating to special rules pertaining to further manufacture, and the regulations thereunder in Subpart H; and

(4) 28 FR 348, January 12, 1963, relating to the authorization of an exemption from the tax imposed by section 4071 by the Secretary of the Treasury under section 4293 for sales of certain tires and inner tubes sold to the American Red Cross on or after March 1, 1963.

Jerome Kurtz,

*Commissioner of Internal Revenue.*

[FR Doc. 80-37683 Filed 12-3-80; 8:45 am]

BILLING CODE 4830-01-M

## PANAMA CANAL COMMISSION

## 35 CFR Part 103

## Order of Passage of Vessels Through the Panama Canal

**AGENCY:** Panama Canal Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Panama Canal Commission proposes to amend its regulations relating to the general provisions governing vessels by establishing a plan for scheduling vessels passing through the Panama Canal. Studies have shown that a plan for scheduling vessel transits based upon reservations and advance notice of expected arrival time may result in a traffic pattern in which there is less variation from day to day in the number of arrivals. The intended effect of this action is to increase efficiency in the use of the Canal and to provide better service to the users.

**DATES:** Comments must be received on or before: January 5, 1981.

**ADDRESSES:** Comments may be mailed to Secretary, Panama Canal Commission, 425 Thirteenth Street, NW, Washington, D.C. 20004, or delivered to Room 312, Pennsylvania Bldg., 425 Thirteenth Street, NW, Washington, D.C., between 7:30 a.m. and 4:30 p.m.

Comments may also be submitted to the Marine Director, Panama Canal Commission, Balboa, Republic of Panama, or delivered to Room 310, Adminstration Building, Balboa Heights, between 7:15 a.m. and 4:15 p.m. Comments may also be mailed to Marine Director, Panama Canal Commission, APO Miami 34011

**FOR FURTHER INFORMATION CONTACT:**

Michael Rhode, Jr., Secretary, Panama Canal Commission, Room 312, Pennsylvania Bldg., 425 Thirteenth Street, NW, Washington, D.C. 20004 (202) 724–0104

Captain John D. Thurber, Marine Director, Panama Canal Commission, (Telephone: Republic of Panama 52–7917).

**SUPPLEMENTARY INFORMATION:** This document proposes a change in the rules

and practice governing the scheduling of vessels passing through the Panama Canal. The purpose of the proposal is to conduct a test nine weeks or longer in duration in order to determine the feasibility of adopting a system of booking and advance scheduling for vessels that transit the Panama Canal. The test would begin during the first or second week of January 1981. The present practice is to use the time of arrival of the vessel at either terminals of the Canal as the basis for fixing its order in the daily transit schedule. Deviations from that sequence generally are due to considerations of safety, the capacity of the Docks and channel, or the availability of equipment and personnel. There also is a long-standing rule that preference be given to passenger vessels. Studies have shown that a plan for scheduling vessel transits based upon reservations and advance notice of expected arrival time may result in a traffic pattern in which there is less variation from day to day in the number of arrivals. Such uniformity, if attained, should increase Canal efficiency by making possible a more nearly continuous flow of vessel traffic, which must be scheduled to take into account ship size, handling characteristics, and the need for tugboat assistance or special procedures. With respect to the vessel operators, the proposed changes in the scheduling system are expected to reduce the waiting time of vessels at the Canal and, in the case of those that are booked or prescheduled, to obviate the need for early arrival at the waterway merely to obtain a place in the transit schedule. It is the intention of the Commission to initiate this test without assessment of either a fee or financial penalty—deferring a decision with respect to such assessments until futher notice. The only penalty contemplated for the test, therefore, is the 24-hour delay period that would be established by section 103.8(b) of the proposed regulation. It would be invoked when a vessel fails to arrive at the prescribed time prior to the transit for which it had been booked or prescheduled.

For the reasons set out in the preamble, Part 103 of Title 35 of the Code of Federal Regulations is proposed to be amended as follows:

## PART 103—AUTHORITY [REVISED]

1. The authority citation for Part 103 would be revised to read as follows:

Authority: Sec. 1901, Pub. L. 96.70, 93 Stat. 492 (22 U.S.C. 3811); E.O. 12173, 44 FR 69271; E.O. 12215, 45 FR 36043.

2. Section 103.8 would be revised to read as follows:

**§ 103.8 Preference within transit schedule, order of transiting vessels.**

(a) Except as provided in section 103.9, and subject to the limitations imposed by Article III of the 1901 Treaty to Facilitate the Construction of a Ship Canal, entered into by the United States and Great Britain, and by Articles II and VI of the 1977 Treaty between the United States and the Republic of Panama concerning the Permanent Neutrality and Operation of the Panama Canal, vessels arriving for transit of the Canal will be placed in the transit schedule in accordance with the following rules:

(1) *Definitions.* As used in this section:

"Booked for transit" means that a vessel has been assigned a date on which it will be moved through the Panama Canal.

"Prescheduled for transit" means that a vessel has been assigned a date on which it will appear on the list of vessels that the Canal authorities intend to move through the waterway on that day. Such assignment does not constitute a commitment by the Panama Canal Commission to effect the transit on the date in question.

"Regular transit" means the movement through the Canal of a vessel that has not been booked or prescheduled for transit.

(2) *Transit bookings.* A limited number of vessels will be booked for transit on a date certain if written request is received by the designated Canal authorities not earlier than 30 days, and not later than 14 days, prior to such date. Preference among booked vesels will be determined by the order in which requests are received. The specific order of transit will be determined by the Canal authorities.

(3) *Prescheduled transits.* A limited number of vessels will be prescheduled for transit on a date certain if written request is received by the designated Canal authorities not earlier than 13 days, and not later than three days, prior to the vessel's estimated time of arrival. Preference among prescheduled vessels will be determined by the order in which requests are received. The number of vessels which will be prescheduled for any given date and the specific order of transit will be determined by the Canal authorities.

(4) *Regular transits.* Vessels which are neither booked nor prescheduled for transit may be dispatched through the Canal in the order determined by the Canal authorities. Priority of arrival at a terminal port does not give a vessel the right to pass through the Canal ahead of another that may arrive later; however, the order of arrival will be a consideration in fixing the sequence of passage. Generally, regular transits will amount to or exceed approximately one third of the total number of vessels moved through the Canal on any given day.

(b) The Canal authorities shall impose a penalty of 24 hours' delay in placing a vessel in the transit schedule when such vessel has been booked or prescheduled and does not arrive at a terminus of the Canal by midnight of the day prior to the intended transit. This penalty will not be applied if the late arrival is due to *force majeure* or to delay for humanitarian purposes. A prescheduled transit may be canceled without penalty if notice of the cancellation is received by the Canal authorities at least 48 hours prior to the day of the intended transit. A booked transit may be canceled without penalty if notice of the cancellation is received by the Canal authorities at least seven days prior to the day of the intended transit. Requests for booking or prescheduling may be denied in the case of vessel operators or agents who establish a record of repeated cancelations.

(c) The Canal authorities may suspend or discontinue, in whole or in part, the booking and prescheduling system established by paragraphs (a) (2) and (3) of this section if they determine that its continued use adversely affects the efficient operation of the Canal.

Michael Rhodes, Jr.,

*Secretary.*

[FR Doc. 80-37857 Filed 12-3-80; 8:45 am]

BILLING CODE 3640-01-M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

[A-4-FRL 1689-6]

## Approval and Promulgation of Implementation Plans; North Carolina: Air Quality Surveillance Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the State of North Carolina on August 19, 1980. The revision updates North Carolina's state implementation plan (SIP) to meet EPA requirements set forth in 40 CFR Part 58, Subpart C.

The revision includes a commitment to update the monitoring network annually and to utilize all required quality assurance methods to ensure data accuracy. The revision meets all EPA requirements, and EPA is therefore

proposing to approve it. The public is invited to submit written comments on this proposal.

**DATE:** To be considered, comments must be received on or before January 5, 1981.

**ADDRESSES:** Copies of the material submitted by North Carolina may be examined during normal business hours at the following locations:

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

Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Air Planning & Environmental Standards Branch, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.

**FOR FURTHER INFORMATION CONTACT:** Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

On May 10, 1979 (44 FR 27558), EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110 (a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of state implementation plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision providing for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The State of North Carolina has responded by submitting to EPA on August 19, 1980, a revised version of the air quality surveillance section of their SIP (Section VI). This now provides for the establishment of a SLAMS network such that the monitors will be properly sited and the data quality assured. The network will be reviewed annually for needed modifications and descriptions containing information such as location, operating schedule, and sampling and analysis methods will be available for public inspection.

EPA proposes to approve the air quality surveillance revision submitted by North Carolina since it meets all the requirements of 40 CFR Part 58.

The public is invited to participate in this rulemaking by submitting written comments on the proposed approval of these revisions in the North Carolina plan. After weighing all pertinent comments received together with other information available to him, the Administrator will take final action.

EPA has determined that the proposed action is "specialized" and thus not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: November 20, 1980.

John A. Little,

*Acting Regional Administrator.*

[FR Doc. 80-37079 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

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## 40 CFR Part 52

[A-4-FRL 1689-7]

## Approval and Promulgation of Implementation Plans; North Carolina: Approval of Plan Revisions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** It is proposed to approve the following revisions in the North Carolina air implementation plan: (1) Revised ambient standard for ozone; (2) provision pursuant to § 126(a) of the Clean Air Act for abatement of interstate pollution; (3) changes in regulation 2D.0501, Compliance with Emission Control Standards, and 2H.0603, Applications; (4) revision of the ozone alert level from 200 to 400 ug/m$^3$ and deletion of references to coefficient of haze (COH); (5) addition of an ambient standard for lead; (6) incorporation of changes in EPA's New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (40 CFR Parts 60 and 61; and (7) addition of provisions intended to fulfill the requirements of section 127(a) of the Clean Air Act concerning public participation. The public is invited to comment on these proposed changes in the North Carolina plan.

**DATE:** To be considered, comments must be received on or before January 5, 1981.

**ADDRESSES:** Written comments should be addressed to Mr. Walter Bishop of EPA Region IV's Air Programs Branch (see address below). Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

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

Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Air Planning & Environmental Standards Branch, Division of Environmental Management, North Carolina Department of Natural Resources & Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.

**FOR FURTHER INFORMATION CONTACT:** Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** To satisfy the requirements of Section 126(a) of the Clean Air Act, North Carolina has revised the intergovernmental cooperation section of its plan to provide that the State will give 60-day prior notice to adjoining states of new source construction likely to have a significant air quality impact there. The list of point sources in Appendix A of the plan has been amended by adding a list of existing sources which could have a significant impact on air quality in adjoining states. These changes were adopted by the Environmental Management Commission on May 10, 1979. On the same date, the Commission revised North Carolina's ambient ozone standard to make it consistent with the national standards for this pollutant which EPA promulgated on February 8, 1979. These revisions were submitted for EPA's approval on June 15, 1979.

On April 10, 1980, the Commission adopted a number of further revisions in the North Carolina plan. These were submitted for EPA's approval on May 2, 1980. Some of these were adopted to correct deficiencies in the State's 1979 revisions for nonattainment areas and will be dealt with in other notices. The revisions being proposed for approval today are now described.

Regulation 2D.0501, Compliance with Emission Control Standards, has been revised several times since the original North Carolina plan was approved. However, EPA has never taken approval action on these changes, which were described in a notice of proposed rulemaking which appeared in the Federal Register of July 17, 1978 (43 FR 30580). The State has made further changes which make previous revisions approvable: The applicability of Federal test procedures has been made more specific; in addition, paragraph (f) of the regulation has been revised to provide a mechanism for imposing controls more stringent than those provided in the plan

in cases where added controls are needed to meet ambient standards. This mechanism involves the addition of a paragraph (f) to regulation 2H.0603 providing that permits to impose such added controls must receive a public hearing in conformity with 40 CFR 51.4 and be added to the plan as an appendix. Such permits, and permits embodying alternative controls under regulation 2D.0905 of the regulations for the control of volatile organic compounds, will have to be submitted for EPA's approval following public hearing and formal adoption.

Regulation 2D.0302, Episode Criteria, has been revised by changing the term "oxidant(s)" to "ozone", by deleting all mention of coefficient of haze (COH), and by raising the alert level for ozone from 200 to 400 ug/m$^3$, one-hour average.

An ambient standard for lead, consistent with the Federal ambient standard, has been added to the plan.

Regulation 2D.0524, New Source Performance Standards, and 2D.0525, National Emission Standards for Hazardous Air Pollutants, are amended to incorporate by reference standards added to 40 CFR Parts 60 and 61 between April 6, 1976, and January 1, 1979. Regulation 2D.0603, dealing with monitoring requirements for sources covered by national standards, is revised to reflect monitoring requirements associated with the added standards. The State also requested a delegation of authority to administer the added standards.

In response to the requirements of Section 127(a) of the Clean Air Act, the State has added to the plan a section on public awareness. This section outlines the mechanisms which will be used to acquaint the general public with issues related to air quality, to keep the public up-to-date on violations of the ambient standards in the State, to provide for public involvement in decisions affecting air quality, and to provide for cooperation in the foregoing activities between the State and the local air pollution control agencies.

The public is invited to participate in this rulemaking by submitting written comments on the proposed approval of these revisions in the North Carolina plan. After weighing all pertinent comments received together with other information available to him, the Administrator will take final action.

(Secs. 110, 126(a), 127(a), Clean Air Act as amended in 1977 (42 U.S.C. 7410, 7426(a), 7427(a)))

Dated: November 20, 1980.

John A. Little,

*Acting Regional Administrator.*

[FR Doc. 80-37729 Filed 12-3-80-; 8:45 am]

BILLING CODE 6560-38-M

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**40 CFR Part 52**

**[A-10-FRL 1691-4]**

## Intent To Promulgate a Maintenance of Pay Provision as Part of the Idaho State Implementation Plan; Opportunity for Hearing

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

**ACTION:** Notice for hearing opportunity.

**SUMMARY:** The Environmental Protection Agency (EPA), Region X invites comments on and announces an opportunity for a public hearing on EPA's intent to promulgate a maintenance of pay provision in the Idaho State Implementation Plan (SIP) pursuant to the authority of Section 110(a)(6) of the Clean Air Act, as amended.

**DATES:**

Hearing date: January 6, 1981, 7:00 p.m.

Comment date: Comments must be received on or before January 19, 1981.

Public hearing request: Requests for a public hearing should be sent to the further information contact person on or before January 5, 1981.

**ADDRESSES:** Hearing location: Washington Water Power Company, Auditorium, 120-North Hill Street, Kellogg, Idaho 83857.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 94101.

The materials relevant to this proposed action may be examined during normal business hours at the following locations:

Central Docket Section (10A-79-4), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Streets, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 629, Seattle, Washington 98101

**FOR FURTHER INFORMATION CONTACT:** Kenneth A. Lepic, Air Programs Branch M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; Telephone: (206) 442-1125; FTS: 399-1125.

**SUPPLEMENTARY INFORMATION:** Under Section 110(a) and 302(k) of the Clean Air Act as amended, (hereafter referred to the as the Act), the national ambient air quality standards (NAAQS) for sulfur dioxide ($SO_2$) must be attained through use of constant controls which remove oxides of sulfur from gas streams prior to release to the atmosphere. However, Section 119 of the Act allows certain nonferrous smelters that are at present unable to meet required levels of constant $SO_2$ control to utilize dispersion-dependent techniques, as opposed to constant controls, to attain NAAQS for $SO_2$ on a temporary basis under terms of a Section 119 nonferrous smelter order (NSO). Such techniques include the use of supplementary control systems (SCS).

Under an SCS, production is curtailed to avoid an NAAQS violation whenever meteorological conditions are not conducive to good dispersion of pollutants. When this occurs production is stopped, shut down or curtailed until favorable meteorological conditions are present. During periods of SCS production shutdown, smelter workers' schedules are often curtailed and worker pay reduced.

In 1977, Congress amended the Act (Pub. L. 95-95) to include Section 110(a)(6), which requires each State Implementation Plan (SIP) which contains provisions allowing a source to use supplemental control to include a requirement that reduction in production will not result in loss of pay to the worker.

On June 24, 1980, EPA published in the **Federal Register** (45 FR 42514) the minimum requirements for an initial (first) primary nonferrous smelter order (NSO) issued pursuant to Section 119 of the Act. EPA will soon propose issuance of a first NSO to the Bunker Hill Company located in Kellogg, Idaho, in accordance with the Settlement Agreement entered into by the Bunker Hill Company and EPA on June 11, 1979. EPA published a Notice describing the Settlement Agreement in the July 10, 1979 **Federal Register** (44 FR 40360). EPA then proposed on September 7, 1979 to promulgate the terms of the Settlement Agreement and promulgated the terms on December 13, 1979 (44 FR 27118) as a revision to the Idaho SIP. Before the Bunker Hill Company's first NSO can be issued, however, a provision regarding protection of the employee for loss of pay must be included in the Idaho SIP that satisfies Section 110(a)(6) of the Act.

On May 31, 1972 (37 FR 10842) the Administrator of EPA pursuant to Section 110 of the Act and 40 CFR Part 51, approved with specified exceptions the Idaho State Implementation Plan. In response to the 1977 Amendments, each State is to adopt and submit a revised plan to implement and enforce newly enacted provisions of the Act. On

January 15, 1980 the State of Idaho submitted a revised SIP for EPA consideration. Maintenance of pay provisions were not included in the revised SIP. EPA has been advised that the State does not intend to propose the SIP revision necessary to satisfy the maintenance of pay requirements of Section 110(a)(6). In view of this, EPA itself is proposing to promulgate a maintenance of pay provision for the Idaho SIP as required by Section 110(a)(6).

On September 26, 1980, a Notice of Proposed Rulemaking was published in the Federal Register (45 FR 63886) inviting public comment on EPA's proposed promulgation of a maintenance of pay provision to the Idaho State Implementation Plan. In response to a request, the comment period on this proposal was extended two weeks until November 7, 1980 to allow for additional comments (45 FR 71383, October 28, 1980). Subsequent to the close of the comment period, EPA received a request from the Bunker Hill Company for an opportunity to respond to any comments submitted in the proposed maintenance of pay rulemaking. EPA is interpreting this response as a request for an extension in the comment period and has decided to provide the public with additional time to comment on the proposal. In addition, EPA is providing the public with an opportunity for public hearing.

### Invitation of comments—Opportunity for Hearing

Any person who desires to comment on this intended action may do so by writing to Laurie M. Kral whose address is listed above. Comments must be received within forty-five (45) days of publication of this notice (January 19, 1981). If, however, a meeting is held as scheduled, the docket will remain open for thirty (30) days after the date of the hearing.

*If no timely request for a hearing is received, no hearing will be held.*

A public hearing will be held *if* (and only if) a request for a public hearing is received by the further information contact person (address listed above) in the thirty (30) days following publication of this notice. The purpose of such a hearing would be to take testimony regarding EPA promulgation of a maintenance of pay provision as part of the Idaho SIP pursuant to Section 110(a)(6) of the Clean Air Act. If it is held, the hearing will be conducted at the time and place listed above.

If a request is not received, no public hearing will be held. It is suggested that any one who anticipates attending this public hearing call the further information contact person listed above to verify if a hearing is to be held.

A shorter notice period is being employed for this action (the usual period is 45 days) because there is only a short period of time allowed for issuance of an NSO, the impact of this rulemaking is limited only to the State of Idaho, and the public has had adequate notice of guidelines for preparation of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172 Clean Air Act (42 U.S.C 7410(a), 7502))

Dated: November 26, 1980.

Donald P. Dubois,

*Regional Administrator.*

[FR Doc. 80-37823 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

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## 40 CFR Part 123

[SW-3-FRL1691-5]

## Pennsylvania Application for Interim Authorization, Phase I; Hazardous Waste Management Program; Public Hearing

**AGENCY:** Environmental Protection Agency, Region III.

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

**SUMMARY:** EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the Federal Register on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Pennsylvania application for Phase I Interim Authorization, inviting public comment, and giving notice of a Public hearing to be held on the application.

**DATE:** Comments on the Pennsylvania Interim Authorization application must be received by January 13, 1981.

Public hearing: EPA will conduct a Public hearing on the Pennsylvania Interim Authorization application at 7 P.M. on January 6, 1981. EPA reserves the right to cancel the Public hearing if significant public interest in a hearing is not expressed. The State of Pennsylvania will participate in any Public hearing held by EPA on this subject.

**ADDRESSES:** Copies of the Pennsylvania Interim Authorization application are available at the following addresses for inspection and copying by the public:

Pennsylvania Department of Environmental Resources, Bureau of Solid Waste Management, 3rd & Locust Streets (8th Floor), Harrisburg, Pa. 17120 (717) 787-7381;

Pennsylvania Department of Environmental Resources Regional Offices: 1875 New Hope Street, Norristown, Pa. 19401 (215) 631-2413;

90 E. Union Street, Wilkes Barre, Pa. 18701 (717) 826-2516;

Wernersville State Hospital, Wernesville, Pa. 19565 (215) 678-5657;

736 W. Fourth Street, Williamsport, Pa. 17701 (717) 327-3653;

1203 Kossman Building, 100 Forbes Avenue, Pittsburg, Pa. 15222 (412) 565-5017;

1012 Water Street, Meadville, Pa. 16101 (814) 724-8526;

U.S. EPA, Region III, Library, 2nd Floor, 6th & Walnut Streets, Phila., Pa. 19106 (215) 597-0580.

Written comments should be sent to: Robert L. Allen (3AH30), Air, Toxics & Hazardous Materials Division, U.S. EPA, Region III, 6th & Walnut Streets, Phila., Pa. 19106.

The Public hearing will be held at: Department of Environmental Resources, 2nd Floor—Hearing Room, Fulton Bank Building, 3rd & Locust Streets, Harrisburg, Pa. 17120.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Allen (3AH30), U.S. EPA, Air, Toxics & Hazardous Materials Division, 6th & Walnut Streets, Philadelphia, Pa. 19106 (215) 597-0980.

**SUPPLEMENTARY INFORMATION:** In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for

issuance of Interim Authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). As noted in the May 19, 1980 Federal Register copies of complete State submittals for Phase I Interim Authorization are to be made available for public inspection and comment. In addition, a Public hearing is to be held on the submittal, unless significant interest is not expressed.

### Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Pennsylvania Interim Authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance, but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify.

Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

### Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statement to the hearing chairperson.

Jack J. Schramm,

*Regional Administrator.*

[FR Doc. 80-37681 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-30-M

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## 40 CFR Part 123

[SW-3-FRL 1691-6]

## Maryland Application for Interim Authorization, Phase I; Hazardous Waste Management Program; Public Hearing

**AGENCY:** Environmental Protection Agency, Region III.

**ACTION:** Notice of Public Hearing and Public Comment Period.

**SUMMARY:** EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the Federal Register on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Maryland application for Phase I Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

**DATE:** Comments on the Maryland Interim Authorization application must be received by January 15, 1981.

**PUBLIC HEARING:** EPA will conduct a public hearing on the Maryland Interim Authorization application 7 P.M. on Thursday, January 8, 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Maryland will participate in any public hearing held by EPA on this subject.

**ADDRESSES:** Copies of the Maryland Interim Authorization application are available at the following addresses for inspection and copying by the public:

Dept. of Health & Mental Hygiene, Waste Management Enforcement Program, 2nd Floor—O'Connor Building, 201 West Preston Street, Baltimore, Maryland 21201

Office of Environmental Programs, Failinger Complex, Rt. 8 & Naves Crossroad, Cumberland, Maryland 21502

Wicomico County Health Dept., 300 West Carrol Street, Salisbury, Maryland 21801

Public Information Reference Unit, Room 2922—EPA Library, U.S., Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460

U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106 (215) 597-0580

Written comments should be sent to: Robert L. Allen (3AH30) Air, Toxics & Hazardous Materials Division, U.S. EPA, Region III, 6th and Walnut Streets, Phila., Pa. 19106

The public hearing will be held at: Loch Raven Senior High School Auditorium, Cromwell Bridge Road and Cowpens Road, Baltimore, Maryland 21234

**FOR FURTHER INFORMATION CONTACT:** Robert L. Allen (3AH30), U.S. EPA, Air, Toxics & Hazardous Materials Division, 6th and Walnut Streets, Philadelphia, Pa. 19106 (215) 597-0980.

**SUPPLEMENTARY INFORMATION:** In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of Interim Authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980; and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 33479). As noted in the May 19, 1980 Federal Register copies of complete State submittals for Phase I Interim Authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant interest is not expressed.

### Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Maryland Interim Authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel

members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance, but who wish to comment on the State's application for Phase I Interim Authorization, will also be given an opportunity to testify.

Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

### Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statement to the hearing chairperson.

Jack J. Schramm,

*Regional Administrator.*

[FR Doc. 80-37686 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-30-M

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**40 CRF Part 123**

**[SW-1-FRC 1690-1]**

## Maine Application for Interim Authorization, Phase I, Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency, Region I.

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

**SUMMARY:** EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the Federal Register on May 19, 1980 (45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Maine application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

**DATE:** Comments on the Maine interim authorization application must be received by January 10, 1981.

EPA will conduct a public hearing on the Maine interim authorization application at 9:00 a.m. on January 5, 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed.

**ADDRESSES:** The public hearing will be held at: Holiday Inn Downtown, 88 Spring Street, Portland, Maine 04111. Copies of the Maine interim authorization application are available at the following addresses for inspection and copying by the public:

Department of Environmental Protection, Bureau of Oil and Hazardous Material Control, Ray Building, Hospital Street, Augusta, Maine 04333 (telephone (207) 289-2251).

Department of Environmental Protection, Regional Offices at the following addresses:

634 Main Street, Presque Isle, Maine 04769 (telephone (207) 764-3737).

31 Central Street, Bangor, Maine 04401 (telephone (207) 947-6746).

17 Commercial Street, Portland, Maine 04101 (telephone (207) 773-0196).

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5791/4017).

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments and requests to speak at the hearing should be sent to: Dennis P. Gagne, Maine State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775).

**FOR FURTHER INFORMATION CONTACT:** Dennis P. Gagne, Maine State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775).

**SUPPLEMENTARY INFORMATION:** In the May 19, 1980 Federal Register (45 FR 33063), the Environmental Protection Agency promulgated Phase I of its regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: The initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, invluding manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980, and,

(2) Be "substantially equivalent" to the Federal program.

### Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Maine interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

Representatives from the State of Maine will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members to the panel.

**Preparation of Transcripts**

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from Dennis P. Gagne, Maine State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775) approximately three days after the hearing at cost.

**Major Issues of Interest to EPA**

In order for the State program to receive interim authorization, it must be substantially equivalent to the Federal program. EPA is soliciting comments on all aspects of the substantial equivalence of the Maine program to the Federal hazardous waste management program.

Dated: November 25, 1980.

**Leslie Carothers,**

*Acting Regional Administrator, Region I.*

[FR Doc. 80-37728 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-30-M

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**40 CFR Part 761**

**[OPTS 211001; TSH-FRL 1691-1]**

## Polychlorinated Biphenyls (PCB's); Denial of Citizens' Petition

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

**ACTION:** Proposed rule related notice.

**SUMMARY:** This notice announces the Administrator's decision to deny a citizens' petition submitted under section 21 of the Toxic Substances Control Act (TSCA). The petitioners requested that the Agency amend its PCB Prohibition Rule (40 CFR Part 761) to allow PCBs in concentrations as high as 10 parts per million (ppm) in floor sweep compounds.

**ADDRESS:** A copy of the petition and all related information is located in Rm. E-447, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-755-6956). It is available for viewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Pamela A. Moore, Office of Pesticides and Toxic Substances (TS-794), Environmental Protection Agency, Rm. E-516, 401 M St., SW., Washington, D.C. 20460, (202-755-1188).

### I. Introduction

*Regulation of PCBs under Section 6(e) of TSCA*

The Toxic Substances Control Act (TSCA), 15 U.S.C. sec. 2601 *et seq.*, is a comprehensive statute lodging with the Environmental Protection Agency broad regulatory authority over chemical substances and mixtures. With the single exception of PCBs, TSCA leaves to EPA's discretion the selection of particular chemicals for regulation. Section 6(e) of TSCA, 15 U.S.C. sec. 2605(e), directs EPA to regulate PCBs and establishes specific procedures for their regulation.

At the time TSCA was enacted, Congress was aware that PCBs caused birth defects, miscarriages, and stillbirths as well as lesser effects such as skin eruption, pigmentation of skin and nails, and eye malfunction. Moreover, Congress was aware that PCBs were persistent and bioaccumulative and, therefore, that PCBs posed long-term risks to health and the environment.

Section 6(e) of TSCA establishes a sequential timetable for the regulation of PCBs. In general, the statute directs a phased end to the manufacture, processing and distribution of PCBs and to certain uses of PCBs. Section 6(e) thus dictates an end to the introduction of most new PCBs into the environment.

On May 31, 1979, EPA promulgated final regulations with respect to the manufacturing, processing, distribution in commerce of PCBs. These regulations, known as the "PCB Prohibition Rule", established a minimum PCB concentration of 50 parts per million (ppm) for most regulatory purposes. 40 CFR 761.1(b).

Waste oil (products primarily derived from petroleum) is an exception to the 50 ppm minimun concentration (40 CFR 761.30(d)). In promulgating the PCB Prohibition Rule, EPA banned the use of waste oil containing any detectable concentration of PCBs as sealants, coatings and dust control agents because these uses of PCBs "result in rapid, direct entry of PCB into the environment" (44 FR 31525). EPA noted that specific dangers of such uses warranted regulation at any concentration of PCBs; that is, direct entry of PCBs into the environment resulting from these uses could result in PCBs entering the food chain (44 FR 31525).

Floor sweep compounds containing PCBs were not the subject of a distinct risk analysis prior to promulgation of the PCB Prohibition Rule. In November, 1979, however, in response to an inquiry from the Oklahoma State Department of Health, EPA confirmed that floor sweep compounds were among the category of products included as "dust control agents" for purposes of the PCB Prohibition Rule. This conclusion flowed from similarities in exposure potential between floor sweep compounds and other dust control agents. PCBs in floor sweep compounds may become attached to clothing, shoes, and unclothed protions of the human body such as hands or face. Even more than dust control agents used outdoors, floor sweep compounds can contaminate food directly if the compounds are used in indoor areas where food may be eaten or stored.

Since floor sweep compounds are "dust control agents" for purposes of the PCB Prohibition Rule, 40 CFR 761.30(d) prohibits the use of floor sweep compounds containing any detectable concentration of PCBs. Since the manufacture of floor sweep compounds involves coating sawdust with waste oil, such manufacture also is prohibited by 40 CFR 761.30(d) if the waste oil contains PCBs.

*Summary of the Scoggins-Tak-less Petition and the Agency's Reasons for Denying the Petition*

Section 21(a) of TSCA provides, in pertinent part:

> In General—Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under sections 4, 6, or 8. . . .

Section 21(b) of TSCA provides, in pertinent part:

> Procedures—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under sections 4, 6, or 8. . . .

On April 28, 1980, the Agency received a petition, pursuant to section 21 of TSCA, 15 U.S.C. Section 2620 from the John Scoggins Floor Sweep Company (Scoggins) and the Tak-less Floor Sweep Company (Tak-less). The petitioners, who manufacture floor sweep compounds using waste oil which often contains PCBS at detectable levels, seek an amendment to 40 CFR 761.30(d) to permit floor sweep compounds to contain PCBs in concentrations as high as 10 ppm.

Petitioners have made a number of arguments in an effort to demonstrate that EPA should permit floor sweep compounds to contain PCBs in concentrations as high as 10 ppm. Petitioners' arguments fall into three broad categories: (1) The regulation of floor sweep compounds containing PCBs is inconsistent with other regulations

applicable to PCBs; (2) The rationale supporting regulation of PCBs in dust control agents at any concentration does not apply to floor sweep compounds because the use of floor sweep compounds does not cause harmful health and environmental effects; and (3) Unacceptable economic consequences flow from the regulation of PCBs in floor sweep compounds in any detectable concentration. There are several reasons for the Agency's conclusion that the petitioners did not establish the need for the amendment to PCB Prohibition Rule. These reasons are set forth below. The petitioner's arguments and the Agency's specific responses to these arguments are set forth in detail in unit II of this Notice.

Petitioners' arguments with respect to alleged inconsistencies between the regulation of floor sweep compounds containing PCBs and the regulation of other products or effluents containing PCBs suffer from several major flaws. First, petitioners fail to acknowledge that different statutory authorities demand different regulatory standards. Second, petitioners use only a few isolated examples in order to present a picture of broad inconsistency of regulations. Third, petitioners present the examples they use in a manner that overlooks important facts.

Petitioners' arguments which attempt to demonstrate that the use of PCBs in concentrations as high as 10 ppm in floor sweep compounds presents no serious health or environmental risks are unpersuasive. The PCB Prohibition Rule was promulgated after the Agency had devoted a considerable amount of time and resources to it and had solicited extensive public comment upon it. Petitioners did not comment on the rule at any point during the rulemaking process, and the rule governing the use of PCBs in dust control agents were based upon the best information the Agency had available to it at the time of the rulemaking. In order to establish that the Agency should now amend the PCB Prohibition Rule in the manner that petitioners desire, the burden is upon petitioners to present factual information of sufficient weight to demonstrate that the Agency's original rationale was unsupported. Rather than submit such specific factual information, petitioners have presented only unsupported assertions. Thus, petitioners have failed to meet their burden.

Petitioners' economic arguments reflect a misunderstanding about the regulation of PCBs under section 6(e) of TSCA. Unlike Section 6(a) of TSCA, which directs the Agency to conduct risk/benefit analyses as part of the rulemaking process, Section 6(e) of TSCA gives the Agency little flexibility to consider economic factors when the Agency regulates PCBs.

Set forth below is a detailed analysis of petitioners' arguments and the Agency's responses to them.

## II. Petitioners' Arguments and the Agency's Responses

### *A. The Regulation of PCBs in Floor Sweep Compounds Is Not Inconsistent With the Regulation of PCBs Generally*

Petitioners allege that EPA allows the paper industry to produce finished paper products with 10 ppm of PCBs in part because the source of PCBs in the paper industry is decreasing over time. Petitioners claim that the concentration of PCBs in mineral oil transformer liquid (waste oil), too, is decreasing over time and, accordingly, that equity demands that floor sweep compounds be permitted to contain the PCBs in the same concentration as is permitted in finished paper products.

Petitioners present no facts to demonstrate that the PCB concentration in mineral oil transformer liquid (waste oil) is actually decreasing over time, and the Agency is unaware of data which would substantiate petitioners' claim.

It is true that paper products containing PCBs are regulated less stringently than floor sweep compounds containing PCBs. EPA's PCB Prohibition Rule allows paper products to contain PCBs in concentrations of up to 50 ppm, since the use of PCBs in most paper products does not result in the direct, rapid entry of PCBs into the environment. The 10 ppm PCB level petitioners referred to for paper products apparently refers to an "action level", applicable to paper products used for food packaging, established by the Food and Drug Administration (FDA), not EPA.

In 1973, FDA, recognizing that PCBs in the food chain presented a hazard, established temporary tolerances for PCBs in various human food items, animal feed, and paper packaging used for human food and animal feed. FDA granted only temporary tolerances for packaging for food and feed products to avoid disruption of the nation's food distribution; FDA may well lower these tolerances as soon as experience indicates that lower levels can be attained. In 1979, FDA did lower the tolerances for PCBs in milk, poultry and eggs. FDA has not yet established a permanent tolerance for PCBs in paper packaging. FDA has, however, announced an "action level" of 10 ppm for paper products used for food packaging. (21 CFR 109.30) This means that FDA may seize any paper products used for food packaging which contain PCBs in concentrations of 10 ppm or greater.

PCBs in food packaging can migrate into the packaged food. Therefore, FDA considers food packaging containing PCBs to fall within the definition of "food" as set forth in Section 201 of the Federal Food, Drug and Cosmetic Act. Accordingly, under section 3(2)(B)(vi) of TSCA, EPA lacks the authority to regulate paper food packaging containing PCBs under TSCA.

FDA regulates paper food packaging containing PCBs under the Federal Food, Drug and Cosmetic Act, which confers a totally different statutory mandate upon FDA than the mandate section 6(e) of TSCA confers on EPA. Thus, petitioners are making an "apples-and-oranges" comparison. Section 6(e) of TSCA embodied Congress clear intention that EPA regulate PCBs stringently. Accordingly, EPA's PCB Prohibition Rule was designed to eliminate, to the greatest degree possible, the presence of PCBs in products whose use would result in direct human exposure to PCBs. EPA has determined that the use of waste oil, containing any detectable level of PCBs, used for sealants, coatings, and dust control agents would lead to rapid and direct entry of PCBs into the environment and might introduce PCBs into the food chain. In accordance with this determination, EPA concluded that prohibiting any detectable concentrations of PCBs in dust control agents was the appropriate method of implementing section 6(e) of TSCA with respect to these products.

Petitioners' second argument with respect to alleged regulatory inconsistency relates to regulation of the paper industry under the Federal Water Pollution Control Act (the Clean Water Act). Petitioners complain that Fort Howard Paper Company, located in Muskogee, Oklahoma, is permitted to discharge approximately one pound of PCBs per day at a concentration of 4 parts per billion (ppb) in its waste water, whereas petitioners' products can contain no PCBs.

Fort Howard Paper Company (Fort Howard) has a permit to discharge PCBs under the National Pollutant Discharge Elimination System (NPDES), administered under the Clean Water Act. Small concentrations of PCBs appear in Fort Howard's discharges as a result of recycling of certain types of paper which contain PCBs. Fort Howard does not manufacture PCBs. Fort Howard's permit is subject to a number of terms and conditions, including monitoring requirements. In the near

future, EPA and the State of Oklahoma will review the monitoring data which the company is gathering to determine if the PCB requirements of the permit should be made more stringent.

Even if it were logical to compare the regulation of PCBs under TSCA with their regulation under the clean Water Act, petitioners' argument would be unpersuasive. Petitioners have overlooked the fact that the Agency regulates PCBs stringently under the Clean Water Act. Regulations promulgated by the Agency pursuant to section 307(a) of the Clean Water Act provide, generally, that PCBs may not be present in any discharge from any PCB manufacturer (40 CFR 129.105).

*B. Petitioners Have Not Demonstrated That the Use of PCBs in Floor Sweep Compounds Causes No Serious Health or Environmental Hazards*

Several of petitioners' arguments with respect to the regulation of the paper industry may be characterized as arguments that the use of PCBs in floor sweep compounds present little or no risk to health or the environment. Petitioners' belief that they are treated inequitably in comparison with the Fort Howard Paper Company is based, in part on petitioners' contentions that Scoggins and Tak-less use only six gallons of PCBs per year and that virtually all used floor sweep is buried in city landfills after use. Petitioners claim that only one pound of PCBs used by the Scoggins and Tak-less companies would reach the environment each year whereas pollution resulting from the leaching of PCBs from contaminated litter paper would be considerable.

Much more information would be needed before the Agency could determine whether the petitioners are correct in their statement that floor sweep compounds pose no serious threat to the environment because virutally all the used floor sweep compound is buried in city landfills. The Agency would consider concrete data with respect to, for example: the quantity of floor sweep compound that actually is landfilled and the quantity that goes elsewhere; where the remaining floor sweep compound goes; whether PCBs remain bound in the floor sweep compound indefinitely or whether the PCBs are released from the sawdust or oil during use or disposal.

In addition to providing no concrete data with respect to landfilling of floor sweep compounds, petitioners have ignored a critical question: What human exposure occurs prior to disposal as a result of the use of floor sweep compounds containing PCBs? The manner in which the floor sweep compound is used makes it very likely that there would be direct human exposure during use. Another major concern of the Agency's over the use of PCBs in floor sweep compounds is that PCBs will enter the environment directly and be dispersed before the compounds can be disposed of.

Petitioners state that they estimate only one pound of PCBs would enter the environment from the floor sweep compound produced by their companies per year. The Agency is not able to rely on this statement because the petitioners did not explain how this amount was determined. The petitioners also state there would be "considerable" pollution resulting from the leaching of PCB-contaminated litter paper, but they do not state what is meant by the word "considerable". No information was supplied to support the claim that PCBs enter the environment through the leaching of contaminated litter paper, nor was any information supplied to support the implication that more PCBs would enter the environment through the leaching of littered paper than from floor sweep compounds. Even if these claims were supported, they would not justify amending the PCB Prohibition Rule to permit 10 ppm PCBs in floor sweep compounds—the petitioners have not shown that the Agency erred in its determination that waste oil used as sealants, coatings, and dust control agents leads to rapid and direct entry of PCBs into the environment.

Petitioners state that ground corrugated paper cartons may be used as the fiber base for floor sweep compounds and that these cartons may be contaminated with PCBs. According to petitioner, this proves that waste oil may not be the only source of PCBs in floor sweep compounds.

It is not clear whether corrugated paper cartons used in floor sweep compounds contain PCBs. Even if ingredients in floor sweep compounds other than waste oil do contain PCBs, this would not justify amending the PCB Prohibition Rule with respect to dust control agents. The prohibition of PCBs in waste oil was established to prevent the use of waste oil in three areas known to result in rapid and direct entry of PCBs into the environment. That waste oil may not be the only source of contamination of sealants, coatings, and dust control agents does not justify amending the PCB Prohibition Rule to permit waste oil in floor sweep compounds to contain detectable concentrations of PCBs.

Petitioners argue, in addition, that prohibiting the use of PCB contaminated waste oil will make it necessary to use five times as much dye to produce floor sweep compounds of an acceptable color. Petitioners claim that the dye may pose a greater health risk to the workers than the PCBs and, therefore, that amendment of the rule to allow manufacture of floor sweep compounds with 10 ppm PCBs is justified. Although less dye may be required to obtain the desired color of floor sweep compounds made from mineral oil contaminated with PCBs than that made from mineral oil without PCBs, this is not a sufficient basis for amending the PCB Prohibition Rule, as requested by the petitioners. As previously stated, this prohibition was established because use of waste oil for sealants, coatings, and dust control agents results in rapid and direct entry of PCBs into the environment. Petitioners adduce no convincing evidence that dyes which petitioners use when they substitute uncontaminated mineral oil for mineral oil contaminated with PCBs present greater hazards to human health than PCBs.

Another argument petitioners raise to refute the Agency's belief that PCBs in floor sweep compounds present serious health hazards is that Mr. John Scoggins has had blood tests which showed that the level of PCBs in his blood were below average. Petitioners allege that this proves that even long-term exposure to PCBs in floor sweep compounds does not lead to increased PCB levels in the human body.

Reliance on the blood tests of one individual to prove that exposure to PCB-contaminated floor sweep compounds will not lead to increased levels of PCBs in the human body is misplaced for two reasons. First, blood tests are not necessarily representative of PCB concentration in other parts of the body, such as fat tissue. Although PCBs are circulated throughout the body by the blood, they accumulate in the adipose tissue and the organs. Second, different individuals react differently to the same exposure of the same toxic substance. Therefore, that one person does not have an adverse reaction when exposed to a particular toxic substance does not indicate that other individuals will react similarly.

Another argument petitioners make is that there have been no recorded cases of harmful effects caused by PCB-contaiminated floor sweep compounds. The health hazards associated with exposure to PCBs are well established. Direct human exposure is inevitable during the use of floor sweep compounds containing PCBs. That petitioners may not be aware of any "recorded cases" of harmful effects resulting from the use of floor sweep compounds containing PCBs does not

establish that the use of floor sweep compounds containing PCBs is safe.

*C. Economic Concerns Do Not Justify Amending the PCB Prohibition Rule as Petitioners Request*

Petitioners state that the prohibition against manufacturing floor sweep compounds containing 10 ppm PCBs or less will result in a doubling of the price of the product produced by their companies. The contention that the current prohibition will result in a doubling of the price of floor sweep compounds is unsupported in the petition. Even if what the amendment petitioners seek would relieve them of a substantial economic burden, however, the Agency would not be justified in promulgating such an amendment. Section 6(e) of TSCA was a product of Congress' determination that PCBs created such serious risks to health and the environment that the benefits of eliminating PCBs outweighed the costs to society that would be incurred by the elimination. Congress recognized and accepted that the regulation of PCBs might be costly.

**III. Conclusion**

The Agency made the decision to prohibit any detectable concentrations of PCBs in waste oil for use as sealants, coatings, and dust control agents because such uses would result in rapid and direct entry of PCBs into the environment. The points raised in the Scoggins-Tak-less petition do not demonstrate that the facts and reasoning underlying the Agency's decision to prohibit detectable concentrations of PCBs in waste oil used for sealants, coatings, and dust control agents is deficient. Moreover, the Scoggins-Takless petition adduced no new facts or reasoning which warrant amending the rule in the manner requested. Accordingly, the petition is denied.

Dated: November 17, 1980.

**Steven D. Jellinek,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 80-37733 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

# Notices

Federal Register
Vol. 45, No. 235
Thursday, December 4, 1980

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.

## COMMISSION ON CIVIL RIGHTS

### New Jersey Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference will be held beginning at 10 a.m., and ending at 12 p.m., on December 15, 1980, at the P. J. Rodino Building, Newark, New Jersey. The purpose of the press conference is to discuss domestic violence.

Persons desiring additional information should contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey 07060, (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, Room 1639, New York, New York 10007, (212) 264–0543.

The press conference will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 28, 1980.

Thomas L. Neumann,

*Advisory Committee Management Officer.*

[FR Doc. 80–37691 Filed 12–3–80; 8:45 am]

BILLING CODE 6335–01–M

### New Jersey Advisory Committee 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 Jersey Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 10:00 p.m., on December 18, 1980, at the P. J. Rodino Building, Newark, New Jersey. The purpose of the meeting is to discuss the coming and present projects.

Persons desiring additional information or planning a presentation to the committee, should contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey 07060, (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, New York, New York 10007, (212) 264–0543.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 28, 1980.

Thomas L. Neumann,

*Advisory Committee Management Officer.*

[FR Doc. 80–37692 Filed 12–3–80; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Marine Fisheries Service; Correction of Notice of Public Hearing

**AGENCY:** National Oceanic and Atmospheric Administration/Commerce.

**ACTION:** Correction of notice of public hearing.

**SUMMARY:** On November 14, 1980, a notice in the **Federal Register** (45 FR 75252–75253) announced a public hearing on the Draft Fishery Management Plan for the Western Alaska King Crab and amendments for 1981 to the Tanner Crab Fishery Management Plan (FMP), the Bering Sea Groundfish FMP, and the High Seas Salmon FMP. The notice is amended as follows:

**DATE:** The correct date for the hearing is December 6, 1980. The address given under Further Information should read:

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone (907) 586–7221.

Dated: December 1, 1980.

Robert K. Crowell,

*Deputy Executive Director, National Marine Fisheries Service.*

[FR Doc. 80–37720 Filed 12–3–80; 8:45 am]

BILLING CODE 3510–22–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From the People's Republic of China, Effective January 1, 1981

November 28, 1980

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Establishing import restraint levels for certain cotton and man-made fiber textile products produced or manufactured in the People's Republic of China and exported to the United States during the twelve-month period beginning on January 1, 1981. (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), and August 12, 1980 (45 FR 53506)).

**SUMMARY:** The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China establishes specific levels of restraint for Categories 331 (cotton gloves and mittens), 339 (women's, girls', and infants' cotton knit shirts and blouses), 340 (men's and boys' woven cotton shirts), 341 (women's, girls' and infants' woven cotton blouses), 347/348 (cotton trousers), and 645/646 (man-made fiber sweaters) during the agreement year which begins on January 1, 1981 and extends through December 31, 1981.The agreement also provides a consultation mechanism for categories of textile products which are not subject to specific ceilings and for which levels may be established during the year upon agreement between the two governments. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in Categories 331, 339, 340, 341, 347/348 and 645/646, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on

January 1, 1981 and extending through December 31, 1981, in excess of the designated levels of restraint.

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.

**EFFECTIVE DATE:** January 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

*Chairman, Committee for the Implementation of Textile Agreements.*

November 28, 1980.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury; Washington, D.C.*

Dear Mr. Commissioner: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China, 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 January 1, 1981 and for the twelve-month period extending through December 31, 1981, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 331, 339, 340, 341, 347/348 and 645/646 in excess of the following levels of restraint:

| Category | 12-mo level of restraint |
|---|---|
| 331 | 3,310,008 doz pairs. |
| 339 | 912,000 doz. |
| 340 | 561,600 doz. |
| 341 | 445,100 doz. |
| 347/348 | 1,824,000 doz. |
| 645/646 | 566,500 doz. |

In carrying out this directive entries of textile products in the foregoing categories which have been exported to the United States prior to January 1, 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 January 1, 1980 and extending through December 31, 1980. 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 set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 17, 1980 between the Governments of the United States and the People's Republic of China, which provide, in part, that: (1) specific limits may be exceeded by designated percentages in any agreement year; (2) specific limits may 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 adjustments under the provisions of the bilateral agreement, referred to above, 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), and August 12, 1980 (45 FR 53506).

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 People's Republic of China and with respect to imports of cotton and man-made fiber textile products from China 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. 80-37652 Filed 12-3-80; 8:45 a.m.]

BILLING CODE 3510-25-M

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### Procurement List 1981; Establishment; Correction

*Correction*

In FR Doc. 80-36369 appearing on page 77104 in the issue of Freday, November 21, 1980, make the following corrections:

In the third column of page 77104, under Class 7210, Bedspring (IB), the three digit numbers in the 1st, 4th, and 5th lines now reading "-528-" should have read "-582-".

BILLING CODE: 1505-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 80.4]**

### Advance Machine Company, Inc., a Corporation Formerly Doing Business as Commercial Mechanisms, Inc., and Robert J. Pond., Individually, and as an Officer of the Corporation, and Former Officer of Commercial Mechanisms, Inc.; Prehearing Conference

On August 5, 1980, The Commission issued a Complaint with attached list and summary of documentary evidence charging that respondents in the above-entitled proceeding by January 1974 and thereafter, knew that numerous severe personal injuries had been caused by the sudden and unexpected activation of the metal arm of a baseball pitching machine which was disconnected from its power source, and that, based on such injuries, numerous claims and product liability lawsuits had been lodged against them and/or their insurance carriers; that therefore, the respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard; that the respondents knew of the existence and the authority of the Consumer Product Safety Act (CPSA) prior to January 1974; that the respondents, at the time they obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR 1115; that the respondents failed to inform the Commission by January 1974 or at any time thereafter that they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2); and that by failing to inform the Commission immediately after they had obtained information which resonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, respondents knowingly committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). The following relief is requested: (1) a determination that respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion

that the pitching machines described in the Complaint contained a defect which could create a substantial product hazard and which was subject to the above-described reporting requirements, (2) a determination that respondents knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to immediately report the existence of the defect described in the Complaint, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), and (3) pursuant to section 20(a) of the CPSA, 15 U.S.C. 2069(a), assess a civil penalty in the amount of five hundred thousand dollars ($500,000) jointly and severally against respondents for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), as alledged in the Complaint.

Respondents filed an answer dated August 28, 1980. Also, they filed a motion to dismiss dated November 17, 1980.

Issue having been joined, a prehearing conference, pursuant to § 1025.21 of the Commission's Rules of Practice for adjudicative proceedings, 16 CFR 1025.21, will be held on the 16th day of December, 1980 at 9:30 a.m. local time at the Consumer Product Safety Commission, 1111 18th Street, Suite 300, Washington, D.C.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.17 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.17.

Dated: November 21, 1980.

John H. West,

*Adminstrative Law Judge.*

[FR Doc. 80-37601 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

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[CPSC Docket No. 80-5]

## Athlone Industries, Inc., a Corporation, Also Doing Business as Dudley Sports Company, and Harold J. Miller and Charles H. Gilbert, Individually and as Officers of the Corporation; Prehearing Conference

On August 5, 1980, the Commission issued a Complaint with an attached list and summary of documentary evidence charging that respondents in the above-entitled proceeding by January 1974 and thereafter, knew that numerous severe personal injuries had been caused by the sudden and unexpected activation of the metal arm of a baseball pitching machine which was disconnected from its power source, and that, based on such injuries, numerous claims and product liability lawsuits had been lodged against them and/or their insurance carriers; that therefore, the respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard; that the respondents knew of the existence and the authority of the Consumer Product Safety Act (CPSA) prior to January 1974; that the respondents, at the time they obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR 1115; that the respondents failed to inform the Commission by January 1974 or at any time thereafter until July 1977 that they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2); and that by failing to inform the Commission immediately after they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, respondents knowingly committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). The following relief is requested: (1) a determination that respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines described in the Complaint contained a defect which could create a substantial product hazard and which was subject to the above-described reporting requirements, (2) a determination that respondents knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to immediately report the existence of the defect described in the Complaint, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), and (3) pursuant to section 20(a) of the CPSA, 15 U.S.C. 2069(a), assess a civil penalty in the amount of five hundred thousand dollars ($500,000) jointly and severally against respondents for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), as alleged in the Complaint.

Respondents filed a motion to dismiss on August 28, 1980. The Commissin has filed opposition pleadings dated September 23, 1980, and October 22, 1980, respectively, to the motion to dismiss, and to respondent's motion for leave to file memorandum to points and authorities in support of motion to dismiss.

Issue having been joined, a prehearing conference, pursuant to § 1025.21 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.21 will be held on the 16th day of December, 1980 at 9:30 a.m. local time at the Consumer Product Safety Commission, 1111 18th Street, Suite 300, Washington, D.C.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.17 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.17.

Dated: November 21, 1980.

John H. West,

*Administrative Law Judge.*

[FR Doc. 80-37600 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

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[CPSC Docket No. 80-8]

## State Fair of Texas, a Corporation, Steck and Stapf Attractions, Inc., a Corporation, Wayne Gallagher, an Individual and Officer of State Fair of Texas, Charles Noland, an Individual and Officer of Steck and Stapf Attraction, Inc.; Prehearing Conference

On August 28, 1980, the Commission issued a Complaint charging, in part, that on October 21, 1979, a fatal accident occurred at the State Fair of Texas, Fair Park, Dallas, Texas when two gondolas on the Swiss Skyride fell to the ground; that although the Skyride was equipped with a derailment switch on the roller battery, emergency stop buttons in the stations, and counterweight limit switches, none of these functioned during the accident sequence; that this lack of a functioning electrical safety system constitutes a defect in the ride within the meaning of section 15(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2064(a)(2); that the ride was not equipped with (1) a device to measure the wind velocity and (2) cable catchers to retain the cable on the roller battery, and the lack of this equipment is a defect in the ride within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2); that the Skyride contains defects which because of their pattern, the seriousness of the

injury that can occur, and the population exposed to the risk of injury create a substantial risk of injury within the meaning of section 15 (a)(2) and (d) of the CPSA, 15 U.S.C. 2064 (a)(2), and (d); that the Skyride creates a "substantial product hazard" to the public within the meaning of sections 15 (a)(2), and (d) of the CPSA, 15 U.S.C. 2064 (a)(2), and (d); that section 15(b) of the CPSA, 15 U.S.C. 2064(b) requires every manufacturer, distributor or retailer of a consumer product distributed in commerce to immediately notify the Commission upon receipt of information which reasonably supports the conclusion that such product contains a defect(s) which could create a substantial product hazard, unless such party has actual knowledge that the Commission is adequately informed; that violations of the requirements of section 15(b) of the CPSA are prohibited acts under sections 19(a)(3) and 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(3) and 2068(a)(4); that after the October 21, 1979, accident on the Skyride, respondents refused to permit Commission investigators complete access to the ride and to provide information concerning the ride, its operation and the accident; and that respondents knowingly failed to immediately and adequately inform the Commission upon having obtained information which reasonably supported the conclusion that the Skyride contained a defect or defects which could create a substantial product hazard, as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). The following relief is requested: (1) that a determination be made that the Skyride is a consumer product within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1) as produced "for the personal use * * * or enjoyment" of consumers "in recreation", (2) that a determination be made that the product is distributed in commerce within the meaning of section 3(a) (11) and (12) of the CPSA, 15 U.S.C. 2052(a) (11) and (12) when the riders occupy Skyride cars and are exposed to whatever dangers they may present, (3) that a determination be made that the Skyride presents a "substantial product hazard" and that an action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), be determined to be in the public interest, (4) that respondents be ordered to: (a) repair the Skyride to eliminate the defects in a manner satisfactory to the Commission, (b) after the ride has been repaired, conduct tests on it acceptable to the Commission that are designed to show that the hazard has been eliminated, (c) provide proof, acceptable to the Commission, of the safe operation of the ride after it has been repaired, (5) that respondents be prohibited from distributing the ride until they have complied with the provisions of paragraph 4 (a) through (c) above, (6) that respondents be ordered to (a) keep records of any and all repairs and modifications of the rides and any and all tests of the ride, (b) provide all of the records in paragraph (a) above and/or extracts of information from them to the Commission on request, (c) file reports with the Commission containing information that may be requested by the staff to determine compliance with any order issued in this proceeding at thirty (30) day intervals until the actions required in paragraph 4 above are completed and the Commission agrees that reports are no longer necessary, (d) permit inspections at respondents' ride and other places of business to verify data in reports submitted and ascertain compliance with any order issued in this proceeding, (7) order the respondents to notify the Commission at least thirty (30) days prior to any change in its business that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under any Commission order, and (8) assess an appropriate civil penalty pursuant to section 20 of the CPSA against State Fair and Steck & Stapf for knowingly violating sections 19(a)(3) and 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(3) and 2068(a)(4).

On September 22, 1980, respondents separately filed an answer, motions to dismiss, and a motion to stay the proceeding. On October 15, 1980, the Commission responded.

Issue having been joined, a prehearing conference, pursuant to § 1025.21 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.21, will be held on the 16th of December, 1980 at 1:00 p.m. local time at the Consumer Product Safety Commission, 1111 18th Street, Suite 300, Washington, D.C.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.17 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.17.

Dated: November 21, 1980.

John H. West,

*Administrative Law Judge.*

[FR Doc. 80-37599 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

## DELAWARE RIVER BASIN COMMISSION

### Ground Water Protected Area; Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on December 10, 1980 at 10 a.m. The hearing will be in the Goddard Conference Room in the Commission's office building, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing is proposed amendments to the Commission's ground water protected area program in southeastern Pennsylvania.

On October 8, 1980, the Commission declared a ground water protected area in southeastern Pennsylvania and established a regulatory program imposing conditions and restrictions on new wells to forestall continued depletion of ground waters in the region. The action was taken pursuant to Article 10 of the Delaware River Basin Compact and set forth in Commission Resolution No. 80-18. The protected area program goes into effect on January 1, 1981.

The protected area as delineated comprises all of Montgomery County and portions of Chester, Berks and Bucks Counties in Pennsylvania. The regulation applies to all wells drawing more than 10,000 gallons per day, including those of municipalities, authorities, water companies, industries and businesses, institutions and housing developments.

The Commission now proposes to amend its ground water protected area regulation (Resolution No. 80-18) in the following respects:

1. By including Lower Milford Township in Lehigh County, and Upper Makefield Township and Tinicum Township in Bucks County, and East Bradford and West Bradford Townships in Chester County, within the boundaries of the protected area as defined in Section 3(a) of the regulation.

2. By amending the text of Section 6 of the regulation so that the first paragraph thereof shall read as follows:

*"Protected Area Permits for New Withdrawals.* Any person, firm, corporation or other entity who proposes to develop a new ground water withdrawal or expand an existing ground water withdrawal for any purpose within the Southeastern Pennsylvania Ground Water Protected Area shall be required to obtain a protected area permit under this regulation if the proposed new, or [expanded daily average withdrawal during any calendar month exceeds] INCREASED RATE OF WITHDRAWAL

FROM A WELL OR GROUP OF WELLS OPERATED AS A SYSTEM AVERAGES MORE THAN 10,000 GALLONS PER DAY OVER A 30-DAY PERIOD."

(Additions indicated in CAPITALIZATION; deletions indicated in [brackets]).

3. By amending Section 6(b) of the regulation to provide that government agencies shall be exempt from the $100 application fee.

Persons wishing to testify on any of these proposed amendments are requested to notify the Secretary to the Commission prior to the hearing. Written testimony will be accepted in lieu of oral presentation.

November 26, 1980.

**W. Brinton Whitall,**

*Secretary.*

[FR Doc. 80-37610 Filed 12-3-80; 8:45 am]

BILLING CODE 6360-01-M

## DEPARTMENT OF EDUCATION

### Asbestos Hazards School Safety Task Force; Meeting

**AGENCY:** The Asbestos Hazards School Safety Task Force.

**ACTION:** Notice of meeting.

**SUMMARY:** The Deputy Assistant Secretary, Office of Educational Support announces a meeting and proposed agenda of the Asbestos Hazards School Safety Task Force. Notice of this meeting is required by the Federal Advisory Committee Act. This notice also describes the functions of the task force.

**DATE:** The meeting will be held on December 10, 1980, 10:00 a.m.-5:00 p.m.

**ADDRESS:** Federal Office Building #6, 400 Maryland Avenue, SW., Room 2189, Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Dr. Herman R. Goldberg, Deputy Assistant Secretary, Office of Educational Support, Room 2079, FOB-6, 400 Maryland Avenue, SW., Washington, D.C. 20202. (202) 245-8094.

**SUPPLEMENTARY INFORMATION:** The Asbestos Hazards School Safety Task Force was established under Section 3 of the Asbestos School Hazard Detention and Control Act of 1980, Pub. L. 96-270, (20 U.S.C. 3604, 3605). The task force was established to compile medical, scientific, and technical information on health and safety hazards associated with friable materials emitting asbestos fibers; to compile information on the means of identifying, sampling and testing materials suspected of emitting asbestos fibers; to distribute compiled information to State and local education agencies; to review applications for grants and loans to assist in identifying and eliminating imminent hazards associated with friable asbestos building materials in school buildings and to make recommendations to the Secretary on these applications; and to review guidelines established by the Environmental Protection Agency and the Department of Education to implement this Act.

The meeting of the task force is open to the public. The meeting will be held from 10:00 a.m. to 5:00 p.m. on Wednesday, December 10, 1980. The proposed agenda includes:

1. Continued discussion of comments received in response to the notice of proposed rulemaking.
2. Reports on interim activities of the Task Force.

Records will be kept of all task force proceedings, and will be available for public inspection in the Office of Educational Support, Room 2079, 400 Maryland Avenue, S.W., Washington, D.C., 20202 between the hours of 8:00 a.m. and 4:40 p.m. week days except Federal holidays.

Date: November 18, 1980.

Editorial Note.—Due to a processing error, this document was not published on November 21, 1980, as requested by the Department of Education.

**Herman R. Goldberg,**

*Deputy Assistant Secretary.*

[FR Doc. 80-37861 Filed 12-3-80; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### National Petroleum Council

### Air Quality Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Air Quality Task Group of the Committee on Environmental Conservation will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Air Quality Task Group meeting follows:

The Air Quality Task Group will hold its first meeting on Thursday, December 11, 1980, starting at 10:00 a.m., in the Conference Room of the Texaco Inc. Office, Suite 500 1050 Seventeenth Street N.W., Washington, D.C.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group Schedule.
4. Discuss any other matters pertinent to the overall assignment of the Air Quality Task Group.

The meeting is open to the public. The Chairman of the Air Quality Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Air Quality Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and resonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 21, 1980.

**R. D. Langenkamp,**

*Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.*

November 21, 1980.

[FR Doc. 80-37619 Filed 12-3-80; 8.45 am]

BILLING CODE 6450-01-M

### National Petroleum Council, of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that the Committee on Unconventional Gas Sources will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources has analyzed the various issues bearing on expeditious resource development of this promising energy resource. its analysis and findings were based on information and data gathered by various task groups. The time,

location and agenda of the meeting follows:

The third meeting of the Committee on Unconventional Gas Sources will be held on Tuesday, December 9, 1980, starting at 1:00 p.m., Dolley Madison Room, Madison Hotel, Fifteenth and M Streets, NW., Washington, D.C.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman of the Committee.

2. Review and discuss drafts of the final two volumes of the report on Unconventional Gas Sources:

- Executive Summary
- Tight Gas Reservoirs.

3. Discussion of any other matters pertinent to the overall assignment of the Committee on Unconventional Gas Sources.

The meeting is open to the public. The Chairman of the Committee on Unconventional Gas Sources is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee on Unconventional Gas Sources will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 20, 1980.

R. D. Langenkamp,

*Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.*

November 20, 1980.

[FR Doc. 80-37618 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

## Office of Assistant Secretary for International Affairs

### Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between U.S. and International Atomic Energy Agency

*Correction*

In the Federal Register for Thursday, November 20, 1980, on page 76741, in the third column, at the bottom of the column, in the file line, the FR Doc. number should have read "FR Doc. 80-36281".

BILLING CODE 1505-01-M

## Federal Energy Regulatory Commission

[Docket Nos. CI78-575-001, et al.]

### Amoco Production Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

November 28, 1980.

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

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

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

*Secretary.*

| Docket No. and date filed | Applicant | Purchaser and location | Price per 1,000 ft.[3] | Pressure base |
|---|---|---|---|---|
| CI78-575-001, Oct. 21, 1980 [1] | Amoco Production Company, 1670 Broadway, Denver, Colorado 80202. | Mountain Fuel Supply Company, Yellow Creek Area, Uinta County, Wyoming. | (2) | 15.025 |
| CI81-57-000, Nov. 17, 1980 | Moon & Hines, *et al*, Suite 1030 Capital Towers, Jackson, Miss. 39201. | Southern Natural Gas Company, Boyd-Tullos Unit No. 1 Well located in Sec. 22-T2N-R16W, Hub Field, Marion County, Mississippi. | Depleted to the extent that the continuance of service is unwarranted and uneconomical. | |

[1]Application to change delivery point from the wellhead to the discharge side of the dehydration unit.
[2]Applicant is filing to amend its Contract under Amendatory Agreement dated 2-19-80 and FERC G.R.S. No. 772.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-37668 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

## Alaskan Northwest Natural Gas Transportation Co.; Amendment to Application

[Docket No. CP80-435-001]

November 28, 1980.

Take notice that on November 17, 1980, Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80-435-001 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application pending in the instant docket so as to reflect revisions of Exhibits K, Z-9.0 and Z-9.1 of such application, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

By its application filed on July 1, 1980, in the instant docket, Applicant requested a certificate of public convenience and necessity authorizing the construction and operation of the Alaskan segment of the Alaska Natural Gas Transportation System (ANGTS), and, on the same day, Applicant filed a request with the Department of the Interior for issuance of a right-of-way grant over Federal lands along the pipeline route proposed by Applicant, it is said. Applicant further states that in both applications it assumed that there would be a minimum 80 foot spacing requirement between the Alaskan segment of the ANGTS and the Trans Alaska Pipeline System (TAPS) oil pipeline.

It is submitted that on August 20, 1980, the Department of the Interior notified interested Congressional Committees of its intent to issue a right-of-way to Applicant which would impose a condition that with certain exceptions there would be a 200 foot minimum spacing between the Alaskan segment of ANGTS and TAPS and that Applicant concluded that it would accept this condition provided that its certification cost estimate and center point request be appropriately modified to reflect increased costs and the variation in risk resulting from this change in spacing. Applicant further submits that at the technical conferences of September 3 and 4, 1980, it stated that it would file the necessary cost revisions to its July 1, 1980, certification cost estimate on or before October 27, 1980, and that in order to comply with said increased spacing Applicant was requied to select a new route along the total affected distance of about 300 miles. Applicant states that this revised route is essentially adjacent to the existing haul road except for certain areas where virgin routing is merited and that a completely new cost estimate of the revised route was then made in the same detail, using the same design criteria and following the same methodology as was utilized in the original estimate. It is further stated that the original estimate was then compared with the new estimate for the purpose of identifying variations in cost and that the new estimate indicates a total cost increase of $252,000,000 excluding contingency and finance charges are $30,000,000 and $32,000,000 respectively, it is said. Applicant asserts that the increase in the contingency is due solely to applying the contingency factors established in the original filing to the increased certification cost estimate before contingency and that the increase in finance charges is due to applying the original filing finance factors to the increased certification cost estimate. If these estimates of normal contingency and finance charges prove to be correct, Applicant indicates that the total increased cost would be $314,000,000.

Applicant attributes the major increase in the pipeline and civil work estimate to an increase in pipe hauling costs, an increase in the mineral material quantity by 8 million cubic yards, additional field programs (primarily borehole drilling), additional drilling and shooting, increased workpad embankment, a decrease in productivity due to both a narrower workpad necessitating shorter turns and lower travel speeds because of the proximity of the haul road, an increase in workpad culverts both in number and length, an increase in workpad crossings, an increase in restoration costs, an increase in pipe length and additional low water crossings. Applicant attributes the increase in temporary facility costs to be primarily due to an increase in the man-hours spent in the work camps which is said to result from the need to deliver more materials for the increase in the workpad embankment. Furthermore, an increase in project directorage is said to be due to an increase in taxes, insurance, permits and fees which are directly correlated to the increase in facility costs utilizing the same factors employed in the original filing.

The above revisions in the project estimates stemming from the Department of the Interior's said spacing requirements have been incorporated into revised Exhibits K (Certification Cost and Schedule Estimate), Z-9.0 (Design Summary) and Z-9.1 (Pipeline and Civil Design) which are appended to the amended application.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulators under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All person who have heretofore filed need not file again.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37663 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP81-58-000]

## Colorado Interstate Gas Co.; Application

November 28, 1980.

Take notice that on November 17, 1980, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP81-58-000 an application pursuant to Section 7 of the Natural Gas Act (1) for permission and approval to abandon certain gas reserves, (2) for a certificate of public convenience and necessity authorizing the transportation of shrinkage and fuel gas, and (3) for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities, all as necessary to implement an assignment of processing rights in the Desert Springs Field of Wyoming dated June 30, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement with Champlin Petroleum Company (Champlin) under which Applicant would convey to Champlin its rights to liquefiable

hydrocarbons underlying certain specific acreage in the Desert Springs Field. In return, it is stated, Applicant would receive the option to purchase new gas supplies from Champlin to be developed on more than 46,300 acres located in the Overthrust area in Uinta County, Wyoming, and Rich, Morgan and Summit Counties, Utah, up to 1,000,000,000 Mcf of natural gas. In addition Applicant would purchase gas from a Uinta County, Wyoming, field that has known reserves that far exceed the proposed abandonment, it is asserted.

Applicant proposes to abandon certain gas reserves in the form of shrinkage as a result of Champlin removing liquefiable hydrocarbons from natural gas owned or controlled by Applicant. It is stated that the abandonment could result in an estimated loss of 11,000,000 Mcf of gas reserves in the Desert Springs Field over the assumed field life of 20 years assuming extraction operations commence October 1, 1981. The total estimated liquid recovery over the same period could be 322,000,000 gallons, it is stated. Applicant requests that the abandonment take effect October 1, 1981, or at such later date as any required facilities are placed in service. Applicant states that the abandonment is necessary to implement the agreement of assignment of processing rights.

Furthermore, Applicant proposes to transport shrinkage and fuel gas to Champlin for processing and plant fuel use pursuant to the assignment agreement. Applicant estimates the volume of fuel gas to be 326 billion Btu's or an average of 39.4 Mcf per day for the life of the Desert Springs Field. It is stated that Champlin would reimburse Applicant for the plant fuel usage and shrinkage in an amount equal to the average gas cost by Applicant for gas purchased systemwide plus Applicant's cost of service. Applicant states that currently it credits the revenue received for the field liquids to its cost of service.

In addition, Applicant proposes to construct and operate facilities, including side valves, taps, and pipe to route its Desert Springs Field gas to Champlin's proposed plant and return the processed gas to its existing system. This proposal would require the installation of four taps and six valves and a total of approximately ¼ mile of 16-inch pipeline. Said construction's estimated cost of $237,800 would be financed by funds on hand, funds from operations, short-term borrowings, or long-term financing, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37664 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 327]

**Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978**

Issued November 28, 1980.

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| TEXAS RAILROAD COMMISSION | | | | | | | | |
| *ALFRED C GLASSELL JR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105789 | 20245 | 4236500000 | 108 | | G W BIRD #1-T | CARTHAGE | 11,0 | TEXAS GAS TRANSMISSI |
| 8105788 | 20244 | 4236500000 | 108 | | J W COOKE #1-T | CARTHAGE | 18,0 | TEXAS GAS TRANSMISSI |
| *AMERADA HESS CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105761 | 19568 | 4232901812 | 108 | | TEX-HARVEY SPRABERRY UNIT #162 | SPRABERRY TREND | 0,1 | |
| 8105822 | 20921 | 4232900000 | 108 | | TEX-HARVEY SPRABERRY UNIT #522 | SPRABERRY TREND | 3,2 | |
| 8105821 | 20920 | 4232900000 | 108 | | TEX-HARVEY SPRABERRY UNIT #573 | SPRABERRY TREND | 2,3 | |
| 8105762 | 19569 | 4232900552 | 108 | | TEX-HARVEY SPRABERRY UNIT #941 | SPRABERRY TREND | 0,1 | |
| *AMOCO PRODUCTION CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105793 | 20651 | 4232130400 | 108 | | BUTTER GAS UNIT WELL NO 1 | PETRUCHA (12650) | 6,9 | AMOCO GAS CO |
| 8105780 | 20003 | 4229530727 | 103 | | C L KING A WELL #8 | BRADFORD TONKAWA | 109,0 | PHILLIPS PETROLEUM C |
| 8105873 | 23474 | 4232130865 | 103 | | E J GRACEY UNIT #7 | OLD OCEAN (ARMSTRONG) | 27,7 | AMOCO GAS CO |
| 8105846 | 21974 | 4203900000 | 102 | | J H CROWELL NO 1 | OLD OCEAN NE | 730,0 | AMOCO GAS CO |
| 8105786 | 20133 | 4219500000 | 108 | | L W MATHEWS #1-T | HANSFORD | 0,0 | NORTHERN NATURAL GAS |
| 8105874 | 23476 | 4217531047 | 103 | | L W OCONNOR A #73 | LIVE OAK LAKE 5000 | 113,5 | AMOCO GAS CO |
| 8105794 | 20702 | 4203931489 | 103 | | LAURA D SHAW #23 | HASTINGS WEST | 4,3 | TEXAS EASTERN TRANSM |
| 8105753 | 19232 | 4203931323 | 103 | | MARTHA D LONG #5 | HASTINGS WEST | 8,2 | TEXAS EASTERN TRANSM |
| 8105919 | 24349 | 4248300000 | 108 | | SCRIBNER OPERATING UNIT #2 | MOBEETIE | 4,0 | NATURAL GAS PIPELINE |
| 8105920 | 24350 | 4242100000 | 108 | | SLOAN GAS UNIT B #1 | HUGOTON | 12,8 | PHILLIPS PETROLEUM C |
| *ANADARKO PRODUCTION COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105781 | 20004 | 4221131153 | 103 | | ABRAHAM A NO 2026 | HEMPHILL | 400,0 | PANHANDLE EASTERN PI |
| *8105855 | 22574 | 4221100000 | 108 | | ABRAHAM C NO 1026 | HEMPHILL - GRANITE WASH | 11,0 | PANHANDLE EASTERN PI |
| 8105718 | 15900 | 4235730867 | 103 | | HALE #1-209 | PARSELL | 36,5 | PANHANDLE EASTERN PI |
| *ANDERSON PETROLEUM INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105880 | 23590 | 4210532458 | 103 | | A C MILLSPAUGH A #1-32 | OZONA (CANYON SAND) | 35,0 | ANDERSON PIPELINE CO |
| *ANJE CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| *8105782 | 20005 | 4246100000 | 108 | | ARCO-MCELROY NO 1 RRC #49938 | WILSHIRE (DEVONIAN) | 16,0 | PECOS CO |
| *ARGONAUT ENERGY CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105742 | 18155 | 4216531311 | 102 | | COOK UNIT #1 | BRUMLEY EAST (YATES) | 408,0 | EL PASO NATURAL GAS |
| *C L GAGE JR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105722 | 16432 | 4249700000 | 103 | | CHARLIE MAXWELL #1 | BOONSVILLE (BEND CONGLO) | 164,0 | NATURAL GAS PIPELINE |
| 8105705 | 11098 | 4223700000 | 103 | | FRANCES IRENE WICKER NO 2 | NEWPORT SOUTH (BEND CONG | 108,0 | CITIES SERVICE CO |
| *CANUS PETROLEUM INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105792 | 20365 | 4235531508 | 103 | | #2 STATE TRACT 691 | SAXET 2700 AND SAXET 420 | 230,0 | UNITED GAS PIPELINE |
| *CENTEX OIL & GAS INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105748 | 18807 | 4224500000 | 102 | | HIGH ISLAND BLOCK 10-L WELL NO 7 | HIGH ISLAND BLOCK 10-L G | 1100,0 | TRANSCONTINENTAL GAS |
| 8105748 | 18807 | 4224500000 | 103 | | HIGH ISLAND BLOCK 10-L WELL NO 7 | HIGH ISLAND BLOCK 10-L G | 1100,0 | TRANSCONTINENTAL GAS |
| *CHAMPLIN PETROLEUM COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105760 | 19551 | 4236500000 | 103 | | CARTHAGE GAS UNIT 28-3 | CARTHAGE (COTTON VALLEY) | 0,0 | TENNESSEE GAS PIPELI |
| 8105869 | 23431 | 4236530862 | 103 | | CARTHAGE GAS UNIT 33 NO 2 | CARTHAGE (COTTON VALLEY) | 548,0 | TENNESSEE GAS PIPELI |
| 8105759 | 19550 | 4236500000 | 103 | | CARTHAGE GAS UNIT 7-2 | CARTHAGE (COTTON VALLEY) | 1,5 | TENNESSEE GAS PIPELI |

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| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| *8105741 | 18124 | 4227331404 | 103 | | G P WARDNER NO 144 | STRATTON | 25,0 | TENNESSEE GAS PIPELI |
| *CHRISTI CO INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105850 | 22195 | 4204932193 | 103 | | BURCHAM #1 | BROWN CO REGULAR (MARBLE | 126,0 | ODESSA NATURAL CORP |
| *COLORADO INTERSTATE GAS CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105921 | 24374 | 4237500000 | 108 | | MASTERSON F-1 | WEST PANHANDLE | 18,0 | (1) COLORADO INTERST |
| *CONOCO INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105955 | 24568 | 4207900000 | 108 | | CONOCO DEAN UNIT #120 ID #60106 | SLAUGHTER | 0,7 | AMOCO PRODUCTION CO |
| 8105952 | 24565 | 4207900000 | 108 | | CONOCO DEAN UNIT #33 ID #60106 | SLAUGHTER | 1,3 | AMOCO PRODUCTION CO |
| 8105953 | 24566 | 4207900000 | 108 | | CONOCO DEAN UNIT #55 ID #60106 | SLAUGHTER | 1,3 | AMOCO PRODUCTION CO |
| 8105954 | 24567 | 4207900000 | 108 | | CONOCO DEAN UNIT #67 ID #60106 | SLAUGHTER | 0,4 | AMOCO PRODUCTION CO |
| 8105948 | 24552 | 4222731201 | 108 | | G O CHALK D #18 ID #18990 | HOWARD-GLASSCOCK | 0,3 | PHILLIPS PETROLEUM C |
| 8105949 | 24554 | 4222700000 | 108 | | H R CLAY A #12 ID #02691 | HOWARD-GLASSCOCK | 0,7 | PHILLIPS PETROLEUM C |
| 8105950 | 24555 | 4222700000 | 108 | | H R CLAY E #2 ID#02692 | HOWARD-GLASSCOCK | 1,3 | PHILLIPS PETROLEUM C |
| 8105845 | 21892 | 4250531166 | 103 | | J G RATHMELL A NO 2 | HUNDIDO (LOBO) | 365,0 | HOUSTON PIPE LINE CO |
| 8105956 | 24569 | 4213502055 | 108 | | MRS L E WIGHT 4 #26 ID #23778 | COWDEN NORTH | 2,6 | AMOCO PRODUCTION CO |
| 8105951 | 24557 | 4210500000 | 108 | | RANCH STRAWN UNIT #9 ID #03211 | RANCH STRAWN | 3,4 | DELHI GAS PIPELINE C |
| 8105947 | 24551 | 4200300000 | 108 | | WEST FUHRMAN-MASCHO UNIT #57 | FUHRMAN-MASCHO | 0,2 | PHILLIPS PETROLEUM C |
| 8105946 | 24533 | 4213533156 | 108 | | WIGHT UNIT #132 ID #20661 | COWDEN NORTH | 1,1 | AMOCO PRODUCTION CO |
| *CONVEST ENERGY CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105904 | 23742 | 4226330669 | 102 | | WAYNE WILLIAMS ET AL WELL NO B-2 | POLLAN/ELLENBURGER | 0,0 | EL PASO NATURAL GAS |
| 8105903 | 23741 | 4226330670 | 102 | | WAYNE WILLIAMS ET AL WELL NO 7 | POLLAN/ELLENBURGER | 0,0 | EL PASO NATURAL GAS |
| *COTTON PETROLEUM CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105922 | 24384 | 4235730429 | 108 | | JEWELL NO 1 | FRANTZ (LOWER-MORROW) | 21,0 | DIAMOND SHAMROCK |
| *DELTA DRILLING CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105885 | 23616 | 4241330767 | 103 | | DELHI-JONES #2 | ELDORADO (CANYON) | 194,4 | NORTHERN NATURAL GAS |
| *DIAMOND SHAMROCK CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105755 | 19440 | 4221100000 | 108 | | FRANK SHALLER E NO 2 | BIG TIMBER CREEK | 3,0 | NATURAL GAS PIPELINE |
| 8105756 | 19441 | 4221100000 | 108 | | JOHN C ISAACS J NO 6 | RED DEER CREEK | 5,0 | SOUTHWESTERN PUBLIC |
| 8105754 | 19439 | 4229500000 | 108 | | MORRIS R MERYDITH E NO 1 | LIPSCOMB | 14,0 | NATURAL GAS PIPELINE |
| *EARL R BRUNO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105699 | 09130 | 4247500000 | 108 | | JANE DEAN MILLER #3 | MILLER BLOCK B-29 (PENN) | 12,0 | WARREN PETROLEUM CO |
| *EBEN D WARNER JR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105706 | 11772 | 4217900000 | 108 | | PARKER NO 1 | PANHANDLE EAST | 21,2 | PHILLIPS PETROLEUM C |
| *ECHO PRODUCTION INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105875 | 23479 | 4249731584 | 103 | | HOLT #1 | BOONSVILLE (BEND CONGL) | 335,8 | LONE STAR GAS CO |
| 8105876 | 23480 | 4249731585 | 103 | | HOLT #2 | BOONSVILLE (BEND CONGL) | 328,5 | LONE STAR GAS CO |
| *EDWIN L COX | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105738 | 17185 | 4212330995 | 103 | | BUEHRIG #5-L | COTTONWOOD CREEK SOUTH | 180,0 | LONE STAR GAS CO |
| *EL PASO NATURAL GAS COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105751 | 18950 | 4248326108 | 108 | | HILTBRUNNER #1 | PANHANDLE EAST-BROWN DOL | 17,0 | EL PASO NATURAL GAS |
| 8105752 | 18954 | 4208726276 | 108 | | TINDALL A #1 | PANHANDLE EAST BROWN DOL | 19,7 | EL PASO NATURAL GAS |
| *ERSO INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105710 | 15245 | 4236500000 | 103 | | CARTHAGE UNIT WELL #31 | CARTHAGE | 365,0 | TENNESSEE GAS PIPELI |
| *EXXON CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105891 | 23666 | 4200332187 | 103 | | FULLERTON CLFK UNIT #2477 | FULLERTON | 9,0 | PHILLIPS PETROLEUM C |
| 8105889 | 23663 | 4200331903 | 103 | | FULLERTON CLFK UNIT #4319 | FULLERTON | 0,0 | PHILLIPS PETROLEUM C |
| 8105890 | 23664 | 4200332189 | 103 | | FULLERTON CLFK UNIT #4321 | FULL | 43,0 | PHILLIPS PETROLEUM C |
| 8105884 | 23613 | 4208130832 | 103 | | IAB UNIT #517 | IAB (MENIELLE PENN) | 39,0 | SUN GAS CO |
| 8105785 | 20127 | 4200302505 | 108 | | J E PARKER A/C 7 #58 | THREE BAR (YATES) | 19,0 | NORTHERN NATURAL GAS |
| 8105887 | 23661 | 4216531741 | 103 | | ROBERTSON CLFK UNIT #1062 | ROBERTSON N (CLFK 7100) | 20,0 | PHILLIPS PETROLEUM C |
| 8105888 | 23662 | 4216531752 | 103 | | ROBERTSON CLFK UNIT #6402 | ROBERTSON N (CLFK 7100) | 14,0 | PHILLIPS PETROLEUM C |
| 8105879 | 23561 | 4216531771 | 103 | | ROBERTSON CLFK UNIT #650 | ROBERTSON N (CLFK 7100) | 23,0 | PHILLIPS PETROLEUM C |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8105828 | 21347 | 4236530864 | 103 | | W R BANKS #2 (CFEC UNIT 558) | CARTHAGE (COTTON VALLEY) | 500,0 | |
| *FEDERAL ENERGY DEVELOPMENT CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105823 | 21042 | 4273136400 | 102 | | MCCALEB NO 1 | ALVORD (ATOKA CONGLOMERA | 1,6 | NATURAL GAS PIPELINE |
| *FISHER-WEBB INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105877 | 23496 | 4208130748 | 103 | | PRICE 309 NO 2 | ARLEDGE (PENN SAND) | 150,0 | SUN GAS CO |
| 8105878 | 23497 | 4208130749 | 103 | | PRICE 309 NO 3 | ARLEDGE (PENN SAND) | 150,0 | SUN GAS CO |
| *FORTUNE DRILLING COMPANY INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105719 | 16389 | 4223531399 | 103 | | MURPHY 1149 #2 | CAL (CANYON) | 18,3 | NORTHERN NATURAL GAS |
| *FOY BOYD MANAGEMENT CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105835 | 21759 | 4247531985 | 103 | | PITZER #2 | RHODA WALKER (CANYON 590 | 66,6 | NORTHERN NATURAL GAS |
| *GAS PRODUCING ENTERPRISES INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105899 | 23723 | 4237530710 | 103 | | BIVINS 17-20RO | PANHANDLE (RED CAVE) | 8,0 | COLORADO INTERSTATE |
| 8105898 | 23722 | 4237530705 | 103 | | BIVINS 28-19RO | PANHANDLE (RED CAVE) | 12,0 | COLORADO INTERSTATE |
| 8105897 | 23721 | 4237530704 | 103 | | BIVINS 28-32-RO | PANHANDLE (RED CAVE) | 1,0 | COLORADO INTERSTATE |
| 8105892 | 23667 | 4237530698 | 103 | | MASTERSON 84-6RO | PANHANDLE RED CAVE | 10,0 | COLORADO INTERSTATE |
| *GETTY OIL COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105784 | 20058 | 4228500000 | 108 | | CORINNE BABER #1 | PROVIDENT CITY | 19,0 | TEXAS EASTERN TRANSM |
| 8105957 | 26365 | 4236500000 | 103 | | JEANETTE HARRELL NO 3 | CARTHAGE (COTTON VALLEY) | 500,0 | UNITED GAS PIPELINE |
| 8105883 | 23597 | 4237132326 | 103 | | MENDEL 24 #2 | GOMEZ (WOLFCAMP) | 21,0 | VALERO TRANSMISSION |
| 8105882 | 23596 | 4237100000 | 103 | | MENDEL 26 #2L | GOMEZ (WOLFCAMP) | 1,0 | VALERO TRANSMISSION |
| 8105881 | 23595 | 4237132327 | 103 | | MENDEL 26 #3 | GOMEZ (WOLFCAMP) | 1,0 | VALERO TRANSMISSION |
| 8105944 | 24526 | 4206500000 | 108 | | SCHAFER RANCH NO 149 | PANHANDLE CARSON | 1,3 | NORTHERN NATURAL GAS |
| 8105943 | 24525 | 4206500000 | 108 | | SCHAFER RANCH NO 150 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105942 | 24524 | 4206500000 | 108 | | SCHAFER RANCH NO 155 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105941 | 24523 | 4206500000 | 108 | | SCHAFER RANCH NO 185 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105940 | 24522 | 4206500000 | 108 | | SCHAFER RANCH NO 186 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105939 | 24521 | 4206500000 | 108 | | SCHAFER RANCH NO 187 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105938 | 24520 | 4206500000 | 108 | | SCHAFER RANCH NO 190 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105937 | 24519 | 4206500000 | 108 | | SCHAFER RANCH NO 192 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105936 | 24518 | 4206500000 | 108 | | SCHAFER RANCH NO 201 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105935 | 24517 | 4206500000 | 108 | | SCHAFER RANCH NO 207 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105934 | 24516 | 4206500000 | 108 | | SCHAFER RANCH NO 209 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105933 | 24515 | 4206500000 | 108 | | SCHAFER RANCH NO 210 | PANHANDLE CARSON | 1,7 | NORTHERN NATURAL GAS |
| 8105932 | 24514 | 4206500000 | 108 | | SCHAFER RANCH NO 239 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105931 | 24513 | 4206500000 | 108 | | SCHAFER RANCH NO 242 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105930 | 24512 | 4206500000 | 108 | | SCHAFER RANCH NO 243 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105929 | 24511 | 4206500000 | 108 | | SCHAFER RANCH NO 245 | PANHANDLE CARSON | 1,7 | NORTHERN NATURAL GAS |
| 8105928 | 24510 | 4206500000 | 108 | | SCHAFER RANCH NO 248 | PANHANDLE CARSON | 2,1 | NORTHERN NATURAL GAS |
| 8105927 | 24509 | 4206500000 | 108 | | SCHAFER RANCH NO 250 | PANHANDLE CARSON | 0,9 | NORTHERN NATURAL GAS |
| 8105926 | 24508 | 4206500000 | 108 | | SCHAFER RANCH NO 251 | PANHANDLE CARSON | 1,7 | NORTHERN NATURAL GAS |
| 8105925 | 24507 | 4206500000 | 108 | | SCHAFER RANCH NO 252 | PANHANDLE CARSON | 1,3 | NORTHERN NATURAL GAS |
| 8105945 | 24527 | 4206500000 | 108 | | SCHAFER RANCH NO 51 | PANHANDLE CARSON | 0,4 | NORTHERN NATURAL GAS |
| 8105918 | 24286 | 4207900000 | 108 | | SOUTHWEST LEVELLAND UNIT NO 29 | LEVELLAND | 5,7 | CITIES SERVICE CO |
| 8105783 | 20057 | 4208900000 | 108 | | W F ALBERT UNIT I #3 | SUBLIME | 16,0 | TENNESSEE GAS PIPELI |
| *GIFFORD MITCHELL & WISENBAKER | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105717 | 15807 | 4249530925 | 103 | | BLACK KETTLE #1-A | CHEYENNE (CAPITAN) | 5,0 | EL PASO NATURAL GAS |
| 8105716 | 15822 | 4249530979 | 103 | | TWO MOONS WELL #1 | CHEYENNE (CAPITAN) | 17,0 | EL PASO NATURAL GAS |
| *GUERNSEY PETROLEUM CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105725 | 16471 | 4224931009 | 103 | | LACEY #7 | ALFRED (4850) | 0,0 | |
| *GULF OIL CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105871 | 23458 | 4250531111 | 103 | | ANTONIO MARTINEZ ET AL NO 2 #85340 | LAREDO (LOBO) | 300,0 | VALERO TRANSMISSION |
| 8105772 | 19715 | 4223300000 | 108 | | C L DIAL ET AL NO 101 | PANHANDLE HUTCHINSON | 3,0 | PHILLIPS PETROLEUM C |

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| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8105764 | 19615 | 4223300000 | 108 | | C L DIAL ET AL NO 110 | PANHANDLE HUTCHINSON | 0,3 | PHILLIPS PETROLEUM C |
| 8105763 | 19609 | 4223300000 | 108 | | C L DIAL ET AL NO 118 | PANHANDLE HUTCHINSON | 1,5 | PHILLIPS PETROLEUM C |
| 8105767 | 19706 | 4223300000 | 108 | | C L DIAL ET AL NO 178 | PANHANDLE HUTCHINSON | 1,7 | PHILLIPS PETROLEUM C |
| 8105768 | 19707 | 4223300000 | 108 | | C L DIAL ET AL NO 264 | PANHANDLE HUTCHINSON | 2,0 | PHILLIPS PETROLEUM C |
| 8105769 | 19708 | 4223300000 | 108 | | C L DIAL ET AL NO 265 | PANHANDLE HUTCHINSON | 0,6 | PHILLIPS PETROLEUM C |
| 8105765 | 19649 | 4223300000 | 108 | | C L DIAL ET AL NO 270 | PANHANDLE HUTCHINSON | 0,3 | PHILLIPS PETROLEUM C |
| 8105771 | 19710 | 4223330103 | 108 | | C L DIAL ET AL NO 273 | PANHANDLE HUTCHINSON | 2,0 | PHILLIPS PETROLEUM C |
| 8105770 | 19709 | 4223330112 | 108 | | C L DIAL ET AL NO 274 | PANHANDLE HUTCHINSON | 1,7 | PHILLIPS PETROLEUM C |
| 8105766 | 19683 | 4223300000 | 108 | | C L DIAL ET AL NO 91 | PANHANDLE HUTCHINSON | 0,7 | PHILLIPS PETROLEUM C |
| 8105905 | 23745 | 4248300000 | 108 | | CHILTON W J D #1 | PANHANDLE EAST | 5,0 | TRANSWESTERN PIPE LI |
| 8105906 | 23746 | 4248300000 | 108 | | CHILTON W J F #1 | PANHANDLE EAST | 5,0 | TRANSWESTERN PIPE LI |
| 8105907 | 23751 | 4223300000 | 108 | | HODGES J T #1 | PANHANDLE HUTCHINSON | 0,3 | PHILLIPS PETROLEUM C |
| 8105908 | 23752 | 4223300000 | 108 | | HODGES J T #2 | PANHANDLE HUTCHINSON | 0,7 | PHILLIPS PETROLEUM C |
| 8105872 | 23470 | 4221130991 | 103 | | ISAACS NO 2-214 | CANADIAN SW MORROW UPPER | 400,0 | PIONEER NATURAL GAS |
| 8105707 | 12123 | 4204130075 | 103 | | JONES UNIT I WELL NO 1 | KURTEN (WOODBINE) | 12,0 | PRODUCERS GAS CO |
| 8105736 | 16966 | 4250531073 | 103 | | R VIDAURRI ET AL NO 5 #82818 | LA PERLA (WILCOX 6800) | 500,0 | TENNESSEE GAS PIPELI |
| 8105916 | 24114 | 4210332144 | 103 | | W N WADDELL ET AL TR A 1140 | SAND HILLS WEST (WOLFCAM | 336,0 | H & T GATHERING |
| -H L BROWN JR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105858 | 22725 | 4230130225 | 103 | | RED BLUFF (DEEP) NO 1 WELL #052776 | WILDCAT (WOLFCAMP) | 1095,0 | EL PASO NATURAL GAS |
| -H L MCCRACKEN CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| *8105723 | 16439 | 4248300000 | 108 | | WARD LEASE WELL NO 1 | EAST PANHANDLE | 6,6 | EL PASO NATURAL GAS |
| *8105724 | 16440 | 4248300000 | 108 | | WARD LEASE WELL NO 4 | EAST PANHANDLE | 6,6 | EL PASO NATURAL GAS |
| -HARKEN OIL & GAS INCORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105731 | 16626 | 4236332055 | 103 | | NICKELL UNIT #1 83515 | MINERAL WELLS S (CONGLOM | 182,5 | TEXAS UTILITIES FUEL |
| -HIGHLAND RESOURCES INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105795 | 20716 | 4229330437 | 102 | | OATES NO 1 (84266) | OLETHA | 365,0 | TEXAS UTILITIES FUEL |
| -HNG OIL COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105740 | 17600 | 4243530459 | 108 | | HAYFIELD 46 #1 57732 | SAWYER (STRAWN NORTH) | 6,0 | INTRATEX GAS CO |
| -HOUSTON OIL & MINERALS CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105727 | 16589 | 4270330120 | 102 | | STATE TRACT 526-L SW/4 #2 | CAVALLO (8200) FIELD | 5840,0 | VALLEY PIPE LINE |
| 8105728 | 16590 | 4270330129 | 102 | | STATE TRACT 526-L SW/4 #3 | CAVALLO (9200) FIELD | 7300,0 | VALLEY PIPE LINE OFF |
| 8105726 | 16588 | 4270330171 | 102 | | STATE TRACT 526-L SW/4 #6 | CAVALLO (8200) FIELD | 5840,0 | VALLEY PIPELINE |
| -J CLEO THOMPSON | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105694 | 01714 | 4200300000 | 103 | | WEST MEANS UNIT 8-8 | MEANS | 3,0 | PHILLIPS PETROLEUM C |
| -J M HUBER CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105695 | 02401 | 4223330631 | 103 | | JOHNSON NO 1A | PANHANDLE WEST | 55,0 | PANHANDLE EASTERN PI |
| 8105696 | 02403 | 4206530577 | 103 | | POLING C #1A | PANHANDLE WEST | 200,0 | COLORADO INTERSTATE |
| -JOHN H ADGER | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105700 | 10758 | 4217900000 | 108 | | BREEDING #1 | EAST PANHANDLE | 3,0 | PHILLIPS PETROLEUM C |
| 8105701 | 10759 | 4217900000 | 108 | | BREEDING A-1 | EAST PANHANDLE | 20,4 | PHILLIPS PETROLEUM C |
| 8105702 | 10760 | 4208700000 | 108 | | FRANKS A | PANHANDLE EAST | 3,0 | WARREN PETROLEUM COR |
| 8105703 | 10761 | 4208700000 | 108 | | FRANKS B | PANHANDLE EAST | 2,0 | WARREN PETROLEUM COR |
| 8105704 | 10762 | 4248300000 | 108 | | O GORMAN (FRANK) #1 | PANHANDLE EAST | 4,0 | WARREN PETROLEUM COR |
| -K S ADAMS JR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105739 | 17414 | 4233900000 | 108 | | JOHN HECK ET AL #1 24569 | WEST PANHANDLE | 10,7 | PHILLIPS PETROLEUM C |
| -KIMBALL PRODUCTION COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105729 | 16797 | 4206500000 | 108 | | BURNETT A NO 1 | PANHANDLE | 15,6 | PHILLIPS PETROLEUM C |
| 8105730 | 16798 | 4206500000 | 108 | | BURNETT A NO 2 | PANHANDLE | 15,6 | PHILLIPS PETROLEUM C |
| 8105732 | 16799 | 4206500000 | 108 | | BURNETT A NO 3 | PANHANDLE | 15,6 | PHILLIPS PETROLEUM C |
| 8105733 | 16800 | 4206500000 | 108 | | BURNETT A NO 4 | PANHANDLE | 15,6 | PHILLIPS PETROLEUM C |
| 8105734 | 16801 | 4206500000 | 108 | | BURNETT A NO 5 | PANHANDLE | 15,6 | PHILLIPS PETROLEUM C |
| -KIRBY EXPLORATION CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |

| JD NO | JA DKT | API NO | SEC | D WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8105864 | 23041 | 4248131759 | 102 | NORRIS RAUN | GOLDEN ROD (2630) | 75,0 | TRUNKLINE GAS CO |
| *LULING OIL AND GAS CO INC | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105711 | 15349 | 4233100000 | 103 | MARTIN NO 4-A | MILBUR | 21,0 | |
| *MCMORAN EXPLORATION CO | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105862 | 22879 | 4221530968 | 102 | COOK WELL #1-L | MCALLEN SO (GRISSOM 7700 | 700,0 | TRANSCONTINENTAL GAS |
| 8105861 | 22878 | 4221530968 | 102 | COOK WELL #1-U | MCALLEN SOUTH (WILADEL 7 | 600,0 | TRANSCONTINENTAL GAS |
| 8105827 | 21327 | 4235530840 | 102 | STATE TRACT 352 WELL NO 1 | RED FISH BAY (9000-C) PR | 400,0 | UNITED GAS PIPE LINE |
| *MEWBOURNE OIL COMPANY | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105860 | 22798 | 4229530748 | 103 | PEERY WELL #6 ID #04432 | PEERY (MARMATON) | 18,0 | TRANSWESTERN PIPELIN |
| *MGF OIL CORP | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105863 | 22891 | 4207130958 | 102 | STATE TRACT 72 NO 1 RRC #85636 | UMBRELLA POINT NW (F-14) | 200,0 | UNITED TEXAS TRANSMI |
| 8105854 | 22487 | 4232930856 | 103 | STIMSON-BURLEY A WELL NO 2 | SPRABERRY (TREND AREA) | 25,2 | NORTHERN NATURAL GAS |
| 8105817 | 20802 | 4238931069 | 103 | WORSHAM NO 1 | WORSHAM | 15,0 | |
| *MGU DEVELOPMENT CO | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105737 | 17044 | 4232130837 | 103 | ROSENTHAL-SLONE NO 1-UP ID #81074 | HAMMAN FIELD | 90,0 | TENNESSEE GAS PIPELI |
| *MILLS BENNETT ESTATE | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105856 | 22627 | 4204700000 | 108 | BENNETT MILLS ESTATE FEE #47 | MILLS BENNETT (B SAND SE | 12,0 | TEXAS EASTERN TRANSM |
| *MITCHELL ENERGY CORPORATION | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105713 | 15697 | 4249700000 | 108 | ANNA WOODY #1 28859 | BOONSVILLE (BEND CONGL G | 0,0 | NATURAL GAS PIPELINE |
| 8105775 | 19802 | 4249700000 | 108 | DALY - HERRING #1 38476 | BOONSVILLE (BEND CONG GA | 19,0 | NATURAL GAS PIPELINE |
| 8105776 | 19803 | 4249700000 | 108 | E HOLT #1 39165 | CHICO WEST (CONGL 5700) | 14,0 | NATURAL GAS PIPELINE |
| 8105797 | 20726 | 4249700000 | 108 | ETHEL CAMPBELL #2 78926 | TOTO (BEND CONGL LOWER) | 19,0 | NATURAL GAS PIPELINE |
| 8105714 | 15701 | 4249700000 | 108 | GUY BROWN #1 31692 | BOONSVILLE (BEND CONG GA | 21,0 | NATURAL GAS PIPELINE |
| 8105829 | 21398 | 4249731645 | 103 | H V HOUGH #3 ID #N/A | BOONSVILLE (BEND CONG) | 500,0 | NATURAL GAS PIPELINE |
| 8105774 | 19801 | 4249700000 | 108 | LEE GOMER #1 34053 | BOONSVILLE (BEND CONG GA | 13,0 | LONE STAR GAS CO |
| 8105749 | 18841 | 4249700000 | 108 | MAUDE WILLIAMS #1 55857 | ALVORD (ATOKA CONGL) | 9,0 | NATURAL GAS PIPELINE |
| 8105886 | 23640 | 4249700000 | 108 | PAUL R DAY #1 28620 | BOONESVILLE (BEN CONGL G | 13,7 | NATURAL GAS PIPELINE |
| 8105796 | 20721 | 4223700000 | 108 | R L BOYD #2 16552 | KRAMBERGER (ATOKA CONGL) | 17,0 | NATURAL GAS PIPELINE |
| 8105715 | 15708 | 4249700000 | 108 | SAM KIKER #1 28713 | BOONSVILLE (BEND CONGL G | 14,0 | NATURAL GAS PIPELINE |
| 8105747 | 18769 | 4249700000 | 108 | TARRANT COUNTY WATERBOARD #6 28826 | BOONSVILLE (BEND CONGL G | 11,0 | NATURAL GAS PIPELINE |
| *NUCORP ENERGY INC | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105909 | 23807 | 4217730509 | 102 | MCCALOP UNIT #1 | MAG (AUSTIN CHALK) | 88,0 | INTRASTATE GATHERING |
| 8105902 | 23739 | 4214930497 | 102 | PREWETT HARTFORD H #1 | GIDDINGS (AUSTIN CHALK) | 0,0 | CLAJON GAS CO |
| *PANHANDLE PRODUCING COMPANY | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105923 | 24458 | 4223300000 | 108 | CLINTON SANFORD C 2RC (27114) | PANHANDLE WEST (RED CAVE | 12,5 | COLORADO INTERSTATE |
| *PARAFFINE OIL CORP | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105743 | 18170 | 4224930840 | 102 | HERBERT SMITH NO 3 75049 | BEN BOLT (5800) | 365,0 | SEAGULL PIPELINE COR |
| 8105743 | 18170 | 4224930840 | 103 | HERBERT SMITH NO 3 75049 | BEN BOLT (5800) | 365,0 | SEAGULL PIPELINE COR |
| 8105859 | 22758 | 4205730962 | 102 | P H WELDER D NO 1-L | KATIE WELDER (N-9) | 40,0 | SEAGULL PIPELINE COR |
| 8105859 | 22758 | 4205730962 | 103 | P H WELDER D NO 1-L | KATIE WELDER (N-9) | 40,0 | SEAGULL PIPELINE COR |
| 8105744 | 18171 | 4224931062 | 102 | SMITH UNIT NO 1 | BEN BOLT (5800) | 365,0 | SEAGULL PIPELINE COR |
| 8105744 | 18171 | 4224931062 | 103 | SMITH UNIT NO 1 | BEN BOLT (5800) | 365,0 | SEAGULL PIPELINE COR |
| *PENNZOIL PRODUCING COMPANY | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105833 | 21504 | 4236530980 | 103 | BLACK NO 2 | CARTHAGE/COTTON VALLEY/ | 650,0 | UNITED GAS PIPE LINE |
| 8105818 | 20842 | 4235500000 | 108 | HELEN P AUSTIN NO B-10 | AGUA DULCE | 6,0 | UNITED GAS PIPE LINE |
| 8105832 | 21472 | 4236531001 | 103 | HULL UNIT NO A-21 | CARTHAGE/COTTON VALLEY/ | 550,0 | UNITED GAS PIPE LINE |
| 8105901 | 23734 | 4200730641 | 103 | V H TATTON NO 19-F | VIRGINIA | 3,0 | NATURAL GAS PIPELINE |
| *PETER PAUL PETROLEUM CO | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105820 | 20901 | 4221530790 | 108 | MELLINGER UNIT-1 | SHEPHERD (ELKINS) | 11,0 | VALERO TRANSMISSION |
| *PEYTON MCKNIGHT JR | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105852 | 22410 | 4240100000 | 103 | J L BURTON ESTATE NO 1 (80171) | OAK HILL (COTTON VALLEY) | 270,0 | LONE STAR GAS COMPAN |
| *PHILLIPS PETROLEUM COMPANY | | | | RECEIVED: 11/17/80 JA: TX | | | |

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| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8105853 | 22478 | 4213533273 | 103 | | (01567) VINA BAGLEY | FOSTER | 16,0 | ODESSA NATURAL CORP |
| 8105914 | 24042 | 4200304489 | 108 | | (17015) BITLER NO 44 | FULLERTON (SAN ANDRES) | 0,2 | EL PASO NATURAL GAS |
| 8105913 | 24041 | 4213505834 | 108 | | (18713) GOLDSMITH ADOBE UNIT #14-04 | GOLDSMITH (5600) | 1,0 | EL PASO NATURAL GAS |
| 8105849 | 22129 | 4213533178 | 108 | | (19297) SOUTH COWDEN UNIT NO 8-18 | COWDEN SOUTH | 1,0 | ODESSA NATURAL CORP |
| 8105912 | 24039 | 4213503164 | 108 | | (21193) GOLDSMITH ANDECTOR NO K-08 | GOLDSMITH (CLEARFORK) | 8,0 | EL PASO NATURAL GAS |
| 8105777 | 19810 | 4249503432 | 108 | | CRUM NO 5 (57115) | KEYSTONE (DEVONIAN) | 21,1 | SID RICHARDSON CARBO |
| -PYRAMID OIL & GAS COMPANY | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105910 | 23995 | 4210300000 | 108 | | HAMPTON ET-AL A 23398 | WHITE-HORSE (CLEARFORK 2 | 1,0 | PHILLIPS PETROLEUM C |
| -R C BLACK | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105787 | 20169 | 4249500000 | 108 | | BROWN & ALTMAN "H" #1 | EMPEROR | 0,1 | PHILLIPS PETROLEUM C |
| -RAY H EUBANK | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105831 | 21432 | 4220330685 | 102 | | J W ING HEIRS G U NO 1-T | LANSING NORTH (TRAVIS-PE | 547,5 | TEJAS GAS CORP |
| -RESOURCES INVESTMENT CORPORATION | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105698 | 07291 | 4217531016 | 102 | | EWING #2-T | LA BAHIA E (3900) | 132,0 | TRUNKLINE GAS CO |
| -SANCHEZ-OBRIEN MINERALS CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105790 | 20268 | 4247932460 | 102 | | S J MARTIN NO 2-A | MORITAS CREEK | 500,0 | TENNESSEE GAS PIPELI |
| 8105778 | 19811 | 4247932414 | 102 | | S J MARTIN WELL NO 1-A | WILDCAT | 500,0 | TENNESSEE GAS PIPELI |
| -SHELL OIL CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105708 | 13511 | 4250131550 | 103 | | DENVER UNIT NO 6731 | WASSON | 41,0 | SHELL OIL CO & CULTE |
| 8105915 | 24104 | 4250131554 | 103 | | DENVER UNIT 3738 | WASSON | 23,0 | SHELL OIL CO |
| 8105848 | 22097 | 4221530930 | 102 | | DIXIE MORTGAGE-HOPKINS GU WELL NO 3 | MCCOOK EAST (VICKSBURG 1 | 500,0 | NATURAL GAS PIPELINE |
| 8105720 | 16421 | 4210532188 | 103 | | FORRISTAL B-11 | TIPPETT WEST (HUECO) | 3,0 | NELEH GAS & OIL CO |
| 8105721 | 16422 | 4210532206 | 103 | | FORRISTAL B-12 | TIPPETT (WOLFCAMP UPPER) | 60,0 | NELEH GAS AND OIL CO |
| 8105851 | 22294 | 4242731372 | 102 | | MARTINEZ-STATE NO 5 | RINCON NORTH (VICKSBURG | 200,0 | LONE STAR GAS CO |
| 8105779 | 19943 | 4247531837 | 103 | | SEALY SMITH FOUNDATION #164 | MONAHANS (CLEARFORK) | 11,0 | EL PASO NATURAL GAS |
| 8105824 | 21073 | 4247531844 | 103 | | SEALY SMITH FOUNDATION #172 | MONAHANS (CLEAR FORK) | 0,2 | EL PASO NATURAL GAS |
| -SIMPSON-MANN OIL PRODUCERS | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105847 | 21994 | 4239931441 | 102 | | WEBB UNIT #1 | MILES (CAPPS) | 180,0 | ODESSA NATURAL CORP |
| 8105847 | 21994 | 4239931441 | 103 | | WEBB UNIT #1 | MILES (CAPPS) | 180,0 | ODESSA NATURAL CORP |
| -SOUTHLAND ROYALTY CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105758 | 19538 | 4210300000 | 108 | | EDWARDS GRAYBURG UNIT #7-23 | EDWARDS | 0,9 | PHILLIPS PETROLEUM C |
| 8105757 | 19491 | 4213300000 | 108 | | EDWARDS GRAYBURG UNIT #8-15 | EDWARDS | 0,9 | PHILLIPS PETROLEUM C |
| 8105830 | 21421 | 4210532112 | 103 | | TODD 36 #1 | HOWARD DRAW | 70,0 | PERMIAN CORP |
| -SUBURBAN PROPANE GAS CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105746 | 18457 | 4216300000 | 108 | | GEORGE M WILLIAMS NO 18 | WEST BIG FOOT GAS | 16,1 | TRANSCONTINENTAL GAS |
| 8105745 | 18455 | 4216300000 | 108 | | ROMAN HERNANDEZ NO 1 | WEST BIG FOOT GAS | 3,2 | TRANSCONTINENTAL GAS |
| -SUN OIL COMPANY (DELAWARE) | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105816 | 20789 | 4218300000 | 108 | | C BROWN NO 2 | EAST TEXAS | 0,4 | MOBIL OIL CORP |
| 8105868 | 23119 | 4204730685 | 102 | | D J SULLIVAN NO 10 | FLOWELLA | 423,0 | FLORIDA GAS TRANSMIS |
| 8105839 | 21831 | 4213500000 | 108 | | EAST GOLDSMITH HOLT UNIT NO 25-1 | EAST GOLDSMITH | 0,4 | PHILLIPS PETROLEUM C |
| 8105840 | 21834 | 4213500000 | 108 | | E GOLDSMITH SAN ANDRES UT #24-1 | EAST GOLDSMITH | 1,0 | PHILLIPS PETROLEUM C |
| 8105750 | 18922 | 4213500000 | 108 | | FOSTER JOHNSON UNIT NO 1-15 | FOSTER FIELD | 0,4 | ODESSA NATURAL CORP |
| 8105893 | 23697 | 4208130837 | 103 | | H L BLOODWORTH WELL NO 8 | BLOODWORTH (5700) | 88,0 | LONE STAR GAS CO |
| 8105894 | 23705 | 4242330377 | 103 | | HITTS LAKE UNIT WELL NO 7-2 | HITTS LAKE (PALUXY) | 0,4 | LONE STAR GAS CO |
| 8105807 | 20755 | 4218300000 | 108 | | J C GRAY WELL NO 12 | EAST TEXAS | 0,2 | UNITED GAS PIPE LINE |
| 8105806 | 20754 | 4218300000 | 108 | | J C GRAY WELL NO 6 | EAST TEXAS | 0,4 | UNITED GAS PIPE LINE |
| 8105801 | 20744 | 4218300000 | 108 | D | J C MCKINLEY NO 15 | EAST TEXAS | 0,4 | UNITED GAS PIPE LINE |
| 8105799 | 20742 | 4218300000 | 108 | | J C MCKINLEY NO 17 | EAST TEXAS | 0,4 | UNITED GAS PIPE LINE |
| 8105800 | 20743 | 4218300000 | 108 | | J C MCKINLEY NO 2 | EAST TEXAS | 0,4 | UNITED GAS PIPE LINE |
| 8105798 | 20741 | 4218300000 | 108 | | J C MCKINLEY NO 4 | EAST TEXAS | 0,5 | UNITED GAS PIPE LINE |
| 8105804 | 20748 | 4218300000 | 108 | | J S ELDER NO 7 | EAST TEXAS | 0,4 | WARREN PETROLEUM CO |
| 8105805 | 20749 | 4218300000 | 108 | | J S ELDER NO 9 | EAST TEXAS | 0,4 | WARREN PETROLEUM CO |
| 8105900 | 23730 | 4212731845 | 103 | | JOHN B BAGGETT NO 11 | PEARSALL (AUSTIN CHALK) | 36,0 | HOUSTON PIPE LINE CO |

| JD NO | JA DAT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8105802 | 20745 | 4218300000 | 108 | | L ALEXANDER NO 4 | EAST TEXAS | 1,0 | EXXON CORP |
| 8105810 | 20778 | 4218300000 | 108 | | M T COLE NO 23 | EAST TEXAS | 0,2 | ARCO OIL AND GAS CO |
| 8105811 | 20779 | 4218300000 | 108 | | M T COLE NO 29 | EAST TEXAS | 0,2 | ARCO OIL AND GAS CO |
| 8105812 | 20780 | 4218300000 | 108 | | M T COLE NO 30 | EAST TEXAS | 0,6 | ARCO OIL AND GAS CO |
| 8105813 | 20781 | 4218300000 | 108 | | M T COLE NO 39 | EAST TEXAS | 0,2 | ARCO OIL AND GAS CO |
| 8105814 | 20782 | 4218300000 | 108 | | M T COLE NO 40 | EAST TEXAS | 0,2 | ARCO OIL AND GAS CO |
| 8105815 | 20783 | 4218300000 | 108 | | M T COLE NO 58 | EAST TEXAS | 0,2 | ARCO OIL AND GAS CO |
| 8105866 | 23115 | 4246931520 | 102 | | MCFADDIN A NO 55 | N W MCFADDIN | 43,0 | UNITED GAS PIPE LINE |
| 8105844 | 21840 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 152 | COWDEN SOUTH | 1,0 | ODESSA NATURAL CORP |
| 8105843 | 21839 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 173 | COWDEN SOUTH | 3,0 | ODESSA NATURAL CORP |
| 8105842 | 21838 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 177 | COWDEN SOUTH | 0,1 | ODESSA NATURAL CORP |
| 8105841 | 21837 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 185 | COWDEN SOUTH | 1,0 | ODESSA NATURAL CORP |
| 8105838 | 21821 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 75 | COWDEN SOUTH | 1,0 | ODESSA NATURAL CORP |
| 8105836 | 21819 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 77 | COWDEN SOUTH | 1,5 | ODESSA NATURAL CORP |
| 8105837 | 21820 | 4213500000 | 108 | | PAUL MUSS UNIT WELLS NO 80 | COWDEN SOUTH | 1,5 | ODESSA NATURAL CORP |
| 8105808 | 20757 | 4240100000 | 108 | | R J HENDON NO 13 | EAST TEXAS | 1,0 | ARCO OIL AND GAS CO |
| 8105809 | 20758 | 4240100000 | 108 | | R J HENDON NO 14 | EAST TEXAS | 0,4 | ARCO OIL AND GAS CO |
| 8105867 | 23118 | 4246931466 | 102 | | W V COFFEY NO 11-U | HEYSER (8150) | 548,0 | TENNESSEE GAS PIPELI |
| 8105803 | 20747 | 4245900000 | 108 | | WEBB NO 4 | EAST TEXAS | 0,2 | WARREN PETROLEUM CO |
| -SUPERIOR OIL CO | | | | | RECEIVED: 11/20/80 JA: TX | | | |
| 8105958 | 17676 | 4271500016 | 103 | | STATE OF TEXAS BLOCK 14-L UNIT #11 | HIGH ISLAND BLOCK 14-L ( | 5000,0 | NATURAL GAS PIPELINE |
| -TEXACO INC | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105865 | 23097 | 4232930879 | 102 | | A A BRADFORD EST NCT-1 #2 | BRADFORD RANCH (ATOKA) | 186,0 | EL PASO NATURAL GAS |
| 8105911 | 24009 | 4221500029 | 108 | | A E GUERRA #4 | SANTELLANA S (6000) | 14,3 | TENNESSEE GAS PIPELI |
| 8105819 | 20878 | 4224531169 | 102 | | DOYLE OIL UNIT #1 | K B DOYLE FIELD | 110,0 | TRANSCONTINENTAL GAS |
| -TEXAS OIL & GAS CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105857 | 22709 | 4216130581 | 102 | | KELLER N #1 | BEAR GRASS NE (COTTON VA | 500,0 | |
| 8105735 | 16918 | 4221530944 | 103 | | MANSFIELD A WELL #1 | LANDA (B) FIELD | 300,0 | UNITED GAS PIPELINE |
| -THREE-B OIL CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105870 | 23456 | 4210532724 | 103 | | SHANNON DEE NO 1 WELL | NOELKE SOUTHEAST (QUEEN) | 75,0 | EL PASO NATURAL GAS |
| -TRINITY OIL & GAS CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105834 | 21579 | 4213300000 | 103 | | BAR H BAR RANCH D WELL NO 4 #15766 | WILDCAT | 5,0 | ATLAS-REISS PIPELINE |
| -V G SCHULTZ | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105791 | 20362 | 4229500000 | 108 | | SCHULTZ #1 | BECHTOLD (TONKAWA) | 0,0 | NORTHERN NATURAL GAS |
| -VERNON E FAULCONER | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105924 | 24462 | 4236500000 | 108 | | WERNER - HUSBANDS RRC ID NO 30015 | CARTHAGE (PETTIT LOWER) | 19,5 | TEXAS GAS TRANSMISSI |
| -W A MONCRIEF JR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105709 | 15156 | 4236730387 | 108 | | KNOX NO 5 | LAKE WEATHERFORD (ATOKA) | 11,7 | SOUTHWESTERN GAS PIP |
| -W L BRUCE OPERATOR | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105697 | 05734 | 4234100000 | 108 | | JE PRITCHARD #9 RRC 01352 | PANHANDLE | 11,3 | PHILLIPS PETROLEUM C |
| -WARREN PETR CO A DIV OF GULF OIL CO | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105917 | 24115 | 4210332153 | 103 | | W N WADDELL ET AL NO 1137 | RUNNING W (SAN ANGELO) | 15,0 | EL PASO NATURAL GAS |
| 8105895 | 23715 | 4210332152 | 103 | | W N WADDELL ET AL TR A NO 1138 | RUNNING W (TUBB) | 296,0 | EL PASO NATURAL GAS |
| 8105896 | 23717 | 4210332151 | 103 | | W N WADDELL ET AL TR A NO 1139 | RUNNING W (TUBB) | 15,0 | EL PASO NATURAL GAS |
| -WAY AND MILLS | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105712 | 15445 | 4238331384 | 103 | | UNIVERSITY 10 #4 | FARMER (SAN ANDRES) | 18,0 | NORTHERN NATURAL GAS |
| -WAYMAN W BUCHANAN | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105826 | 21258 | 4246131451 | 103 | | COWDEN ET AL NO 1 | SPRABERRY (TREND AREA) | 18,3 | PHILLIPS PETROLEUM C |
| 8105825 | 21257 | 4246131459 | 103 | | COWDEN ET AL NO 2 | SPRABERRY (TREND AREA) | 18,3 | PHILLIPS PETROLEUM C |
| -WY-VEL CORP | | | | | RECEIVED: 11/17/80 JA: TX | | | |
| 8105773 | 19771 | 4223330722 | 103 | | SOUTHLAND NO 4 | PANHANDLE | 6,0 | PHILLIPS PETROLEUM C |

| OTHER PURCHASERS | VOLUME NO 1327 |
|---|---|
| 8105723 | RAEL GAS CO |
| 8105724 | RAEL GAS CO |
| 8105741 | COLUMBIA GAS TRANSMISSION COMPANY |
| 8105782 | EL PASO NATURAL GAS CO |
| 8105855 | KANSAS NEBRASKA NATURAL GAS CO INC |

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 19, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37678 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CP81-53-000]**

## Houston Pipe Line Co.; Application

November 28, 1980.

Take notice that on November 3, 1980, Houston Pipe Line Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP81-53-000 an application pursuant to Part 284, Subpart C, of the regulations implementing the Natural Gas Policy Act of 1978 (NGPA) for authorization to transport and deliver natural gas, on a delayed exchanged basis, to EL Paso Natural Gas Company (El Paso) during the 1980-81 winter period in exchange for the subsequent balancing delivery by El Paso of natural gas equivalent in Btu content, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to implement the terms of an agreement between it and El Paso dated October 30, 1980, which agreement, it is asserted, is designed to assist El Paso in protecting its east-of-California (EOC) customer's peak-day Priority 1 and 2 service requirements during the 1980-81 winter period. Applicant submits that the arrangement would permit it to withdraw from its Bammel Storage Field, Harris County, Texas, certain volumes of natural gas (Houston exchange gas) and to transport and deliver such natural gas for El Paso's account during the 1980-81 winter period. Applicant further submits that Oasis Pipe Line Company (Oasis) would receive the Houston exchange gas for El Paso's account at a point on Applicant's and Oasis' systems located near Katy, Waller County, Texas, and would concurrently transport pursuant to Section 311 of the NGPA and deliver such natural gas to El Paso at an existing point of interconnection between the pipeline facilities of El Paso and Oasis near the Mobil Waha Plant in Pecos County, Texas. Applicant proposes to make available for El Paso's account such quantities of Houston exchange gas as may be required for use by El Paso in protecting EOC Priority 1 and 2 service. El Paso has advised Applicant that the withdrawal, transportation and delivery of Houston exchange gas on behalf of El Paso would be required only on those peak days during the 1980-81 winter season when El Paso's quantities of natural gas otherwise available for service to its EOC customers as augmented by the maximum volumes available through El Paso's Clay Basin Interim Storage Arrangements are not sufficient to provide service fully to El Paso's EOC customers' peak-day Priority 1 and 2 service requirements, it is said. It is anticipated that volumes up to 200,000 Mcf per day may be delivered by Applicant if requested by El Paso with accumulated net deliveries on the period not exceeding a total of 6,400,000 Mcf.

In exchange for those services proposed to be provided by Applicant for El Paso, Applicant states that El Paso has agreed to deliver between April 30, 1981, and October 1, 1981, to Applicant a pay-back volume of natural gas equivalent in Btu content to those volumes delivered to El Paso during the 1980-81 winter period. Such pay-back, it is stated, would be in such daily quantities as Applicant and El Paso would mutually determine but not in excess of 50,000 Mcf of natural gas per day except as may be agreed to or required to timely deliver natural gas equivalent to the Houston exchange gas. Applicant further states that these pay-back volumes would be made available from natural gas sources in the South Texas area where El Paso presently obtains natural gas from Oasis under various transportation arrangements performed by Applicant and Oasis for El Paso pursuant to Section 311 of the NGPA.

Contemporaneously with delivery of pay-back volumes from the South Texas area, Applicant states that El Paso would cause the sale of certain of its distributor customers, namely Arizona Public Service Company, Southern Union Company and Southwest Gas Corporation, of natural gas through El Paso's Clay Basin Interim Storage Arrangements. Under such sale, Clay Basin Storage Company would sell to such distributor customers quantities of natural gas equal to the pay-back volumes delivered for El Paso's account to Applicant with El Paso's reducing its own scheduled deliveries to such EOC distributor customers by equivalent volumes, it is asserted. It is stated that the transportation costs associated with making South Texas area volumes available to El Paso's system would, therefore, be reduced by the cost which otherwise would be attributable to volumes equivalent to the pay-back volumes.

In consideration of its efforts to assist El Paso in protecting its EOC customers' peak-day Priority 1 and 2 sevice requirements during the 1980-81 winter period, Applicant proposes to receive from El aso an amount equal to $1.00 multiplied by the amount of Houston exchange gas delivered for the account of El Paso.

Applicant represents that authorization is required to be obtained under Section 284.127 of the Regulations under the NGPA as the delay exchange feature of the contemplated arrangement and the fact that the subject gas would not be made available to all El Paso system customers are not specifically covered by Section 284.122 of the Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37665 Filed 12-3-80; 8.45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-144-001]

## Mountain Fuel Resources, Inc., and Mountain Fuel Supply Co.; Amendment to Application

November 28, 1980.

Take notice that on November 10, 1980,[1] Mountain Fuel Resources, Inc. (Resources), 36 South State Street, Salt Lake City, Utah 84111, and Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-144-001 an amendment to Resources' pending application filed pursuant to Section 7(c) of the Natural Gas Act in the instant docket so as to reflect the addition of Mountain Fuel as joint Applicant in this proceeding and to authorize Mountain Fuel to transport and redeliver up to 15,000 Mcf of natural gas per day for Northwest Pipeline Corporation (Northwest) and up to 35,000 Mcf of natural gas per day for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), through existing facilities of both Resources and Mountain Fuel, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that in Resources' application filed in the instant docket on December 18, 1979, Resources proposed to transport maximum daily quantities of 800 Mcf of natural gas per day for Northwest and 5,000 Mcf of natural gas per day for Northern at a rate of 14.05 cents per Mcf under Resources' Rate Schedule T-1 and that such proposed transportation service was requested in order to make available to Northwest and Northern gas supplies which are remote from their own transmission systems. The application further stated that Resources would receive gas from Northwest at two locations in Garfield County, Colorado, and would then redeliver equivalent volumes of gas to Northwest where the lines of Resources and Northwest cross in Rio Blanco County, Colorado (Douglas Creek). In order to effectuate the proposed transportation service, Resources also requested authority to construct and operate the related transmission facilities including a compression station necessary to effectuate such services, it is said.

Subsequent to filing the original application, Applicants state that the United States Department of the Interior, Bureau of Land Management, recommended by letter dated April 23, 1980, that for various reasons the proposed site for the compressor facilities required to perform the requested transportation service not be approved.

In an effort to accommodate the recommendations of the Bureau of Land Management, it is submitted that Northwest and Northern entered into gas transportation and exchange agreements with Resources and Mountain Fuel wherein Resources and Mountain Fuel agreed to transport up to 15,000 Mcf per day for Northwest and up to 35,000 Mcf per day for Northern through their existing interstate transmission facilities and redeliver such gas at existing points of delivery where the facilities of Mountain Fuel interconnect those of Northwest and Colorado Interstate Gas Company (CIG).

Specifically, it is stated that Resources has agreed to receive for the account of Northern up to 5,000 Mcf per day at Stake Springs and to transport and deliver thermally equivalent volumes to Mountain Fuel at an existing point of interconnection between the facilities of Resources and Mountain Fuel located in Uintah County, Utah (Bonanza). Mountain Fuel, it is asserted, has agreed to receive such volumes of gas from Resources and to deliver thermally equivalent volumes of gas for the account of Northern at an existing point of delivery located in Sweetwater County, Wyoming (Northwest Crossover), or in Uintah County, Utah (Red Wash).

It is further stated that Resources has also agreed to receive for the account of Northern up to 10,000 Mcf of gas per day in Mesa County, Colorado (Divide Creek), or Rio Blanco County, Colorado (Big Hole), and to transport and deliver such gas to Mountain Fuel at Bonanza. Mountain Fuel agreed to receive such volumes of gas from Resources and to deliver thermally equivalent volumes for the account of Northern at an existing point of delivery with CIG located in Sweetwater County, Wyoming (Kanda), it is said.

Applicants assert that they and Northern have agreed that the above-stated maximum daily quantities may be revised upward to a maximum daily volume of 35,000 Mcf per day upon ninety days written notice by Northern to Applicants.

Similarly, it is stated that Resources has agreed to receive from Northwest 3,000 Mcf per day at a receipt point located at Philpott and 12,000 Mcf per day at a receipt point located at Rifle Yard and to transport and deliver thermally equivalent volumes of gas to Mountain Fuel at an existing point of interconnection between the facilities of Resources and Mountain Fuel at Bonanza. Mountain Fuel agreed to receive such volumes of gas from Resources and to deliver thermally equivalent volumes of gas to Northwest at either the Northwest Crossover or Red Wash, it is said.

Applicants propose that the term of the proposed transportation services would be fifteen years from the date of initial deliveries and from year to year thereafter.

Applicants assert that the compressor and appurtenant facilities required to effectuate the transportation service proposed in the original application would not be necessary under this amended proposal and that an estimated cost savings of $230,135 for capital expenditure and $2,600 per month lease charge can be realized by the implementation of the instant proposal.

In the instant amendment, it is proposed that Northwest and Northern would pay Resources for each Mcf of gas transported and delivered to Mountain Fuel, Resources' legally effective rate for transportation service which is currently 14.05 cents per Mcf and that for each Mcf of gas that Mountain Fuel at a rate of 17.44 cents per Mcf which is said to be Mountain Fuel's system wide transportation cost of service.

In addition, Applicants assert that Northern would pay Mountain Fuel a cost of service based compression charge of 5.0 cents per Mcf for all gas which requires compression for delivery to CIG at the Kanda exchange point for the account of Northern.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

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[1] This amendment was initially tendered for filing on November 10, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until November 12, 1980; thus, the filing was not completed until the latter date.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37666 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RA80-127]

## R. Dale Norris d.b.a. One Stop Auto Shop; Filing of Petition for Review Under 42 U.S.C. 7194

November 28, 1980.

Take notice that R. Dale Norris d/b/a One Stop Auto Shop on September 22, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 12, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 12, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37675 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP81-49-000]

## Texas Gas Transmission Corp.; Application

November 28, 1980.

Take notice that on November 12, 1980, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP81-49-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for the account of Elizabethtown Gas Company (Elizabethtown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed herein to abandon the transportation of natural gas for Elizabethtown which service was performed pursuant to a two-year transportation agreement, dated August 12, 1977, in which Applicant transported up to 750 Mcf of natural gas per day. Deliveries commenced May 23, 1978, it is stated.

Applicant states that it received gas for Elizabethtown's account from the Wild Well in Lake Arthur Field, Jefferson Davis Parish, Louisiana, and delivered such gas to Transcontinental Gas Pipe Line Corporation for ultimate redelivery to Elizabethtown.

Applicant asserts that the last date of delivery of gas from the Wild Well was January 1, 1980. It is further asserted that during April 1980 the Wild Well was recompleted at a higher level thus abandoning gas production at the level of which Elizabethtown had a right to purchase. It is stated that by letter dated July 30, 1980, Applicant and Elizabethtown have agreed to terminate the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37676 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP81-48-000]

## Truckline Gas Co., Application

November 28, 1980.

Take notice that on November 12, 1980, Truckline Gas Company, P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-48-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated September 15, 1980, between Applicant and Columbia Gas, Applicant proposes to transport up to 300 Mcf of natural gas per day on a firm basis purchased by Columbia Gas from The Superior Oil Company (Superior). Applicant states that it would receive the gas in Vermilion Parish, Louisiana, and transport and deliver such gas to Columbia Gulf Transmission Company (Columbia Gulf) for the account of Columbia Gas, in Centerville, Louisiana. Applicant further states that it would

transport up to 200 Mcf of natural gas per day on a best-efforts basis.

Columbia Gas would pay Applicant $279 per month for the firm quantity of 300 Mcf in excess of said quantity, it is stated. Applicant states that it would retain 5.0 percent of the volume received for fuel usage.

Applicant states that the term of this transportation service is ten years from the date of first delivery. Applicant further states that it has sufficient available capacity to transport the subject gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-37677 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. CP81-52-000]**

## United Gas Pipe Line Co.; Application

November 28, 1980

Take notice that on October 31, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-52-000 an application pursuant to Section 284.107(b) of the Regulations under the Natural Gas Policy Act of 1978 for authorization for the transportation of natural gas for Houston Pipe Line Company (Houston), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas pursuant to a transportation agreement with Houston dated October 10, 1980, whereby Applicant would transport up to 12,000 Mcf of gas per day. It is stated that said gas would be delivered by Houston to Applicant at a point near Bayside, Refugio County, Texas, and Applicant would redeliver equivalent quantities, less approximately 2.3 percent attributable to fuel and company-used gas, for Houston's account at a point near Geismar, Ascension Parish, Louisiana. Applicant states that in the event Houston has gas available for delivery in excess of the maximum daily quantity Houston may tender said gas and Applicant may accept or reject any or all of such gas.

The transportation agreement, it is stated, would become effective on December 15, 1980, and remain in effect for a primay term until December 15, 1982, remaining in effect thereafter until either party terminates with at least thrity days prior written notice. Applicant states that Houston would pay Applicant an amount equal to Applicant's transportation rate in its Southern Rate Zone which rate is at present 13.68 cents per Mcf. Applicant states that the service would be provided without harm to Applicant's existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-37667 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket Nos. RP71-29, et al. (Phase IV)]**

## United Gas Pipe Line Co.; Intention Not To Initiate Review of Initial Decision

Issued : November 26, 1980.

On October 15, 1980, an initial decision was issued by the presiding administrative law judge granting a motion to terminate Phase IV in accordance with a stipulation agreed to by all parties.

No exceptions to the initial decision were filed within the 30 day period.

Based upon a review of the initial decision and the circumstances of this case, the Commission has determined not to initiate formal review proceedings. Therefore, the initial decision will become a final decision pursuant to 18 CFR 1.30(d)(3).

**Kenneth F. Plumb,**

*Secretary*

[FR Doc. 80-37660 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. RA81-24-000]**

## Viacom Cablevision; Extension of Time

November 26, 1980.

On November 21, 1980, Viacom Cablevision filed a request for an extension of time to file a petition for review of a proposed decision and order issued October 27, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. BEO-05-0306). The motion states that additional time is needed because of a delay in the applicant's receipt of the decision and order.

Upon consideration, notice is hereby given that an extension of time for the filing of a petition for review is granted to and including December 26, 1980.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-37661 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-120]

## William Pase, Inc.; Further Extension of Time

November 26, 1980.

On November 12, 1980, William Pase, Inc. filed a request for a further extension of time to file a petition for review of a decision and order issued September 9, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. 04-BEO-005). Notice is hereby given that an extension of time for the filing of a petition for review is granted to and including December 24, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37662 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RA81-19-000]

## Hawk Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

Issued: November 28, 1980.

Take notice that Hawk Oil Company on November 6, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 12, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 12, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37669 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RA81-14-000]

## Huntway Refining Co.; Further Extension of Time

November 28, 1980.

On November 25, 1980, Huntway Regining Company filed a request for a further extension of time to file a petition for review of a decision and order issued September 30, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. BEE-0392). The motion states that the applicant requires additional time to receive and analyze supporting data relative to this petition for review.

Upon consideration, notice is hereby given that an extension of time for the filing of a petition for review is granted to and including January 6, 1981.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37670 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ST81-67-000]

## Louisiana Intrastate Gas Corp.; Application for Approval of Rates

November 28, 1980.

Take notice that on November 12, 1980, Louisiana Intrastate Gas Corporation, P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81-67-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for approval of rates charged for transporting natural gas pursuant to Subpart C of Part 284 of the Commission's Regulations under the NGPA for West Lake Arthur Distribution Company (WLADC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide a transportation service to WLADC pursuant to an agreement dated October 15, 1980, for a maximum of two years from the date of initial deliveries. Gas deliveries would be made at contracted points of delivery between the parties, it is asserted. WLADC, it is stated, would resell the transported gas.

Applicant would charge WLADC a fee not to exceed 20.0 cents per million Btu, a fee it represents as equitable.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37671 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. IS80-83]

## Mid-Valley Pipline Co,; Further Extension of Time

November 26, 1980.

On November 24, 1980, Mid-Valley Pipleline Company filed a request for a further extension of time to file an undertaking pursuant to Ordering Paragraph (C) of the Commission's Oil Pipeline Board "Order Accepting for Filing and Suspending Tariff and Instituting Investigation" issued September 30, 1980, in the above-docketed proceeding. The motion states that additional time is required to allow the company's Board of Directors to authorize the filing of this undertaking.

Upon consideration, notice is hereby given that an extension of time for the filing of an undertaking is granted to an including December 16, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37639 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP80-275-001 and CI80-233-001]

## Mountain Fuel Supply Co., Wexpro Co., and Celsius Energy Corp.; Amendment to Application

November 28, 1980.

Take notice that on October 31, 1980,[1] Mountain Fuel Supply Company (Mountain Fuel), P.O. Box 11368, Salt Lake City, Utah 84139, and Wexpro Company (Wexpro), 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP80-275-001 and Celsius Energy Corporation (Celsius), 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CI80-233-001, an amendment to their joint application in the instant docket pursuant to Section 7 of the Natural Gas Act for an authorization permitting Mountain Fuel to transfer leasehold interests to Celsius, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection

Applicants state that the purpose of their original joint application was to obtain approval for the corporate realignment of Mountain Fuel and its subsidiaries in order to draw a clear line of demarcation among the exploration and production, interstate transmission, and intrastate distribution functions. After a May 10, 1979, Utah Supreme Court ruling which held, Applicants assert, that oil revenues were to be used to subsidize Utah gas customer rates, Applicants state that Mountain Fuel believes it is not economical to provide funding to develop nonproductive leaseholds currently available to the Mountain Fuel system.

It is asserted that Mountain Fuel has therefore limited the scope of its exploration and is now faced with allowing potentially valuable leaseholds to expire or be burdened with cost penalties resulting from partners demanding participation or from U.S. Government agency requirements on Federal leases.

Mountain Fuel or Wexpro therefore propose to transfer approximately 1,200,000 net nonproductive acres on which it is required to drill, located outside the state of Utah, to Celsius. It is stated that the joint Applicants expressly agree that any resulting natural gas production would be sold by Celsius to Mountain Fuel Resources, Inc. (Resources) and on a right of first refusal basis by Resources to Mountain Fuel thereby preserving to Mountain Fuel's customers the supply potential of the drilling undertaken.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37672 Filed 12-03-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The application was initially tendered for filing on October 31, 1980, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until November 12, 1980, thus the filing was not completed until the later date.

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[Docket No. CP81-50-000]

## Mountain Fuel Supply Co.; Application

November 28, 1980.

Take notice that on November 12, 1980, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 34139, filed in Docket No. CP81-50-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during an indefinite period commencing January 1, 1981, and operation of facilities to enable Applicant to take natural gas supplies into its certificated main pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant, and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total calendar year expenditures for the proposed facilities would not exceed $13,902,589 with no single project to exceed a cost of $2,500,000. Such costs would be financed from internally generated sources and short-term borrowing, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37673 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket Nos. ER81-71-000]

## New England Power Co., Extension of Time

November 26, 1980.

On November 25, 1980, the NEPCO Customer Rate Committee, the

Unaffiliated Resale Customers of the New England Power Company (Customers) and the New England Power Company (NEP) filed a request for an extension of time to file a response to the Commission's Notice of Proposed Changes in Rates and Charges issued November 5, 1980, in the above-docketed proceeding. In support of this request, the motion states that the Customers and NEP are presently engaged in settlement discussions with regard to the issues in this proceeding and a second rate-filing which will be filed with the Commission in the near future.

Upon consideration, notice is hereby given that an extension of time for the filing of a response is granted to an including December 1, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-37674 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

## Office of Hearings and Appeals

### Issuance of Decisions and Orders; Week of September 15 through September 19, 1980

During the week of September 15 through September 19, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW, Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

November 24, 1980.

Petition of Special Redress

*Consumers Union of United States, Inc., Mt. Vernon, New York, DSG-0072, other*

On June 29, 1979, Consumers Union of the United States, Inc., filed a Petition for Special Redress in which it requested reimbursement for $14,469.35 in attorneys' fees and expenses which it incurred in the course of representing consumer interests before the Office of Hearings and Appeals. Because Consumer Union's participation had been authorized in *Consumers Union of United States, Inc.*, 5 FEA ¶ 87,014 (1977), the Petition was granted and the Department of energy was ordered to make the requested reimbursement.

Request for Modification and or Recision

*Powerine Oil Co., San Francisco, California, BMR-0044, motor gasoline*

Powerine Oil Company filed an Application for Modification or Rescission of a November 8, 1979 Appeal Decision issued by the Office of Hearings and Appeals to Thomas P. Reidy, Inc. *See Thomas P. Reidy, Inc.*, 4 DOE ¶ 80,188 (1979). If Powerine's request were granted, the DOE would rescind or modify Powerine's obligation to supply Reidy with a certain amount of motor gasoline at a specified price which was imposed by the November 8 order. In considering Powerine's request, the DOE found that the firm had failed to show any significantly changed circumstances that would support the modification or rescission of the November 8 Decision. Specifically, the DOE found that the contested portion of that Decision was not a "penalty", as contended by Powerine, but was a method of returning the parties to the situation which would have existed if the erroneous Economic Regulatory Administration order at issue in Reidy's Appeal had never been issued. Accordingly, Powerine's Application was denied except that the DOE modified the pricing provision of the payback using information supplied by Powerine in this proceeding in order to make it more specific.

Requests for Exception

*Atlantic Richfield Co., Dallas, Texas, BXE-1369, crude oil*

Atlantic Richfield Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit ARCO to sell at market prices 100 percent of the crude oil produced from Platform Spark.

*Brock Exploration Corp., Washington, D.C., BEE-0066, BES-0066, crude oil*

Brock Exploration Corporation filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to classify the crude oil that it produces from three unitized properties that it operates as imputed newly discovered crude oil effective June 1, 1979, the date the newly discovered crude oil program was implemented. A Decision and Order was issued to the firm that determined that exception relief should be granted to Brock for the three unitized properties retroactive to June 1, 1979.

*Canaan Valley Stores, Inc., Davis, West Virginia, BEO-0333, motor gasoline*

Canaan Valley Stores, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

*Chevron U.S.A., Inc., San Francisco, California, DEE-8033, crude oil*

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Chevron U.S.A., Inc. to sell at upper tier ceiling prices 37.64 percent of the crude oil produced from the Greeley Unit, Rio Bravo-Vedder Pool Lease.

*Como Oil Co., Duluth, Minnesota, BEE-0584, gasohol*

Como Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its allocation of unleaded gasoline for the purpose of producing and marketing gasohol. In considering the request, the DOE found that exception relief was necessary to enable the firm to meet the strong demand for gasohol in its market area. Accordingly, exception relief was granted.

*Dyson's Union 76, Piqua, Ohio, BEO-0228, motor gasoline*

Dyson's Union 76 filed an Application for Exception from the provisons of 10 CFR, Part 211 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that the firm had not demonstrated that it is suffering a serious financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

*James M. Forgotson, Sr., Acadia Parish, Louisiana, BEE-0012, crude oil*

James M. Forgotson, Sr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Specifically, the firm sought to sell at upper tier ceiling prices the crude oil which it will produce from the Iota Nonunion Struma Sand Unit. In considering the request, the DOE found that exeption relief is not necessary in order to provide the firm with sufficient incentive to undertake needed repairs at the well. Accordingly, the firm's request was denied.

*Gardner, Kirk & Cowden, Inc., Oklahoma City, Oklahoma, BEE-0441, gasohol*

Gardner, Kirk and Cowden, Inc. filed an Application for Exception in which it requested an increased allocation of unleaded motor gasoline for the purpose of expanding its marketing of gasohol. In considering the firm's request, the DOE found that it had a substantial base period entitlement of unleaded motor gasoline and that it was using only a very small percentage of that amount for the purpose of marketing gasohol. The DOE determined that despite an economic incentive to do so, Gardner failed to increase the amount of gasohol it markets during the time period in which its exception request was pending. The DOE therefore concluded that the DOE allocation regulations are not preventing the firm from obtaining sufficient volumes of unleaded gasoline to expand its gasohol program. The firm's Application was therefore denied.

*Gulf Oil Corp., Houston, Texas, DEE-2538, crude oil*

Gulf Oil Corporation filed an Application for Exception which, if granted, would permit the firm to establish the cost of transporting crude oil in two Very Large Crude Carriers (VLCCs) under the "net cost" method rather than the Average Freight Rate Assessment

(AFRA) method. The DOE found that Gulf's actual costs of operating the VLCCs exceeded the costs it was entitled to recover under the AFRA method. The DOE determined that Gulf's inability to recover its costs frustrated the attainment of the objectives of statutory programs designed to further the development of the U.S. merchant marine. Exception relief was accordingly granted.

*Hartley Co., Cambridge, Ohio, BEE-0417, gasohol*

The Hartley Company filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of unleaded gasoline for the purpose of increasing its production and sales of gasohol. In considering the request, the DOE found that exception relief was necessary to give the firm an adequate economic incentive to increase its production of gasohol. Accordingly, exception relief was granted.

*Keyport Mercantile, Keyport, Washington, BEO-1008, motor gasoline*

Keyport Mercantile filed an Application for Exception from the provisions of 10 CFR, 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to substantiate its contention that its current allocation was unrepresentative of its normal operating level or that its gasoline allocation was causing it to experience serious financial difficulties. Accordingly, exception relief was denied.

*McMahon Oil Co., Cleveland, Texas, DEE-2904, motor gasoline*

McMahon Oil Company filed an Application for Exception from the provisions of 10 CFR, 211.102, in which the firm sought an increase in its base period allocation for motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its financial position as an independent distributor had been affected to a significant degree as a result of either the updating of the base period or the issuance of an assignment order to a new competitor. Accordingly, exception relief was denied.

*Texaco, Inc., White Plains, New York, DEE-2039, other*

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR 210.62 in which the firm sought to change certain provisions of its retail credit card agreement. In considering the request, the DOE found that a recent amendment to 10 CFR 210.62 permitted a number of types of changes in retail credit terms, and that Texaco had already proceeded on this basis to implement the changes requested in its exception application. Accordingly, the DOE found that further consideration of Texaco's request was unnecessary and dismissed its Application without prejudice to a refiling at a later date.

*Wally's Oil Co., Benidji, Minnesota, DEE-1291, No. 1, No. 2 heating oils*

Wally's Oil Company (Wally's) filed an Application for Exception from the provisions of 10 CFR 212.93. In its Application, the firm sought to retain a portion of the revenues which it had agreed to refund under the terms of a Consent Order which it had entered into with the DOE. In considering the request, the DOE determined that Wally's had not demonstrated that it is in any way inequitable to require the firm to make restitution as provided for by the Consent Order. In addition, the DOE found that Wally's had failed to satisfy the standards for retroactive exception relief. Accordingly, the firm's request was denied.

West Center, Inc., Omaha, Nebraska, BEO-0677, motor gasoline

West Center, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

**Request for Temporary Exception**

*Big Muddy Oil Processors, Inc., Glenrock, Wyoming, BEL-1368, crude oil*

Big Muddy Oil Processors, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR, Part 212, Subpart L. The temporary exception request, if granted, would permit the firm to sell the crude oil that it reclaims at market price levels. Temporary exception relief was approved that permits the firm to sell the reclaimed crude oil at market price levels during the pendency of the firm's exception application.

**Request for Stay**

*Guam Oil & Refining Co., Inc., Washington, D.C., BES-0093, crude oil*

Guam Oil & Refining Company, Inc. filed an Application for Stay from the entitlement obligation specified in a Decision and Order of the Office of Hearings and Appeals. *Guam Oil & Refining Company, Inc.*, FEE-4105, 6 DOE ¶ ——— (July 28, 1980). In considering the Application, the DOE determined that the firm could experience difficulty in recovering the restitution required by the July 28 Order if the firm is successful on the merits of its appeal. The stay request was therefore granted on the condition that the firm place the funds in an escrow account.

**Supplemental Orders**

*Coastal States Gas Corp.; Lo-Vaca Gathering Co., Houston, Texas, BEX-1000, propane*

On August 18, 1980, the DOE issued a Supplemental Order to Coastal States Gas Corporation (Coastal) and Lo-Vaca Gathering Company which modified a Decision and Order previously issued to the two firms on June 17, 1980. In the August 18 Order, the DOE ordered the Valero Energy Corporation (Valero) to offer certain volumes of propane for sale to Coastal. Subsequently, the DOE discovered that it has used incorrect data in assigning the sales volume. Accordingly, the DOE issued a Supplemental Order in which it modified the propane sales obligation of Valero to Coastal.

*Laketon Asphalt Refining, Inc., Evansville, Indiana, BEX-0090, crude oil*

On September 16, 1980, the DOE issued a Decision and Order to Laketon Asphalt Refining, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR, 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on September 16, 1980.

Little America Refining Co., Casper, Wyoming, BEX-0094, refined products

On August 22, 1980, the Department of Energy issued a Proposed Decision and Order to the Little America Refining Company (LARCO) which granted in part LARCO's request for exception relief. On that date, the DOE also issued an Interim Decision and Order which immediately implemented the relief granted in the Proposed Decision and Order. The DOE issued a Supplemental Order to LARCO which adjusted the level of relief granted the firm in the Proposed Decision and Order.

*Southwestern Refining Co., Inc., Washington, D.C., BEX-0091, crude oil*

On September 16, 1980, the DOE issued a Decision and Order to Southwestern Refining Company, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on September 16, 1980.

The following firm filed a motion to correct a final Decision & Order before it was published. The DOE issued a Supplemental Order granting the Motion and correcting the final Decision and Order in published form.

*Company Name, Case Number, and Location*

Office of Special Counsel (re *Texaco, Inc.* DRO-0166), BRX-0095, Washington, D.C.

**Remedial Orders**

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

*Company Name, Case Number, and Location*

Abe's Exxon, BRW-0062, Carrizozo, New Mexico.
Cross Roads Grocery, BRW-0059, Washington, D.C.
Don's Gulf, BRW-0061, Perryton, Texas.
George Moreland General Merchandise, BRW-0064, Roland, Arizona.
Joe's Truck Stop, BRW-0060, Lake Village, Arizona.
Robertson's Mobil, BRW-0063, Oklahoma City, Oklahoma.
Triangle Texaco, BRW-0065, El Reno, Oklahoma.

**Protection Orders**

The following firms filed Applications for Protection Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of the Department of Energy:

*Name, Case Number, and Location*

Energy Cooperative, Inc.; Marathon Oil Co., BEJ-0133, Washington, D.C.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

*Company Name, Case Number, and Location*

Fannon Petroleum Services, BEN-1318, Alexandria, Virginia.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

*Company Name, Case Number, and Location*

Beverly Hills Car Wash, BEO-0766, Los Angeles, CA.
Henry's Citgo, DEE-7099, Framingham, MA.
Hermosa Car Wash, BEO-0637, Hermosa Beach, CA.
Manor "66," DEE-6664, Rockville, MD.
Town of Shelter Island, New York, DEE-5123, Shelter Island Hgts., NY.
Twin Mini Shop, BEO-0266, Miami, FL.
West Nash Exxon, BEO-0724, Wilson, NC.
Los Feliz Co., BEO-0282, BEO-0283, Camarillo, CA.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

*Name, and Case Number*

Ashley Dairy, Inc., DEE-4235.
Auburn, Arco, DEE-7703.
Commonwealth Oil Refining Company, Inc., BEE-0691; BEL-0691.
Crystal Flash Petroleum, BEE-1195.
Davison Dawn Donuts, Inc., DES-7758; DST-7758.
Fort Pierce Tomato Growers, BEO-0147.
Freddie R. Hebert, BEE-0822.
Gillespie Oil Co., BEE-1037; BEL-0043.
Guam Oil & Refining Co., BST-0093.
Hatboro-Horsham School District, BEE-1153.
Karchmer Pipe & Supply Co., Inc., DRO-0106.
Lloyd R. Crais Oil Co., BXE-0149.
Oak Hill Shell Auto Service, DEE-6799.
Occidental Petroleum Corp., BEX-0031.
Palmer Petroleum Products, Inc., BEE-0282.
R. P. Patnode's Texaco, DEE-7793.
Texaco, Inc., DEE-4629.
Town & Country Food Markets, Inc., BXE-0647.

[FR Doc. 80-37844 Filed 12-3-80; 8:45 am]
BILLING CODE 6450-01-M

## Action on Consent Order With Sun Company, Inc.

**AGENCY:** Department of Energy

**ACTION:** Adoption of proposed consent order as final.

**SUMMARY:** The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it has adopted the consent order with Sun Company. Inc. (Sun), executed on September 30, 1980 and published for comment in 45 FR 66842 on October 8, 1980 as a final order of the Department of Energy (DOE). The consent order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations for the period March 1973 through June 1980. To remedy any violations that may have occurred during the period, Sun agrees to $110,200,000 in remedies.

As required by the regulation cited above, OCS received comments on the consent order for a period of not less than 30 days following publication of the notice cited above. Four comments were received. OSC considered those comments and determined that the consent order should be made final without modification. The consent order is effective as an order of the DOE on December 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Leslie Wm. Adams, Deputy Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461; (202) 633-9165.

Copies of the consent order may be received free of charge by written request to: Sun Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W. Mail Stop 4111, Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W. Washington, D.C., Room IE-190

**SUPPLEMENTARY INFORMATION:**

### The Consent Order

On October 8, 1980, OSC published notice in the Federal Register at page 66842, announcing the execution of a consent order between Sun and OSC. In compliance with DOE regulations, that notice, and a press release issued on September 30, 1980 summarized the consent order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the consent order.

The consent order can be summarized as follows:

1. The consent order marks the conclusion of OSC's audit of Sun's compliance with the Mandatory Petroleum Price and Allocation Regulations, including the entitlements and mandatory oil import programs, for the period March 6, 1973 through June 30, 1980. One matter in litigation concerning the DOE position that an injection well is not a producing well to be considered in determining the eligibility of a property for treatment as a stipper well property has been excepted from this settlement. An action in Delaware concerning the treatment of interaffiliate transfers of natural gas liquids is resolved for the audit period but without prejudice to the parties' positions in that suit for the subsequent period.

2. The audit issues were resolved by $105,442,995 in various remedies, exclusive of resolution of an action against Sun by payment of $4,756,086 plus interest.

3. From the $105.4 million, Sun will remit $25 million to the United States Treasury.

4. An additional $442,995 will be refunded by Sun to certain purchasers of crude oil.

5. $80 million will be subtracted by Sun from its bank of unrecouped increased costs of motor gasoline.

6. In addition to the $105,442,995, Sun will deposit with the United States Treasury $4,765,086 plus interest, in satisfaction of an action in the District of Columbia concerning the payment of supplemental oil import fees.

7. The consent order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the consent order and prospective compliance with the regulations. These matters include Sun's obligation under DOE record keeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Sun. The consent order also provides that Sun has waived it right to an administrative or judicial appeal. The consent order does not constitute an admission by Sun or a funding by OSC of a violation of any price and allocation statutes or regulations.

### Comments Received

One comment sought to preserve a claim against the refund amount. This consent order does not create a claim fund, however, but rather requires Sun to pay a cash amount directly to the United States Treasury. The remaining three comments questioned this provision. One comment argued that payment to the Treasury are penalties and that DOE is not empowered to impose penalties. Two other comments argued that the Treasury should receive only public funds and Sun's payment to the Treasury represents overchanges which should be restored to consumers.

One of these comments repeated an argument made previously that Section 209 of the Economic Stabilization Act of

1970 requires the restitution of monies received in violation of an order or regulation. This argument continues that a payment to the Treasury does not provide restoration to the rightful owner. As we noted in a notice effectuating a consent order with Phillips Petroleum Company at 45 FR 1934 (January 9, 1980):

> Contrary to the consumer organization's interpretation, section 209 does not impose a duty upon DOE to ensure restitution for consumers. Nor does § 209 "clearly indicate that full restitution of [overcharges] should be the goal of DOE enforcement actions." Section 209 simply authorizes DOE to seek injuncitve relief for violations of any order or regulation issued under the ESA. Section 209 also provides that "[i]n addition to such injunctive relief the *court* may also order restitution of moneys received in violation of any such order or regulation." (Emphasis added). The restitution provision of section 209, thus, authorizes the court to order restitution, but does not compel DOE to seek or ensure it.
>
> The comment also incorrectly asserted that "no consideration" was given by OSC to the possibility that individual consumers sustained the burden of some amount of the alleged overcharges. This possibility as well as many other factors were considered in the negotiations of the proposed consent order.
>
> DOE may fashion remedies, including restitution to individual consumers, based upon a balancing of various factors in particular cases. However, as stated is response to comments received on OSC's Cities Service consent order, 44 FR 75233, the practical impossibility of identifying the individual consumers who were overcharged and of determining the amounts by which they were each overcharged virtually rules out the full restitution remedy argued for by the consumer organization.

In this regard, the Temporary Emergency Court of Appeals recently stated:

> [T]he administrative remedies authorized by the ESA are not designed to provide a redress for a victim who has suffered an injury because of a violation of a FEA or DOE regulation; in other words, in contrast to private remedies, administrative remedies are not concerned with *punishing* a violator for his illegal conduct or with *compensating* a victim for his injuries. Rather, the purpose of administrative remedies "is to insure, on a national scale, the *enforcement* [of DOE's administrative] regulations. *Bulzan* v. *Atlantic Richfield Co.* 620 F.2d 278, 282 (1980). (emphasis in original).

In fact, OSC seeks some form of restitution in each case. However, as we have pointed out, the identification of individual injured consumers is a practical impossibility. Furthermore, contrary to assertions made in two comments, consumers :re not the only parties who may have such a claim. In fact, one comment, filed by a trade group representing independent marketers that includes purchasers of Sun products, objected to the failure to provide refunds to such marketers. Sun's payment to the U.S. Treasury works to the benefit of *all* consumers and purchasers and thus, in the circumstances of this case, provides an acceptable remedy.

Statements were submitted that this type of remedy is in excess of DOE's authority because of a lack of express statutory authority either permitting payment to the Treasury, authorizing administratively imposed penalties or characterizing such cash payments as public monies which must be deposited in the Treasury. These comments all begin with the incorrect premise that the Treasury payment as a remedy is required by statute. The use of a Treasury payment reflects DOE's inability to determine a more appropriate distribution mechanism in the circumstances of this case and our belief that this payment is an appropriate enforcement remedy. The consent order provides for this payment in view of the possibility that overcharges resulted from alleged regulatory violations and recognizing that DOE is practically unable to identify any particular class of purchaser that may have been injured by such violations. Furthermore, in light of the size of the refund vis-a-vis the number of purchasers and the volume of products sold, an apportionment would lead to refund amounts so small as to be meaningless to the individual consumer.

One comment also attacked the bank reduction component as having questionable impact in light of pending decontrol and urged the conversion of this amount to a real dollar figure to be returned to consumers. The price regulations rely on cost-based calculations for the determination of maximum selling prices. These costs may be banked rather than passed on to purchasers. In virtually all cases, the allegations go to the claimed costs which make up these banks. Thus, reduction of banks is the appropriate remedy, the remedy which would probably result even if DOE fully contested these claims in litigation. Furthermore, until decontrol, a reduction in banks of controlled product translates as an inability to increase prices to recover those banked costs.

In addition to the written comments submitted in response to the **Federal Register** Notice, we received an inquiry from the staff of a committee of the House of Representatives concerning the availability of data supporting the consent orders. The inquiry was directed to the provision that indicates that information provided by a refiner will be treated as confidential and not disclosed unless required by law. In this regard, the request of the chairman of a Congressional committee or subcommittee for use in carrying out its oversight responsibility with respect to DOE is considered to be a lawful request to be honored by DOE.

Other matters pertaining to the terms of this consent order have come to our attention outside the formal comment procedure. For the sake of completeness, they are addressed below.

There has been concern expressed as to the effect of this order on the rights a purchaser may have to bring an action under Section 210 of the Economic Stabilization Act. As already noted, the consent order makes reference to the difficulty of identifying a particular purchaser who may have been overcharged. This is a result of regulations which provide for substantial pricing flexibility, including options at every level of the refining and marketing process, within certain constraints. The statement in the consent order only reflects these complexities; it does not provide a defense to a purchaser's action under § 210. Indeed, as we have pointed out before, with regard to the Standard Oil Company (Indiana) consent order, 45 FR 26748 (April 21, 1980), consent orders resolve claims solely between a refiner and DOE. They are not intended to resolve private claims or extinguish any private rights of action.

Concern was also expressed as to that portion of the consent order which deals with Sun's obligations under the regulatory record keeping requirements. Ten CFR § 210.92(d) requires the maintenance of certain records for DOE's audit, but provides for relief from that requirement when the audit is completed. The consent order merely reflects this general regulatory policy of terminating such record keeping requirements at the conclusion of an audit.

Having considered all comments submitted, DOE has determined that the proposed consent order with Sun should be made final without modification, effective upon publication of this notice.

Issued in Washington, D.C., November 25, 1980.

**Paul L. Bloom,**

*Special Counsel For Compliance.*

[FR Doc. 80-37620 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

## Western Area Power Administration

### Compliance With Title II of the Public Utility Regulatory Policies Act; Public Hearing

**AGENCY:** Western Area Power Administration, Department of Energy.

**ACTION:** Announcement of public hearing, compliance with Title II of the Public Utility Regulatory Policies Act.

**SUMMARY:** To comply with the regulations for and to consider the implementation of Section 210 under Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA), the Western Area Power Administration (Western) will hold a public hearing. A brochure entitled "Preconsideration of Section 210 Public Utility Regulatory Policies Act (Cogeneration and Small Power Production Facilities)," has been prepared and is currently available from Western upon request and will be available at the public hearing.

**DATE:** A public hearing will be held on January 6, 1981, beginning at 10 a.m. at the Sheraton Inn, Denver Airport, 3535 Quebec Street, Denver, Colorado. Written comments should be received by February 3, 1981, in order to be assured of consideration.

**ADDRESS:** For further information concerning the public hearing or to request a copy of the brochure, please contact: Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

Written comments should also be submitted to the above address.

**SUPPLEMENTARY INFORMATION:** The Western Area Power Administration, as a nonregulated electric utility, is subject to Section 210, Cogeneration and Small Power Production, of the Public Utility Regulatory Policies Act of 1978 (PURPA). Regulations implementing Section 210 have been prepared by the Federal Energy Regulatory Commission (FERC) and were published in the Federal Register (45 FR 12214, February 25, 1980). Western, in implementing FERC's regulations under Section 210, will follow, to the extent possible, the procedures and requirements of those regulations.

Western was established on December 21, 1977, under the Department of Energy Organization Act of 1977 (DOE Act). The DOE Act transferred to the Secretary of Energy all functions of the Secretary of the Interior with respect to, among other things, the power marketing functions of the Bureau of Reclamation (now the Water and Power Resources Service and hereinafter called the Service), including the construction, operation, and maintenance of transmission lines and attendant facilities. Western was established to administer those functions transferred from the Service.

Western sells power to 464 customers consisting of cooperatives, municipalities, public utility districts, private utilities, Federal and State agencies, and irrigation districts. Electric power marketed by Western is generated by hydroelectric resources of the Service, the Corps of Engineers, and the International Boundary and Water Commission. Additionally, Western markets the United States entitlement from the large Navajo coal-fired plant near Page, Arizona, and, in northern California, markets power purchased from the most economic resources available to meet its obligations in excess of the Federal hydroelectric resources available.

Western's transmission systems, totaling almost 16,000 miles of line with over 200 substations, include five area systems, some of which are interconnected with one another. There are also numerous interconnections between Western's systems and other systems. Geographically, Western's transmission systems operate in 15 States that are generally west of the Mississippi River.

Western's obligations to its customers are contractually established and limited. Western neither claims nor accepts any utility responsibility. In all cases, customer requirements in excess of the power and energy available to that customer from Western must be obtained by the customer from other sources.

There are 10 projects from which Western markets power. These projects are the Boulder Canyon Project, Central Valley Project, Collbran Project, Colorado River Basin Project, Colorado River Storage Project, Falcon-Amistad Project, Parker-Davis Project, Pick-Sloan Missouri Basin Program, Provo River Project, and the Rio Grande Project. Each of those projects is a separate entity with its own geographic area, power marketing criteria, revenue requirements, and power and energy rates. Of necessity, implementation of Section 210 of PURPA will be on a project-by-project or system-by-system basis.

After analying any comments received, Western will complete its consideration and will make a determination of the action to be taken to implement Section 210. The final action will be in writing and will be made available to the public.

Issued at Golden, Colorado, November 28, 1980.

William H. Clagett,

*Deputy Administrator.*

[FR Doc. 80-37716 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

### Floodplain/Wetlands Involvement Determination for the Sterling-Holyoke 69-Kilovolt Transmission Line Rehabilitation Proposal, Logan and Phillips Counties, Colorado

**AGENCY:** Western Area Power Administration, U.S. Department of Energy.

**ACTION:** Notice of floodplain/wetlands involvement and opportunity for comment.

**SUMMARY:** The Western Area Power Administration (Western) proposes to rehabilitate 48 miles of the Sterling-Holyoke 69-kilovolt electrical transmission line from Sterling, Colorado, in Logan County, to Holyoke, Colorado, in Phillips County. Western is proposing to replace deteriorated existing wood pole structures with new wood pole H-frame structures and to upgrade the structures and conductor.

Pursuant to the requirements of the U.S. Department of Energy's procedures for compliance with Floodplain/Wetlands Environmental Review Requirements, Part 1022 of Chapter X of Title 10 of the Code of Federal Regulations, Western has determined that the rehabilitation proposal will involve some activities within a floodplain/wetlands area near Sterling, Colorado. Based on examination of the Flood Insurance Administration's (Federal Emergency Management Agency) Flood Hazard Boundary Maps for the area, a floodplain/wetlands area will be encountered at the South Platte River east of Sterling, Colorado. Maps and further information are available from Western at the addresses given below. Public comments or suggestions on Western's activities in this particular floodplain/wetlands area are invited.

**DATES:** Any comments are due on or before December 19, 1980.

**ADDRESS:** Send comments or suggestions to: Mr. Peter Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary W. Frey, Environmental Manager, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231–1527.

Issued at Golden, Colorado, November 28, 1980.

William H. Clagett,

*Deputy Administrator.*

[FR Doc. 80-37717 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-79-1; RD-FRL 1692-7]

### Air Quality Criteria for Particulate Matter and Sulfur Oxides; Public Meeting

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public meeting.

**SUMMARY:** In the Federal Register of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides (PM-$SO_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the fourth in that series of meetings, and invites public attendance at the fourth meeting.

**DATES:** The fourth meeting is scheduled to be held on December 8 and 9, 1980, beginning at 9 a.m., concerning chapters 2 and 3 (Physical and Chemical Properties of Sulfur Oxides and Particulate Matter; and Techniques for the Collection and Analysis of Sulfur Oxides, Particulate Matter, and Acid Precipitation). Information concerning the subject matter and dates of additional meetings will be announced in subsequent Federal Register notices.

**ADDRESS:** The meeting of December 8 and 9, 1980, will be held in the auditorium of EPA's Office of Administration, Alexander Drive, Research Triangle Park, North Carolina. The location of additional meetings will be announced in subsequent Federal Register notices.

**FOR FURTHER INFORMATION CONTACT:** Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office, (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone (919) 541-4172.

Richard Dowd,

*Acting Assistant Administrator, Office of Research and Development.*

November 24, 1980.

[FR Doc. 80-37777 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-35-M

[OPTS-51178; TSH-FRL 1692-1]

### Butanenitrile, 2-Methyl, 2,2'-Azobis; Premanufacture Notice

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

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

**DATE:** Written comments by December 29, 1980.

**ADDRESS:** Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

**FOR FURTHER INFORMATION CONTACT:** David Dull, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St. SW., Washington, DC 20460, (202-426-2601).

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines

that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before December 28, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Enviornmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be indentified with the document control number "[OPTS-51178]" and the PMN number. Comments revceived may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90. Stat. 2012 (15 U.S.C. 2604))

Dated: November 25, 1980.

Edward A. Klein,

*Director, Chemical Control Division.*

*PMN 80-310*

The following summary is taken from data submitted by the manufacturer in the PMN.

*Close of Review Period.* January 28, 1981.

*Manufacturer's Identity.* E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

*Specific Chemical Identity.* Butanenitrile, 2-methyl, 2,2'-azobis.

*Use.* Polymerization initiator.

*Production Estimates.* Claimed confidential business information.

*Physical/Chemical Properties.* No data were submitted.

*Toxicity Data.*

$LD_{50}$ (rats)—982 mg/kg

$LD_{50}$ thermal decomposition products (rats)—1,316 mg/kg

Eye irritation test (rabbits)—No occular effect

Primary skin irritation and sensitization tests (guinea pigs)—No irritation

Skin irritation test (rabbits)—No irritation

4-Hour $LD_{50}$ thermal decomposition products—8.72 mg/1 with 95 percent confidence limits of 6.89 to 10.53 mg/1

| Site/activity and exposure route | Maximum number exposed | Maximum duration | | Concentration (unit: ppm) | |
|---|---|---|---|---|---|
| | | Hours/day | Days/year | Average | Peak |
| Manufacture: Inhalation, dermal | 20 | 8 | 25 | 0-1 | 1-10 |

*Environmental Release/Disposal.* E. I. du Pont states that there will be very low environmental release of the new chemical and that waste will be disposed through the manufacturer's waste treatment facility.

[FR Doc. 80-37650 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

[TSH-FRL 1690-6; OPTS-51177]

## Certain Chemicals; Premanufacture Notices

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

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

**DATE:** Written comments by December 28, 1980.

**ADDRESS:** Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

**FOR FURTHER INFORMATION CONTACT:** Rachel Diamond, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-3980)

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will

develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN's are published herein.

Interested persons may, on or before December 28, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding the notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51177]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 26, 1980.

Edward A. Klein,

*Director, Chemical Control Division.*

*PMN 80-303.*

The following summary is taken from data submitted by the manufacturer in the PMN.

*Close of Review Period.* January 27, 1981.

*Manufacturer's Identity.* Pennwalt Corp; Lucidol Division, 1740 Military Road, Buffalo, NY 14240.

*Specific Chemical Identity.* Claimed confidential business information. Generic name provided: Substituted alkyl peroxycarbonate.

*Use.* Polymerization initiator.

*Production Estimates.* Claimed confidential business information.

Physical/Chemical Properties

| | |
|---|---|
| Melting point | 97-100°C, 207-212°F. |
| Molecular weight | 362.6. |
| Solubility in water | Insoluble. |
| Appearance | Fine white powder. |
| Bulk density | 20.6 lb/ft³. |

Toxicity Data

| | |
|---|---|
| Acute oral toxicity, $LD_{50}$ (male rates). | > 20,000 mg/kg. |
| Acute dermal toxicity, $LD_{50}$ (male/female albino rabbits).. | > 20,000 mg/kg. |
| Acute inhalation toxicity (male/female rats). | No apparent toxicity at 0.56 mg/l. |
| Ames test | Negative. |
| Eye irritation test (rabbits) | Mildly irritating. |

*Exposure.* The manufacturer claims that because of engineering controls and required personal equipment, worker exposure to the new substance will be minimal and that exposure of workers employed by customers purchasing the product may result during the transfer of the product from containers to their process equipment.

*Environmental Release.* The submitter states that due to the physical characteristics and minimal toxicity of the product, it is expected that its use will result in no increased health or environmental hazard.

*PMN 80-304.*

The following summary is taken from data submitted by the manufacturer in the PMN.

*Close of Review Period.* January 27, 1981.

*Manufacturer's Identity.* Pennwalt Corp; Lucidol Division, 1740 Military Road, Buffalo, NY 14240.

*Specific Chemical Identity.* Claimed confidential business information. Generic name provided. Alkyl substituted chlorocarbonic acid.

*Use.* Chemical intermediate.

*Production Estimates.* Claimed confidential business information.

Physical/Chemical Properties

| | |
|---|---|
| Molecular weight | 200.62 |
| Solubility in water | Decomposes. |
| Appearance and odor | Clear liquid; irritating, choking odor. |

Toxicity Data

| | |
|---|---|
| Acute oral toxicity, $LD_{50}$ (Male rats). | 3,864.9 mg/kg with 95% confidence limits of 3,055-4,889 mg/kg. |
| Acute dermal toxicity, $LD_{50}$ (albino rabbits). | > 5,000 mg/kg. |
| Skin irritation | Mild. |

*Exposure.* The submitter states that anticipated exposure to workers will be by inhalation and through the skin during transfer of the product from processing equipment containers, and from the containers for use. To protect workers, the manufacturer states, exhaust ventilation will be provided and the use of proper respiratory protective equipment and protective clothing will be required.

*Environmental Release/Disposal.* The submitter states that none of the new material is expected to leave the process equipment during manufacture. Accidential releases will be treated at the plant wastewater treatment facility. Risk to environmental quality is expected to be nil.

[FR Doc. 80-37654 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

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[TSH-FRL1691-2; OPTS-59037A]

## 1,6 Hexanediamine, Distillation Residues Amines $C_{4-6}$ Alkyl Di and $C_6$ Cyclic Di-Dichloroethane-Epichlorohydrin; Approval of Test Marketing Exemption

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

**ACTION:** Notice.

**SUMMARY:** On October 2, 1980 EPA received an application for a test marketing exemption (TM-80-42) from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA). The manufacturer, Monsanto Company intends to test market a new polymer.

EPA has determined that test marketing of this chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted Monsanto Company an exemption from the TSCA premanufacture reporting requirements for test marketing of the substance in the manner described in the application.

**FOR FURTHER INFORMATION CONTACT:** Kirk Maconaughey, Chemical Control Division (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202-426-3936).

**SUPPLEMENTARY INFORMATION:** Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial

purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Monsanto's application was assigned test marketing exemption number TM 80-42; receipt of the application was announced in the Federal Register on November 3, 1980 (45 FR 64244).

Monsanto intends to manufacture a new polymer, 1,6 Hexanediamine, distillation residues amines, $C_{4-6}$ alkyl di and $C_6$ cyclic di-Dichloroethane-Epichlorohydrin. The polymer provides "wet strength" (tensile or burst strength under controlled moisture conditions) for corrugating medium paper board. Sixty thousand pounds of the substance will be manufactured during a maximum test marketing period not to exceed 6 months.

EPA has established that the test marketing of TM 80-42, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. While the company provided little test data on the new substance, Monsanto did supply test data on four similar substances they are currently manufacturing. The Agency believes that this data is representative for the new substance both in behavior and chemical composition. The existing substances do not present an acute toxicity concern. The new substance is expected to behave in a similar fashion. In its review of available literature, the Agency believes that the new substance may be a slight to mild skin and eye irritant; however, no other chronic effects are expected. In its analysis of this test market application, the Agency learned that the substance will be manufactured in a closed system. Worker exposure is expected to be extremely low. Reaction vessels are charged mechanically from the storage tanks. In view of this controlled process, it would appear that worker contact with the substance will be minimal.

The substance will be distributed to paper mills as a 35% solution in water. The substance is added to the pulp prior to forming the corrugating medium. The polymer deposits on the pulp fibers and crosslinks during drying and aging. The corrugating medium which contains the TM substance is then "sandwiched" between two pieces of liner board that are then waxed both inside and out. Consumer exposure to the substance is essentially non-existent since the substance is completely crosslinked, further coated and therefore unavailable.

Based on the facts and information obtained and reviewed, EPA grants the Monsanto Company a test marketing exemption for TM 80-42, effective immediately, but subject to all conditions set out in the exemption application, and in particular those enumerated below:

1. This exemption is granted solely to this manufacturer.
2. The applicant must maintain records of the date(s) of shipment(s) to the two customers specified in the application who will test market the substance, and the quantities shipped in each shipment, and must make these records available to EPA upon request.
3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.
4. The production volume of the new substance may not exceed the quantity of 60,000 pounds described in the test market application.
5. The test marketing activity approved in this notice is limited to the 6-month period commencing on the date of publication of the notice in the Federal Register.
6. The substance will be manufactured in a closed system as specified in the application.
7. The number of workers exposed to the substance during both manufacture and processing should not exceed that specified in the application, and the exposure levels and duration of exposure should not exceed that specified.
8. The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which shows that such test marketing may present an unreasonable risk of injury to human health or the environment.

Dated: November 26, 1980.

Douglas M. Costle,

*Administrator.*

[FR Doc. 80-37657 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

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PH-FRL 1690-8; OPP-180507A]

## Maine; Issuance of Specific Exemption for Ridomil on Potatoes

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

**ACTION:** Notice.

**SUMMARY:** EPA granted a specific exemption to the Maine Department of Agriculture (hereafter referred to as the "Applicant") for the use of Ridomil to control late blight on a maximum of 10,000 acres of potatoes in Maine. The Applicant initiated a crisis exemption for this use of Ridomil on August 19, 1980, and so notified the Administrator. Notification of this crisis exemption appeared in the Federal Register of October 24, 1980 (45 FR 70560). The specific exemption was issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

**DATE:** The specific exemption expired on October 15, 1980.

**FOR FURTHER INFORMATION CONTACT:** Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

**SUPPLEMENTARY INFORMATION:** According to the Applicant, sustained moisture and temperature conditions this year resulted in the development of epidemic proportions of potato late blight which is a perennial problem in Maine. The registered fungicides are preventive in nature. There are no eradicative fungicides registered for use when protective fungicide applications fail. The grower can only kill the vines in badly affected areas and attempt to save less affected areas with continued use of protective fungicides. Ridomil is a systemic fungicide with eradicative properties. The Applicant indicated that without the use of Ridomil, losses to Maine potato growers could be $7,150,000.

EPA determined that residues of the active ingredient (a.i.) N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alamine methyl ester in or on potatoes from this use should not exceed 0.05 part per million (ppm). This residue level was determined to be adequate to protect the public health. No unreasonable threat to the environment was anticipated from this use of Riomil.

After reviewing the application and other available information, EPA determined that the criteria for an exemption had been met. Accordingly, the Applicant was granted a specific exemption for the use of the pesticide named above until October 15, 1980, to the extent and in the manner set forth in the application. The specific exemption was also subject to the following conditions:

1. Use of the product Ridomil 2E (EPA Reg. No. 100-607), manufactured by Ciga-Geigy Corp., was authorized. If an unregistered label was used in connection with this product, it was to contain the identical applicable precautions and restrictions which appear on the registered label.

2. Ridomil 2E was to be applied at rates of up to 1½ pints product (.375 lb a.i.) per acre. Applications were to be made at 7-day intervals at rates not exceeding ½ pint (.125 lb. a.i.). Applications at higher rates were to be at 14- to 17-day intervals.

3. A maximum of 10,000 acres were to be treated.

4. A maximum of 15,000 pounds a.i. were to be applied.

5. Application was to be made by ground or air in a minimum of 3 gallons of water.

6. A preharvest interval of 7 days was to be observed.

7. Applications were to be by or under the direct supervision of State-certified applicators.

8. Treated fields could be replanted to potatoes immediately, but other crops were not to be planted in treated fields for 18 months.

9. Applications were to be made only after determination of the following specific conditions in a field by a knowledgeable expert from the University of Maine Cooperative Extension Service:

a. Diffuse or widespread infection of 5 percent where up to 50 lesions per plant were found or up to 1 in 10 leaflets was infected.

b. Discrete pockets of infection of from 10-25 percent or more where nearly every leaflet was infected.

10. All applicable directions, restrictions, and precautions on the EPA-registered product label were to be followed.

11. Ridomil was not to be applied directly to any body of water, and drift reduction precautions were to be observed. Ridomil was not to be applied where excessive runoff was likely to occur. Care was to be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticides.

12. Treatment of potatoes as proposed should not have resulted in residues of N-(2,6-dimethylphenyl)-N-(methoxyacetyl)alamine methyl ester exceeding 0.05 ppm in or on potatoes. Potatoes with residues not exceeding this level might be placed in interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, was advised of this action.

13. The EPA was to have been informed immediately of any adverse effect resulting from use of this pesticide in connection with this exemption.

14. The Applicant was responsible for assuring that all provisions of this specific exemption were met and must submit a report summarizing the results of this program by April 15, 1981.

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

Dated: November 25, 1980.

James M. Conlon,

*Acting Deputy Assistant Adminstrator for Pesticide Programs.*

[FR Doc. 80-37656 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-32-M

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[TSH-FRL 1690-5; OPTS-51176]

## Modified Polyester Based on Carbomonocyclic Anhydride and Alkanediols; Premanufacture Notice

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

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This notice announces receipt of a PMN and provides a summary.

**DATE:** Written comments by December 27, 1980.

**ADDRESS:** Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

**FOR FURTHER INFORMATION CONTACT:** Mary Cushmac, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-3980).

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the Federal Register of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential

description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(d)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review periods ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before December 27, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51176]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 25, 1980.

Edward A. Klein,

*Director, Chemical Control Division.*

*PMN 80-302.*

The following summary is taken from data submitted by the manufactuer in the PMN.

*Close of Review Period.* Janaury 26, 1981.

*Manufacturer's Identify.* Claimed confidential business information. Generic information provided:

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code-285, "Paints, Varnishes, Lacquers, Enamels, and Allied Products".

*Specific Chemical Indentity.* Claimed confidential business information. Generic name provided: Modified polyester based on carbomonocyclic anhydride and alkanediols.

*Use.* Claimed confidential business information. Generic information provided: The substance will be used in an open use that will release more than 50 but less than 5,000 (kg) of the substance to the environment per year. It will involve a very low potential for exposure to chemical employees and a potential for exposure to non-chemical industrial employees frequently during work hours.

**Production Estimates**

| | Kilograms per year | |
|---|---|---|
| | Minimum | Maximum |
| First year | 22,750 | 45,500 |
| Second year | 113,750 | 227,500 |
| Third year | 227,500 | 455,000 |

*Physical/Chemical Properties.*

Acid Value—20-30

Viscosity (60 percent in 2-Ethoxyethabol]—I+

*Toxicity Data.*

The manufacturer submitted data on the acute toxicity of thermal decomposition products of an article containing the new chemical substance. The amount of sample required to produce sufficient smoke resulting in 50 percent mortality ($LD_{50}$) under specified conditions was 32.1 g. According to the submitter, the results of the testing method show that the formulation using the new chemical substance is classified "as toxic as wood", under identical test conditions.

*Exposure.*

| Activity and exposure route | Maximum number exposed | Maximum duration | | Concentration (unit mg/m³) | |
|---|---|---|---|---|---|
| | | Hours/day | Days-year | Average | Peak |
| Manufacturer (2 sites): Skin, eye, inhalation | 17 | 3-4 | 5-70 | 0-1 | 0-1 |
| Typical user (major use): Skin, eye, inhalation | 50 | 8 | 250 | 0-1 | 0-1 |
| Typical user (minor use I): Skin, eye, inhalation | 50 | 8 | 250 | 0-1 | 0-1 |
| Typical user (minor use II): Skin, eye, inhalation | 150 | 8 | 200 | 0-1 | 0-1 |

*Environmental Release/Disposal.*

Media/Activity—Amount/Duration of Chemical Release (kg/yr)

Manufacture:

Air—<20

Land—10-1,000

Water—<20

Typical users (Major and Minor):

Air—30-300. 16 hr/da; 250 da/yr

Land—30-300

Water<30

[FR Doc. 80-37033 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

[PH-FRL1690-7; OPP-180530]

## Ohio; Crisis Exemption for Ridomil on Tobacco

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

**ACTION:** Notice.

**SUMMARY:** EPA gives notice that the Ohio Department of Agriculture (hereafter referred to as "Ohio") availed itself of a crisis exemption for the use of Ridomil to control blue mold on 3,880 acres of tobacco in southern Ohio and the Montgomery County area.

**DATE:** The crisis period was from August 28 to September 12, 1980.

**FOR FURTHER INFORMATION CONTACT:** Jack E. Housenger, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-107, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

**SUPPLEMENTARY INFORMATION:** Ohio reported that a total of 485 gallons of Ridomil 2E, EPA Reg. No. 100-607, manufactured by Ciba-Geigy Co., was used in Ohio to control blue mold on tobacco. Ohio estimated that a 25 percent loss did occur due to blue mold and that if Ridomil has not been used as a topical application to control this disease, the loss would have been much greater.

Ohio stated that all applications were made by ground equipment. Ohio also reported that there were no adverse effects on the environment, applicators, or surrounding vegetation, and that control was excellent.

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

Dated: November 21, 1980.

Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 80-37655 Filed 12-3-80, 8:45 am]

BILLING CODE 6560-32-M

## FEDERAL RESERVE SYSTEM

### Security Bancorp., Inc.; Formation of Bank Holding Company

Security Bancorporation, Inc., Newport, 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 93 percent of the voting shares of Security State Bank, Ladysmith, Wisconsin. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 29, 1980. 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, November 28, 1980.

Barbara R. Lowrey,

*Assistant Secretary of the Board.*

[FR Doc. 80-37710 Filed 12-3-80; 8:45 am]

BILLING CODE 6210-01-M

### Security State Holding Co.; Formation of Bank Holding Company

Security State Holding Company, Lindstrom, 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 96 percent of the voting shares of Security Bank of Lindstrom, Lindstrom, 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 December 29, 1980. 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, November 28, 1980.

Barbara R. Lowrey,

*Assistant Secretary of the Board.*

[FR Doc. 80-37711 Filed 12-3-80; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

### Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

**AGENCY:** Federal Trade Commission.

**ACTION:** Granting of request for early termination of the waiting period of the premerger notification rules.

**SUMMARY:** R. Quintus Anderson is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assests of LTV Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by LTV. Neither agency intends to take any action with respect to this acquisition during the waiting period.

**EFFECTIVE DATE:** November 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

**SUPPLEMENTARY INFORMATION:** Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

*Secretary.*

[FR Doc. 80-37713 Filed 12-3-80; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Human Development Services

### White House Conference on Aging, Technical Committee; Change in Meeting

*Agency holding the Meeting:*

Department of Health and Human Services, Office of Human Development Services, White House Conference on Aging, Technical Committee on the Social and Health Aspects of Long Term Care.

*Federal Register Citation of previous announcement:*

45 FR 74776

*Previously Announced Time and Date of the Meeting:*

Sunday, December 7, 1980 from 11:00 a.m. until 5:00 p.m. and Monday, December 8, 1980 from 9:00 a.m. until 4:00 p.m.

*Changes in the Meeting:*

The dates of this meeting have been changed to December 9, 1980 from 11:00 a.m. until 5:00 p.m. and December 10, 1980 from 9:00 a.m. until 4:00 p.m. The meeting will now be held in the Sheraton International Conference Center in Reston, Virginia, Conference Room G.

Dated: November 28, 1980.

Mamie Welborne,

*HDS Committee Management Officer.*

[FR Doc. 80-37721 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-92-M

### National Institutes of Health

### National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 26-27, 1981, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on January 26 from 9:00 a.m. to

5:00 p.m. with current status reports, review of the Pregnancy and Perinatology Section of the Clinical Nutrition and Early Development Branch, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 27 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarrented invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "program not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 25, 1980.

Suzanne L. Fremeau,

*Committee Management Officer, National Institutes of Health.*

[FR Doc. 80-37633 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

## National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, January 28, 1981, at 1 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 1 p.m. to approximately 3 p.m. on January 28, 1981, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 3 p.m. to adjournment on January 28, 1981. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary of the Committee, Room 1016, Federal Building NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-9248, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: November 25, 1980.

Suzanne L. Fremeau,

*Committee Management Officer, National Institutes of Health.*

[FR Doc. 80-37634 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

## National Advisory Neurological and Communicative Disorders and Stroke Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, January 29 and 30, 1981, at 9 a.m. in Building 31-C, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public from 9 a.m. until approximately 11:30 a.m. on January 29, 1981, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 11:30 a.m. on January 29, 1981, until the conclusion of the meeting that day, and from 8:30 a.m. until adjournment on January 30, 1981, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would consititute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary of the Committee, Room 1016, Federal Building, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-9248, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 25, 1980.

Suzanne L. Fremeau,

*Committee Management Officer, National Institutes of Health.*

[FR Doc. 80-37635 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

## Recombinant DNA Advisory Committee, Working Group; Meeting

Notice is hereby given of a Working Group on Toxins sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Conference Room 7A24, Building 31A, 9000 Rockville Pike, Bethesda, Maryland 20205 on January 7, 1981, from 11:00 a.m. to 5:00 p.m.

The Working Group will discuss guidelines for defining toxins and procedures for evaluation of recombinant DNA experiments involving the cloning of toxin genes.

Further information may be obtained from Dr. William J. Gartland, Executive

Secretary, Recombinant DNA Advisory Committee, NIAID, NIH, Building 31, Room 4A52, Bethesda, Maryland—telephone 301-496-6051.

The meeting will be open to the public. Attendance by the public will be limited to space available.

Dated: November 25, 1980.

Suzanne L. Fremeau,

*Committee Management Officer, National Institutes of Health.*

[FR Doc 80-37636 Filed 12-3-80; 8 45 am]

BILLING CODE 4110-08-M

## Public Health Service
## Centers for Disease Control

### Project Grants for Health Programs for Refugees; Delegation of Authority

Notice is hereby given that pursuant to the authorization provided in the intra-agency agreement between the Office of Refugee Resettlement (ORR), Office of the Secretary, HHS; and the Center for Disease Control (CDC), Public Health Service, HHS; which was signed by the Director, ORR, on July 24, 1980, and the Director, CDC, on July 25, 1980; the Director, CDC, has delegated to the Public Health Service Regional Health Administrators, with authority to redelegate, the authority to review and award grants in their respective jurisdictions under Section 412(c) (8 U.S.C. 1522) of the Immigration and Nationality Act, as amended, for health programs for refugees.

The above delegation became effective November 25, 1980.

John D. Millar,

*Acting Director, Centers for Disease Control.*

[FR Doc 80-37687 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-86-M

## Health Resources Administration

### Application Announcement for Grants for Graduate Programs in Health Administration

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Graduate Programs in Health Administration are now being accepted under the authority of section 791 of the Public Health Service Act as amended.

Section 791 authorizes the Secretary to award grants to public or nonprofit private educational entities (excluding schools of public health) to support graduate educational programs in health administration, hospital administration, and health planning. An application may not be approved unless the program for which support is requested has been accredited by an accrediting body or bodies approved for such purpose by the Secretary of Education, (that is, the Accrediting Commission on Education for Health Services Administration).

Each application must contain assurances that at lease 25 individuals will graduate from the program for which support is requested, and that the applicant shall expend or obligate at least $100,000 from non-Federal sources for such programs.

Each applicant must assure that it will maintain a first-year enrollment of full-time students, in the program for which the application was made in the school year for which the grant is applied for, which exceeds the enrollment on September 30, 1976 by five percent, if such number was not more than 100, or by 2.5 percent, or five students, whichever is greater, if enrollment was more than 100.

Each applicant must also provide an institutional plan for activities to be pursued in developing, expanding, or enriching the program in special areas specified in the application instructions.

Approximately $3 million is expected to be available in fiscal year 1981 for grants.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (E-10), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-7360.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, at the above address no later than January 9, 1981.

Should additional programmatic information be required, please contact: Mr. K. Paul Knott, Education Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6800.

This program is listed at 13.963 in the Catalog of Federal Domestic Assistance. Application submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular A-95.

Dated: November 28, 1980.

Karen Davis,

*Administrator.*

[FR Doc. 80-37604 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-83-M

### Application Announcement for Grants for Traineeships for Graduate Programs in Health Administration

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Traineeships for Graduate Programs in Health Administration are now being accepted under the authority of section 749 of the Public Health Service Act as amended.

Section 749 authorizes the Secretary to award grants to public or nonprofit private educational entities (excluding schools of public health) with accredited programs in health administration, hospital administration, or health policy analysis and planning. An application may not be approved unless the program for which support is requested has been accredited by an accrediting body or bodies approved for such purpose by the Secretary of Education (that is, the Accrediting Commission on Education for Health Services Administration).

Of the amount received by a grantee, at leasst 80 percent shall go to students with previous postbaccalaureate degrees or three years' work experience in health services. Traineeships may include the payment of stipends, tuition, and fees.

Approximately $2 million is expected to be available in fiscal year 1981 for grants.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (A-19), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-7360.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, at the above address no later than January 9, 1981.

Should additional programmatic information be required, please contact: Mr. K. Paul Knott, Education Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6800.

This program is listed at 13.962 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular A-95.

Dated: November 28, 1980.

Karen Davis,

*Administrator.*

[FR Doc. 80-37603 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-83-M

## Application Announcement for Grants for Traineeships for Students in Schools of Public Health (Formula)

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Traineeships for Students in Schools of Public Health are now being accepted under the authority of section 748(a)(1) of the Public Health Service Act as amended.

Section 748 authorizes the Secretary to award grants to accredited schools of public health for traineeships for students enrolled in graduate or specialized training in public health. Traineeships may include the payment of stipends, tuition, and fees. Of the amount received by a grantee in fiscal year 1981, at least 65 percent shall go to students with previous postbaccalaureate degrees or three years' work experience in health services and who are pursuing a course of study in:

(1) Biostatistics or epidemiology,

(2) Health administration, health planning, or health policy analysis and planning,

(3) Environmental or occupational health,

(4) Dietetics or nutrition,

(5) Maternal and child health, or

(6) Specialized training in preventive medicine or dentistry.

Approximately $6.4 million is expected to be available in fiscal year 1981 for grants.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (A-03), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-7360.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, at the above address no later than December 12, 1980.

Should additional programmatic information be required, please contact: Ms. Sallie Norcott, Education Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6800.

This program is listed at 13.964 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A-95.

Dated: November 28, 1980.

Karen Davis,

*Administrator.*

[FR Doc. 80-37602 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-83-M

## Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-80-628]

## Property Disposition Committees; Redelegation of Authority

**AGENCY:** U.S. Department of Housing and Urban Development (HUD).

**ACTION:** Redelegation of authority.

**SUMMARY:** This redelegation of authority is issued to establish Field Office Property Disposition Committees in addition to the existing Headquarters Property Disposition Committee, to enumerate the procedures, authorities and members of these committees and to disband Regional Office Property Disposition Committees.

**FOR FURTHER INFORMATION CONTACT:** Marc Harris, Chief, Sales and Analysis Branch, Office of Multifamily Financing and Preservation, Office of Housing, U.S. Department of Housing and Urban Development, (202) 755-7343. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The redelegation of authority and assignment of functions with respect to the Property Disposition Committee, published at 35 FR 4022, and amended at 35 FR 16102, 36 FR 14229, 41 FR 26946, 41 FR 47985, 41 FR 52545, 42 FR 80, 42 FR 7178, 42 FR 56718, and 44 FR 2430, is hereby revoked. The redelegation will now read as follows:

*Section A. Headquarters Property Disposition Committee.* There is hereby established in Headquarters, a Headquarters Property Disposition Committee. The Headquarters Property Disposition Committee is comprised of the following members or their designees: Assistant Secretary for Housing-Federal Housing Commissioner (herein called the Assistant Secretary), Chairperson; Deputy Assistant Secretary for Multifamily Housing Programs; the Deputy Assistant Secretary for Public Housing and Indian Programs; Director of the Office of Multifamily Housing Management and Occupancy; Director of the Office of Multifamily Housing Development; the General Counsel; and such other members as the Assistant Secretary shall designate. The Director of the Office of Multifamily Financing and Preservation shall serve the Committee in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member.

*Section B. Field Office Property Disposition Committee.* There is hereby established in each Area Office, Multifamily Service Office and the Denver Regional Area Office a Field Office Property Disposition Committee.

1. The Property Disposition Committee in an Area Office shall consist of the following members or their designees: Area Manager, Chairperson, Deputy Area Manager; Director, Housing Division; Deputy Director for Housing Management; Deputy Director for Development; Area Counsel; and such other members as the Area Manager shall designate in writing. The Chief, Property Disposition Branch/Chief, Loan Management and Property Disposition Branch shall serve the Committee in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member.

2. The Property Disposition Committee in a Multifamily Service Office shall consist of the following members or their designees: Service Office Supervisor, Chairperson; Deputy Service Office Supervisor: Deputy Supervisor for Management; Deputy Supervisor for Development; Area Counsel; and such other members as the Service Office Supervisor shall designate in writing. The Chief, Property Disposition Branch shall serve in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member.

*Section C. Redelegation of Authority to the Headquarters and Field Office Property Disposition Committees.* The Property Disposition Committees are hereby redelegated the following authority:

1. To pass upon and determine the action to be taken with respect to the disposition program of any property acquired by the Secretary, located within its respective jurisdiction, in connection with multifamily housing under any title of the National Housing Act (12 U.S.C. 1701, et seq.), college housing under Title IV of the Housing Act of 1950 (12 U.S.C. 1749-1749c), housing for the the elderly or handicapped under Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and nonresidential property under

Section 312 of the Housing Act of 1964 (42 U.S.C. 1452b). The disposition programs for such properties shall include the terms of sale, manner of financing, the carrying out of appropriate advertisement for each public offering and where appropriate, the terms, amounts, interest rates, and amortization plans of mortgages taken as security, and any special provisions in connection with the sale of such properties.

2. To determine whether an expenditure in connection with any multifamily housing project is "necessary to carry out the provisions" of titles, I, II, VI, VII, VIII, IX, X and XI of the National Housing Act as such term is used in section 1 of the Act (12 U.S.C. 1702), and to approve such expenditure for and on behalf of the Assistant Secretary whenever such a determination and approval is necessary to support the legal authority of the Assistant Secretary to make such expenditure.

*Section D. Procedures.* The following procedures shall apply to the Property Disposition Committees:

1. The committee shall meet at the call of the Chairperson or Acting Chairperson. Any Committee action must be approved be a majority vote of all members of the Committee, whether present or not.

2. In order to carry out the functions of a Committee, the Chairperson is authorized to execute any deed, deed of release, assignment and satisfaction of mortgage, contract or purchase (installment contract of purchase), offer acceptance, or other form of contract sale, or other instrument relating to such properties or any interest therein acquired by the Secretary.

3. Any employee who has been formally designated to serve in an acting capacity for a member of the Committee in connection with his/her Departmental duties shall serve as a member of the Committee in the absence of such member.

*Section E. Exercise of Redelegated Authority.* Redelegations of authority made under Sections A through D shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Director, Office of Multifamily Financing and Preservation, Regional Administrator, Area Manager or Service Office Supervisor. The Assistant Secretary maintains the authority to administratively determine, at his or her discretion, the appropriate Property Disposition Committee to act upon the disposition of any particular HUD-owned multifamily property.

1. The Director, Office of Multifamily Financing and Preservation, is hereby authorized to amend final Headquarters Property Disposition Committee authorizations, when required by such circumstances as estimated changes in rental rates or operating expenses, changes in the maximum FHA-insured interest rates, or other similar changes of a non-substantive nature which would otherwise seriously impact upon the sale of the project.

2. The Area Manager and the Service Office Supervisor are hereby authorized to make the same amendments for Field Office Property Disposition Committees.

All other redelegations of authority with respect to the Property Disposition Committee(s) are hereby revoked upon publication of this redelegation of authority.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

Issued at Washington, D.C., November 26, 1980.

Lawrence B. Simons,

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 80-37693 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Geological Survey

### Computation of Royalties on Phosphate Production on Public Lands

**AGENCY:** Department of the Interior.

**ACTION:** Extension of the period in which to submit written comments.

**SUMMARY:** On November 7, 1980, the Geological Survey (GS) published a notice in the Federal Register inviting comments on the proposed adoption of a new method of computing royalty payments to the Federal Government on phosphate rock mined on public lands. Since publication of the notice, requests have been received to extend the comment period. The GS has determined that a 30-day extension, to January 7, 1981, is warranted.

**DATES:** Comments are now due on or before January 7, 1981.

**ADDRESS:** Written comments should be addressed to: Andrew V. Bailey, Chief, Branch of Solid Minerals Management, U.S. Geological Survey, National Center, MS 650, Reston, Virginia 22092.

**FOR FURTHER INFORMATION CONTACT:** Barney Brunelle, District Mining Supervisor, U.S. Geological Survey, 150 S. Arthur Street, P.O. Box 1610, Pocatello, Idaho 83201, Telephone: 208-236-6860.

Dated: November 28, 1980.

Eddie R. Wyatt,

*Acting Deputy Division Chief—Onshore Minerals Regulation.*

[FR Doc. 80-37620 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-31-M

## Bureau of Land Management

**[CA Group 747 and AZ Group 614]**

### California; Filing of Plat of Survey

November 26, 1980.

1. A plat of survey of the following described land, accepted October 22, 1980, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on January 20, 1981:

San Bernardino Meridian, California

Tps. 15 & 16 S., Rs 21, 22, & 23 E.

San Bernardino Meridian, Arizona

Tps. 16, S., Rs. 22 & 23 E.

2. The plat, in five sheets, represents the dependent resurvey of the exterior boundaries of the Yuma Indian Reservation, consisting of a portion of the south boundary T. 16 S., R. 21 E., a portion of the subdivisional lines of Tps. 15 S., Rs. 21, 22, and 23 E.; Tps. 16 S., Rs. 21, 22, and 23 E., San Bernardino Meridian, California; Tps 16 S., Rs. 22 and 23 E., San Bernardino Meridian, Arizona; the dependent resurvey of the fixed and limiting boundaries of the 1920 and 1954 abandoned channels of the Colorado River in Tps. 16 S., Rs. 22 and 23 E., San Bernardino Meridian, Arizona and California; the resurvey of the meanders of the Colorado River through portions of Tps. 16 S., Rs. 21, 22, and 23 E., San Bernardino Meridian, California; T. 16 S., R. 23 E., San Bernardino Meridian, Arizona, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the partition line of section 14, and extension and accretion surveys of lands in sections 2, 14, and 15, T. 16 S., R. 23 E., San Bernardino Meridian, California.

3. The above described lands are withdrawn in the Yuma Indian Reservation and are not subject to disposition under the public land laws by reason of the official filing of the plat of survey.

4. The lands included in this survey are located adjacent to Yuma, Arizona, and on the west side of the Colorado River. The land is mostly undulating desert floor. The lowest elevation is 135 feet above sea level, and the highest elevation is a mountain peak which is 1,024 feet above sea level. The area in the east half of this survey is used

chiefly for agricultural purposes and the west half for recreational purposes.

November 26, 1980.

Herman J. Lyttge,

*Chief, Branch of Records and Data Management.*

[FR Doc. 80-37616 Filed 12-3-80; 8:45 am]

BILLING CODE 4130-84-M

## Montana; Intent To Prepare a Supplement to the Colstrip Project; Environmental Impact Statement

November 26, 1980.

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice of intent to prepare a supplement to the Colstrip Project Environmental Impact Statement (EIS).

**SUMMARY:** The Department of Interior hereby gives public notice of its intent to prepare a supplement to the Colstrip Project Environmental Impact Statement which was filed with the Environmental Protection Agency on August 3, 1979. The supplement to the EIS will address new transmission corridor segments in the vicinity of Boulder and Deer Lodge, Montana. These corridor segments are deviations from the previously approved corridor which extends from the Colstrip generating plant in southeastern Montana to the Missoula area.

**BACKGROUND:** The final Colstrip EIS evaluates the Western Energy Company's strip mining operation, Montana Power Company's proposed Colstrip Coal Generating Units 3 and 4, and the proposed right-of-way for two 500-kV transmission lines between Colstrip, Montana and Hot Springs, Montana. This transmission corridor extends from Colstrip through Broadview to Townsend, Boulder, Garrison and Missoula. To accommodate the construction of transmission facilities across Bureau of Land Management and Forest Service administered lands, the Townsend-Boulder Corridor was jointly approved by the USDA Forest Service Regional Forester for Region 1 and USDI Bureau of Land Management's State Director for Montana on September 21, 1979. This decision, along with the Bonneville Power Administration's decision to construct the double-circuit 500-kV transmission line in the Townsend to Hot Springs Corridor was documented in a Record of Decision on September 21, 1979.

Following the corridor decision, the Bonneville Power Administration, in cooperation with the Forest Service and Bureau of Land Management, agreed to a centerline evaluation process. Subsequently, alternate centerlines were identified within the corridor on both Federal and private lands. Public meetings were then held in the Boulder and Deer Lodge areas. A number of landowners and the general public expressed concerns regarding the corridor location and associated impacts on farmlands and landowners. Subsequently, new alternatives were identified. Several of these alternatives deviate from the Federally-approved corridor.

**SCOPE:** The supplement to the Colstrip EIS will be jointly prepared by Bonneville Power Administration, Forest Service, and Bureau of Land Management personnel under Bonneville Power Administration's direction. The methods utilized in the Colstrip Transmission Environmental analysis and EIS will be used to address the impact of the preferred corridor deviation and other feasible corridor alternatives. The previously approved corridor segments will be used as a comparison. The supplement will analyze the following preferred and alternative corridor segments:

1. Boulder Area—Preferred Corridor—A new 21-mile corridor segment which begins at the approved corridor near Elkhorn Creek approximately 8 miles southeast of Boulder, Montana. It proceeds from ½ to 3 miles north of the approved corridor, crossing Highway 91 approximately 6 miles north of Boulder then proceeding south of Mt. Thompson to its interconnection with the approved corridor near Basin Creek and Saul Haggerty Gulch. This corridor is preferred by Bonneville Power Administration and the Federal Land Management agencies, and is more acceptable to the Boulder area landowners than the original corridor.

2. Boulder Area—Alternative Corridors—The only practicable alternatives to the preferred corridor are the original approved corridor segment between Elkhorn Creek and Basin Creek, and a Basin corridor which runs from Elkhorn Creek to Little Cottonwood Creek.

3. Deer Lodge Area—A new 38-mile corridor segment which begins at the approved corridor southeast of Deer Lodge, proceeds westerly, passing approximately 5 miles to the east of Deer Lodge, Montana, then northwest near Rocky Ridge, crossing State Highway 12 approximately 2 miles east of Garrison. It then crosses Interstate 90 approximately 4 miles north of Garrison, proceeding west to a new Garrison Substation site in the vicinity of Gold Creek.

4. Deer Lodge Area—In addition to the new preferred corridor and the original approved corridor segment, several alternative corridors crossing the Deer Lodge Valley will be involved. These corridors begin to the west and northwest of Thunderbolt Creek, and cross the valley at several places both to the north and south of Deer Lodge, Montana, then proceed to alternative substation sites near the 230-kV Anaconda-Hot Springs transmission line corridor. The corridor would then follow existing 230-kV transmission lines along the proposed corridor to the Missoula area.

The draft supplement to the EIS is tentatively scheduled for filing and public release in January 1981. Public meetings will be announced and held in Boulder and Deer Lodge soon after release of the supplement to present study results and the draft EIS. Since public input was received in formal meetings held during the centerline location process, additional scoping meetings will not be conducted in preparation of the supplement.

Following formal public and agency review of the draft supplement, a final supplement to the EIS will be filed. A final decision will be made and documented in a supplement to the Colstrip transmission Record of Decision, which will be published in the Federal Register.

All interested parties are invited to comment upon the scope of the supplement. Requests for information or comments on the scope of the supplement should be addressed to Claude Roswurm, the Department of Interior Lead Agency Representative in the Bureau of Land Management State Office, Billings, Montana, phone (406) 657-6457.

Michael Penfold,

*State Director.*

[FR Doc. 80-37624 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

[Nev-013137, Nev-014602 Nev-051790, Nev-051793 Nev-051795]

## Nevada; Proposed Continuation of Withdrawal

November 25, 1980.

The Bureau of Land Management, U.S. Department of the Interior, proposes that 40 acres of Department of the Air Force withdrawal Nev-051793 made by Public Land Order 1175 be continued for a period of 20 years, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The remaining 80 acres of the withdrawal has been relinquished and is in the process of being revoked.

The purpose of this withdrawal is to use the land for military purposes in connection with Nellis Air Force Base. The withdrawn land proposed for continuation is described as follows:

**Mount Diablo Meridian, Nevada**

T. 19 S., R. 62 E.,
Sec. 35, SE¼SW¼.

The area described aggregates approximately 40 acres in Clark County, Nevada.

This land is segregated from appropriation under the public land laws, including the mining, mineral leasing and disposal of materials laws. It is also proposed that the following four Department of the Army withdrawls Nev–013137 and Nev–014602 made by Public Land Order 1638, Nev–051790 made by Public Land Order 841, and Nev–051795 made by Public Land Order 877 be continued for a period of 5 years pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. These Department of Army withdrawls which are withdrawn for military uses in connection with the Lake Mead Air Base (Army Air Corps base now part of Nellis Air Force Base) are being utilized by the Department of the Air Force under a memorandum of agreement with the Department of the Army.

The five year renewal period will allow the Department of the Army to relinquish the withdrawals and will allow the department of the Air Force to propose the land for withdrawal for their military uses. The withdrawn land proposed for continuation is described as follows:

**Mount Diablo Meridian**

(Nev–013137)

T. 19 S., R. 62 E.,
Sec. 25, S½;
Sec. 36, W½.
T. 19 S., R. 63 E.,
Sec. 30, Lots 3, 4, E½SW¼.
T. 20 S., R. 62 E.,
Sec. 1, Lots 3, 4.

(Nev–014602)

T. 19 S., R. 63 E.,
Sec. 27, SW¼.

(Nev–051790)

T. 19 S., R. 62 E.,
Sec. 36, E½.
T. 19 S., R. 63 E.,
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, SE¼;
Sec. 31, Lots 1 through 4, E½, E½W½;
Secs. 32, 33, all;
Sec. 34, W½, SE¼.
T. 20 S., R. 62 E.,
Sec. 1, Lots 1, 2, S½NE¼.
T. 20 S., R. 63 E.,
Sec. 3, N½, SW¼;
Secs. 4, 5, 6, all;
Sec. 8, NE¼;
Sec. 9, N½.

(Nev–051795)

T. 20 S., R. 63 S.,
Sec. 8, SE¼;
Sec. 9, S½.

The area described aggregates approximately 7,830.79 acres in Clark County, Nevada.

This land is segregated from appropriation under the public land laws, including the mining and mineral leasing laws. In addition the lands under Nev–013137 and Nev–014602 are also segregated from disposal of materials law.

For a period of 30 days, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 30 days. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 12000, Reno, Nevada 89520.

**Wm. J. Malencik,**
*Chief, Division of Technical Services.*

[FR Doc. 80–37617 Filed 12–3–80; 8:45 a.m.]
BILLING CODE 4310–84–M

## Utah; Draft Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management, has prepared a Draft Environmental Impact Statement (EIS) for the proposed White River Dam Project in Uintah County, Utah.

Written comments on the Draft EIS will be accepted until February 10, 1981. Written comments should be sent to: District Manager, Vernal District Office, Bureau of Land Management, 150 South 5th East, Vernal, Utah 84078.

The Draft EIS addresses the Utah State Division of Water Resource's proposed White River Dam Project in Uintah County, Utah. The proposal involves construction of an earth dam across the White River and creation of a 13.5 mile long reservoir. Also proposed are a 5 to 8 megawatt hydroelectric plant, power transmission system, recreational facilities, and access roads. The purpose of the project would be to provide water supply for energy developments, particularly oil shale processing. Five alternatives, including the proposed project and "no action" are discussed in the EIS.

Notice also is hereby given that oral and/or written comments regarding the adequacy of the draft EIS will be received at the following locations: The Salt Palace, Room 128, Salt Lake City, Utah on January 7 at 7:00 p.m. and Uintah County Courthouse Courtroom, Vernal, Utah on January 8 at 7:00 p.m.

Requests to testify at the hearings should be directed to District Manager, Vernal District, Bureau of Land Management. Written and oral comments will receive equal consideration in preparation of the Final EIS.

Copies of the Draft EIS are available for review at the following location: Washington Office (WO–332), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. A limited number of copies are available upon request at the following locations:

Richfield District Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, Vernal District Office, Bureau of Land Management, 170 South 5th East, Vernal, Utah 84078, and Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

**FOR FURTHER INFORMATION CONTACT:** Lynn Leishman, Richfield District Office, phone (FTS) 8-584-8011 or (commercial) 801-896-8221.

Dated: November 21, 1980.

Gary Wicks,

*State Director.*

[FR Doc. 80-37623 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## Wyoming and Montana; Requesting Comments and of Intent To Rank Tracts and Call for Filing Surface Owner Consents in the Powder River Federal Coal Production Region

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice of intent request for public comment on ranking factors and the potential lease tracts, call for filing of surface owner consent agreements, and notice of regional coal team meeting.

**SUMMARY:** This notice is to advise the public that the regional coal team for the Powder River Federal coal production will meet to (1) review and discuss the tract profile data for each of the identified potential lease tracts, (2) to discuss the issues that may be addressed in the regional lease sale environmental impact statement (EIS), (3) to review and discuss the comments on the potential lease tracts and on the ranking factors, (4) to rank the potential lease tracts, and (5) to select the combinations of tracts which will comprise the lease alternatives to be addressed in the regional EIS.

Comments on the tracts that have been identified and factors that may be considered by the regional coal team in the tract ranking process are requested. In addition, the Bureau of Land Management (BLM) is issuing a call for submission to the BLM of surface owner consents from qualified surface owners that would permit surface mining of Federal coal on the identified tracts where Federal coal is overlain by privately owned surface.

**DATES:** Comments on the potential lease tracts and the ranking factors must be received by the Powder River Project Manager by close of business January 16, 1981. Copies of all consent agreements, or evidence thereof, that have already been given by qualified surface owners where the ownership of the underlying coal is reserved to the Federal Government (split estate lands) will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, in accordance with the announced schedule of regional lease sales set forth by Secretarial decision. However, submission by January 16, 1981, of consent documents that presently exist will provide information to the regional coal team regarding whether the public interest would be served by offering for lease Federal coal lands to which the qualified surface owner consents apply. The lack of a valid written consent at this time will not preclude consideration of Federal coal tracts during the coal activity planning process, but it is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

To preclude consideration of lands that cannot be leased, we will accept written statements from qualified surface owners who firmly refuse to consent to surface coal leasing will be accepted and should be filed with the Wyoming or Montana State Offices.

The regional coal team meeting will be held January 21, 22, and 23, 1981, beginning at 8:30 a.m. each day.

**ADDRESS:** Comments on the potential lease tracts and ranking factors should be addressed to J. Stan McKee, Powder River Project Manager, Bureau of Land Management, Wyoming State Office (930), P.O. Box 1828, Cheyenne, WY 82001. Copies of the surface owner consent agreements or refusals to consent for the tracts located in Wyoming should be sent to the Wyoming State Office at the address given above.

Consent agreements or refusals for the tracts located in Montana should be addressed to Robert Webb, Coal Coordinator, Bureau of Land Management, Montana State Office (930), Granite Tower, 222 North 32nd Street, Billings, MT 59107.

The addresses when the preliminary tract reports will be available for review is listed in the supplementary information provided below. The Regional Coal Team Meeting will be held at Holding's Little America, Cheyenne, Wyoming, January 21, 22, and 23, beginning at 8:30 a.m. each day.

**FOR FURTHER INFORMATION CONTACT:** J. Stan McKee, Powder River Project Manager, or Ron Moore, Wyoming Coal Coordinator at 307-778-2220, extension 2413, or FTS 328-2413.

**SUPPLEMENTARY INFORMATION:** *Surface Owner Consents.* Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given valid written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

The BLM is requesting that valid written consent agreements, or evidence thereof, for lands in which the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal Government (split estate lands) should be filed with the Wyoming State Office or the Montana State Office at the address given above by January 16, 1981.

The information being sought by the BLM will be used in the Federal coal activity planning process by the Power River Regional Coal Team and will provide information regarding whether the public interest would be served by offering for lease the Federal coal lands to which the consents apply. Valid written consents will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, as set forth in the Secretarial decision and the announcement of regional lease sales to be scheduled, in accordance with 43 CFR 3427.2(a) and 3420.6-2(b). However, early submission of surface owner consent documents that currently exist will aid the Regional Coal Team in considering the split estate coal tracts during the tract delineation, ranking, and scheduling. As indicated in 43 CFR 3420.6(b) and 3427.2(d), split estate tracts that would be mined by other than underground mining techniques, covered by written consents that have been filed with the appropriate BLM State Office before a decision on a pending regional coal lease schedule, will be given priority over those split estate tracts where there is no written consent from the qualified surface owner, all other factors being nearly equal. Surface owner consents may still be entered into during the activity planning stage, but parties intending to file written consents are responsible for being aware of pending lease sale notice dates. Information concerning lease sale notice dates may be obtained from the Wyoming State Office at the address given above.

As defined in the regulations (43 CFR 3400.0-5(pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations, and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the 3-year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "the document or documents that a qualified surface owner has signed that (1) permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type or methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permssion."

As required by 43 CFR 3427.2(3), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, the consent must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, fo the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the BLM Wyoming or Montana State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(zz)), and must indicate any specified terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the BLM Wyoming or Montana State Office at the address given above. Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

The written statement of refusal to consent by a qualified surface owner must confirm that the owner(s) has not previously given consent to mine and that the owner(s) does not intend to give consent for the expected future life of the applicable land use plans in the Wyoming and Montana portion of the Powder River Federal Coal Production Region. The refusal will be binding during the life of this land use plan, in this case 10 years, or until the ownership of the surface estate changes.

Upon receipt and verification of the refusal to consent, the BLM will remove the Federal coal underlying the qualified surface owner's land from further consideration in the tract delineation, ranking, and scheduling process until such time as the land use plans are revised or until the ownership of the surface estate changes. Upon revision of the land use plans, the qualified surface owner will be notified that the prior written refusal to consent is about to expire, and the owner will be given the opportunity to submit another statement of refusal.

Written statements of refusal to consent shall be signed and dated by the owner(s) as well as witnessed and/or notarized, and shall specify: (1) the location (State and County) and legal description of the lands (2) the present legal address of the qualified surface owner; involved in the refusal to consent; (3) that the owners have held legal or equitable title to the specified land surface for a period of at least three years prior to the refusal to consent; (4) whether the lands involved are the principal place of residence of the owner(s), (5) whether the lands involved are used to conduct farming or ranching; and (6) to what degree or percentage income from farming or ranching of the specified land surface contributes to the total income of the qualified surface owner(s). The submission of personal income records or other personal information is not to be made by the owner(s).

The written statements of refusal to consent by qualified surface owners will become part of the public record since the refusal will be the principal reason for not considering a particular tract in the tract delineation, ranking, and scheduling process. The written statements will be made available for public inspection in the Wyoming and Montana State Offices.

*Tract Ranking.* Twenty four preliminary lease tracts have been identified in the Power River Federal Coal Production Region. The preliminary least tracts identified below have been delineated, are being analyzed on a site-specific basis, and will be ranked and

considered for possible lease sale in April 1982. All acreages and tonnages are preliminary and subject to change. The acreages include all Federal, State, and Private lands included within the delineated boundary. The tonnages represent the cumulative recoverable Federal coal reserves. Tract reports will be available for public review by December 16, 1980, at the following BLM offices:

Wyoming State Office at the address given above

Montana State Office at the address given above

Casper District Office Bureau of Land Management 951 Rancho Road Casper, WY 82601

Miles City District Office Bureau of Land Management Miles City, MT 59301

## Recoverable Federal Coal Reserves

| Potential lease tract and description | Acreage | Million tons |
|---|---|---|
| WYOMING | | |
| Hay Creek (Option 1) | | |
| T. 52 N., R. 72 W., 6th P.M. | 5,941 | 456 |
| Sec. 7: All | | |
| Sec. 8: W½,W½E½,NE¼NE¼ | | |
| Sec. 16: W½SW¼,SE¼SW¼ | | |
| Sec. 17: All | | |
| Sec. 18: All | | |
| Sec. 19: All | | |
| Sec. 20: All | | |
| Sec. 21: All | | |
| T. 52 N., R. 72 W., 6th P.M. | | |
| Sec. 12: N½,SE¼,E½,SW¼ | | |
| Sec. 13: NE¼,NE¼NW¼ | | |
| Sec. 24: SE¼ | | |
| Hay Creek (Option 2) | | |
| T. 52 N., R. 72 E., 6th P.M. | 5,812 | 447 |
| Sec. 7: All | | |
| Sec. 8: W½,W½E½,NE¼NE¼ | | |
| Sec. 17: All | | |
| Sec. 18: All | | |
| Sec. 19: All | | |
| Sec. 20: All | | |
| Sec. 21: All | | |
| T. 52 N., R. 73 W., 6th P.M. | | |
| Sec. 12: N½,SE¼,E½SW¼ | | |
| Sec. 13: NE¼,NE¼NW¼ | | |
| Sec. 24: SE¼ | | |
| Spring Draw (Option 1) | | |
| T. 52 N., R. 72 W., 6th P.M. | 5,289 | 383 |
| Sec. 27: All | | |
| Sec. 28: All | | |
| Sec. 29: All | | |
| Sec. 30: All | | |
| Sec. 31: W½,NE¼,N½SE¼ | | |
| Sec. 32: N½N½ | | |
| Sec. 33: NE¼,E½SE¼ | | |
| Sec. 34: W½W½ | | |
| T. 52 N., R. 73 W., 6th P.M. | | |
| Sec. 25: E½ | | |
| Sec. 35: S½NE¼,N½SE¼,SE¼SE¼ | | |
| Sec. 36: All (State) | | |

Note: In T. 52 N., R. 72 W., 6th P.M., Sec. 29, the NW¼SE¼ is private coal and is included in the total tract acreage figure.

## Recoverable Federal Coal Reserves—Continued

| Potential lease tract and description | Acreage | Million tons |
|---|---|---|
| Spring Draw (Option 2) | | |
| T. 52 N., R. 72 W., 6th P.M. | 4,448 | 370 |
| Sec. 27: All | | |
| Sec. 28: All | | |
| Sec. 29: All | | |
| Sec. 30: All | | |
| Sec. 31: W½,NE¼,N½SE¼ | | |
| Sec. 32: N½N½ | | |
| Sec. 33: NE¼,E½SE¼ | | |
| Sec. 34: W½W½ | | |
| T. 52 N., R. 73 W., 6th P.M. | | |
| Sec. 25: E½ | | |
| Note: In T. 52 N., R. 72 W., 6th P.M., Sec. 29, the NW¼SE¼ is private coal and is included in the total tract acreage figure. | | |
| Little Rawhide Creek | | |
| T. 51 N., R. 72 W., 6th P.M. | 491 | 90 |
| Sec. 20: All of that part of the SE¼SE¼ lying east of and parallel to the eastern right-of-way boundary of U.S. Highways 14 and 16. | | |
| Sec. 28: All of that part of the SW¼ lying east of a line 600 feet east of and parallel to the eastern right-of-way boundary of U.S. Highways 14 and 16. | | |
| SE¼ | | |
| Sec. 29: All of the part of the E½NE¼ lying east of a line 600 feet east of and parallel to the eastern right-of-way boundary of U.S. Highways 14 and 16. | | |
| Fortin Draw | | |
| T. 50, N., R. 71 W., 6th P.M. | 575 | 72 |
| Sec. 27: E½SW¼,SW¼SE¼ | | |
| Sec. 34: SW¼,S½NW¼,NE¼NW¼,NE¼ | | |
| Timber Creek | | |
| T. 49 N., R. 70 W., 6th P.M. | 4,733 | 183 |
| Sec. 31: E½E½,SW¼SE¼ | | |
| Sec. 32: SW¼,W½NW¼,SE¼NW¼,S½SE¼ | | |
| T. 48 N., R. 70 W., 6th P.M. | | |
| Sec. 4: W½ | | |
| Sec. 5: All | | |
| Sec. 6: All | | |
| Sec. 8: All | | |
| Sec. 9: W½W½ | | |
| Sec. 17: All | | |
| Sec. 18: SE¼ | | |
| Sec. 19: E½ | | |
| Sec. 20: W½,W½E½,E½NE¼ | | |
| Sec. 29: N½NW¼,NW¼NE¼ | | |
| Rocky Butte (Option 1) | | |
| T. 49 N., R. 71 W., 6th P.M. | 7,710 | 619 |
| Sec. 25: All | | |
| Sec. 26: All | | |
| Sec. 32: S½NE¼,N½SE¼,SE¼SE¼ | | |
| Sec. 33: S½N½,S½ | | |
| Sec. 34: S½ | | |
| Sec. 35: All | | |
| T. 48 N., R. 71 W., 6th P.M. | | |
| Sec. 1: All | | |
| Sec. 2: All | | |
| Sec. 3: All | | |
| Sec. 4: All | | |
| Sec. 5: E½,SE¼NW¼,E½SW¼ | | |
| Sec. 8: E½W½,E½ | | |
| Sec. 9: All | | |
| Sec. 10: All | | |
| Rocky Butte (Option 2) | | |
| T. 49 N., R. 71 W., 6th P.M. | 6,930 | 541 |
| Sec. 25: All | | |

## Recoverable Federal Coal Reserves—Continued

| Potential lease tract and description | Acreage | Million tons |
|---|---|---|
| Sec. 26: All | | |
| Sec. 32: S½NE¼,N½SE¼,SE¼SE¼ | | |
| Sec. 33: S½N½,S½ | | |
| Sec. 34: S½ | | |
| Sec. 35: All | | |
| T. 48 N., R. 71 W., 6th P.M. | | |
| Sec. 1: All | | |
| Sec. 2: All | | |
| Sec. 3: All | | |
| Sec. 4: All | | |
| Sec. 5: E½,E½SW¼,SE¼NW¼ | | |
| Sec. 8: E½W½,E½ | | |
| Sec. 9: W½,NE¼,W½SE¼ | | |
| Duck Nest Creek | | |
| T. 47 N., R. 71 W., 6th P.M. | 3,040 | 316 |
| Sec. 5: W½ | | |
| Sec. 6: All | | |
| T. 47 N., R. 72 W., 6th P.M. | | |
| Sec. 1: E½E½ | | |
| T. 48 N., R. 71 W., 6th P.M. | | |
| Sec. 29: W½ | | |
| Sec. 30: All | | |
| Sec. 31: All | | |
| Sec. 32: NW¼,S½SW¼,SW¼SE¼ | | |
| Rattlesnake Creek | | |
| T. 47 N., R. 71 W., 6th P.M. | 5,287 | 483 |
| Sec. 31: All | | |
| Sec. 32: All | | |
| T. 46 N., R. 72 W., 6th P.M. | | |
| Sec. 1: Lot 4,S½SE¼ | | |
| T. 46 N., R. 71 W., 6th P.M. | | |
| Sec. 4: All | | |
| Sec. 5: All | | |
| Sec. 6: All | | |
| Sec. 7: E½,SW¼,E½NW¼ | | |
| Sec. 8: All | | |
| Sec. 17: N½,N½SW¼ | | |
| Sec. 18: W½,NE¼,N½SE¼,SW¼SE¼ | | |
| Sec. 19: N½NW¼,SW¼NW¼,NW¼SW¼ | | |
| Maysdorf | | |
| T. 47 N., R. 71 W., 6th P.M. | 5,661 | 485 |
| Sec. 19: All | | |
| Sec. 20: All | | |
| Sec. 21: All | | |
| Sec. 28: All | | |
| Sec. 29: All | | |
| Sec. 30: All | | |
| Sec. 33: All | | |
| T. 47 N., R. 72 W., 6th P.M. | | |
| Sec. 24: All | | |
| Sec. 25: E½,E½W½,NW¼NW¼ | | |
| Mr. Logan | | |
| T. 46 N., R. 70 W., 6th P.M. | 6,200 | 409.8 |
| Sec. 6: All | | |
| Sec. 7: All | | |
| Sec. 8: W½NW¼,SW¼ | | |
| Sec. 18: W½ | | |
| Sec. 19: W½ | | |
| T. 46 N., R. 71 W., 6th P.M. | | |
| Sec. 1: All | | |
| Sec. 9: SE¼NW¼,SW¼NE¼,E½SW¼,SE¼ | | |
| Sec. 10: SW¼NW¼,N½SW½,SW¼SW¼, N½,SE¼,SE¼SE¼ | | |
| Sec. 11: All | | |
| Sec. 12: All | | |
| Sec. 13: All | | |
| Sec. 14: N½NW¼,SE¼NW¼,NE¼NE¼,NE¼SE¼ | | |
| Sec. 15: NW¼ | | |
| Sec. 24: E½NW¼,E½ | | |

## Recoverable Federal Coal Reserves—Continued

| Potential lease tract and description | Acreage | Million tons |
|---|---|---|
| Kintz Creek (Option 1) | | |
| T 45 N, R 70 W., 6th P.M | 3,382 | 174 |
| Sec 16. All (State Section) | | |
| Sec 20. All | | |
| Sec 21. All | | |
| Sec 22 S½,W½E½ | | |
| Sec 27 All | | |
| Sec 28 E½NE¼ | | |
| Sec 29 N½NE¼ | | |
| Sec 34 N½NW¼,NW¼NE¼ | | |
| Kintz Creek (Option 2) | | |
| T 45 N, R 70 W, 6th P M | 2,728 | 174 |
| Sec 20 All | | |
| Sec 21 All | | |
| Sec 22 W½,W½E½ | | |
| Sec 27 All | | |
| Sec 28 E½NE¼ | | |
| Sec 29 N½NE¼ | | |
| Sec 34 N½NW¼,NW¼NE¼ | | |
| Keeline (Option 1) | | |
| T 45 N, R 70 W., 6th P.M | 4,330 | 204 |
| Sec 31 NE¼ | | |
| Sec 32 All | | |
| Sec 33 NW¼,W½NE¼,SE¼NE¼, S½ | | |
| Sec 34. S½N½,S½ | | |
| Sec 35 SW¼NW¼,W½SW¼ | | |
| T 44 N, R. 70 W, 6th P.M | | |
| Sec 4. All | | |
| Sec 5 E½ | | |
| Sec 8 NE¼,N½SE¼ | | |
| Sec. 9 N½, SW¼,W½SE¼ | | |
| Sec 16 All (State Section) | | |
| Sec 17: E½NE¼ | | |
| Keeline (Option 2) | | |
| T 45 N, R. 70 W, 6th P.M | 3,607 | 200 |
| Sec 31 NE¼ | | |
| Sec 32 All | | |
| Sec 33 NW¼,W½NE¼,SE¼NE¼, S½ | | |
| Sec 34 S½N½,S½ | | |
| Sec 35: SW¼NW¼,W½SW¼ | | |
| T 44 N, R 70 W, 6th P.M. | | |
| Sec 4. All | | |
| Sec 5 E½ | | |
| Sec 8. NE¼,N½SE¼ | | |
| Sec 9 N½,SW¼,W½SE¼ | | |
| Two Top (Option 1) | | |
| T 45 N, R. 70 W., 6th P.M. | 7,710 | 378 |
| Sec 16 All (State Section) | | |
| Sec 20 All | | |
| Sec 21 All | | |
| Sec 22 W½,W½E½ | | |
| Sec. 27: All | | |
| Sec 28. E½NE¼,S½SW¼ | | |
| Sec 29 N½NE¼ | | |
| Sec 32. S½NW¼,NE¼,S½ | | |
| Sec 33 NW¼,W½NE¼,SE¼NE¼, S½ | | |
| Sec 34 NW¼,W½NE¼,SE¼NE¼, S½ | | |
| Sec 35 SW¼NW¼,W½SW¼ | | |
| T 44 N, R 70 W., 6th P.M. | | |
| Sec 4 All | | |
| Sec 5 E½ | | |
| Sec 8 NE¼,N½SE¼ | | |
| Sec 9 N½,SW¼,W½SE¼ | | |
| Sec 16 All (State Section) | | |
| Sec 17 E½NE¼ | | |
| Two Top (Option 2) | | |
| T 45 N, R 70 W, 6th P M | 6,335 | 374 |
| Sec 20 All | | |
| Sec 21 All | | |
| Sec 22: W½,W½E½ | | |
| Sec 27: All | | |
| Sec. 28: E½NE¼,S½SW¼ | | |
| Sec. 29. N½NE¼ | | |
| Sec. 32: S½NW¼,NE¼,S½ | | |
| Sec 33: NW¼,W½NE¼,SE¼NE¼, S½ | | |
| Sec. 34: NW¼,W½NE¼,SE¼NE¼, S½ | | |
| Sec. 35: SW¼NW¼,W½SW¼ | | |
| T. 44 N., R. 70 W., 6th P.M. | | |
| Sec. 4: All | | |
| Sec. 5: E½ | | |
| Sec. 8. NE¼,N½SE¼ | | |
| Sec. 9. N½,SW¼,W½SE¼ | | |
| Wildcat | | |
| T. 53 N., R. 73 W., 6th P.M | 6,422 | 484 |
| Sec. 26: SW¼,W½NW¼ | | |
| Sec. 27: All | | |
| Sec 28: All | | |
| Sec. 29: NE¼NE¼,S½NE¼,N½ SE¼,NE¼SW¼ | | |
| Sec. 32: SE¼NE¼,E½SE¼ | | |
| Sec. 33: All | | |
| Sec. 34. All | | |
| Sec. 35: W½W½,SE¼SW¼ | | |
| T 52 N, R 73 W, 6th P.M. | | |
| Sec. 2: W½W½,SE¼NW¼,NE¼SW¼ | | |
| Sec 3. All | | |
| Sec. 4: All | | |
| Sec. 5: E½,E½W½ | | |
| Sec. 9: N½ | | |
| Sec. 10: N½ | | |
| Sec. 11: NW¼NW¼ | | |
| The Rockpile | | |
| T. 53 N, R. 72 W., 6th P.M. | 5,545 | 422 |
| Sec. 19: All | | |
| Sec 20: All | | |
| Sec. 21: All | | |
| Sec. 22: W½ | | |
| Sec. 27: NW¼ | | |
| Sec. 28. All | | |
| Sec. 29: All | | |
| Sec. 30: All | | |
| T. 53 N., R. 73 W., 6th P.M. | | |
| Sec. 24: All | | |
| Sec. 25: All | | |
| Calf Creek (Option 1) | | |
| T. 52 N., R. 72 W., 6th P.M. | 7,241 | 697 |
| Sec. 3: All | | |
| Sec. 4: All | | |
| Sec. 5: All | | |
| Sec. 6: All | | |
| Sec. 9: NW¼,N½NE¼ | | |
| T. 52 N, R. 73 W., 6th P.M. | | |
| Sec 1: All | | |
| Sec. 2: E½,NE¼NW¼ | | |
| T. 53 N., R. 72 W., 6th P.M. | | |
| Sec. 31: W½,SE¼,W½NE¼ | | |
| Sec. 32: All | | |
| Sec. 33: All | | |
| Sec. 34: S½S½,NW¼SW¼ | | |
| T 53 N., R 73 W., 6th P M. | | |
| Sec. 35: E½,E½NW¼,NE¼SW¼ | | |
| Sec 36: All (State) | | |
| Calf Creek (Option 2) | | |
| T. 52 N., R 72 W., 6th P M. | 6,587 | 697 |
| Sec. 3: All | | |
| Sec 4: All | | |
| Sec. 5: All | | |
| Sec. 6: All | | |
| Sec. 9: NW¼,N½NE¼ | | |
| Sec. 10: NW¼NW¼ | | |
| T. 52 N., R. 73 W. 6th P.M. | | |
| Sec. 1: All | | |
| Sec. 2: E½,NE¼NW¼ | | |
| T. 53 N., R. 72 W., 6th P.M. | | |
| Sec. 31: W½,SE¼,W½NE¼ | | |
| Sec. 32: All | | |
| Sec. 33: All | | |
| Sec. 34: S½S½,NW¼SW¼ | | |
| T. 53 N., R. 73 W., 6th P.M. | | |
| Sec. 35: E½,E½NW¼,NE¼SW¼ | | |
| MONTANA | | |
| Ashland (Coalwood) | | |
| T. 2 S., R. 44 E. | 6,865 | 201.6 |
| Sec. 25: E½SE¼NE¼,E½SE¼ | | |
| Sec. 26: E½SE¼NE¼,E½SE¼ | | |
| T. 2 S., R. 45 E. | | |
| Sec. 29: S½ | | |
| Sec. 30: All | | |
| Sec. 31: All | | |
| Sec. 32: All | | |
| T. 3 S., R. 44 E. | | |
| Sec. 1: S½NE¼,SE¼NW¼,SE¼,E½SW¼ | | |
| Sec. 12: NE¼NW¼,N½NE¼ | | |
| T. 3 S., R. 45 E. | | |
| Sec. 4: W½ | | |
| Sec. 5: All | | |
| Sec. 6: E½,SW¼ | | |
| Sec. 7: NE½,SE¼ | | |
| Sec. 8: All | | |
| Sec. 9: All | | |
| Sec. 16: N½ | | |
| Sec. 17: N½,N½S½ | | |
| Ashland (Decker-Birney) | | |
| T. 3 S., R. 45 E., P.M.M. | 6,240 | 108.9 |
| Sec. 25: All | | |
| Sec. 26: S½,NE¼,S½NW¼,NE¼NW¼ (Federal) | | |
| Sec. 27: SE¼ | | |
| Sec. 33: SE¼ | | |
| Sec. 34: S½NE¼,S½NW¼,NE¼NW¼ (Federal) | | |
| Sec. 35: All | | |
| Sec. 36: All | | |
| T. 4 S., R. 45 E., P.M.M. | | |
| Sec. 1: All | | |
| Sec. 2: All (Federal) | | |
| Sec. 3: All | | |
| Sec. 4: N½NE¼,SE¼NE¼ (Federal) | | |
| Sec. 4: SW¼NE¼,NE¼SE¼ | | |
| Northwest Otter Creek | | |
| T. 3 S., R. 44 E., P.M.M. | 5,569 | 138.6 |
| Sec. 25: All | | |
| Sec. 36: All | | |
| T. 3S., R. 45 E., P.M.M. | | |
| Sec. 30: SW¼NW¼,S½ (Federal) | | |
| Sec. 31: All | | |
| T. 4 S., R. 44 E., P.M.M. | | |
| Sec. 1: All | | |
| T. 4 S., R. 45 E., P.M.M. | | |
| Sec. 4: SW¼SW¼ (Federal) | | |
| Sec. 5: W½,SE¼,W½NE¼,SE¼NE¼ | | |
| Sec. 6: N½,N½SE¼,NE¼SW¼ (Federal) | | |
| Sec. 7: All | | |
| Sec. 8: N½,N½S½,S½SE¼,SE¼SW¼ (Federal) | | |
| Sec. 9: W½,S½E½ | | |

**Recoverable Federal Coal Reserves—Continued**

| Potential lease tract and description | Acreage | Million tons |
|---|---|---|
| **Colstrip A & B** | | |
| T. 2 N., R. 40 E. | 3,460 | 88.2 |
| Sec. 36: E½SE¼ | | |
| T. 2 N., R. 41 E. | | |
| Sec. 29: S½ | | |
| Sec. 30: SE¼SW¼,NE¼SE¼,S½SE¼ | | |
| Sec. 31: All | | |
| Sec. 32: All | | |
| T. 1 N., R. 40 E. | | |
| Sec. 1: N½NE¼,N½SE¼NE¼,SE¼SE¼NE¼ | | |
| T. 1 N., R. 41 E. | | |
| Sec. 3: SW¼NW¼,SW¼,S½SE¼ | | |
| Sec. 4: All | | |
| Sec. 5: All | | |
| Sec. 6: All | | |
| Sec. 7: NE¼,E¼NW¼,SW¼,SE¼ | | |
| Sec. 8: All | | |
| Sec. 9: All | | |
| Sec. 10: N½,N½S½ | | |
| Sec. 16: W½NE¼,E½NW¼,NW¼NW¼ | | |
| Sec. 17: N½,N½SW¼ | | |
| Sec. 18: N½,N½S½ | | |
| **Colstrip C** | | |
| T. 1 N., R. 40 E. | 4,062 | 65.7 |
| Sec. 1: SW¼NE¼,SW¼SE¼NE¼,NW¼,SW¼,SE¼ | | |
| Sec. 2: All | | |
| Sec. 3: All | | |
| Sec. 4: NE¼,S½NW¼,SW¼,SE¼ | | |
| Sec. 9: All | | |
| Sec. 10: All | | |
| Sec. 11: All | | |
| Sec. 12: NW¼NW¼,S½SW¼,SE¼ | | |
| Sec. 13: N½,N½S½ | | |
| Sec. 14: N½,N½S½ | | |
| Sec. 15: All | | |
| Sec. 16: All | | |
| **Colstrip D** | | |
| T. 2 N., R. 41 E. | 2,213 | 44.1 |
| Sec. 13: SW¼NE¼,SE¼NW¼,S½ | | |
| Sec. 14: NE¼SE¼,S½S½ | | |
| Sec. 15: SE¼SE¼ | | |
| Sec. 22: NE¼,E½SE¼ | | |
| Sec. 23: All | | |
| Sec. 24: All | | |
| Sec. 25: N½,SW¼ | | |
| Sec. 26: All | | |
| Sec. 27: NE¼,E½NW¼,NE¼SW¼,N½SE¼,SE¼SE¼ | | |
| Sec. 35: NE¼,E½NW¼ | | |
| T. 2 N., R. 42 E. | | |
| Sec. 18: W½SW¼,SE¼SW¼,SW¼SE¼ | | |
| Sec. 19: N½,W½SW¼,SE¼SW¼ | | |
| Sec. 29: NW¼ | | |
| Sec. 30: N½ | | |
| **West Decker** | | |
| T. 9 S., R. 40 E. | 3,160 | 14.0 |
| Sec. 8: SE¼NE¼,S½SW¼,SE¼ | | |
| Sec. 9: S½NE¼,NW¼,S½ | | |
| Sec. 10: S½ | | |
| Sec. 15: W½ | | |
| Sec. 16: All | | |
| Sec. 17: N½,E½SW¼,SE¼ | | |
| Sec. 18: NE¼NE¼ | | |
| Sec. 20: N½NE¼,SE¼NE¼ | | |
| Sec. 21: All | | |
| Sec. 22: W½ | | |
| **North Decker** | | |
| T. 8 S., R. 40 E. | 5,440 | 62.07 |
| Sec. 21: SE¼SE¼ | | |
| Sec. 26: SW¼NE¼,S½NW¼,SW¼,W½SE¼ | | |
| Sec. 27: All | | |
| Sec. 28: NE¼,E½NW¼,NW¼SW¼,S½SW¼,SE¼ | | |
| Sec. 29: SW¼NE¼,S½NW¼,NW¼SW¼,SW¼,SE¼SW¼,SE¼ | | |
| Sec. 32: N½,NE¼SW¼,SE¼ | | |
| Sec. 33: N½,NW¼SW¼,S½SW¼,SE¼ | | |
| Sec. 34: N½,SW¼ | | |
| Sec. 35: N½NW¼ | | |
| T. 9 S., R. 40 E. | | |
| Sec. 3: SW¼NE¼,W½,SE¼ | | |
| Sec. 4: All | | |
| Sec. 5: NE¼,N½SE¼ | | |
| Sec. 9: N½NE¼ | | |
| Sec. 10: N½ | | |
| **Spring Creek** | | |
| T. 8 S., R. 39 E. | 3,760 | 33 |
| Sec. 22: SE¼SW¼,SE¼ | | |
| Sec. 23: S½NE¼,SE¼NW¼,S½ | | |
| Sec. 24: S½NW¼,S½ | | |
| Sec. 25: All | | |
| Sec. 26: N½,NE¼SE¼ | | |
| Sec. 27: N½NE¼,NE¼NW¼ | | |
| Sec. 36: All | | |
| T. 8 S., R. 40 E. | | |
| Sec. 19: S½SW¼,SW¼SE¼ | | |
| Sec. 29: SW¼SW¼ | | |
| Sec. 30: NW¼NE¼,S½NE¼,NW¼,S½ | | |
| Sec. 31: N½N½,SE¼NE¼ | | |
| **Southwest Otter Creek** | | |
| T. 4 S., R. 45 E., P.M.M. | 7,557 | 135.4 |
| Sec. 15: W½W½ | | |
| Sec. 16: All | | |
| Sec. 17: All | | |
| Sec. 20: NE¼NW¼,N½NE¼ (Federal) | | |
| Sec. 21: All | | |
| Sec. 22: W½W½,E½SW¼ (Federal) | | |
| Sec. 27: W½,W½E½ | | |
| Sec. 28: All (Federal) | | |
| Sec. 33: All | | |
| Sec. 34: W½W½,SE¼NW¼,SE¼SW¼ (Federal) | | |
| T. 5 S., R. 45 E., P.M.M. | | |
| Sec. 2: W½SW¼ | | |
| Sec. 3: W½,SE¼,W½NE¼,SE¼NE¼ | | |
| Sec. 4: All (Federal) | | |
| Sec. 9: All | | |
| Sec. 10: S½NE¼,N½SW¼ (Federal) | | |
| Sec. 15: All | | |
| Sec. 16: All | | |

The team will rank the tracts on the basis of high, medium, and low desirability for leasing using three categories. These categories are coal economics, impacts on the natural evironment, and social and economic impacts that could result if the tracts are leased and mined. These major categories may be further subdivided by the team into subcategories such as tons of coal that could be mined, effects on air quality, population increases, etc. For use in the ranking process, the regional coal team will determine the emphasis to be placed on, and the degree of importance of, each of the categories and subcategories.

The proposed tract ranking factors being considered for use by the regional coal team follow:

I. Coal Resource Data.

A. Economic Viability.

1. Ratio of Recovered BTU's per acre of Surface Disturbance.

2. Coal Recoverability Potential.

3. Bypass Potential.

4. Existing and Required Access to Tract.

B. Expansion of Existing Mines.

C. Land Use Pattern.

II. Environmental Resource Data.

A. Wildlife Habitat Effects.

B. Reclamation Potential.

C. Water Quality and Quantity Changes.

1. Surface.

2. Ground.

D. Conflict of Oil and Gas Development in Coal Areas.

E. Air Quality Effects.

III. Socioeconomic Data.

A. Disruption of Family Farm/Ranches.

B. Changes to Agricultural Productivity.

C. Changes in Rural Quality of Life.

D. Changes to Communities and Local Community Services.

E. Conflict with Other State/Local Development Plans/Policies.

In ranking the tracts, the regional coal team will use tract profile data (tract delineation report, social-economic profile, site specific environmental analysis report, and summary matrices). The team will also use information obtained as a result of consultations with Federal and State agencies, the views of the public as voiced at the EIS scoping meeting, comments received in response to this notice, and other considerations such as guidance provided by the Department of the Interior and the Bureau of Land Management.

The boundaries of the tracts may be modified by the regional coal team based on the analyses contained in the tract profiles. The teams may also defer the ranking of any potential lease tract if it is determined that insufficient tract information is available.

The public is invited to comment on these potential lease tracts and on the factors that may be considered by the regional coal team in ranking the tracts. The comments should be addressed to the Powder River Project Manager at the address provided above. Comments must be received by the team Project Manager by close of business January 16, 1981. At the January meeting, the regional coal team will review the comments received in response to this notice before the team ranks the identified potential lease tracts and makes a preliminary selection from those tracts for cumulative analysis and analysis as part of the regional lease

sale EIS and possible lease sale in April 1982.

Nyles L. Humphrey,

*Acting State Director.*

[FR Doc. 80-37625 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## Anchorage District Advisory Council; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Anchorage District Advisory Council will hold a meeting in accordance with the Federal Advisory Council Committee Act to complete recommendations on management of easements withdrawn under the Alaska Native Claims Settlement Act, and to discuss district fire management responsibilities.

**DATES:** The meeeting will be held January 12, 1981, 8:30 a.m. to 4:00 p.m., Anchorage, Alaska.

The public may make oral statements to the council at 1:00 p.m. Comments and requests to present oral testimony must be received before January 12, 1981.

**ADDRESS:** The meeting location is the Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

Comments and requests to testify may be mailed to Public Affairs, Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

**FOR FURTHER INFORMATION CONTACT:** Joette Storm, Public Information Officer (907) 344-9661

**SUPPLEMENTARY INFORMATION:** Proposed Agenda—

8:30-8:45—Opening remarks, Dick Tindall

8:45-9:30—Election of chairperson and vice-chairperson

9:30-10:00—Reading of minutes, chairperson

10:00-10:15—Break

10:15-11:00—Continuation of easement management topic. Presentation on Seldovia Road Easement, John Merrick

11:00-12:00—Anchorage District Fire Management Responsibilities, Kay Johnson

12:00-1:00—Lunch

1:00-1:30—Public testimony

1:30-2:30—Continue fire management topic, Kay Johnson

2:30-2:45—Break

2:45-3:45—Present recommendations to district manager, chairperson

3:45-4:00—Discuss next agenda and conclude meeting, Dick Tindall

Richard W. Tindall,

*District Manager.*

[FR Doc. 80-37683 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

## Office of Surface Mining Reclamation and Enforcement

**[Federal Lease No. M-35734]**

### Availability for Public Review of the Environmental Assessment on the Major Modification to the Western Energy Company's Rosebud Area B Mine, Rosebud County, Mont.

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

**ACTION:** Notice of availability of the Environmental Assessment on the Rosebud Area B surface mine.

**SUMMARY:** Pursuant to § 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Region V, Office of Surface Mining Reclamation and Enforcement (OSM) has completed an Environmental Assessment on the major modification to the mining for the Rosebud Area B Mine, Rosebud County, Montana (See 30 CFR 741.12(b) for the definition of "mining Plan."). OSM's proposed action, approval of the major modification and permit application with stipulations, is in accordance with Sections 510 and 523 of the Surface Mining Control and Reclamation Act (SMCRA). OSM's analysis shows that no significant environmental impacts would occur if the applicant's proposal is approved with stipulations. A brief description of the location follows:

Mine Name: Rosebud Area B Mine.

State: Montana.

County: Rosebud.

Section, Township, Range: Portions of Sections 4, 5, 9, 10 and 11, Township 1 North, Range 41 East.

Office of Surface Mining Reference MT 0002.

The Rosebud Area B Mine is located about 1 mile south of the town of Colstrip, Montana. The mine is currently operating under a State permit and a mine plan approval from the Department of the Interior under the Coal Mining Operating Regulations (30 CFR 211). The Western Energy Company is presently mining on part of Federal coal lease M-35734 and State Operation Permit No. 74003-A002.

Rosebud's proposed 5-year mine application for the extension of area B on this Federal lease includes 1,366 acres, of which 711 acres have been previously permitted by the Montana Department of State Lands. The proposed production rate through 1985 is approximately three million tons of coal per year.

The purpose of this notice is to inform the public of the availability of the Environmental Assessment and that the Regional Director, Region V, OSM has made a "Finding of No Significant Impact" with respect to the Department's proposed action. Any person having an interest that may be adversely affected by OSM's environmental impact finding, should address their concerns, in writing, to the Regional Director, Region V. Comments on the environmental assessment and/or finding must be received as soon as possible.

The Assistant Secretary for Energy and Minerals will make a decision on the Department's action on this major modification after review of the environmental assessment and other technical documents. Pursuant to 30 CFR 741.17, the Director, Office of Surface Mining, will make a decision on the permit application after the Assistant Secretary's decision on the modification to the mining plan. The Secretary's decision will be based on the recommendations of OSM, the U.S. Geological Survey, the bureau of Land Management, the State of Montana, Department of State Lands and any public comments received.

Notice of Availability of the mining and reclamation plan on the Rosebud Area B Mine was published in the Federal Register on November 6, 1980, 45 FR No. 217, p. 73809-10.

**ADDRESSES:** The environmental assessment and other technical documents on the Rosebud Area B extension are available on request from the Office of Surface Mining, Region V. Any comments on thee documents should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

**FOR FURTHER INFORMATION CONTACT:** Florence Munter Schaller or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Dated: November 28, 1980.

John E. Hardaway,

*Acting Regional Director.*

[FR Doc. 80-37615 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-05-M

[Federal Lease No. C-22777]

## Availability for Public Review of a Mining and Reclamation Plan for a Surface Coal Mine Proposed by Kerr Coal Company for the Marr Strip No. 1 Mine, Jackson County, Colorado.

**AGENCY:** Office of Surface Mining, Reclamation and Enforcement, Department of the Interior.

**ACTION:** Availability for public review of a coal mining and reclamation plan and permit application.

**SUMMARY:** Pursuant to §§ 741.17(b) and 786.11 of Title 30 and Section 1500.2 of Title 40, Code of Federal Regulations (CFR), notice is hereby given that the Office of Surface Mining (OSM) has received an application from Kerr Coal Company to mine Federal coal at the Marr Strip #1 Mine.

A brief description of the location follows:

Applicant: Kerr Coal Company.
Mine Name: Marr Strip #1
State: Colorado.
County: Jackson.
Section, Township, Range: Portion of Section 2, T.8N., R.78W., Sections 15, 22, 23, 25, 26, 27, and 35 T.9N., R.78W and Section 28 and 29, T.9N., R.79W. (USGS 7.5 Minute Series—Johnny Moore Mountain Quadrangle, Colorado) Office of Surface Mining Reference No. CO 0002.

Name and Address of Applicant: Kerr Coal Company, P.O. Box G, Steamboat Springs, Colorado 80477.

The mine is located approximately 10 miles east of Walden on Jackson County Road 12E, and is operating under State permit #76-13. The Kerr Coal Company is presently mining on private coal leases consisting of 735 acres.

Kerr Coal Company submitted a mining and reclamation plan to the regulatory authority on July 31, 1980 pursuant to the proposed Colorado Permanent Regulatory Program and the permanent regulatory program for Federal lands. Action on the plan will be considered pursuant to Chapter VII, Subchapter D of Title 30 (30 CFR 740 et seq.). Mining on the proposed lease would maintain a production rate of 750,000 tons of coal per year through the year 1986. The total proposed mining operation would cover about 1,956 acres of which about 1,221 acres would be mined or disturbed.

The Bureau of Land Management granted the company a lease on Federal land on July 1, 1980.

The mining and reclamation plan has been determined to be sufficiently complete for public review. This notice is issued to inform the public of the availability of the plan for review in the offices of the regulatory authority. The Office of Surface Mining and the State of Colorado will prepare a technical analysis (TA) to determine whether the proposed mine plan meets the requirements of SMCRA and an environmental assessment (EA) which will evaluate the impacts of actions the Department of Interior and the Colorado Mined Land Reclamation may take on the plan. During the analytical review, it is possible that the regulatory authority will request additional information from the company. Any further information received would also be available for public review.

No action on the plan will be taken by the Regional Director for a period of 30 days after publication of this notice in the Federal Register. The Kerr Coal Company published a notice of filing the application with the regulatory authority in the Jackson County Star on August 14, 21, and 28 and September 4, 1980. Prior to making a final decision on this application, OSM will issue a Notice of Availability of the TA and EA pursuant to Section 1506.6 of Title 40, Code of Federal Regulations.

This plan is available for public review in the Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; the State of Colorado, Department of Natural Resources, Mined Land Reclamation, 1313 Sherman Street, Room 423, Denver, Colorado 80203; the Kerr Coal Company, 1515 Arapahoe, Suite 900, Denver, Colorado 80202 and the Jackson County library in Walden, Colorado. Comments on the proposed mine plan application may be addressed to the Regional Director, Office of Surface Mining, at the above Denver address, to the Colorado Division of Mined Land Reclamation at the indicated Denver address, or to both.

**FOR FURTHER INFORMATION CONTACT:** Bennett Young or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 or Carol Pahlke, Colorado Mined Land Reclamation Division, 1313 Sherman Street, Room 423, Denver, Colorado 80203.

Dated: November 25, 1980.

Robert Hagen,
*Acting Regional Director.*

[FR Doc. 80-37614 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-05-M

## INTERSTATE COMMERCE COMMISSION

### Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: December 1, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: B.C. Transportation, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 895, Rialto, CA 92376.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2075 W. Rialto Ave., San Bernardino, CA 92410.
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Jimmy A. Jenkins, 2075 W. Rialto Ave., San Bernardino, CA 92410

(2) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Moyer Trucking Company, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): Lot #2 Route 8 Box 32, St. Augustine, FL 32224.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Lot 2 Route 8 Box 32, St Augustine, FL 32224.
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Glenn Voris, Lot 2 Route 8 Box 32, St Augustine, FL 32224.

(3) Complete Legal Name of Cooperative Association or Federation of Cooperative

Associations: National Agricultural Produce Transport, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 7401 Assateague Drive, Room 178, Jessup, MD 20794.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 7401 Assateague Drive, Room 178, Jessup, MD 20794.
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Kirk A. Drury, 7590 S. Ritchie Hwy., Suite 3, Glen Burnie, MD 21061.
(4) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: T.L.C. Farm Lines, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 1666 Fabick Drive, Fenton, MO 63026
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 1666 Fabick Drive, Fenton, MO 63026
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Tom C. Lange, 1666 Fabick Drive, Fenton, MO 63026

Agatha L. Mergenovich,
*Secretary.*

[FR Doc. 80-37725 Filed 12-3-80; 8:45 am]
BILLING CODE 7035-01-M

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[Ex Parte No. 347 (Sub-1)]

## Coal Rate Guidelines Nationwide

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed guidelines.

**SUMMARY:** The Commission proposes to expand the scope of this proceeding to coal rates nationwide. The following changes are proposed in present ratemaking standards: (1) Change from the ratio method to the ton/ton-mile method for allocating Rail Form A constant costs. (2) Eliminate the fixed plant investment additive in all but exceptional cases. (3) Eliminate locomotive and caboose investment additives in all but exceptional cases. (4) Eliminate additives above fully allocated cost in all but exceptional cases.

**DATES:** Comments must be received on or before January 19, 1981.

**ADDRESS:** An original and 15 copies of any comments should be sent to: Office of Proceedings, Interstate Commerce Commission, Room 5340, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Felder or Jane Mackall, Ph. (202) 275-7656.

For specific assistance on costing information contact: Barry Harris, Ph. (202) 275-0810.

**SUPPLEMENTARY INFORMATION:** By notice served May 17, 1978 (43 FR 22151, May 23, 1978], the Commission undertook to establish rate guidelines for movements of Western coal. Numerous public comments were received in response to this notice. In addition, our thinking on this issue has been sharpened by the experience gained in a number of individual coal rate proceedings, involving the West and other areas of the country. We seek further public comment on proposed guidelines for resolving a number of major issues encountered in coal rate cases. In view of the changes in the scope of this proceeding, as detailed below, we hereby close the lead investigation Ex Parte 347 without a final decision. The record of the lead investigation is hereby incorporated in the present new proceeding Ex Parte 347 (Sub-No. 1).

### Summary

Significant changes are proposed in four areas of Commission coal rate policy. First, we propose a shift from the ratio method to the ton/ton-mile method for allocating Rail Form A constant costs. Second, we propose eliminating, the use of a fixed plant investment additive. Third, we propose to eliminate, locomotive and other equipment investment cost additives. Finally, we propose eliminating, the use of an additive above fully allocated cost.

We ask for public comment on these issues, as well as on certain other issues where we propose to continue past policies. We also ask for public comment on our revised analysis of environmental and energy impacts of our decision.

### Review of Related Issues and Proceedings

A number of the issues identified in our May 17, 1978 advance notice have, in the interim, been addressed in other proceedings. These developments, reviewed briefly below, are an important part of the Commission's policy toward coal rates and toward rate regulation in general.

As contemplated in the notice of May 17, 1978, the guidelines proposed here apply only to cases in which market dominance has been established. Indeed, the Commission is without jurisdiction to regulate the maximum reasonable level of rates in the absence of market dominance. 49 U.S.C. § 10707. Section 202 of the Staggers Rail Act of 1980 (Pub. L. 96-448) provides new standards according to which we will make determinations concerning market dominance.[1] However, it appears from recent experience that findings of market dominance will not be unusual in coal rate cases.

Our May 1978 notice indicated that we might address the determination of appropriate levels for *both* minimum and maximum rates. Some parties have suggested that a minimum rate level should be incremental or marginal cost, variable cost, or a percentage of variable cost. The Department of Energy suggested that the floor of the zone of reasonableness should be what it described as a Minimum Viable Tariff, a concept closely related to incremental cost. While maximum rate cases have proliferated, there have been no cases challenging a coal rate as unreasonably low in recent years. Minimum rate issues on coal movements appear to have little or no significance at this time. Moreover, in Ex Parte No. 355, *Cost Standards for Railroad Rates* (45 FR 53846) (Served July 9, 1980), we proposed a general standard for minimum rate reasonableness labeled directly variable cost. Should we adopt those standards (subject to the changes contained in Section 201 of the Staggers Act) they would apply to coal movements. For these reasons, the guidelines proposed here relate only to the level of *maximum* reasonable rates and do not address issues of *minimum* rate reasonableness.

We requested comment "on the appropriate basis upon which a zone of reasonableness should be defined, e.g. percentage of class rates, percentage of commodity rates, distance scales, ratios of rates to variable or fully allocated costs, or some other basis or market condition." The comments of the parties, and our experience in Western coal cases, have convinced us that accurate cost computations, including an allocation of constant costs in accordance with our proposed guidelines, is the preferred basis for the determination of maximum reasonable rates on coal.

In the recent developing case law on Western coal rates, we have previously accorded little weight to evidence of rate comparisons. See, for example, *San Antonio* v. *United States*, F. 2d (D.C. Circ. 1980); *Houston Lighting and Pwr. Co.* v. *United States*, 606 F 2d. 1131 (D.C. Cir. 1979). At a time when most coal-hauling roads are earning inadequate revenues, primary reliance on rate comparisons is inappropriate without supporting evidence that rates used for comparison are themselves reasonable.

[1] In the near future, we will open a proceeding dealing with implementation of the section 202 of the Staggers Act.

We recognize that our proposed evidentiary standards are best suited to regular large-scale unit-train, trainload, or multiple car service. While simplified cost presentations may be needed in those situations where spot sales or sporadic movements are involved, we are cognizant that it is much less likely that carriers will possess market dominance over these movements.

We also asked whether our Western coal guidelines should be applied to capital incentive rates filed under 49 U.S.C. 10729. We note that section 210 of the Staggers Rail Act of 1980 repeals this section, and provides for a 5-year phase-out of existing capital incentive rates. Consequently, we find it no longer necessary to address capital incentive rates in this proceeding.

Similarly, we asked whether Western coal rate guidelines would have any effect on the existing coal rate structure in the east. One party, the Western Coal Traffic League, noted in response that

> coal traffic moving via railroad from origin mines in the west can and should be treated no differently under the Interstate Commerce Act than coal traffic moving in other territories or other general items of commerce moving in rail service.

We agree that the basic principles of maximum ratemaking should be the same for Western and Eastern coal movements, and have retitled this proceeding accordingly.

Finally, the Commission requested comment on the application of Western coal guidelines "to any contract rates on large volume coal movements, filed in accordance with the Commission's General Policy Statement on Railroad Contract Rates." That proposed policy statement, which was served with out advance notice of this investigation, was adopted by the Commission in Ex Parte No. 358–F *Change of Policy, Railroad Contract Rates* (served November 9, 1978). Consistent with the Commission's contract rate policy, the maximum rate guidelines set forth here will not apply to rates established by contract between railroads and shippers. The Commission has frequently expressed the view that such contracts are potentially an important mechanism for enhancing competition in the transportation of coal and other commodities. Section 208 of the Staggers Rail Act of 1980 affirms the legality of contracts entered into both before and after its passage.

Furthermore, as expressed in our February 21, 1980 statement, in Ex Parte No. 358–F it is our view that rate changes in excess of those established in contracts entered into after the November 9, 1978 policy statement and before the passage of the Staggers Act must be presumed unreasonable. However, there may be unusual circumstances that would rebut this presumption and warrant our upholding a rate in excess of that provided in a contract executed between November 1978 and October 1980. We expect such circumstances to be the exception.

We have further concluded that agreements negotiated before issuance of our 1978 policy statement may, under appropriate circumstances, be considered a major factor in our determination of rate reasonableness. We consider whether, or to what extent, to weigh rate agreements reached before November 9, 1978 on a case-by-case basis. Among the factors that will determine the weight we give to such an agreement are: (1) whether the parties intended to be legally bound by the agreement; (2) whether the shipper reasonably relied on the contract to its substantial detriment (for example, by making large capital investments that it would not otherwise have made); and (3) whether public interest considerations warrant holding the carrier to the agreement.

Virtually all parties to this proceeding are in agreement that the determination of the cost of moving coal should be a principal determining factor in maximum rate making.[2] There is also a general consensus that a rail rate should at least cover the full, long run cost of transporting the coal at issue. Thus, the Western Coal Traffic League developed a "coal network" approach to costing. Also, Iowa Power and Light Company expressed a concern of other shippers that the maximum rate for western coal should reflect the "total cost of the service where such cost is defined to include a return to the capital employed in providing the service."

Railroads and shippers do not agree, however, on how to compute the actual cost of service. A principal source of dispute lies in the difficulty in computing the proportion of constant costs properly allocable to the movement at issue; a second lies in the allocation of new fixed investment, a third lies in computing the cost of investment in locomotives and other equipment. With respect to these issues, we here propose significant departures from its past practices.

## Allocation of Joint Costs

It is a well-known characteristic of rail transportation that some costs vary directly with the level of a particular service, and can be allocated accordingly, while other costs are shared by two or more services, and hence cannot in any precise way be allocated directly to any one service on a per unit basis. These unallocable costs are commonly known as *fixed* or *constant* costs.

By the nature of constant costs, any accounting convention devised to allocate them among particular services must be to a degree arbitrary. As a matter of policy, however, the choice of one or another allocation method can have important practical considerations. If too large a share of constant costs is allocated to services facing strong intermodal competition, the traffic may be lost to other modes. Remaining rail shippers suffer because fewer of them are left to share the constant costs, and there is a loss to the economy as a whole to the extent that some traffic moves by an inefficient mode. At the same time, underallocating constant costs can also lead to problems. If railroads are not able to cover their costs, in the long run investment, maintenance, and service ultimately will suffer to the detriment of all shippers. It is likely that carrier's would have to defer maintenance, allowing their plant to deteriorate to the detriment of service quality, or they will have to impose a burden of cross subsidies on other shippers using their systems.

To avoid the dangers of either under- or overallocation, we conclude that constant costs should be allocated among users in a way that reflects the importance of rail service to each user as well as the cost of providing service. Demand considerations have always played an important role in railroad ratemaking. In the past, demand considerations were often taken into account under the concept of "value of service pricing." [3] Although value of service pricing in the historical sense of placing the highest rates on merchandise with the highest value-to-weight ratio long ago became a casualty of truck competition, the more general concept of pricing in accordance with demand remains valid.

[2] The railroads have also taken the position, discussed *infra* that maximum reasonable rates on market dominant traffic must be set *above* the full cost of service, to compensate for traffic which returns less than full cost (although more than variable cost).

[3] A 1959 report described value of service pricing as a concept that "covers the value of service to the shipper but . . . also should be interpreted as including the question for carriers, of the point at which a rate may be fixed so as to provide the greatest amount of profit for the carrier, and the question, for carriers and regulatory authorities, of how the burden of constant costs may be apportioned among various types or sources of traffic, with due regard for what the service is reasonably worth to the shipper." See *Value of Service in Rate Making*, ICC, Bureau of Transport Economics and Statistics, Statement No. 5912, November 1959.

We would, of course, like to be as precise as possible in implementing this policy of allocating constant costs to reflect demand for service. Under Rail Form A—the basic costing methodology used in past coal decisions—constant costs are allocated using either the ratio method or the ton/ton-mile method.[4] In recent coal cases, we have used the ratio method. On further consideration, we are concerned that a different allocation system is needed to permit the railroads to recover all system costs and expenses they incur. We believe that the ton/ton-mile method is the more reliable method for ratemaking purposes. We invite comments as to whether some other allocation device, such as use of a weighted or unweighted average of the results derived from the ratio and ton/ton-mile methods, is superior for ratemaking purposes.

Because long-haul, large-volume, heavy-loading traffic such as coal is likely to be captive to rail, and hence to have relatively low demand elasticity, whereas light-loading, short-haul, or low-volume traffic is more likely to face vigorous intermodal competition, and hence to have relatively high demand elasticity. Because the ton/ton-mile method tends to allocate a larger portion of constant costs to heavy-loading, low-rated traffic than does the ratio method, we believe it will tend to put an appropriately large share of the burden of those costs on those shippers for whom reliable, high-quality rail service is of the greatest importance.[5] We further believe that the principles discussed here are valid not only under Rail Form A costing, but also will continue to be valid under the alternative costing methodologies now being developed by the Commission.

At a minimum, any allocation method must, when applied to all traffic, produce revenues sufficient to cover all of the carrier's costs. The importance of this minimum requirement has recently been urged upon us both by Congress and by the courts in *San Antonio* v. *United States,* F. 2d (1980). Under the Interstate Commerce Act, as amended by the 4R Act and the Staggers Act our power to find a rate unreasonably high is limited to market-dominant traffic. As pointed out above, there appears to be a tendency for nonmarket-dominant and hence nonregulated traffic to be light-loading, low-density, and short-haul, and thus subject to competitive diversion to other modes. It would appear likely that for competitive reasons, such traffic would no longer move by rail if forced to bear the relatively large share of constant costs that would be allocated to it under the ratio method. For the Commission to impose the ratio method on market dominant traffic, while competitive considerations necessitate rates approximating a ton/ton-mile allocation method on nonmarket-dominant traffic would be tantamount to use by the Commission of the allocation method least favorable to railroads in each case.

Railroads party to this proceeding have argued that they can be assured of recovering their full system costs only if they are allowed to charge more than fully allocated cost on market dominant traffic, in compensation for their inability to charge as much as fully allocated cost on traffic subject to intermodal competition. Thus the Western railroads have advocated a zone of reasonableness for rates, with a center at fully allocated cost, including a fair rate of return, a minimum at 100 percent of variable cost, and a ceiling at 220 of available cost. (Verified Reply Statement of Richard J. Barber, pp. 8–9, and Verified Statement of J. Rhodes Foster.) While it might be necessary to charge some rates above fully allocated costs so long as those costs are computed according to the ratio method, we believe, for the reasons given above, that it is not true when "fully allocated costs" are computed according to the ton/ton-mile method. We invite comment on this point.

We also believe that a change in the cost allocation procedure is justified on a cost basis. There is considerable evidence that the present variable cost methodology does not account for the effects of heavy wheel-loadings upon variable costs. We feel that the ton/ton-mile apportionment offsets that bias by apportioning a larger share of fixed costs to the heavier loading traffic.

Having set forth these general principles for allocating constant costs in coal cases, we should point out that it is not always easy to specify which costs are truly constant costs and which are not. The Commission is actively pursuing methods and procedures to improve the calculation of the costs of service for coal traffic. As always, we stand ready to consider improvements in variable costing procedures that result in movement-specific costs in preference to the Rail Form A system average allocations. As such improved procedures are developed, this proceeding will be reopened to consider them.

We intend, as part of our final guidelines, to propose specific evidentiary guidelines and formatted presentation of data to aid in our determinations of maximum rate reasonableness. This will include any needed refinements of the constant costs allocation formula. We invite comments on this point.

**Fixed Plant Investment Additive**

In past coal cases, the Commission has sometimes allowed a fixed plant investment additive to permit railroads to recover costs, such as those of track rehabilitation, that would not have been incurred but for the need to carry the traffic at issue. In future cases, however, we will strictly limit the use of a fixed plant investment additive.

A major disadvantage of the fixed plant investment additive, as applied in past coal cases, is the difficulty of properly intergrating the movement-specific investment costs for which the additive was allowed with the Rail Form A system average costs used to assign other investment costs to coal. These methodological difficulties were explored at length by the D.C. Circuit Court of Appeals in the recent San Antonio decision. While we continue to believe that in principle, the two costing methods can be integrated without double counting, the data requirements for doing so appear to surpass the limits of the records developed in recent cases.

We recognize, however, that there may be particular circumstances in which our costing methodology will not properly reflect the investment costs attributable to coal traffic. Rail Form A allocates investment costs to all traffic on the basis of gross ton miles. In situations where a substantial incremental investment is involved, this is a poor surrogate for actual investment

[4] Under both the ratio and ton/ton-mile method, the railroad's expenses are initially separated between those that can be directly related to specific movements (variable costs) and those that are related to the entire system operation (constant costs). Under the ratio method, the constant costs are then distributed among specific movements in proportion to revenue generated by those movements. Under the ton/ton-mile method, the constant costs are further divided into those associated with terminal operations, and those that are associated with line-haul service. The former are then allocated to specific movements in proportion to tons originated and terminated, and the latter are allocated to specific movements in proportion to tons times distance traveled, that is, ton-miles.

[5] Our decision in No. 34013, *Rules For Assembling and Presenting Cost Evidence,* 337 I.C.C. 298, 323 (1970), observed that "allocation of constant costs on a ton-mile basis might, in certain circumstances, result in an inordinate portion of such costs being borne by extremely heavy loading traffic, as compared to relatively light loading traffic . . .". Prior to that time, the ton-mile method was used by all modes to compute full costs. The context of the *Rules* decision shows that the Commission was concerned exclusively with a methodology for computing "costs," as opposed to a ratemaking standard. A petition to expand the findings of that decision to a ratemaking standard was considered and specifically denied. A decision in this proceeding to use a different allocation system for ratemaking purposes would not conflict with *Rules.*

costs. Thus, where line rehabilitation or construction costs are a particularly large part of the total costs of a movement, we proposed the following alternative.

First, we urge both railroads and shippers to consider the advantages of long-term contracts as a mechanism for recovery of coal-specific investment costs. Such contracts can significantly reduce the risk that traffic will not be available to make use of newly constructed facilities. Given the assurance of traffic, railroads will be able to spread the costs of investment over a longer time horizon, and will consequently find it easier to raise funds in capital markets. Shippers will also benefit to the extent that contract rates diminish the risks of rate instability, including risks associated with regulatory policy. In addition, contracts offer mutually beneficial opportunites for productivity sharing, and for the introduction of performace standards. Finally, contracts can provide an attractive device for sharing the financial burdens of railroad construction and/or rehabilitation.

Second, if all other methods of cost recovery fail, we stand ready, as always, to consider movement specific costs in preference to Rail Form A (or other) system average costs in cases where parties believe the Rail Form A allocations to be inappropriate. However, we caution parties who may contemplate introducing movement specific costs to avoid the possible couble counting that can occur when some investments used for a movement are allocated according to Rail Form A averages and other movement-specific costs are tacked on in the form of a fixed plant investment additive.[6] We will strictly scrutinize cost evidence submitted in future coal cases for such possible double counting.

## Locomotive and Other Equipment

### *Investment Costs*

In recent coal cases, the method of allocating the cost of new locomotives between coal and noncoal traffic has been an important area of controversy. The main concern has been the value to be assigned to locomotives purchased or leased because of increased coal traffic. By analogy with our treatment of the fixed plant additive, we applied a locomotive additive (and sometimes other equipment investment additives) because of our concern that Rail Form A did not fully account for locomotive costs associated with coal traffic. On reflection, we believe that this approach is likely to result in double-counting equipment costs. This double-counting problem is discussed in detail in the previous section of this notice.

We propose to treat the locomotive, caboose and other equipment investment additives in the same way that we propose to treat the fixed plant investment additive. We do not believe it is practicable as a general rule to exclude locomotive and caboose investment costs from the RFA systemwide averages, as would be required if an additive were to be used without double counting. Therefore, we will not permit the use of an additive in conjunction with RFA locomotive costs. However, it may be possible in some cases to calculate movement-specific locomotive and caboose investment costs. Where such evidence is submitted and where it is presented as part of a consistent costing approach that avoids double counting, we will consider it.

Parties may wish to reopen past coal cases to offer movement-specific locomotive and caboose costs in lieu of the RFA-plus-additive method previously used. We believe, however, that this is unlikely to make a substantial difference in the actual rates allowed. To the extent that actual movement-specific locomotive or caboose investment costs are higher than the system averages, we believe our previous method, although methodologically flawed, may often have given an approximately accurate result.

## Additive Over Fully Allocated Cost

In a number of past coal cases, we have applied an additive of 7 percent over and above fully allocated costs as calculated by the methods then in use. We saw two justifications for doing so.

First, we were aware that the costing methods then in use might, in certain cases, allocate an insufficient share of constant costs to coal traffic, thus depriving railroads of the opportunity to achieve revenue adequacy given the mix of market dominant and nonmarket dominant traffic actually carried by those railroads. Thus an additive above fully allocated costs as then calculated was seen as necessary in the interests of economically efficient differential pricing.

Second, we believed that an additive above fully allocated costs was justifed by the need of railroads to achieve revenue adequacy. In recent years, railroads have had a rate of return among the lowest of all U.S. industries.[7] In part we believe that the failure of railroads to achieve adequate revenue is the result of the regulatory burdens under which those railroads have operated in the past. In past cases, then, an additive was viewed as a valid device for helping railroads to achieve revenue adequacy during the transition to a less burdensome regulatory regime.

While not entirely ruling out the possible need for an additive above fully allocated costs in future coal rate cases, we believe such an additive will be less often appropriate than in the past. We believe that improvements in costing methodology and the broad program of legislative, regulatory, and industry inititatives now underway will accelerate the return of railroads to a state of economic health and will eventually eliminate altogether the need for *ad hoc* additives to guarantee revenue adequacy. However, because the necessary changes will take several years to become completely effective, we remain willing to consider the need for an additive above fully allocated costs in exceptional circumstances as necessary. We will determine whether to apply such an additive and how high an additive to apply on a case by case basis. In our final rules, we may wish to propose guidelines for the submission of evidence in cases where an additive is sought. We invite comment as to the need for and content of such evidentiary guidelines.

## Other Issues

A number of issues addressed in past coal cases and the recent D.C. Circuit Court of Appeals decision in *San Antonio* require less detailed explanation here. These are issues for which we think the Commission's past policy has been correct, and has been upheld on review by various courts. However, we recognize that the resolution of these issues may have an important effect on rates. We thus restate them here for comment by the parties.

A. *Locomotive Costs—Fuel and Maintenance Expenses.*

In the absence of actual cost data, we have used the systemwide average for fuel and maintenance in calculating average costs. The railroads have argued that costs should be revised upward to reflect the heavier weight of coal locomotives. We rejected this argument, finding that "weight is not the only factor to be considered in adjusting the fuel and maintenance expenses."[8] Indeed, some characteristics of unit coal train movements may lower fuel and maintenance costs below systemwide

[6] See *San Antonio, supra*, pp. 21–28.

[7] The rate of return for 1977 wa only 1.75 percent, as found in Ex Parte No. 353, *Adequacy of Railroad Revenue*, 362 I.C.C. 199, 215 (1980).

[8] *San Antonio II*, 359 I.C.C. at 33, App. A.

averages. In the absence of actual operating cost data, the systemwide average is the best estimate of these expenses. However, we are seeking comment on whether sufficient data are now available for the Commission to consider how these costs differ for unit coal trains. If so, we request the views of the parties as to whether requiring such data in individual coal cases would be practical and informative.

B. *Roadway Maintenance Expenses in GTM costs.*

A similar situation exists with regard to roadway maintenance expenses. In most past decisions we have allowed roadway maintenance expenses to be allocated on a tonnage basis using system averages. In the absence of data reflecting actual operating expenses, we will continue to use system averages. However, we will make every effort to obtain more specific data.[9] Frequent, heavy loading, coal unit-train service is relatively new, and it is only recently that its effect on roadway maintenance expenses can be observed. When possible, we will consider these effects in estimating cost. This cost item has comprised a substantial portion of the entire cost of unit-train service. If coal unit-train roadway maintenance expenses differ significantly from the system average, it is important that our cost estimates reflect the difference. We invite comment as to whether it would be practical and informative to require movement-specific data on roadway maintenance expenses in particular coal cases.

C. *Federal Taxes.*

In past cases we have applied the statutory tax rate in adjusting after-tax returns to the pretax level. This had the effect of raising the rate charged, since deferred taxes as well as the investment tax credit and actual taxes paid were reflected in the rate. This is, the railroads were allowed to defer some taxes while charging rates as if the higher tax had been paid. This was done to reflect Congressional intent that the railroads receive the benefits of accelerated depreciation and other tax advantages. This approach is also consistent with our policy stated in Ex Parte No. 338, *Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels.* There we said that, "While there are some advantages of using the actual tax rate, use of the statutory tax rate will assure that accelerated depreciation and the investment tax credit remain an incentive to capital spending.[10] The Commission will continue to use the statutory tax rate in adjusting returns to the pretax level.

Another issue connected with the treatment of federal taxes is the propriety of deducting the deferred tax account from the net investment base before calculating the rate. In *San Antonio,* the court pointed out that our failure to make this adjustment is contrary to both certain past decisions of the court and to our own policy expressed in Ex Parte No. 338, where we wrote:

> We are cognizant of the fact that this treatment [normalization] confers a benefit on the carriers, in that they are receiving and retaining revenue which is not accounted as income. As indicated by some of the parties, the capital funds arising from deferred taxes have been contributed by the ratepayers rather than by investors in the company. Thus it is appropriate to deduct the deferred tax account from the net investment rate base prior to any calculation of rate or return.[11]

Inasmuch as we have not been entirely consistent in our treatment of deferred taxes in past coal cases, we believe that we should seek comment on the issue in this proceeding. After review of the record, we will determine whether, in future cases, to follow the line of Commission decisions (such as *San Antonio*) in which no deferred tax adjustment was made to the rate base, or the line of decisions (such as the recent I&S No. 9199) in which a deferred tax adjustment was made.

The considerations weighing in favor of a deferred tax adjustment are set forth in Ex Parte No. 338 (see especially the passage cited above). However, we now perceive certain considerations that appear to militate against exclusion of the deferred tax account from the net investment base for ratemaking purposes.

The deferred tax account can be considered a source of funds freed up for reinvestment. These funds constitute a substantial part—up to 20 percent in some cases—of the total capital available to individual railroads for this purpose. To the extent that the railroads are not allowed to earn a return on investments made with these funds, the incentive to undertake railroad investments with such funds is substantially reduced. Instead, an environment is created in which there is an incentive to take funds generated within the railroad industry and invest them elsewhere, where market-determined rates of return are available. We are concerned that this may thwart the intent of Congress in passing the Revenue Acts of 1954 and 1962, to provide business enterprise with tax benefits as a means of spurring capital spending.

During a time of price stability, the need to provide an incentive to invest might well be sufficient reason in itself to permit railroads to earn a normal return on their deferred tax account. During a period of sustained inflation such as has recently been experienced in the U.S. economy, however, the deferred tax account takes on added significance. Specifically, in addition to the considerations discussed above, we are concerned that exclusion of the deferred tax account from the investment base for ratemaking purposes may conflict with our duty under section 10704(a)(2)(A) of the Interstate Commerce Act as amended by the 4R Act to "provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and *cover the effects of inflation.*" [Emphasis added].

In a world of price stability, a flow of net income plus depreciation adequate to support prudent capital outlays can be provided through the use of straight-line depreciation of capital expenditures. Under such conditions, the total funds set aside through depreciation over the life of the asset are sufficient to replace the asset when it is finally retired. In a noninflationary world, then, each year's straight-line depreciation allowance can be considered to represent an element of cost to the firm; any accelerated depreciation could accordingly be considered a "bonus" above and beyond cost provided to the firm by the tax law.

In an inflationary world, however, the total of annual straight-line depreciation allowances based on original cost will not be sufficient to replace the asset at its inflated cost when the asset is retired. In this sense, straight-line depreciation can be said to understate the firm's annual cost of doing business. Under inflationary conditions, then, accelerated depreciation can, to a considerable extent, be considered not a "bonus" over and above cost, but an adjustment necessary to compensate for the understatement of cost inherent in the straight-line method of depreciation. It follows from this line of analysis that not to allow a railroad the full benefits of accelerated depreciation (which include the possibility of earning a return on the deferred tax account) might well, during an inflationary

[9] This is not a new policy. For example we found such data persuasive in lowering average roadway maintenance expenses in *Increased Rates on Coal, BN, Montana to Superior, Wisconsin,* Docket No. 37135.

[10] 358 I.C.C. 893–94.

[11] 358 I.C.C. 894.

period, deprive the railroad of the revenues necessary to support prudent capital outlays, etc., as provided by the IC Act.

We ask for public comment on the deferred tax issue, in order to obtain an adequate record on which to base a consistent policy for future coal rate cases. Comments are invited as to the effects of alternative deferred tax policies on the incentive to undertake new investment, on the ability of railroad revenues to cover the effects of inflation, and on any other related issues the participants may consider germane to our consideration of this issue.

D. *Cost of Capital as the Allowable Rate of Return.*

In recent coal cases the Commission has used a rate of return equal to the cost of capital in prescribing maximum reasonable rates. We have used the cost of capital because that is the rate necessary to attract capital to the railroad industry. It is also the rate necessary to maintain capital in the industry.[12]

In Ex Parte No. 338 and Ex Parte No. 353 the Commission established standards and procedures for establishing adequate railroad revenue levels. A return on investment equal to the cost of capital was only one of four standards used to consider revenue adequacy. In Ex Parte No. 353 and Ex Parte No. 363 a range of adequate rates of return was established. The high value of the range is the cost of capital. The low value of the range results from the use of a funds-flow model. The low value for revenue adequacy is not a long term level of adequate revenue. Rather, the low level calculation using funds-flow analysis is applicable only when it is necessary to ensure that carriers are not being given the current rate of return on redundant plant.

As redundant plant is eliminated, the funds flow value and the cost of capital figure should converge. The reason is that the funds flow analysis itself uses the cost of capital as the proper rate of return on new investment.

We are currently reviewing the standards developed in Ex Parte No. 338 for ascertaining the adequacy of a carrier's revenue levels, but there and elsewhere, we have always recognized that a financially healthy railroad must earn the cost of capital on its investments. The other standards discussed in that proceeding were intended only for theoretical revenue adequacy purposes, and were not intended to diminish the importance of allowing rail rates that meet a rate of return standard. The proper rate of return standard for nonredundant plant is the current cost of capital. Since many coal movements require a great deal of new investment, and do not involve redundant plant, we will use the current cost of capital as the allowed rate of return.

Environmental and Energy Issues

Our decision in this proceeding constitutes a major Federal action. We are thus required to consider its impact on the human environment, and on the use of energy. Accordingly, as part of the follow up to our May 17, 1978 Notice of Proposed Guidelines in this case, we prepared a draft environmental impact statement (EIS) with the assistance of the Mitre Corporation. The draft EIS, served October 19, 1979, contemplated major areas of potential impact associated with the increased production and use of coal, the possible substitution of oil for coal and other fuels, and the possible substitution of Eastern for Western coal. On reconsideration, however, it is our determination that the focus of the draft environmental impact statement was overly broad, and that none of these issues are apposite to this proceeding as we now conceive it. It is thus now our view that this decision will have no major energy or environmental impact, for the reasons detailed below.

The major flaw with the draft EIS, as we see it, was its overly broad conception of the range of alternatives available to the Commission for consideration. Indeed, our original Notice of Proposed Rulemaking was itself so broad as to give little guidance. The draft EIS focused on three policy alternatives: one, continuation of the present rate structure; two, a rate structure 50 percent below the present one; and three, a rate structure 100 percent above the present one.

In fact, our range of discretion over coal rates is nowhere nearly that broad. No participant in this proceeding has suggested that we set maximum rates below the level that will permit railroads to cover their full cost of service. Fully allocated cost can thus be considered to be the lowest maximum rate level considered as an alternative in this proceeding. Carriers have argued that maximum rates should be set slightly above fully allocated cost, in the interests of differential pricing, as in some recent cases where we permitted a 7 percent additive above fully allocated costs. In addition, this proceeding has considered alternative methods of computing fully allocated cost, for example, the ratio and ton/ton-mile alternatives considered above. For practical purposes, then, we can consider the low end of the range of rates under consideration in this proceeding to be fully allocated costs as computed by the most conservative method, and the high end of the range to be a few percentage points above fully allocated costs as computed by the most generous method. We have not computed the upper or lower limits, that might theoretically have resulted had we decided each and every issue in favor of the railroads or the shippers, but it would not be unrealistic to say that the range of rates under consideration here runs roughly from 15 percent below the present rate structure to 15 percent above it. This range is thus a full order of magnitude narrower than the range of rates considered in the draft EIS. We anticipate that rates decided according to the proposed guidelines outlined in this notice will fall somewhere near the center of this range, although the precise outcome will clearly vary from case to case.

This narrowing of the ratemaking range over which we perceive the Commission to have discretion in this proceeding has a major effect on the range of issues that need to be considered in determining whether our decision will have a significant environmental impact. Consider first the down side, and then the up side.

On the down side, we believe that there would be a major impact on coal use and transportation patterns only if rates were set so low that they did not contribute to the railroads' going concern value. At such low rates, railroads would attempt, to the extent consistent with their common carrier obligations, to avoid soliciting and carrying coal traffic, thus adversely affecting coal use. At the very low alternative rates—50 percent below the present level—considered in the draft EIS, it is likely that many movements would not even cover railroad variable cost. However, we do not perceive such low rates to be an option for consideration in this proceeding. As pointed out above, no participant in this proceeding proposed setting rates below fully allocated costs, let alone below variable cost. We thus conclude that consideration of the extreme downside impact contemplated in the draft EIS was inapposite to this proceeding.

On the upside, the draft EIS considered the impact of rates as much as 100 percent above present rates, and found that such high rates would potentially have significant environmental impacts. We now

[12] This is a standard principle of economics. See for example: James M. Henderson and Richard E. Quant, *Microeconomic Theory*, 1958, pp. 243–252.

consider this aspect of the draft EIS also to be inapposite. First, as pointed out above, even if every point at issue in this proceeding had been decided in favor of the railroads, rates would not remotely have approached 100 percent above the present level. Second, and perhaps more importantly, circumstances have materially changed since the draft EIS was in preparation, in that the world oil price has more than doubled since early 1979. The world oil price is a critical variable in estimating the potential environmental impact of coal rates. At 1979 oil price levels, the delivered price of energy-equivalent quantities of oil and coal were close enough that a doubling of freight rates could conceivably have made oil cost-competitive for at least some coal users. Today, however, the price of oil is more than double the delivered price of coal, even allowing for pollution control costs.[13] This renders it highly unlikely that any changes in rates permissible under the guidelines advanced here would have any significant impact on fuel use nationwide.

It must be understood that in formulating our proposed coal rate guidelines, we did not consider the prices of alternative fuels as such. Rather, we based our decision on considerations of costing methodology rate reasonableness, and railroad revenue adequacy. Only if we had found that the rail rates resulting from meeting those primary concerns would have been so high as to bring the delivered price of coal close to or above the delivered price of oil would we have had to consider energy policy explicitly as an element of maximum reasonableness. We are aware of no circumstances under which the guidelines proposed here would make the price of oil competitive with the delivered price of coal. We invite comments on this matter.

A final issue considered by the draft EIS was the potential impact of our decision on the use of Western as opposed to Eastern coal. We now believe there is no reason to apply different ratemaking principles to coal from different regions of the country. Accordingly, we anticipate that this decision will have no major impact on regional patterns of coal use.

[13] According to the recent report of the World Coal Study, oil at $35 per barrel is equivalent to coal at $165 per ton. Assuming a $45 average delivered price of coal, and allowing $35 per ton for complete pollution control, the cost of oil exceeds that of coal by some $85 per ton, on a BTU-equivalent basis. Under no assumptions would the rates under consideration in this proceeding remotely approach an $85 per ton increase over current rates. (See Carroll L. Wilson et al, *Coal—Bridge to the Future*, Ballinger, 1980.)

In sum, we have concluded that the issues considered in the draft EIS were overly broad, and that the alternatives contemplated there fell outside out actual range of ratemaking discretion. Accordingly, we now conclude that this decision will have no significant environmental or energy impact. We do, however, invite public comment on these issues.

(49 U.S.C. 10321, 10701a, 10704 and 5 U.S.C. 552)

Decided: November 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam concurring with a separate expression. Chairman Gaskins did not participate in the disposition of this proceeding expression. Chairman Gaskins did not participate in the disposition of this proceeding but did submit a separate comment. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,
*Secretary.*

*Commissioner Gilliam,* concurring:

I agree to the publication of this notice for the sole purpose of eliciting comments from the parties on the efficacy of the new policies being contemplated for adoption. I believe there are too many unanswered questions to support, at this time, the content of the guidelines.

I am particularly concerned about the proposed treatment of deferred taxes. The notice suggests that a new rationale for allowing a return on deferred taxes is contained in the Staggers Rail Act of 1980. Coincidentally, such a return would provide an adjustment for inflation at the same time that various additives to achieve revenue adequacy are being disallowed. I believe that the ramifications of the Staggers Rail Act, in conjunction with the U.S. Court of Appeals decision in the *San Antonio* case, should be examined in some detail by the General Counsel. It appears that the court in *San Antonio* is requiring the Commission on remand to deduct deferred taxes from the net investment base if it elects to rely on normalization.

*Chairman Gaskins,* not participating:

Rule 14 of our Canons of Conduct provide that a Commissioner should disqualify himself in any proceeding where his or her "impartiality might reasonably be questioned." While I believe I would have approached the issues raised in this proceeding with an open mind, my impartiality might reasonably have been brought into question because I participated in formulating the views of a party in this proceeding, the U.S. Department of Energy. Consequently, I have refrained from voting on this matter. However, I wish to make it clear that I am in agreement with the views expressed in the proposed notice and that but for Rule 14, I would have voted for its issuance.

[FR Doc. 80-37724 Filed 12-3-80; 8:45 am]
BILLING CODE 7035-01-M

## Motor Carriers; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involve.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, Federal Register at 45 FR 45529 under Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. §§ 11344 and 11349. Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose a application must follow the rules under 49 CFR 1100.240(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, in accordance with 49 CFR 1100.240(A)(h).

*Amendments to the request for authority will not be accepted after the date of this publication.* However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

*We find*, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the

human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 24, 1980.

By the Commission Review Board No. 5, members Krock, Taylor, and Williams.

MC-F-14502F, filed November 4, 1980. BEST-WAY TRANSPORTATION (Best-Way) (1813 E. Thomas Road Phoenix, AZ 85016) —purchase— BEST-WAY FREIGHT LINES OF ARIZONA (BWFLA) (same address). Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Best-Way seeks authority to purchase the interstate operating rights of BWFLA. Arrow Deliver Company, a non-carrier which controls 100% of the stock of Best-Way, seeks authority to acquire control of said rights through the transaction. John A. Pifer controls Arrow Delivery Company through the majority of stock ownership. Approval and authorization of this transaction will be conditioned upon the prior receipt by the Commission of an affidavit signed by John A. Pifer stating that he joins in this application as person in control. Best-Way is purchasing the interstate operating rights contained in BWFLA's certificates in MC 57254 (Sub-Nos. 1, 14, and 16), which authorize the transportation, as a motor common carrier, of *general commodities* (with various exceptions), (A) over irregular routes, between Mountain View, CA, and points within three miles of Mountain View, on the one hand, and, on the other, San Francisco, CA; and (B) over regular routes, [1] Between Lakeview, CA and junction unnumbered Hwy and Interstate Hwy 15, near Nipton, CA, serving all intermediate points: From Lakeview over U.S. Hwy 91 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Essex, CA, then over unnumbered Hwys via Goffs, Ivanpah and Nipton, CA, to junction Interstate Hwy 15, and return over the same route. [2] Between Los Angeles and San Bernardino, Calif., serving all intermediate points: From Los Angeles over U.S. Hwy 66 to junction Interstate Hwy 15, then over Interstate Hwy 15 to San Bernardino, CA, and return over the same route. Serving as off-route points those in that part of CA and NV within 50 miles of Nipton, CA, including Nipton, and the off-route points within the Los Angeles Basin Territory as described below: Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; then northeasterly along said county line to the point it intersects California Hwy 118, approximately 2 miles west of Chatsworth; easterly along California Hwy 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along the said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99, northwesterly along U.S. Highway 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Hwy 60; southwesterly along U.S. Hwys 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county raod via Muevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to California Highway 74, westerly along California Hwy 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary, to the right-of-way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County Boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to the point of beginning. (3) Service is authorized at points in Riverside County, CA, as off-route points in connection with the regular-route operations authorized below; (4) between Redlands, CA, and the CA-AZ State line, serving all intermediate points: from Redlands over Interstate Hwy 10 to the CA-AZ State line, and return over the same route; (5) between Coachella and El Centro, CA, serving all intermediate points; from Coachella over CA Hwy 86 to El Centro, and return over the same route; (6) Between El Centro and Winterhaven, CA, serving all intermediate points: from El Centro over Interstate Hwy 4 to Winterhaven, and return over the same route;

(7) Between junction Interstate Hwy 10 and CA Hwy 111, near White Water, CA, and Calexico, CA, serving all intermediate points: From junction Interstate Hwy 10 and CA Hwy 111, near White Water, CA, over CA Hwy 111 to Calexico, and return over the same route. (8) Between El Centro, CA and a point 20 miles west of El Centro on Interstate Hwy 8, serving all intermediate points: From El Centro over Interstate Hwy 8 to a point 20 miles west of El Centro, and return over the same route. (9) Between Brawley, CA and Glamis, CA, serving all intermediate points: From Brawley over CA Hwy S78 to Glamis, and return over the same route. (10) Between Blythe, CA and Palo Verde, CA, serving all intermediate points: From Blythe over CA Hwy 78 to Palo Verde, and return over the same route. The authority in (B) above is restricted to the transportation of shipments moving to, from or through

Arizona. Best-Way is authorized to operate as a motor common carrier pursuant to certificates issued in MC-112123 and sub-numbers thereunder. CONDITION: So far as can be ascertained from the evidence of record in this proceeding, Best-Way's parent company, Arrow Delivery Company, is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Arrow Delivery Company will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will, therefore, be subject to the applicable provisions of 49 U.S.C. Subtitle IV, subchapter III of chapter 111 relating to reporting and accounting, and to 49 U.S.C. 11302 relating to the issuance of securities. CONDITION: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by John A. Pifer stating that he is person in control of Arrow Delivery Company through stock ownership, and that he joins in this application as person in control.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-37722 Filed 12-3-80; 8:45 a.m.]

BILLING CODE 7035-01-M

## Railroad Collective Ratemaking Agreements

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is clarifying the extent of continuing antitrust immunity for rail rate bureau agreements.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Felder or Jane F. Mackall, (202) 275-7656.

**SUPPLEMENTARY INFORMATION:** In 1976, the Commission reopened all active rail rate bureau agreements to ensure compliance with the 4R Act (Pub. L. 95-210). Certain agreements [1] were processed to final decision. Others, including the consolidated proceeding concerning the three major regional agreements (No. 2—Western Railroads, No. 3—Eastern Railroads, and No. 6—Southern Railroads) were not.

With passage of the Staggers Rail Act of 1980, these agreements must again be reviewed. The proceeding involving Nos. 2, 3, and 6 will be the first case in which we apply the Staggers Act. We have indicated in a notice to those parties that immunity under existing agreements will continue pending final decision so long as the self-executing terms of the Staggers Act (for example, limitations on voting on single-line matters) are complied with.

There apparently is some confusion as to continuing immunity under other agreements. We wish to make clear that this same standard applies to all rail rate bureaus regardless of the status of individual applications. Thus, whether a proceeding has been completed, as in No. 4, or still pending, every rate bureau must comply with effective Staggers Act provisions, pending our review. If it does so, immunity will continue pending decision.

The National Perishable Freight Committee, a committee operating under Section 5b Application No. 5, Railroad Interterritorial agreement has filed a petition seeking to clarify the status of individual agreements vis-a-vis the Nos. 2, 3, and 6 proceeding. Following final decision in that consolidated case, we will address the other arguments. While a decision in Nos. 2, 3, and 6, may not be *res judicata* as to other governments, it will establish precedent to the extent the same issues are involved. This has been clear for some time. To the extent that bureaus or carriers believe it necessary to address these issues in the Nos. 2, 3, and 6 proceeding, they have been free to do so.

Dated: November 26, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-37726 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

[1] E.g., No. 4, Southern Ports Foreign Freight Agreement. As to this bureau, we issued a final decision on June 9, 1980 which, among other things, defined the term "practicably participate," contained in the 4R Act. That definition is not consistent with the definition we proposed in our decision served August 13, 1980, in Nos. 2, 3, and 6. The bureau has requested that, in view of this more recent development, it not be required to amend its agreement to reflect the June 9 definition of "practicably participate" until a decision is reached in Nos. 2, 3, and 6. We agree and specifically authorize continued immunity under the present agreement pending further order.

## Motor Carriers; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-44), Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349. Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(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, in accordance with 49 CFR 1100.240(A)(h).

*Amendments to the request for authority will not be accepted after the date of this publication.* However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

*We find,* with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance

with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Decided: December 1, 1980.

By the Commission, Review Board No. 5, Members Krock, Taylor and Williams. (Board member Taylor dissents and would deny the application. The application can only be approved upon the condition that certain intermediate and off route point served in connection with retained regular route authority in transferors subs 24 and 37 authority be cancelled. While the transferor may not have any objection to the cancellation of such authority, the cancellation thereof is in conflict with the intent of Congress as evidenced by the Motor Carrier Act of 1980.)

MC-F-14501F, filed November 4, 1980. VEGAS TRUCKING CO. (Vegas) (2853 Cedar Street, Las Vegas, NV 89104)—Purchase (Portion)—IML FREIGHT, INC. (IML) (10 Exchange Place, Salt Lake City, UT 84111). Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. Vegas seeks authority to purchase a portion of the interstate operating rights of IML. V. J. Hunt and Gladys J. Hunt are equal stockholders of Vegas, and, as a condition to the approval of this transaction, will be required to join in the application. Vegas is purchasing that portion of IML's Certificate MC 33641 (Sub-24), which authorizes the transportation, as a motor common carrier, over irregular routes, of *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 (other than for loading and unloading), between Las Vegas, NV, on the one hand, and, on the other, points in NV within 75 miles of Las Vegas. Vegas is authorized to operate as a motor common carrier pursuant to authority issued in MC 113981 and sub-numbers thereunder. Condition: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by V. J. Hunt and Gladys J. Hunt, stating that they are persons in control of Vegas Trucking Co. through stock ownership and that they join in this application. Condition: As pertinent, IML also holds authority in its Certificate MC 33641 (Sub-24), which authorizes the transportation of general commodities, with various exceptions, between Los Angeles Harbor, CA, and Ogden, UT, serving all intermediate points in CA, AZ, and UT, and those in NV between Las Vegas, NV, and the NV-AZ State line, and the off-route points of the Test Site of the U.S. Atomic Energy Commission at or near Mercury, NV, Enterprise, Milford, Delta, and Heber, UT, Riverside, CA, and those in the Los Angeles Commercial Zone and the Los Angeles Harbor Commercial Zone, as defined by the Commission in Los Angeles, CA Commercial Zone, 3 M.C.C. 248, those in CA between Los Angeles Harbor, and Los Angeles, CA, within 15 miles of the route described immediately below, those in CA, AZ, and UT within 10 miles of the route described immediately below, those within 10 miles of Las Vegas, NV, those within 10 miles of Ogden, UT, and those in NV within 10 miles of the route described immediately below between Las Vegas, NV, and the NV-AZ State line unrestricted; and serving the intermediate point of Las Vegas, NV, restricted to traffic moving to or from points other than those in CA. IML states that if has no objection to the duplicating portion of its authority being cancelled to resolve the problem. In order to eliminate the retention and sale of duplicating authority by IML, approval and authorization of this transaction is conditioned upon the cancellation of that portion of IML's Sub-24 which authorizes service to all intermediate points in NV between Las Vegas, NV, and the NV-AZ State line, and the off-route points in those within 10 miles of Las Vegas, NV, and those in NV within 10 miles of the described route between Las Vegas, NV, and the NV-AZ State line.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-37771 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Nevada Power Company* has been lodged with the United States District Court for the District of Nevada. The decree requires the defendant to comply with the terms of its permit by August 1, 1982.

The Department of Justice will receive until January 5, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Nevada Power Company* D.J. Ref. 90-5-1-1-1110.

The consent decree may be examined at the office of the United States Attorney, District of Nevada, United States Courthouse, 300 Las Vegas Boulevard, Las Vegas, Nevada 89101 at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94102, and the Environmental Enforcement Section., Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus MacBeth,

*Deputy Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 80-37627 Filed 12-3-80; 8:45 am]

BILLING CODE 4410-01-M

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-49]

### Reports, Recommendations and Responses; Availability

Highway Accident Report

*B & J Trucking Company Truck Tractor/Coachella Valley Unified School District Schoolbus Collision, State Route 86, Near Coachella, California, April 23, 1980 (NTSB-HAR-80-6).*—In its formal investigation report, released November 25, the National Transportation Safety Board establishes that the truck tractor was traveling north, about 3:25 p.m., on California State Route 86, a two-lane rural highway, when its left front tire blew out. The tractor swerved to the left, crossed the centerline, and collided head-on with a southbound schoolbus that was transporting nine teenaged students home from school. The busdriver and three students were killed; the truckdriver and six students were injured.

The Safety Board determined that the probable cause of this accident was the

failure of the truck company to properly maintain its vehicle which resulted in a blow-out of the left front tractor tire, causing the truckdriver to lose control of his vehicle. Contributing to the accident was the lack of a truck company preventive maintenance program and an inadequate California Highway Patrol inspection that should have detected the deteriorated condition of the tire before it blew out.

As a result of its investigation of this accident, the Safety Board on October 21 issued three recommendation letters containing the following corrective recommendations:

—to the *State of California:*

Revise Section 1088 of the California Administrative Code to match the minimum tread depth requirements of the Federal Motor Carrier Safety Regulations, § 343.75(b) and (c), which are more in keeping with tire standards recommended by current research. (H-80-70)

Circulate the Coachella accident report, with its finding of the inadequate inspection of the truck, among California Commercial Vehicle inspectors. (H-80-71)

Investigate the potential for limited improvements along California State Route 86 between Coachella and Westmorland, California, that will at least serve as interim safety improvements while longer term improvements are under consideration. (H-80-72)

—to the *National Highway Traffic Safety Administration:*

Take immediate action to fulfill its commitment to urge the States to adopt a schoolbus seating policy that front and rear seats be left vacant when feasible and to revise NHTSA pupil transportation safety manuals to include this policy. (H-80-73)

—to the *National School Transportation Association:*

Inform its members of the National Transportation Safety Board recommendation that front and rear seats of schoolbuses be left vacant when feasible. (H-80-74)

Each of the above recommendations, with the exception of No. H-80-70, is designated "Class I, Urgent Action." Recommendation H-80-70 is designated "Class II, Priority Action."

The report was adopted by Chairman James B. King. Vice Chairman Elwood T. Driver, and Members Francis H. McAdams and Patricia A. Goldman; Member G. H. Patrick Bursley did not participate. Member Goldman filed a separate concurring and dissenting opinion. She concurred in the analysis, conclusions, probable cause, and recommendations in the report with the following exceptions: She does not concur with recommendation H-80-72 to the State of California, since, first of all, the highway was not a causal factor in this accident, and, secondly, California is already considering major construction improvements along this route. Finally, Member Goldman does not believe it is appropriate to "second-guess the State of California based on the limited 'preliminary analysis of the accident statistics.' " Further, Member Goldman does not concur with the "urgent" recommendation to the National Highway Traffic Safety Administration. She states, "First of all, there is 'scant information' available in the accident history of schoolbuses to indicate that one is actually safer is seated in the middle of the bus. Secondly, I believe it is highly impractical to believe that a 'middle-seats-first policy' could be effectively enforced. Therefore, even though the recommendation has the 'virtues of simplicity and low cost,' I do not believe it is justified."

On November 18 the California Department of Transportation provided a response to recommendation H-80-72, noting that the report indicated that the highway was not a causal factor in the accident, but, because of the high fatality rate, there was a potential for interim safety improvements. The Department reports taking the following actions to improve safety on Route 86:

- Replacing narrow bridges with full-width bridges and shoulder widening. This effort has been under way for some time. Ten bridges are being replaced this year and the final seven bridges are scheduled for replacement in 1981.
- Installing pavement markers on centerline to provide a rumble effect when drowsy drivers stray across the centerline. This work is completed.
- Installing a "headlight test section" in which motorists are advised to turn on headlights in the daytime. This has been completed.
- Installing frequent signs warning of oncoming traffic. This is completed.

The department states that it is continuing to monitor safety conditions on this highway, as with all State highways, and will take whatever actions appear necessary within the limits of its funding capability.

**Railroad Special Investigation Report**

*Tank Car Structural Integrity After Derailment (NTSB-SIR-80-1).*—Since 1968 the Safety Board has investigated many serious accidents involving release of hazardous materials from tank cars which were either breached or ruptured following derailments. As a result of these investigations, the Safety Board recommended that Federal authorities take remedial action to reduce the likelihood of tank cars releasing their contents in the derailment environment. (Ref.: "Safety Effectiveness Evaluation: Analysis of Proceedings of the National Transportation Safety Board Into Derailments and Hazardous Materials, April 4-6, 1978" (NTSB-SEE-78-2); "Safety Report on the Progress of Safety Modification of Railroad Tank Cars Carrying Hazardous Materials" (NTSB-SR-79-2).)

During its investigation of a railroad derailment which occurred near Inwood, Ind., on November 8, 1979, the Safety Board noted unresolved questions about the dangers posed in handling severely damaged tank cars containing liquefied flammable gases at the accident site. Because of this continuing problem, the Board initiated this special investigation to identify the hazards caused by the actual reduction of the ability of damaged cars to contain their lading; to determine the ability of experts to estimate this reduced capability; and to examine the feasibility of developing practical guidelines to help determine how damaged hazardous materials tank cars should be handled. The Board is also investigating the Inwood accident to determine the probable cause, and a "Brief of Accident" will be issued when that investigation is completed.

Safety Board recommendations have resulted in the installation of additional shielding and the installation of couplers which resist vertical separation. These safety improvements have been instrumental in reducing tank car head punctures. Insulation and thermal coatings have also been applied at the Board's insistence to lessen the possibility of the rupture of tank cars in a fire. Some of these safeguards have effectively reducted the probability of tank car breach and tank car rupture during the derailment process. (Ref.: "Special Investigation Report: The Accident Performance of Tank Car Safeguards" (NTSB-HZM-80-1).)

As a result of the findings and conclusions of the subject special investigation, the Safety Board on October 21 made recommendations to the Research and Special Programs Administration of the Department of Transportation (recommendation I-80-1), to the Federal Railroad Administration (I-80-2), and to the Association of American Railroads (I-80-3) concerning safeguarding of wreck-clearing crews at derailment sites in which hazardous materials are involved. (See 45 FR 71870, October 30, 1980.)

Cooperating with the Safety Board as parties to this special investigation were the Federal Railroad Administration, the Association of American Railroads, the Compressed Gas Association, Hulcher Emergency Services, and the General American Transportation Corporation. Members of the investigative group included experts in fracture mechanics,

tank car design, compressed gas shipments, and hazardous materials.

The Board's formal report, made public on November 25, concludes that currently there is no accurate method for determining the residual strength of damaged tank cars at derailment sites. The method now used for determining structural damage is based on inspection and observation and can lead to underestimating the danger involved in moving the tank cars.

Responses to Safety Recommendations

*Aviation*

*A-78-43, from the Federal Aviation Administration, November 13, 1980.*—Response is to the Safety Board's inquiry of October 8, 1980, as to FAA's progress in implementing this recommendation, issued July 7, 1978, in connection with stall spin awareness. The recommendation asked FAA to incorporate all of the essential elements of the ground and flight training increments developed in the "General Aviation Pilot Stall Awareness Training Study," or their equivalent, in FAR Parts 61 and 141. FAA's initial response was made on September 1, 1978 (43 FR 44576, September 28, 1978), indicating that a survey was expected to be completed by March 1979 and if the results of the survey indicated rulemaking to be appropriate, regulatory projects would be established.

FAA's November 13 response reports that the stall awareness training study will be included, in its entirety, into FAR Parts 61 and 141 agenda for consideration in the upgrading of pilot training standards. FAA is planning a regulatory review of FAR Parts 61 and 141 during the current fiscal year and is fully aware of the importance of this action and hopeful that work can begin during this calendar year. Meanwhile, FAA has written to all industry sponsors of FAA-approved flight instructor refresher courses to include training on stall spin awareness. Further, the FAA Examiner Standardization Section has included a unit of instruction on stall spin awareness to all pilot examiners. The intent of these actions is to inform the flight instructors and pilot examiners of the elements of stall spin awareness training. FAA will keep the Board informed of the status of upgrading FAR Parts 61 and 141.

*Railroad*

*R-80-6 and -7, from the Federal Railroad Administration, November 14, 1980.*—Response is to Safety Board's comments of October 15 concerning FRA's initial response of June 9 (45 FR 43292, June 26, 1980) to recommendations issued as a result of the Safety Board's special study, "Railroad Emergency Procedures."

The Safety Board's October 15 letter notes that the Board's study and the recommendations refer clearly to emergency response plans to guide operating employees in emergencies. The reference to the passenger train derailment at Elma, Va., on December 3, 1978, emphasized that the Board's concern was directed primarily at procedures to guide railroad operating employees in the rescue of passengers and the railroad's relationships with emergency response units. Recommendation R-80-6 deals with formulation and validation of guidelines for use by crewmembers in emergencies, and recommendation R-80-7 asks FRA to require railroads to develop and implement their respective plans and file those plans with the FRA.

Further, the Board's letter notes that FRA's response on the other hand primarily addresses wreck-clearing procedures, indicating the FRA may have misunderstood the thrust of the Board's recommendations. Although FRA says that "special attention will be given to the development of a model emergency response plan for the railroad industry," the Board finds no indication that this refers to the kind of emergency response plans the Board is recommending. Thus, the Board finds that FRA's action is not responsive to recommendations R-80-6 and -7 and offers to hold a joint NTSB/FRA staff meeting to clear up any misunderstanding of the Board's special study and recommendations. The Board also asked to receive the results of FRA's study cited in FRA's June 9 response, planned for completion in December 1981.

FRA's November 14 response notes that the subject recommendations were discussed at NTSB/FRA Quarterly Meeting on Railroad Safety Recommendations, held October 30. Also discussed at length was the intent of the Board's special study, and the following clarification of FRA's response was accepted. As a first step in the development of a model emergency response plan, FRA's Office of Research and Development is coordinating development efforts with the Bureau of Explosives of the Association of American Railroads and has awarded a support contract to Edwards Air Force Base to study wreck clearance procedures and hazards. A guideline document is scheduled for completion by December 1981. Special attention will be given to the development of a model emergency response plan for the railroad industry. Operating railroads will be encouraged to use this model in the development of individual plans for emergency response to passenger and freight train derailments.

At this time, FRA plans to rely on voluntary cooperation of the railroad industry and its employees in implementing an emergency response plan. FRA will keep the Safety Board advised of any future pertinent developments as they occur.

*R-80-31 and -32, from the Federal Railroad Administration, November 14, 1980*—Response is to recommendations issued August 15 as a result of investigation of the Amtrak passenger train derailment last March 15 at Glacier Park, Montana. (See 45 FR 57606, August 28, 1980.)

In response to recommendation R-80-31, which asked FRA to promulgate regulations to establish minimum safety standards for inspecting and maintaining railroad passenger cars, FRA reports that the Federal Railroad Safety Authorization Act of 1980 (Pub. L. 96-423), enacted on October 10, 1980, amends Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) regarding the inspection and maintenance of railroad passenger cars. Under these new provisions, the Secretary of Transportation shall, within two years after the date of enactment of this subsection (September 24, 1982), issue such initial rules, regulations, orders, and standards as may be necessary to insure the safe construction, maintenance, and operation of railroad passenger equipment. In issuing these rules, regulations, orders, and standards the Secretary shall concentrate on those areas which in the judgment of the Secretary present the greatest opportunity for enhancing the safety of railroad passenger equipment.

FRA notes that it currently uses informal guidelines and other crashworthiness items as a checklist or guide when discussions are held with the industry prior to the procurement of new passenger cars. As a result, many guidelines have been incorporated into the designs for new rail vehicles and in various retrofit and overhaul programs throughout the industry.

Recommendation R-80-32 called on FRA to amend track safety standard 49 CFR 213.241, Inspection Records, to require railroad inspectors to list on their inspection records the location of rails which exhibit the external conditions listed in subpart (b) of 49 CFR 213.113, Defective Rails, and the remedial action they have taken. In response, FRA notes that § 213.241 of the Federal Track Safety Standards

already requires railroad inspectors to record the location and nature of any deviation from the requirements and the remedial action taken. FRA notes that according to the report on the Glacier Park accident (NTS-RAR-80-6), the carrier admitted that the rails should have been changed out because of the surface imperfections. The existence of a defect as defined in § 213.113(b), FRA states, should have been recorded on the carrier's inspection reports. FRA plans no further action concerning this recommendation and recommends "Closed—Acceptable Action."

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquires Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

*Federal Register Liaison Officer.*

November 26, 1980.

[FR Doc. 80-37649 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-58-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee on Babcock & Wilcox Water Reactors; Meeting

The ACRS Subcommittee on the Babcock & Wilcox Water Reactors will hold a meeting at 8:30 a.m. on December 18, 1980 in Room 1046, 1717 H Street, N.W., Washington, DC to review the February 26, 1980 event at Crystal River, Unit 3 to determine if there are any significant features or causes that are generic to Babcock & Wilcox water reactors.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Thursday, December 18, 1980, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley (telephone 202/634/1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 26, 1980.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 80-37700 Filed 12-3-80; 8:45 am]

BILLING CODE 7500-01-M

[Docket Nos. 50-237, 50-249, 50-254, 50-265; DD 80-32]

### Commonwealth Edison Co. (Dresden Station Units 2 and 3, Quad Cities Station Units 1 and 2); Issuance of Director's Decision

By petition dated October 24, 1980, Ms. Catherine Quigg, on behalf of Pollution and Environmental Problems, Inc., requested that the Nuclear Regulatory Commission (the Commission) shut down immediately Dresden Station Units 2 and 3 and Quad Cities Stations Units 1 and 2 until "essential scram discharge volume monitoring equipment" is installed. This equipment was the subject of an October 2, 1980 "Confirmatory Order" sent to Commonwealth Edison Company (licensee) which required that the equipment be in place by December 1, 1980; in the interim period between October 2 and December 1, the licensee was ordered to increase surveillance of the scram discharge volume (SDV) water level to at least once per shift.

The Commission's Director of Nuclear Reactor Regulation has treated this request as a request for action under 10 CFR 2.206. Upon review of this matter, the Director has determined that shut down of the named facilities is not warranted and that continued operation of the facilities pending installation of the scram dischage volume monitoring equipment on December 1, 1980 will not jeopardize public health and safety. Accordingly, the request has been *denied.*

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451 (for the Dresden Station), and at the Moline Public Library, 504 17th Street, Moline, Illinois 61265 (for the Quad Cities Station). A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), the decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Bethesda, Maryland this 26th day of November, 1980.

Edson G. Case,

*Deputy Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-37702 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-10, 50-237, 50-249, 50-254, 50-265, 50-295, and 50-304]

### Commonwealth Edison Co.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has respectively issued Amendment Nos. 32, 51, and 45 to License Nos. DPR-2, DPR-19 and DPR-25 for Dresden Nuclear Power Station Unit, Nos. 1, 2 and 3; Amendment Nos. 60 and 55 to License Nos. DPR-29 and DPR-30 for Quad Cities Nuclear Power Station, Unit Nos. 1 and 2; and Amendment Nos. 58 and 55 to License Nos. DPR-39 and DPR-48 for Zion Station, Unit Nos. 1 and 2. Dresden Nuclear Power Station, Unit Nos. 1, 2 and 3 are located in Grundy County, Illinois; Quad Cities Nuclear Power Station, Unit Nos. 1 and 2 are located in Rock Island County, Illinois; and Zion Station, Unit Nos. 1 and 2 are located in Zion, Illinois.

The amendments add license conditions to include the Commission-approved Safeguards Contingency Plan as part of the licenses.

The licensee's filing complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

The licensee's filing dated March 24, 1980, and its revision dated June 27, 1980, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) all of the amendments identified in the first paragraph of this Notice and (2) the Commission's related letter to the licensee dated November 17, 1980. The items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60601 (Dresden 1, 2 and 3), at the Moline Public Library, 504 17th Street, Moline, Illinois 61265 (Quad Cities 1 and 2), and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of the amendments and the Commission's related letter 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, Md., this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

*Chief, Operating Reactors Branch No. 5, Division of Licensing.*

[FR Doc. 80-37703 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

## Florida Power Corp., et al.; Issuance of Amendment to Facility, Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to authorize an increase in the capacity of the spent fuel storage pools at the facility.

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the Federal Register on June 15, 1978 (43 FR 25885). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an Environmental Impact Appraisal for this action and 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 action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1973.

For further details with respect to this action, see (1) the application for amendment dated March 17, 1978, as supplemented, (2) Amendment No. 36 to License No. DPR-72, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Impact Appraisal. 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 Crystal River Public Library, Crystal River, Florida. 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, Md., this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

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

[FR Doc. 80-37704 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-596 and STN 50-597]

## New York State Electric & Gas Corp., Long Island Lighting Co., Withdrawal of Application for Construction Permit

By letter, dated October 16, 1980, New York State Electric and Gas Corporation and Long Island Lighting Company (Applicants) withdrew their application to construct and operate the New Haven Station, Units 1 and 2. The site was located in the Town of New Haven, Oswego County, New York, approximately 9 miles east of The City of Oswego, 30 miles north of Syracuse, and 2 miles south of Lake Ontario.

On November 6, 1980, the NRC Atomic Safety and Licensing Board granted the applicant's request to terminate the construction permit proceeding in its "Order Dismissing Application and Terminating Proceeding."

Accordingly, the Commission considers the New Haven construction permit application to be withdrawn and the corresponding licensing proceeding to be terminated.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and for the next six months at the Penfield Library, State University College at Oswego, Oswego, New York 13126.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Md., this 26th day of November 1980.

B. J. Youngblood,

*Chief, Licensing Branch No. 1, Division of Licensing.*

[FR Doc. 80-37705 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

## Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.45, "Nuclear Criticality Safety for Pipe Intersections Containing Aqueous Solutions of Enriched Uranyl Nitrate," describes procedures acceptable to the NRC staff for the prevention of criticality accidents in the storage and processing of aqueous solutions of enriched uranyl nitrate in pipe intersections. The guide endorses ANSI/ANS 8.9–1978, "Nuclear Criticality Safety Guide for Pipe Intersections Containing Aqueous Solutions of Enriched Uranyl Nitrate."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

For the Nuclear Regulatory Commission.

Dated at Rockville, MD., this 25th day of November 1980.

Ray G. Smith,

*Acting Director, Office of Standards Development.*

[FR Doc. 80-37701 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

## Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station); Order for Modification of License (Effective Immediately) and Order To Show Cause

I

The Niagara Mohawk Power Corporation (the Licensee) is the holder of Facility Operating License No. DPR-63 which authorizes the Licensee to operate the Nine Mile Point Nuclear Station at power levels not in excess of 1850 megawatts thermal (rated power). The facilities is a boiling water reactor located at the Licensee's site in Oswego County, New York.

II

Following the Three Mile Island Unit 2 (TMI-2) accident on March 28, 1979 a TMI-2 Lessons Learned Task Force of the Nuclear Regulatory Commission (NRC) staff conducted an intensive review of the design and operational aspects of nuclear power plants and the emergency procedures for coping with potential accidents. The task force identified measures to be taken in the short-term to reduce the likelihood of accidents and to improve emergency preparedness in responding to accidents. These measures are set forth in NUREG-0578, "TMI-2 Lessons Learned Task Force Status Report and Short-Term Recommendations." The NRC concluded that prompt implementation of those actions designated as "Category A" requirements at operating nuclear power plants was necessary to provide continued assurance of adequate protection of public health ans safety. These "Category A" requirements were transmitted to all holders of nuclear power plant operating licenses by letter dated September 13, 1979. Further clarification of these requirements was transmitted to all holders of nuclear power plant operating licenses by letter dated October 30, 1979. With respect to Category A Item 2.1.8.b, licensees were to implement procedures for estimating noble gas release rates if the existing effluent instrumentation goes off scale.

By letters dated October 18, November 26, December 19, 20, and 31, 1979, the Licensee had previously submitted commitments and documentation of actions taken at Nine Mile Point Nuclear Station to implement the requirements resulting from NUREG-0578 and subsequent NRC letters to the Licensee dated September 13 and October 30, 1979. With respect to Category A Item 2.1.8.b, the Licensee stated in its letter dated December 31, 1979 that by January 1, 1980:

> The existing in-line stack monitors are capable of detecting 50 Ci/sec. or approximately 0.55 uCi/cc (Xe-133) with normal ventilation flow of 180,000 ft.$^3$/minute. These monitors have readout and alarm capability in the main control room. Quantification of higher level noble gas releases will be provided by means of a portable gamma survey instrument. This instrument will be installed such that it will monitor a portion of the sample line to the existing stack monitors. This line comes from isokinetic probe in the main stack.
>
> Background radiation will be shielded by means of a lead cave around the detector. The instrument has an upper limit of at least 1,000 R/hr. It will be calibrated with a Xe-133 source such that the reading can be related from R/hr. uCi/sec. stack release rate. Since all station effluents are discharged via the stack, the effluents monitored in this line are representative of the stack discharge. Until the Xe-133 calibration can be accomplished, the existing stack monitor calibration dependence data will be ulitized to establish a calibration factor.
>
> Readings on the interim monitor will be taken locally and the results verbally communicated to the main control room. This method would be used only in a case where the existing monitors were off scale (high). Communication will be by means of a headset and will be taken approximately every fifteen minutes, when required.
>
> The in-line monitors are powered from redundant AC power sources. These monitors are not presently powered from emergency sources. Power to the interim monitors will be from a DC battery source, capable of eight consecutive days of continuous readout.

An immediately effective ORDER TO SHOW CAUSE dated January 2, 1980 which incorporated by reference, the October 30, 1979 letter, required, among other things, the Licnesee to do the following:

> By January 31, 1980 implement all "Category A" requirements (except the requirement of 2.1.7.a of NUREG-0578) referred to in Part II of this Order, except those for which necessary equipment is shown by appropriate and timely documentary justification to the Director, Office of NRR, to be unavailable, or in the alternative, place and maintain its facilities in a cold shut down or refueling mode of operation. "Category A" requirements not implemented by January 31, 1980, owing to the unavailability of necessary equipment shall be implemented within 30 days of the date such equipment becomes available but no later than June 1, 1980.

In its Answer to Show Cause dated January 22, 1980 the Licensee stated under oath that the action on "Category A" Item 2.1.8.b of NUREG-0578 had been completed on December 31, 1979.

III

Inspection and investigation conducted on October 8–10, 20–31, November 1 and 18, 1980, including interviews of Niagara Mohawk Power Corporation personnel, show that actions required by the Commission's Order dated January 2, 1980 with regard to "Category A" Item 2.1.8.b were not completed by January 31, 1980 as required. Specifically, as of October 8, 1980: (a) a lead cave to provide shielding had not been constructed nor had any action been taken to do so; (b) a portable gamma survey instrument had not been installed nor had a dedicated instrument been identified; (c) there was no evidence that indicated that steps were being taken to perform calibration with a Xe–133 source to relate R/hr to stack release rates; (d) there were no specific procedures to assure that in the event the existing in line stack monitor goes off scale, a portable gamma survey instrument would be properly installed, and readings taken locally approximately every 15 minutes and communicated verbally by means of a headset to the control room; and (e) the facility continued to operate.

In addition, it was found that:

A. The mangement control system at the Nine Mile Point Nuclear Station placed reliance on oral information from subordinates without providing for adequate verification that required actions had been taken.

B. In a sworn statement dated October 31, 1980, the (then) Site Superintendent stated that he knew that the lead cave had not been installed at the time he concurred in the content of the licensee's letters to NRC dated December 31, 1979 and January 22, 1980. In a sworn statement dated November 18, 1980, he stated that he did not communicate this information to higher management.

C. In a sworn statement dated November 1, 1980, the Executive Vice President affirmed that he signed the response by the Niagara Mohawk Power Corporation dated January 22, 1980, to the Commission's Order to Show Cause, dated January 2, 1980. He stated that he is familiar with the general process by which the response was prepared but that he did not participate in the preparation of specific information contained therein nor was he aware of the basis on which lower management formulated the implementation schedule for any of the "Category A" items, including 2.1.8.b, "Increased Range of Radiation Monitors."

He stated that he did not recall reviewing the response and did not recall having any management meetings or oral communication with either corporate or site management about the preparation of the response.

He stated that he signed the response to the Order to Show Cause based on his reliance on lower management and that it was his belief that the response reflected accurate information.

D. The failure of the (then) Site Superintendent to communicate to responsible corporate officers the actual status of actions required by the Commission's Order dated January 2, 1980 and the failure of the Executive Vice President to take steps to verify the completeness and accuracy of the response prepared for his signature under oath resulted in the execution of a response to the Order which contained a false statement that the actions required by "Category A" Item 2.1.8.b were complete when in fact they were not. This false statement contributed significantly to the failure to comply with the Commission's Order dated January 2, 1980 going undetected until October 8, 1980 when it was discovered during the course of a Health Physics Appraisal inspection.

IV

As noted above, at least one responsible manager in the licensee's organization, the (then) Site Superintendent, knew that the January 22, 1980 sworn statement submitted in response to the January 2, 1980 Order was false. This statement that the requirement of Category A Item 2.1.8.b was completed by December 31, 1980 was not only false but also material since operation of Nine Mile Point Unit 1 was permitted to continue beyond January 31, 1980 in the belief by NRC that the requirements of the Commission's Order dated January 2, 1980 were satisfied. Meeting requirement 2.1.8.b was necessary to mitigate the consequences of postulate accidents by providing reliable information on which to base decisions concerning protective actions, including evacuation. The material false statement is set forth in the Notice of Violation issued this date.

V

Under Section 186 of the Atomic Energy Act of 1954, as amended, and in the Commission's regulations, in 10 CFR 50.100, an operating license may be suspended for a material false statement or a finding which would warrant the Commission to refuse to grant an operating license on initial application.

Based on the foregoing, I have concluded that in addition to the material false statement involved, if it had been known that a false statement of the character found here were going to be made, a license would not have been issued. I have also concluded that the action of management of this licensee demonstrates that there is no longer a basis to rely on its statements and commitments and that there is no longer reasonable assurance that the licensee will comply with Commission requirements. Therefore, I have determined that the public health, safety or interest requires that immediate corrective action be taken, including removal of the (then) Site Superintendent from nuclear activities and that a basis exists for questioning the continued involvement in nuclear activities of the Executive Vice President, in that he signed, under oath, the January 22, 1980 submittal.

VI

Accordingly, pursuant to Section 161(i) and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50,

It is hereby ordered that:

A. effective immediately, License DPR–63 is amended by adding thereto the following conditions:

(1) "Mr. T. J. Perkins, shall not be involved with nuclear matters for Niagara Mohawk Power Corporation";

(2) "Procedures shall be implemented by January 5, 1981 to ensure that managers at all levels of the Licensee's organization provide full, accurate and timely information to higher management and to the Nuclear Regulatory Commission, when such information is provided thereto. On or before January 5, 1981, a written report describing such procedures and steps taken to implement them shall be submitted to the Director, Office of Inspection and Enforcement."

B. the Licensee Show Cause why Mr. James Bartlett, the Executive Vice President, who signed the January 22, 1980 letter, should not be similarly removed from involvement in nuclear matters.

VII

The Licensee may, on or before January 5, 1981 show cause, as required by Section VI B, by filing a written answer under oath or affirmation setting forth the matters of fact and law upon which the Licensee relies. Upon failure of the Licensee to file an answer within the time specified, the Director, Office of Inspection and Enforcement, may issue an order taking the actions stated in Section VI B.

VIII

The Licensee, or any other person who has an interest affected by this Order, may request a hearing no later than January 5, 1981. Any answer to this Order or any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555 with a copy to the Executive Legal Director at the same address. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). If a hearing is requested by the Licensee or any person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. Any request for a hearing shall not stay the immediate effectiveness of Section VI, A(1) and A(2).

In the event a hearing is held, the issue to be considered at such hearing shall be whether, on the basis of the facts set forth in Parts II, III and IV of this Order, the actions set forth in Section VI should be sustained.

Dated at Bethesda, Maryland this 26th day of November, 1980.

For the Nuclear Regulatory Commission.

**Victor Stello, Jr.,**

*Director, Office of Inspection and Enforcement.*

[FR Doc. 80-37706 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

November 25, 1980.

### Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports 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;
The number of forms in the request for approval;
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, Assistant Director for Regulatory and Information Policy, 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*

• Forest Service
A Directory of Forest Tree Nurseries in the United States
Other—See SF83
Business or Other Institutions
Forest Tree Nurseries Who are State, Fed., & Private Ent.
SIC: 085
Small Businesses or Organizations
Conservation and Land Management, 300 responses, 75 hours; $2,500 Federal cost, 1 form
Charles A. Ellett, 202-395-7340

A directory of forest tree nurseries in the U.S. to enable private, State, and Federal tree planter seeking forest tree planting stock to find appropriate sources.

*Extensions (Burden Change)*

• Animal and Plant Health Inspection Service
Application/Certification-Purebred Animals Imported for Breeding
VS 17-338
On Occasion
Farms
Farmers Engaged in Importing Purebred Animals for Breeding
SIC: 024, 075
Agricultural Research and Services, 1,000 responses, 250 hours; $18,312 Federal cost, 1 form
Charles A. Ellett, 202-395-7340

Application for importing purebred animal for breeding purposes; also serves as certification of pure breeding to the collector of customs.

#### DEPARTMENT OF COMMERCE

**Agency Clearance Officer—Edward Michals—202-377-3627**

*New*

• International Trade Administration

Japanese Automotive Parts Buying Mission [1]
Semiannually
Businesses or Other Institutions
Automotive Parts Manufacturers
SIC: Multiple
Small Businesses or Organizations
Other Advancement and Regulation of Commerce, 120 responses, 60 hours; $2,000 Federal cost, 1 form
William T. Adams, 202-395-4814

The government of Japan sent a trade mission to the U.S. Sept. 8-22, 1980 with the purpose of expanding Japan's imports of automotive parts from the U.S. The U.S. and Japanese Governments agreed to monitor jointly the results of the mission. The first phase of monitoring is to be completed by Jan. 1981. The U.S. commitment is to follow up with the 60 U.S. firms that met with the mission members. The proposed survey instrument is central to fulfilling this commission.

*Revisions*

• Bureau of the Census
Mining Machinery and Mineral Processing Equipment
(Shipments)
MA-35F
Annually
Businesses or other institutions
Manufacturers of mining machinery and equipment
SIC: 353 374
Small businesses or organizations
Other advancement and regulation of commerce, 215 responses, 143 hours; $31,315.000 Federal cost; 1 form
Off. of Federal Statistical Policy & Standard, 202-673-7974

This survey was begun in 1961 to provide quantity and value of shipments for mining machinery and mineral processing equipment. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market share analysis and long-term planning.

• Bureau of the Census
Insulated wire and cable (shipments)
MA-33L
Annually
Businesses or other institutions
Manufacturers of insulated wire & cable & apparatus wire
SIC: 335 369
Small businesses or organizations
Other advancement and regulation of commerce 330 responses, 330 hours; $3,315,000 Federal cost, 1 form
Off. of Federal Statistical Policy & Standard, 202-673-7974

This survey has provided measures of production and shipments of insulates wire and cable products on a continuous basis since its inception in 1965. The primary users of these data are Government agencies. Business firm, trade associations, and private research and consulting organizations.

• Bureau of the Census
Transformers (shipments)
MA-36G
Nonrecurring
Businesses or other institutions
Manufacturers of transformers
SIC: 361
Small businesses or organizations
Other advancement and regulation of commerce, 250 responses, 250 hours; $10,400 Federal cost, 1 form
Off. of Federal Statistical Policy & Standard, 202-673-7974

This survey was begun in 1979 to measure quantity and value of shipments for power distribution and specialty transformers. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market analysis and long-term planning.

*Reinstatements*

• Bureau of the Census
Data on the number F CTI
Data on the number of active residential meters
P-2
Annually
Businesses or other institutions
Public utility companies
SIC: 491
1,800 responses, 450 hours; $30,000 Federal cost
Off. of Federal Statistical Policy & Standard, 202-673-7974

The survey provides part of the data necessary to prepare population estimates for local areas. One of the estimating techniques, the housing unit method, requires current information on active utility customers as a partial measure of change in the number of housing units. This procedure may prove to be a critical factor in developing more accurate estimates for small towns.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie-202-633-9464

*New*

• Federal Energy Regulatory Commission
Application for certification of refinery capacity
ERA-480
On occasion
Businesses or other institutions
Petroleum refiners
SIC: 291
Small businesses or organizations
Energy information, policy, and regulation, 50 responses, 373 hours; $25,350 Federal cost, 1 form
Jefferson B. Hill, 202-395-7340

Data will be used as the basis for refinery capacity certification of new and expanded refining capacity: As a basis for runs proration for refiners having more than one refinery: As a basis for identifying new refiners for inclusion in the DOE entitlements program: and as a basis for adjustment to capacity as a part of the DOE stand-by crude oil allocation program.

*Extensions (No Change)*

• Federal Energy Regulatory Commission
Licensed projects recreation report
FPC-80
On occasion
Businesses or other institutions
Electric utilities
Energy information, policy, and regulation, 80 responses, 3,680 hours, 1 form
Jefferson B. Hill, 202-395-7340

The form collects information on recreational use and development data on hydroelectric projects under major and minor license. The data are used by FERC for negotiation of voluntary license amedments for needed public recreation FCL's & need for improvements at FERC licensed projects.

• Energy Information Administration
Total gas supply of natural gas pipeline companies
Annual report FERC-15 FPC-15
Annually
Businesses or other institutions
Natural gas pipelines
Energy information, policy, and regulation, 93 responses, 113,367 hours; 1 form
Jefferson B. Hill, 202-395-7340

Used by FERC for administering responsibilities under natural gas act, particularly determining availability of gas reserves as relate to gas curtailment and allocation proceedings in periods of severe natural gas shortages.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

*New*

• National Institutes of Health
Pilot study for a national survey of epilepsy

[1] At the request of the agency the 10-day public comment period has been waived in order that the survey information may be available for a January meeting of the U.S.-Japanese Trade Facilitation Committee.

Nonrecurring
Businesses or other institutions
Pharmacies, physicians, and epileptics
SIC: 801 591
Small businesses or organizations
Health 330 responses, 132 hours; $248,799 Federal cost, 5 forms
Richard Eisinger, 202-395-6880

This methodology study explores a new case-finding approach for the epileptic population: Use of pharmacies which fill prescriptions for anticonvulsive drugs to lead to the physicians providing care and thus to the epileptics. This approach, if feasible, could then (in a project separate from this one) be the basis for a national survey of epileptics.

• Social Security Administration
Application for supplemental security income
SSA-8000-BK
On occasion
Individuals or households
Aged, blind, or disabled indiv. or couples who app. for SSI public assistance and other income supplements, 949,714 responses; 522,343 hours $262,604,967 Federal cost 1 form
Barbara F. Young

Section 1631(E) of the Social Security Act provides for information required to make a determination regarding supplemental security income (SSI) benefits. This form is used to elicit required information from all applicant's wishing to be considered for SSI benefits so that a determination on eligibility can be made.

• National Institutes of Health
Evaluation of the NIEHS Environmental Toxicology Training Program—Trainers', Trainees' and Employers' Surveys
Nonrecurring
Businesses or other institutions
Trainers, trainees and employers in environmental toxico.
SIC: Multiple
Health, 1,394 responses, 628 hours; $207,274 Federal cost, 3 forms
Richard Eisinger, 202-395-6880

NIEHS requires an accurate estimation of the current and future man power supply/demand in the field of environmental toxicology. This information will be used by NIEHS so that it can plan its training grants program to be more responsive to market needs. In evaluating manpower supply/demand, three groups will be surveyed independently trainers, trainees, & employers in the field of environmental toxicology.

• Departmental Management
State requests for HHS Approval of Federal Financial participation in the cost of ADP systems, equipment, and services
OS-25-80
On occasion
State or local governments
Single state agencies (social security grantees)
SIC: 944
Public assistance and other income supplements, 204 responses, 6,580 hours; $797,000 Federal cost, 1 form
Barbara F. Young, 202-395-6880

To receive Federal financial participation in the costs of their ADP acquisitions, states must obtain HHS prior approval of advance planning documents and related procurement instruments. This process implements the policies contained in OMB circular A-90 governing Federal assistance to states in information systems development.

#### DEPARTMENT OF JUSTICE

**Agency Clearance Officer—Donald E. Larue—202-633-3526**

*New*

• Office of Justice Assistance, Research and Statistics
National Institute of Justice, a Survey of Publication Users
NIJ series 6010
Nonrecurring
State or local governments
1000 randomly selected users of 4 NIJ Documents
SIC: 922
Criminal justice assistance, 1,000 responses, 250 hours; $23,637 Federal cost, 4 forms
Andy Uscher, 202-395-4814

The National Institute of Justice's mandate includes helping State and local jurisdictions plan and develop criminal justice programs through identification and documentation of "model" projects. This survey has been designed to establish the extent to which four recent NIJ publications have been successful in meeting this goal.

#### DEPARTMENT OF LABOR

**Agency Clearance Officer—Paul E. Larson—202-523-6341**

*New*

• Employment and Training Administration
Prevailing Farm Labor Contractor Fee Survey Questionnaire
ETA-8548
Nonrecurring
State or local governments
State Job Service
SIC: 944
Training and employment, 250 responses, 250 hours; $6,000 Federal cost, 1 form
Arnold Strasser, 202-395-6880

Regulations at 20 CFR 655 requires that employers requesting aliens for temporary employment must offer jobs to farm labor contractors. This survey will be used to determine if a regulation is needed to assure that employers make bona fide efforts to hire contractors by offering appropiate fees for their services.

#### DEPARTMENT OF STATE

**Agency Clearance Officer—Gail J. Cook—202-632-3538**

*Revisions*

• Administration of Foreign Affairs
Application for Passport by Mail
DSP 82
On occasion
Individuals or households
Passport applicants
Conduct of Foreign Affairs 700,000 responses, 81,660 hours; $2,800,000 Federal Cost, 1 form
Phillip T. Balazs, 202-395-4814

DSP-82 was established to enable a person who had been previously issued a passport, to obtain a new passport by mail, under certain conditions.

#### VETERANS ADMINISTRATION

**Agency Clearance Officer—R. C. Whitt—202-389-2146**

*Reinstatements*

Application for authority to close section 1819 (Mobile home) loans on an automatic basis-nonsupervised lenders 26-8742
On occasion
Businesses or other institutions
Lenders
SIC: 612
Small Businesses or Organizations
Veterans Housing, 10 responses, 10 hours; $285 Federal cost, 1 form
Laverne V. Collins, 202-395-6880

Abstract: Instructions to mobile home lenders on information required by VA, pursuant to 38 U.S.C. (c) (1) and 38 U.S.C. 1802 lending status. Information collected necessary for approval or disapproval of application.

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**Agency Clearance Officer—Thomas P. Goggin—202-634-6983**

*Extensions (Burden Change)*

Charge of Discrimination
EEOC-5B
On occasion
Individuals or households
Individuals
Federal law enforcement activities, 38,000 responses, 95,000 hours; 1 form

Laverne V. Collins, 202-395-6880

Respondent located in a deferral jurisdiction. The purpose of the form is to assist people who believe thay have been aggrieved to file charges of employment discrimination. The data is used by EEOC in its investigation of the allegations raised in the charge.

Charge of Discrimination
EEOC-5c
On occasion
Individuals or households
Individuals
Federal law enforcement activities, 38,000 responses, 95,000 hours; 1 form
Laverne V. Collins, 202-395-6880

Used by 706 agencies to process charges in work sharing and dual filing agreements. The form is used to record charges of employment discrimination filed by charging parties with the commission. The information is used by EEOC in its investigation of the allegation raised in the charge.

SMITHSONIAN INSTITUTION

Agency Clearance Officer—Philip Stratmann—202-737-4215

*Revisions*

Special extended loan program
Frequency of use report
NGA-219
On occasion
State or local governments
Teachers, librarians, heads of community groups
SIC: 821 822 823 824 829, 250 responses, 65 hours; $1,000 Federal cost
David Steinhardt, 202-395-7231

C. Louis Kincannon,
*Deputy Assistant Director for Reports Management.*

[FR Doc. 80-37454 Filed 12-3-80; 8:45 am]
BILLING CODE 3110-01-M

## Agency Forms Under Review

### Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, 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;
The number of forms in the request for approval;
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, Assistant Director for Regulatory and Information Policy, 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

*Revisions*

• Farmers Home Administration
7 CFR 1980-E, Business and Industrial Loan Program
FMHA 449-22
On Occasion
Businesses or Other Institutions
Small Local Businesses
SIC: All, 42,105 responses, 313,679 hours; $122,840 Federal costs, 1 form
Charles A. Ellett, 202-395-7340

Section 310-B of the Consolidated Farm and Rural Development Act authorizes FMHA to issue regulations to administer and to determine eligibility for guaranteed loans under the business and industrial loan program.

• Food and Nutrition Service
Model Food Stamp Forms
FNS-385, 386, 387, 393, 394, 395, 396, 397, 437, 439, 440, 441, 442
On Occasion
Individuals or Households/State or Local Governments
Food Stamp Applicants, Participants, State Agencies
SIC: 943
Public Assistance and Other Income Supplements, 105,877,760 responses, 29,386,083 hours; $273,200 Federal cost, 13 forms
Charles A. Ellett, 202-395-7340

These forms are necessary to obtain information required by the Food Stamp Act and its Amendments.

• Economics and Statistics Service
Tropical Crops Surveys—Hawaii
Monthly, Quarterly, Semiannually, Annually
Farms
Tropical Fruit & Horticultural Specialties Growers Mac. Nut

SIC: 017 018 203 209
Small Businesses or Organizations
Agricultural Research and Services,
2,743 responses, 402 hours; $10,000 Federal cost, 1 form
Charles A. Ellett, 202-395-7340

Provides data to estimate acreages of 11 tropical crops in Hawaii (avocados, banana, coffee, ginger root, guava, lot S US roots, macadamia nut, papaya, passion fruit, taro and watercress). Estimates are used in projecting future supplies plus other production and marketing decisions by State government and industry groups.

*Extensions (Burden change)*

• Economics and Statistics Service
Processing Vegetables
Other—See SP83
Farms/Businesses or Other Institutions
Vegetable Processors Tomato Growers
SIC: 203 016
Small Businesses or Organizations
Agricultural Research and Services,
3,880 responses, 970 hours; $54,000 Federal cost, 1 form
Charles A. Ellett, 202-395-7340

A complete enumeration of all vegetable processing firms, acreage provides acreage, production, disposition and value estimates for 13 processing vegetables in all States having significant commercial production. Report used by farmers and vegetable processing firms in production and marketing decisions.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Agency Clearance Officer—Joseph Strnad—202-245-7488**

*New*

• Center for Disease Control
Human Rabies Prophylaxis Surveillance
Monthly
State or Local Governments
State and Territorial Epidemiologists
Health
660 responses, 14,200 Federal cost, 250 hours; 1 form
Richard Eisinger, 202-395-6880

This report form is necessary to develop a State, regional, and national picture of the epidemiology of human rabies prophylaxis, including demography, type of exposure, and treatment. Will start as soon as cleared.

*Revisions*

• Human Development Services
Head Start Program Information Report (PIR) and Forms
Semiannually
Businesses or other Institutions
Head Start Programs
SIC: 835
Small Businesses or Organizations
Education, Training, Employment, and Social Services
3,900 responses, $363,000 Federal cost, 15,600 hours; 1 form
Barbara F. Young 202-395-6880

The PIR provides information on program performance for ACYF management needs and provides data on the comprehensive services which Head Start is mandated by law to provide, such as health, nutrition, social services, and parent involvement activities. The PIR serves as the principal information source for an important ACYF management initiative. The Head Start performance indicators, which is tracked by the Secretary as part of OMS.

• Center for Disease Control
National Disease Surveillance—I. Case Reports
On occasion
State or Local Governments
State and Territorial Health Departments
SIC: 943
Health
35,864 responses, $100,000 Federal cost, 15,547 hours; 16 forms
Richard Eisinger, 202-395-6880

Case reports on the nationally notifiable diseases provide information on epidemiological characteristics such as age, race/ethnicity, sex, geographic location, etc., that may produce significant contributions toward the resolution of public health problems. State and territorial health departments provide clinical and laboratory data on a number of diseases of timely interest in this national surveillance program.

DEPARTMENT OF THE INTERIOR

**Agency Clearance Officer—William L. Carpenter—202-343-6191**

*New*

• Heritage Conservation and Recreation Service
Attachment A, Annual WOR Program/FY State Objectives
FHR-8-301
Semiannually
State or Local Governments
The Nat'l Trust for Historic Preservation and the State Hist.
SIC: 951
Recreational Resources
116 responses, $32,737 Federal cost, 5,568 hours; 1 form
Erika Jones, 202-395-7340

This form had been used by the States since 1979 to apply for grant monies from the Historic Preservation Fund (HPF) and to submit progress reports on the expenditure of these monies, as required in OMB circular A-102, as well as by HCRS to competitively rate State performance for purposes of apportioning funds for the next fiscal year as required under P.L. 89-665.

DEPARTMENT OF TRANSPORTATION

**Agency Clearance Officer—John Winsor, Acting—202-426-1887**

*New*

• Federal Highway Administration
Final Technical Reports/Performance Reports (Federal-Aid R&D)
DOT F 1700.7
On Occasion
State or Local Governments
State Highway Agencies
SIC: 962
Ground Transportation
2,300 responses, —$0 Federal cost, 10,810 hours; 1 form
Corrinne Hayward, 202-395-7340

Performance reports and final technical reports are required by OMB circular No. A-102, uniform administrative requirements for grants-in-aid to State and local governments, attachment 1, monitoring and reporting of program performance.

• Federal Highway Administration
Property Records of Nonexpendable Equipment (Federal-Aid R&D)
On Occasion
State or Local Governments
State Highway Agencies
SIC: 902
Ground Transportation
1,840 responses, —$0 Federal cost, 920 hours; 1 form
Corrinne Hayward, 202-395-7340

Property records are required by OMB circular No. A-102, uniform administrative requirements for grants-in-aid to State and local governments, attachment N, property management standards, paragraph 6(D), property management standards for nonexpendable property.

VETERANS ADMINISTRATION

**Agency Clearance Officer—R. C. Whitt—202-389-2146**

*Extensions (No change)*

• Eastern Blind Rehabilitation Center (EBRC)
Patient Satisfaction Questionnaire 10-54(689)
Other—See SF83
Individuals or Households
Blinded Veterans Who Have Received Training at the EBHC
Hospital and Medical Care for Veterans
100 responses, 50 hours; 1 form
Laverne V. Collins, 202-395-6880

Used to evaluate both the services provided by the blind rehabilitation center and the effectiveness of blind rehabilitation on the veterans' life.

COMMISSION ON CIVIL RIGHTS

Agency Clearance Officer—Victoria P. Thomas—202-254-6507

*New*

- State and Area Agencies on Aging Surveys

Nonrecurring
State or Local Governments
State and Area Agencies on Aging
SIC: 944
Federal Law Enforcement Activities
650 responses, $195,481 Federal cost, 2,600 hours; 1 form
Laverne V. Collins, 202-395-6880

The study will seek to determine the extent of employment of minority groups at all levels of the programs whether and to what extent minorities are awarded grants and contracts under the programs and whether and to what extent minority older persons participate fully in the services provided by these programs.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202-634-6983

*Extensions (Burden change)*

- Charge of Discrimination EEOC-5A

On Occasion
Individuals or Households
Individuals
Federal Law Enforcement Activities
20,000 responses, 50,000 hours; 1 form
Laverne V. Collins, 202-395-6880

Respondent is located in a non-federal jurisdiction. The purpose of the form is to assist people who believe they have been aggrieved to file charges of employment discrimination, The data is used by EEOC in its investigation of the allegations raised in the charge.

- Intake Questionnaire EEOC-283

On Occasion
Individuals or Households
Individuals
Federal Law Enforcement Activities
84,00 responses, 42,000 hours; 1 form
Laverne V. Collins, 202-395-6880

Information on the form is used to evaluate allegations of employment discrimination brought by potential charging parties, to screen out non-title VII matters, and to help the individual evaluate the merits of the charge and to frame the charge itself. Also used conducting compliance reviews with State, local and federal agencies.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—D. Lynn Gordon—202-357-1202

*Extensions (No change)*

- State Central Credit Union Financial Statements NCUA-5307

Annually
Businesses or Other Institutions
Federal and State Credit Unions
Small Businesses or Organizations
Mortgage Credit and Thrift Insurance
14,400 responses, 2,400 hours; 1 form
Warren Topelius, 202-395-7340

Summarizes operations of 48 State-chartered central credit unions in 26 States. These institutions, that have both individual and credit union members, furnished year-end balance sheet information permitting an assessment of operations and liquidity standing.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202-632-7737

*New*

- Individual Nominee Evaluation Form OPM 1453-A

Annually
Individuals or Households
High School Counselors or Coordinators Who are Responsible for the Federal Central Personnel Management
1,500 responses, $3,900 Federal cost, 750 hours; 1 form
Robert Veeder, 202-395-4814

Form is for recommending candidates for the Federal junior fellowship program, a career related work study program. To be eligible, students must be nominated by their high school. The form is filled out by the school and is submitted to the employing agency. The information helps agencies determine which candidate to select.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312-751-4692

*Extensions (No change)*

- Application for Lump-sum Death Payment and Annuities Unpaid AA-21

On Occasion
Individuals or Households
Survivors of Deceased Railroad Employees
General Retirement and Disability insurance
18,000 responses; 9,000 hours, 1 form
Barbara F. Young, 202-395-6880

The Railroad Retirement Act provides for the payment of benefits to survivors or the estates of deceased railroad workers. The application will obtain information about the applicant, other survivors, payment of burial expenses and administration of the estate. The information will be used for payment of benefits under the act because of the employee's death.

C. Louis Kincannon,
*Deputy Assistant Director For Reports Management.*

[FR Doc. 80-37696 Filed 12-3-80; 8:45 am]
BILLING CODE 3110-01-M

## RAILROAD RETIREMENT BOARD

### Privacy Act of 1974; Changes to Systems of Records

**AGENCY:** Railroad Retirement Board.

**ACTION:** Proposed Changes to Systems of Records.

**SUMMARY:** The Railroad Retirement Board proposes changes to two systems of records identified as follows: RRB-22, Railroad Retirement, Survivor, and Pensioner Benefit System, and RRB-39, Milwaukee Railroad Restructuring Act Benefit System. The modifications to these systems are necessitated by changes to computer equipment configurations on which these systems are operated. These changes to computer equipment configurations affect the manner of access in system RRB-22 and the medium of storage and the manner of access in system RRB-39. This document also gives notice of one new routine use and one amended routine use to system RRB-22.

**DATES:** These changes to systems of records will become effective as proposed without further notice on January 5, 1981, unless comments are received that would result in a contrary determination.

**ADDRESS:** Send comments to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth P. Boehne, Director of Management Control, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4690.

**SUPPLEMENTARY INFORMATION:** The U.S. Railroad Retirement Board submitted the proposed changes to the two systems of records to the Congress and the Office of Management and Budget (OMB) on October 15, 1980. This submission is in accordance with provisions of OMB Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance regarding reporting requirements of a change to a system of personal records

subject to the Privacy Act of 1974, 5 U.S.C. § 552a(o). The initial OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

Systems of records RRB–22, Railroad Retirement Survivor and Pensioner Benefit System, and RRB–39, Milwaukee Railroad Restructuring Act Benefit System, were last published in the Federal Register at 45 FR 16370–16382 (March 13, 1980). For the public convenience, we have published the entire text of each system of records, with the proposed changes indicated by italics.

In system RRB–39, a portion of the records will be stored on magnetic disk affording on-line access to authorized individuals through video display terminals. This arrangement will enable authorized individuals to obtain current information immediately—a feature not possible under a magnetic tape environment. The immediate availability of desired information will result in more efficient processing procedures. In addition, the Board will be capable of providing better service to its constituents by furnishing information more timely.

The proposed changes to both systems affecting the manner of access relate to a 1-year pilot study in which personal data from these systems will be transmitted via telecommunication lines to four field offices where authorized individuals will have immediate access through video display terminals. The purpose of the study is to ascertain the effects of such a telecommunications system on both headquarters and field office operations as a basis for evaluating the feasibility of such a system nationwide. For computerized records electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

The proposed new routine use in system of records RRB–22, identified as "ee," would notify the public of the board's authority to disclose to an individual from whose annuity a benefit overpayment is being recovered, information regarding the determination and recovery of the overpayment when that overpayment was made to another individual. When two or more persons are receiving benefits on the earnings record of the same individual, such as a husband and wife, and an overpayment was made to the employee which must be recovered, at least in part from the spouse, due process of law entitles the spouse to relevant information regarding the determination of the overpayment to the employee. Adoption of the proposed routine use would clarify the Board's authority to disclose the information.

A revision to routine use "u" in system of records RRB–22 would allow the Board to furnish an organization under contract to a railroad employer, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data, and present address when such information is necessary to determine entitlement to, and the rates of, private supplemental pension, sickness, or unemployment benefits and to calculate estimated benefits due. Presently, the routine use allows the Board to furnish such information only to the railroad employer directly.

By Authority of the Board.

Dated: November 25, 1980.

R. F. Butler,

*Secretary.*

## RRB–22

### SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System-RRB.

### SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Regional and District Offices: See Appendix I for addresses.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump-sum death benefits and/or residual payments.

### CATEGORIES OR RECORDS IN THE SYSTEM:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: Name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act. Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (U.S.C. 231f(b)(6)).

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, to reconcile reports on non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data and benefit rate may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, State and local taxing

authorities for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy and consular officials, to the American Institute on Taiwan, and to the Veterans Administration Regional Office, Philippines, to aid in the development of applications, supporting evidence, and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration. Bureau of Supplemental Security Income, Health Care Financing Administration, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health *and Human Services* in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the *Office of Personnel Management.*

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, *or from an organization under contract to an employer or employers,* information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer *or the organization under contract to an employer or employers* for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum-payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

cc. Medical records may be disclosed to vocational consultants in administrative proceedings.

dd. Date employee filed application for annuity to the last employer under the Railroad Retirement Act for use in determining entitlement to continued major medical benefits under insurance programs negotiated with labor organizations.

ee. *Information regarding the determination and recovery of an overpayment made to an individual may be released to any other individual from whom any portion of the overpayment is being recovered.*

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper, microforms, magnetic tape and magnetic disk.

**RETRIEVABILITY:**

Claim number, social security number and full name.

**SAFEGUARDS:**

Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail; *for computerized records*

*electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.*

**RETENTION AND DISPOSAL:**

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after the date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. Microforms: Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding. Magnetic tape: Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. Magnetic disk: Continually updated and permanently retained.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

**NOTIFICATION PROCEDURE:**

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any records will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

**RECORD ACCESS PROCEDURES:**

See Notification section above.

**CONTESTING RECORD PROCEDURES:**

See Notification section above.

**RECORD SOURCE CATEGORIES:**

Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign government.

## RRB-39

**SYSTEM NAME:**

Milwaukee Railroad Restructuring Act Benefit System.

**SYSTEM LOCATION:**

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any employee of the Milwaukee Railroad who may be eligible for supplementary unemployment insurance, new career training assistance, or employee protection benefits under the Milwaukee Railroad Restructuring Act (45 U.S.C. 901–922).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Identifying information includes the name of the employee, his social security account number, his address, his date of birth, his occupation code, and employer code. For individuals eligible for supplementary unemployment insurance benefits, information as to qualifications for benefits; railroad earnings during the period from June 1977 through November 1979; monthly benefit rate; month and year of benefit claim; reason not working; amounts deducted for Railroad Unemployment Insurance Act benefits, state unemployment benefits, earnings from all employment and self-employment; amounts paid and dates of payments benefit claims; verifying information from employers and governmental agencies; amounts owed and the reasons for the indebtedness; amounts recovered and the sources of repayments. For individuals eligible for new career training assistance, information as to qualifications for benefits; schools attended and courses taken; proof of payment for tuition, room, board, fees, and educational materials; amounts paid and dates of payments; amounts owed and the reasons for the indebtedness; amounts recovered and the sources of repayments. For individuals eligible for employee protection payments, information to the amount of relocation incentive compensation, interim employee assistance, separation allowance, and moving expenses to be paid by the employer to the employee; the kind of payment due the employee and, if applicable, the period for which payment is to be made; Railroad Unemployment Insurance Act benefits, state unemployment benefits, earnings from employment; if applicable, market value of home, sale price of home, moving and related expenses.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Sections 9, 10, 11, and 12 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908–11).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.**

a. Information received from the employee may be released to his employer, the Social Security Administration, the Department of Labor, the Veterans Administration, state unemployment compensation agencies, and other similar governmental agencies to the extent needed to verify the employee's claim and to resolve conflicts in information.

b. Identifying information, address and check amount may be released to the Treasury Department or the Milwaukee Railroad, if applicable, to issue benefit checks, to control for reclamation and return of checks, to respond to reports of non-delivery of checks, and to ensure delivery of checks to the correct address of the beneficiary.

c. Identifying information, address, check amount, and necessary supporting evidence may be released to the U.S. Postal Service or the Treasury Department for investigation of alleged forgery or theft of benefit checks.

d. Records may be referred to the General Accounting Office for auditing purposes and for collection of debts arising under the Milwaukee Railroad Restructuring Act.

e. Records may be disclosed in a court proceeding relating to any claims for benefits under the Milwaukee Railroad Restructuring Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

f. Disclosure may be made to a congressional office from the individual's record in response to an inquiry from the congressional office made at the request of the individual.

g. Disclosure may be made to an official of a labor organization of which the individual is a member in response to an inquiry from the labor organization official on behalf of or at the request of the individual.

h. Disclosure may be made to the attorney representing such individual upon receipt of a letter or written declaration stating the fact of

representation, subject to the same procedures and regulatory prohibitions as the subject individual.

i. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

j. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Milwaukee Railroad Restructuring Act.

k. The last addresses and employer information may be released to Department of Health *and Human Services* in conjunction with the Parent Locator Service.

l. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

o. Information may be released to the Department of Justice and to courts of competent jurisdiction in response to properly issued subpoenas.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper, magnetic tape, *magnetic disk* and microforms.

**RETRIEVABILITY:**

Social security number and name.

**SAFEGUARDS:**

*Paper and microforms: maintained in areas not accessible to the public; offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail. For computerized records electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.*

**RETENTION AND DISPOSAL:**

All records will be retained until January 1990, which is 5 years after the end of the benefit programs.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Unemployment and Sickness Insurance, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

**NOTIFICATION PROCEDURE:**

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

**RECORD ACCESS PROCEDURE:**

See Notification section above.

**CONTESTING RECORD PROCEDURES:**

See Notification section above.

**RECORD SOURCE CATEGORIES:**

Employee or his representative, employers, labor organizations, governmental agencies, real estate appraisers, and all Rail Retirement Board files.

[FR Doc. 80-37756 Filed 12-3-80; 8:45 am]
BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 21806; (70-6523)]**

### Blackstone Valley Electric Co. et al.; Notice of Proposed Short-Term Borrowings by Subsidiaries

November 26, 1980.

In the Matter of Blackstone Valley Electric Company, Washington Highway, P.O. Box 1111, Lincoln, Rhode Island 02865; Eastern Edison Company, 36 Main Street, Brockton, Massachusetts 02403; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Blackstone Valley Electric Company ("Blackstone"), Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), electric utility subsidiary companies of Eastern Utilities Associates, a registered holding company, have filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(c) of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Declarants propose to make borrowings from banks in the following maximum amounts to be outstanding at any one time during the period from December 28, 1980 to December 31, 1981: Blackstone, $7,000,000; Eastern Edison, $18,000,000; and Montaup, $42,000,000.

Blackstone has scheduled a December 17, 1980 closing on its issuance of $30,000,000 principal amount of First Mortgage Bonds (File No. 70-6477). If that closing takes place on schedule, an amendment will be filed to reduce Blackstone's requested authorization from $7,000,000 to $2,000,000.

Short-term notes will be issued to banks except to the extent that such short-term borrowings of Montaup may include commercial paper to be issued to a commercial paper dealer. Before entering into any commercial paper arrangements, Montaup will seek specific authorization from this Commission by amendment to its declaration.

The declarants have credit lines with a number of banks subject in some cases to commitment fees and/or compensating balance requirements. The bank credit lines expire at various times in 1981 and their continued availability is subject to continuing review by the banks involved. Bank

credit lines of the declarants may be changed and additional lines may be obtained from other banks.

The credit line arrangements include (1) borrowing at the prime rate with no formal compensating balances; (2) borrowing at the prime rate with compensating balances not exceeding 15%; and (2) borrowing at the prime rate together with a commitment fee based on a fraction of the prime rate not exceeding 8% of Prime. Assuming a prime rate of 16.25% and the maximum balance requirements of 15%, the effective interest rate would be 19.12%.

Proceeds are to be applied to: (1) renew outstanding notes payable to banks as they become due; (2) finance the companies' respective 1981 construction programs which are estimated to be approximately $6,800,000 in the case of Blackstone, $8,800,000 in the case of Eastern Edison, and $40,700,000 in the case of Montaup; and (3) provide funds to meet certain sinking fund requirements in the case of Eastern Edison.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $1,200 in legal fees and expenses. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 22, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

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

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-37611 Filed 12-3-80; 8:45 am]

BILLING CODE 8010-01-M

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Release No. 11457; (812-4648)]

## MFS/NWNL Variable Account and Northwestern National Life Insurance Company; Application for an Order

November 26, 1980.

Notice is hereby given that Northwestern National Life Insurance Company ("NWNL" or "Company") 20 Washington Avenue South, Minneapolis MN 55440 and MFS/NWNL Variable Account ("Separate Account") (hereinafter collectively referred to as "Applicants"), a separate account of NWNL registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on March 31, 1980 and amendments thereto on July 3, 1980 and November 10, 1980 for an order of the Commission pursuant to Section 11 of the Act approving certain offers of exchange and pursuant to Section 6(c) of the Act granting exemptions from sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), 27(c)(2) and 27(d) of the Act and rule 22c-1 thereunder insofar as such exemptions are necessary to permit the transactions described below. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

### Background

NWNL is a stock and mutual life insurance company organized under the laws of the State of Minnesota. MFS/NWNL is a separate account of the Company established for the purpose of funding variable annuity contracts issued by the Company. Purchase payments made by or on behalf of the owner of such contracts are allocated to one or more Sub-Accounts of the Separate Account, as selected by the owner (or, if not so selected, to the Sub-Account which invests in shares of Massachusetts Cash Management Trust), in the form of Accumulation Units (units of measure used to determine the value of the Contract before annuity payments start), the value of which will vary with the value of the respective Sub-Accounts of the Separate Account. The assets of each Sub-Account are to be invested in shares (at net asset value) of one of a group of mutual funds (the "Funds"): Massachusetts Cash Management Trust; Massachusetts Financial High Income Trust; Massachusetts Financial Bond Fund, Inc.; Massachusetts Income Development Fund, Inc.; Massachusetts Investors Trust; Massachusetts Financial Development Fund, Inc.; Massachusetts Investors Growth Stock Fund, Inc. and Massachusetts Capital Development Fund, Inc.

Massachusetts Financial Services Company, a limited partnership organized under the laws of the State of Massachusetts ("MFS"), is the principal underwriter and investment adviser for each of the Funds and is paid fees for its services by the Funds. The Company intends to enter into a contract with MFS under which MFS will agree to perform certain administrative functions relating to the Contracts and the Separate Account. MFS will be paid a monthly fee by the Company for such functions. Clarendon Insurance Agency, Inc., an affiliate of MFS, will act as principal underwriter of the Contracts. The Company or its agent will provide bookkeeping and other administrative services of the type normally performed by custodians of unit investment trusts.

Under the Contracts, usually a single purchase payment will be made, although subsequent purchase payments are allowed. The minimum amount the Company will accept as an initial purchase payment is $5,000. However, if the contract is purchased by or in connection with a Qualified Plan, the minimum amount the Company will accept as an initial purchase payment is $1,500.

No deduction for a sales charge will be made from purchase payments for the Contracts. However, if part of all of the Contract Value is surrendered, the Company will deduct a charge ("contingent deferred sales charge" or "surrender charge") as follows:

(1) For Contracts in force for 24 months or less, a surrender charge will be made equal to 5% of the amount of the surrender, provided that in no case will the surrender charge together with surrender charges previously made exceed 5% of total purchase payments received.

(2) For Contracts in force for more than 24 months but not more than 96 months, no surrender charge will be made if the surrender, together with prior surrenders made after the Contract has been in effect for 24 months, does not exceed 10% of the purchase payments received by the Company. A 5% surrender charge sill be applied to surrenders in excess of the foregoing, provided that in no case will the surrender charge, together with surrender charges previously made,

excess 5% of total purchase payments received.

(3) For Contracts in force for more than 96 months, no surrender charge will be made if the surrender, together with all prior surrenders make within 96 months, does not exceed the current value of purchase payments received by the Company within 96 months before the surrender plus 10% of the purchase payments received by the Company within 96 months before the surrender. A 5% surrender charge will be applied to surrenders in excess of the foregoing, provided that in no case will the surrender charge, together with surrender charges previously made, exceed 5% of total purchase payments received.

The Company will assess the Separate Account with a daily charge for mortality and expense risks equal, on an annual basis, to .9% and .4% of the daily Contract values, respectively. Also, NWNL intends to assess an adminstrative charge of $30 per year against each contract participating in the Separate Account, and to deduct premium taxes where applicable.

Contingent Deferred Sales Charge

*Section 2(a)(35)*

Section 2(a)(35) defines "sales load" as the difference between the price of security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer less any portion of such difference deducted for trustees' or custodians' fees, insurance premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional expenses.

Applicants submit that the proposed surrender charge is consistent with the intent of the definition of sales load contained in the Act. The charge would be imposed by the Company to reimburse it for expenses related to the sale of the Contracts, which the Applicants submit is within the Section 2(a)(35) definition of sales load but for the timing of the imposition of the charge.

Nevertheless, Applicants have requested an exemption from the provisons of Section 2(a)(35) to the extent such exemption may be necessary to implement the proposed pricing of their contracts.

*Section 22(c) and Rule 22c-1*

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. When the contract owner surrenders all or a part of the contract value, the proceeds paid on such surrender will be based on the current net asset value. The Contingent Deferred Sales Charge will be deducted at the time of surrender in arriving at the contract owner's proportinate share or account value.

While Applicants do not believe that the imposition of the contingent deferred sales charge is violative of Section 22(c) or Rule 22c-1, they have requested an exemption from the provisions of Section 22(c) and Rule 22c-1 thereunder, to the extent necessary, to offer the contracts as proposed.

*Sections 26(a)(2)(C) and 27(c)(2)*

Section 27(c)(2) prohibits a registered investment company or depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act.

Section 26(a)(2)(C) of the Act, as here pertinent, provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian.

Applicants allege that the Contingent Deferred Sales Charge to be imposed (if any) upon the surrender of the Contracts issued with respect to the Separate Account is designed to recover distribution costs relating to the sales of the Contracts. The Contracts merely defer the time when the sales charge may be imposed.

Applicants further allege that since there is nothing in the Act to suggest that if Contingent Deferred Sales Charges were being used at the time the Act was promulgated, that deductions for such sales charges would not have been permitted, and, since it is in the Contract Owners' best interests that the entire amount of their purchase payments be invested at the time when made, they have requested an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, in order to permit the offer and sale of the Contracts subject to the Contingent Deferred Sales Charge as described above.

*Sections 2(a)(32) and 27(d)*

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets or the cash equivalent thereof.

Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants assert that the contracts offered are not periodic payment contracts but request exemption from such Sections, to the extent necessary, to offer the contracts. Applicants submit that the imposition of a Contingent Deferred Sales Charge does not violate Sections 2(a)(32) and 27(d).

Applicants assert that Sections 2(a)(32) and 27(d) contemplate the assessment of an initial sales load and that under the contracts the net amount invested is the gross purchase payments. Thus, the owner's proportionate share or account value would be the gross purchase payments, plus or minus any increase or decrease in value less the Charge. Applicants assert that deferring the imposition of the charge in no way restricts the contract owner from receving his proportionate share or account value upon surrender. Applicants contend that the charge is contingent upon an event which might never occur, and that the purchaser's initial amount invested is maximized, thus providing a benefit to the purchaser. Applicants have requested an exemption from the provisions of Sections 2(a)(32) and 27(d), to the extent necessary, to permit the imposition of the Surrender Charge and to offer the contracts.

*Section 27(c)(1)*

Section 27(c)(1) of the Act, in pertinent part, prohibits any registered investment company issuing periodic payment plan certificate, or depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants assert that the contracts issued are not periodic payment plans but nevertheless request an exemption, to the extent necessary, to offer the contracts.

Applicants submit that the Contingent Deferred Sales Charge is not a

restriction on redemption under Section 27(c)(1). Applicants assert that deferring the imposition of the sales charge in no way restricts the contract owner from receiving his proportionate share or current value on surrender and has the effect, through deferral of sales charge until contract value is withdrawn, of increasing the contract value available for redemption. However, Applicants have requested an exemption from the operation of the provisions of Section 27(c)(1), to the extent necessary, to permit the charge to be imposed only upon surrender of contract values.

**Annual Administrative Charge**

As previously noted, the Contracts are subject to an annual administrative charge. If the value of a contract is surrendered for its full value on other than the contract Anniversary date, the administrative charge will be deducted from the owner's redemption proceeds.

Because the provisions of the Act discussed above under the heading "Contingent Deferred Sales Charge" may be said to be equally applicable in this situation, Applicants hereby request an exemption from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d) and Rule 22c-1, to the extent necessary, to permit the deduction of the annual administrative charge under the circumstances described.

**Performance of Custodial Functions**

Sections 26(a)(1), 26(a)(2)(D) and 27(c)(2) as noted prohibit a registered investment company or depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act.

Section 26(a)(1) requires the trustee or custodian to be a bank which meets certain financial standards. Applicants request an exemption from the provisions of Section 26(a)(1) of the Act in order that NWNL may hold the property and assets of the Separate Account in custody for safekeeping. NWNL will keep such assets in its vault facilities which it contends are comparable to the vaults of large commercial banks and adequate protection will thereby be afforded to owners of contracts issued with respect to the Separate Account. Also, NWNL will limit access to the vault.

Section 26(a)(2)(D) of the Act requires, in part, that the custodian shall have possession of all the securities and other property in which the funds of the unit investment trust are invested. The Applicants assert that the primary purpose of Section 26(a)(2)(D) relating to the possession of trust assests is to provide for their safekeeping. The Applicants contend that to require that shares certificates be physically issued by each of the Funds under the circumstances would not significantly add to the safety of the unit investment trust's assets and would result in unnecessary administrative expenses. As noted, the assets of the Separate Account will be invested exclusively in shares of the several Funds. Furthermore, the custodian of the several Funds will have physical possession of the portfolio securities and other assets of the Funds.

The Applicants request that the Commission enter an order of exemption for the pertinent provisions of Section 26(a)(2)(D) in order that "book shares" evidencing the investment of purchase payments may be accepted.

Section 26(a)(2)(D) of the Act also requires that the securities and other property in which the funds of the unit investment trust are invested shall be segregated and held in trust until distribution.

Applicants state that while the assets of the Separate Account will be segregated, the Company, as a life insurance company, may not properly place the assets of the Separate Account in trust because the insurance laws of the State of Minnesota require the Company to retain ownership and control of the disposition of its property. If the Company is permitted to hold in custody for safekeeping the assets of the Separate Account, and exemption from the foregoing Sections of the Act will be necessary in order that the Company shall not be required to hold such assets in trust.

In support of the requested exemptions from the foregoing provisions of the Act, the Applicants state that the Company is subject to extensive supervision and control by the Commissioner of Insurance of the State of Minnesota and the comparable official of each state in which it does business. Such supervision requires the Company to file complete and detailed periodic reports. The Applicants also state that the activities of the Company are subject to review by the Commissioner of Insurance of the State of Minnesota and his representatives at all times and are subject to comprehensive examinations peridoically. Further, the Company, under an arrangement for recordkeeping, will maintain either itself or through an agent a record of all purchases and redemptions of Fund shares with repsect to the Separate Account. Consequently, the Applicants submit that a custodianship is unnecessary under the circumstances.

In summary, the Applicants request exemption from the provisions of Sections 26(a)(1), 26(a)(2)(D) and 27(c)(2) of the Act in order that the Company may perform the safekeeping and other functions normally performed by a custodian with respect to the Separate Account; that the property and assets of the Separate Account do not have to be held in trust although segregated; and that the investments of the trust in shares of the several Funds may be held in "book share" form.

**Payment of Contract Fees and Charges**

*Sections 26(a)(2)(D) and 27(c)(2)*

Sections 26(a)(2)(D) further provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses (A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust.

The Applicants request an exemption from the provisions of Sections 26(a)(2)(D) and 27(c)(2) to the extent necessary to permit the deduction by the Company and the payment to the Company of an annual administrative charge, the Expense Risk Charge, the Mortality Risk Premium and any premium tax, as set forth above.

The Applicants consent that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) that the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and the Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to

regulate the payment of such other sums and charges.

Exchanges

*Section 11*

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or principal underwriter therefor to make an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to the Commission. Section 11(c) provides that the provisions of subsection (a) shall be applicable irrespective of the basis of exchange to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The Applicants propose to permit owners to request the transfer, subject to any conditions the Funds whose shares are involved may impose, of all or part of a Sub-Acccount's value to other Sub-Accounts. There is no charge for such a transfer, other than those that may be made by the Funds. The Applicants submit that the proposed transfer rights will afford an owner the availability of choice among shares of mutual funds having different objectives, and that the granting of such rights is in recognition of the potentially changing nature of the owner's investment objectives and retirement needs over the years.

The Applicants further assert that the proposed transfer rights involve only a change in the underlying accumulation of annuity units related to a Contract, which are merely accounting units of measure to quantify Contract Value and, thus, do not involve the exchange of a unit investment trust security for the security of any other investment company. However, to avoid any questions that might be raised as to the applicability of Section 11(c), the Applicants request an order pursuant to Section 11 to the extent necessary to permit the proposed offer of transfer rights described above.

*Section 6(c)*

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transactions or any class of classes of person, securities, or transactions from any provision of the Act or any rule or regulation under the Act is, and to the extent, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than December 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his/her interest the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the Application will be issued as of course following December 22, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-37612 Filed 12-3-80; 8:45 am]

BILLING CODE 8010-011-M

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[Release No. 17344; (SR-MSRB-80-11)]

## Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

November 26, 1980.

On October 29, 1980, the Municipal Securities Rulemaking Board (the "MSRB") Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would extend from December 1, 1980, to October 1, 1981, the effective date of that part of the amendments to rule G-15 (File No. SR-MSRB-79-6, approved by the Commission in Securities Exchange Act Release No. 16707 (March 28, 1980)) which requires that confirmations of transactions in callable securities effected at a dollar price in excess of par include certain yield information. All other requirements of the March amendments to rule G-15 will continue to become effective on December 1, 1980,[1] including the requirement that confirmations of transactions in callable securities contain a legend indicating that the yield shown may be affected by the exercise of call provisions and that information concerning such call provisions will be provided upon request, and, with the exception of transactions in callable securities effected at a dollar price in excess of par, that confirmations of transactions effected on a dollar basis include yield information.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17277 (November 7, 1980)) and by publication in the Federal Register (45 FR 75039 (November 13, 1980)). No comments with respect to the proposed rule change have been received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. The proposed rule change extends from December 1, 1980, a date prior to the thirtieth day after publication of the notice of filing, to October 1, 1981, the effective date of part of the March amendments to rule G-15. Because the intent of this extension is to relieve brokers, dealers, and municipal securities dealers of a portion of the requirements scheduled to become effective on December 1, 1980, its

[1] Notice of the approval of the extension from September 24, 1980, to December 1, 1980, of the effective date of the previous amendments to rule G-15 (File No. SR-MSRB-80-7) was published in Securities Exchange Act Release No. 17150 (September 12, 1980).

purpose would be thwarted if it were not approved prior to that date.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

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

George A. Fitzsimmons

*Secretary.*

[FR Doc. 80-37613 Filed 12-3-80; 8:45 am]

BILLING CODE 8010-01-M

## SINAI SUPPORT MISSION

[Delegation of Authority 4]

### Delegation of Authority To Authorize Expenditures; Revocation of Delegation of Authority 4

Pursuant to the authority vested in me by Executive Order 11896, issued January 13, 1976, I hereby revoke Delegation of Authority 4, dated September 16, 1977, and published in the Federal Register on September 28, 1977, page 49869.

This revocation is effective immediately.

Dated: November 26, 1980.

Frank E. Maestrone,

*Director, United States Sinai Support Mission.*

[FR Doc. 80-37629 Filed 12-3-80; 8:45 am]

BILLING CODE 4710-10-M

[Delegaton of Authority 4]

### Delegation of Authority To Authorize Expenditures

Pursuant to the authority vested in me by Executive Order 11896, issued January 13, 1976, I hereby delegate the following functions and authorities to the Associate Director of Policy and Coordination, United States Sinai Support Mission: Approve and authorize expenditures for all activities connected with the U.S. Sinai Support Mission up to a limit of $75,000.

The functions and authorities delegated herein may not be redelegated.

This Delegation of Authority is effective immediately.

Dated: November 26, 1980.

Frank E. Maestrone,

*Director, United States Sinai Support Mission.*

[FR Doc. 80-37630 Filed 12-4-80; 8:45 am]

BILLING CODE 4710-10-M

## DEPARTMENT OF STATE

[Public Notice CM-81350]

### Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Safety of Navigation of the Safety of Life at Sea Subcommittee will conduct an open meeting on December 17, 1980 at 9:30 a.m. at the U.S. Coast Guard Headquarters (Transpoint Building), Room 3201, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to consider matters for the forthcoming SUB NAV XXV session scheduled for January 5-9, 1981 and in particular:

—Routing of ships
—Matters related to the 1972 Collision Regulations
—Ship movement reporting systems
—Differential omega correction systems
—Shipborne navigational aids and related equipment
—Accuracy requirements and harmonization of radio navigation systems
—World-wide VHF navigational channels
—Matters related to search and rescue
—International guidelines on bridge design
—Guidance on the use of VHG at sea
—Recorder of operational data for ships.

For further information contact Captain D. B. Charter, Jr., c/o Commandant (G-WWM/11), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1934.

Dated: November 21, 1980.

John Todd Stewart,

*Chairman, Shipping Coordinating Committee.*

[FR Doc. 80-37621 Filed 12-3-80; 8:45 am]

BILLING CODE 4710-07-M

## TENNESSEE VALLEY AUTHORITY

### Chicamauga Reservoir, Tennessee Facility; Withdrawal of Intent To Prepare Environmental Impact Statement

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Proposed sale of a 20-Year easement for a coal-processing and barge terminal facility on Chickamauga Reservoir (Tennessee River) Near Dayton, Tennessee; Withdrawal of Notice of Intent to Prepare an Environmental Impact Statement.

The Tennessee Valley Authority (TVA) issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) on the proposed sale of a 20-year easement for coal-processing and barge terminal facility to Tenna-Tech, Inc., of Dayton, Tennessee, on April 12, 1979 (45 FR 21925 (1979)). A public scoping meeting was held in Dayton on April 23, 1979. TVA is withdrawing that Notice at this time because, after balancing environmental and nonenvironmental considerations, TVA does not plan to make the site available as originally requested, and the preparation of an EIS is not necessary. TVA will review any future proposals involving the subject tract to ensure that the National Environmental Policy Act requirements are met.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mohamed T. El-Ashry, Director of Environmental Quality, Tennessee Valley Authority, Natural Resources Building, Norris, Tennessee 37828, (615) 632-6450.

Mohamed T. El-Ashry,

*Director of Environmental Quality.*

November 26, 1980.

[FR Doc. 80-37685 Filed 12-3-80; 8:45 am]

BILLING CODE 8120-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-80-33]

### Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

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

**ACTION:** Notice of petitions for exemptions received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before December 24, 1980.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 28, 1980.

John H. Cassady,

*Acting Assistant Chief Counsel, Regulations and Enforcement Division.*

**Petitions for Exemptions**

| Docket No. | Petitioner | Regulations affected | Description of relief sought |
|---|---|---|---|
| 21015 | Ransome Airlines | 14 CFR 135.63 (c) (8) | To allow petitioner to use a Part 121 operator's computer system without listing crew names or crew positions on the original of the load manifest. |
| 20636 | Bighorn Airways, Inc. | 14 CFR 135.297 (b) | To allow petitioner to operate under Part 135 without first completing the instrument proficiency check using a Non-Directional Beacon (NDB) facility. |
| 13203 | Boeing | 14 CFR 25.807, 25.809, and 25.813. | Amendment to Exemption No. 1879A, to allow carriage of three crewmembers plus five non-crewmembers on upper deck of Model 747-200F and 747-200C cargo airplanes. |
| 20901 | Evergreen International | 14 CFR 121.291 | To permit petitioner to operate a B-747-100 aircraft in a 130 passenger-seat configuration without first conducting a full seating capacity emergency evacuation demonstration. |

**Dispositions of Petitions for Exemptions**

| Docket No. | Petitioner | Regulations affected | Description of relief sought—disposition |
|---|---|---|---|
| 20517 | William R. Wallace | 14 CFR 65.91 (c) (1) | To allow Mr. Wallace to become eligible for an Inspection Authorization without meeting the experience requirements. *Denied 11/14/80.* |
| 20474 | Coral Air, Inc. | 14 CFR 135.243 (a) | To allow Mr. Frank McGill to serve as pilot-in-command without holding an airline transport pilot certificate until Feb. 16, 1981, his 23d birthday. *Denied 11/14/80.* |
| 18238 | Flying Tiger Line | Portions of 14 CFR Parts 21, 43, 61, 63, 91, and 121. | Amendment to exemption No. 2602D to delete Seaboard World Airlines' name and to reflect changes that occur with the merger of Flying Tiger and Seaboard World. *Granted 11/25/80.* |
| 20513 | AiResearch Manufacturing Company | 14 CFR 33.77 (b) | To permit compliance with 1½ pound bird ingestion requirement with a thrust loss in excess of the maximum 25% now allowed, for their ATF 3-6 turbofan engine. *Denied 11/14/80.* |
| 20378 | Beckett Aviation Corp. | 14 CFR 61.58 (c) | To allow accomplishment of the entire 24-month pilot-in-command proficiency check in an FAA-approved simulator. *Granted 11/18/80.* |
| 20320 | Air Tanzania Corp | Portions of 14 CFR Parts 21 and 91. | To amend exemption No. 2975 to add B-720 aircraft N62215 to be used as a backup aircraft. The present exemption permits the petitioner to operate and maintain a leased B-707-331 aircraft of U.S. Registry using an FAA-approved MMEL. *Granted 11/17/80.* |
| 19486 | Executive Air Fleet | 14 CFR 135.297 | To permit petitioner to make use of approved visual simulators in the required instrument proficiency check. *Withdrawn 11/19/80.* |
| 20461 | John E. Mclain Raleigh Durham Aviation | 14 CFR 141.35 (c) | To allow petitioner to be designated as chief pilot of Cessna Citation type rating course without meeting recency of experience requirements. *Petition vacated 10/29/80.* |
| 21069 | Air Express International | 14 CFR 121.360 | To allow petitioner to operate a Canadair CL44D4 with an operating Collins ground proximity warning system that meets TSO-C92. Petitioner is requesting this temporary grant until January 15, 1981, while it is seeking engineering approval for the unit. *Granted 11/24/80.* |

[FR Doc. 80-37605 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-13-M

## Radio Technical Commission for Aeronautics (RTCA), Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Cancellation of Meeting

This Notice announces the cancellation of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 136 meeting which was scheduled for December 9-10, 1980, and announced in the Federal Register on November 20, 1980, (45 FR 76834). The meeting will be rescheduled and a Notice of Meeting will be published in the near future.

Issued in Washington, D.C. on November, 25, 1980.

Karl F. Bierach,

*Designated Officer.*

[FR Doc. 80-37333 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-13-M

## Federal Highway Administration

## Environmental Impact Statement: King County, Washington

**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 King County, Washington.

**FOR FURTHER INFORMATION CONTACT:** William J. Glover, Environmental Engineer, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, Telephone (206) 753-9480

**SUPPLEMENTARY INFORMATION:** The FHWA in cooperation with the

Washington State Department of Transportation will prepare an environmental impact statement (EIS) on providing improvements to facilitate high occupancy vehicle (HOV) usage on Interstate 405 (I–405) from and including Interstate 90 (I–90) Factoria Interchange to and including State Route 520 (SR 520) Northrup Interchange, a distance of approximately 4.5 miles. The proposed project is located in the City of Bellevue and a portion of unincorporated King County.

The proposed improvements to the corridor are considered necessary to achieve a wide range of objectives for improved public mobility and community development, including: Provide increased motoring safety, economy and convenience; reduce existing congestion at important access and egress points; meet projected person-trip demands and support community development plans; improve air quality; support and integrate with existing and proposed HOV facilities adjacent to the project area; enhance existing and planned public transit service improvements and planned carpool/vanpool programs.

Alternatives under consideration include: (1) taking no action; (2) alternative improvements to the mainline roadway of I–405, including peak hour use of existing roadway shoulder, designation of an existing traffic lane for HOV use only during peak hours, and construction of a new HOV travel lane; (3) supplement alternatives for improvements to existing interchange ramps and new HOV ramps, transit service, park and ride and park and pool lots, and surveillance, control, and driver information system improvements; and (4) supplementary local public agency and private sector actions such as parking zoning code modifications (e.g., reduction in parking space requirements for new development, provision of carpool/vanpool transit incentives for employees), other land development and redevelopment plans and controls (e.g., increased density of development), employee flex-time and staggered working hours and allied measures to reduce peak-hour travel demands. The recommended program may include a combination of one or more of the above improvement alternatives.

A scoping process is being conducted to ensure that the full range of issues related to this proposed action is addressed and all significant issues identified. A letter inviting written comments and suggestions thereon is being set to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal or other recent proposals and plans for transportation or related improvements in the corridor area. Informal meetings are planned to be held with interested government agencies to receive their scoping input as appropriate. An evening public workshop meeting to provide additional opportunity for input from public and private agencies, groups, and individuals is also planned.

A community involvement program is being planned to consist of a series of public workshops, discussion groups, individual interviews, a random sample telephone survey, newsletters, announcements, and news releases. A combined EIS/design hearing is planned for early 1982. Public notice will be given of the time and place of the meetings and the hearing. 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.

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

Issued on: November 24, 1980.

William J. Glover,

*Environmental Engineer, Washington Division, Olympia, Washington.*

[FR Doc. 80–37580 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–22–M

## Environmental Impact Statement; Citrus County, Florida

**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 is being prepared for a proposed highway project in Citrus County, Florida.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. V. Robertson, District Engineer, Federal Highway Administration, P.O. Box 1079, Tallahassee, Flordia 32302, Telephone: (904) 224–8111.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Florida Department of Transportation, will prepare an environmental impact statement (EIS) for a proposal to improve State Route 44, in Citrus County, Florida. The proposed improvement would involve the reconstruction of the existing State Route 44 from County Road 581 to the intersection of State Road 44 East and U.S. Route 41/State Road 45 in the City of Inverness, for a distance of approximately two miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening the existing two-lane highway to four lanes; (3) constructing a four-lane highway on new location. Design variations will be incorporated into and studied with the various build alternatives.

Letters describing the proposed action and soliciting comments have been sent to the appropriate Federal, State, and local agencies. Two public informational meetings have been conducted in the project area. Additional public meetings are also planned for the future. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comments. A format scoping meeting is planned for the month of December.

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: November 4, 1980.

R. V. Robertson,

*District Engineer, Tallahassee, Florida.*

[FR Doc. 80–37628 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–22–M

## Federal Railroad Administration

## Minority Business Resource Center Advisory Committee; Meeting

Pursuant to Section 19(a) and (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 Minority Business Resource Center Advisory Committee to be held December 15, 1980, at 10:00 a.m. until 12:00 p.m. in the Board Room of the Port of Oakland, 66 Jack London Square, Oakland, California 94604. The agenda for the meeting is as follows:

—Advisory Committee Annual Report Review

—Procurement Performance

—FY-81 Program Emphasis
—Open Discussion

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Office of the Secretary, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on November 28, 1980.

Earl D. Proctor,

*Executive Director, Minority Business Resource Center.*

[FR Doc. 80-37682 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-06-M

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[Waiver Petition Docket Nos. LI-80-1 through LI-80-10]

## Petitions of Waiver of Locomotive Safety Standards

As required by 45 U.S.C. 431(c), and in accordance with 49 CFR 211.41 and 221.9, notice is hereby given that ten waiver petitions have been submitted to the Federal Railroad Administration (FRA) requesting temporary, or permanent waivers of compliance with 49 CFR Part 229 (Locomotive Safety Standards).

These regulations prescribe minimum safety standards for all locomotives except those propelled by steam power. The regulations were recently revised. The final rule was published in the Federal Register on March 31, 1980 (45 FR 21092) and became effective on May 1, 1980.

Each of the railroads seeking a waiver is identified below. A brief discussion of each request for waiver is provided.

Interested persons are invited to participate in these proceedings by submitting written date, views, or comments. The FRA does not anticipate scheduling a public hearing in connection with the aforementioned petitions since the facts do not appear to warrant a hearing. However, a public hearing will be scheduled if requested by an interested person before December 30, 1980.

All communications concerning these petitions must identify the appropriate docket number (e.g., FRA Waiver Petition No. LI-80-1) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S. W., Washington, DC 20590. Communications received before January 10, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable.

Detailed information concerning each petition is on file with the Docket Clerk. Any comments received will also be on file. This material is available for examination by the public during regular business hours (9 a.m. – 5 p.m.) in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590.

### Dansville and Mount Morris Railroad Company

[FRA Waiver Petition Docket No. LI-80-1]

The Dansville and Mount Morris Railroad seeks a permanent waiver of compliance with 49 CFR 229.115. This section of the regulation mandates that locomotives be equipped with a device that provides an audible or visual alarm in the cab to warn of either slipping or sliding wheels on powered axles under power.

The Dansville and Mount Morris Railroad is a nine mile single track operation that is restricted by speed and tonnage limitations. Petitioner cities difficulty in locating necessary equipment to comply with the installation requirement. Additionally, the petitioner does not believe that such a device is needed and, therefore, request a waiver of this section for the two 44 ton General Electric locomotives built in 1949 and 1956. These units are the only locomotives operated by this railroad.

### Indiana Harbor Belt Railroad Company

[FRA Waiver Petition Docket No. LI-80-2]

Indiana Habor Belt Railroad Company (IHB) seeks a temporary waiver of compliance with the provisions of 49 CFR 229.117. Section 117 requires locomotives to be equipped with speed indicators by December 31, 1980. Petitioner states that that it is not possible to complete the installations by that date because of labor and economic reasons. Petitioner requests a temporary waiver of compliance until December 31, 1981, for its IHB locomotives.

IHB also seeks a permanent waiver of compliance with the provisions of 49 CFR 229.123 for six of its locomotives. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot, or a snowplow. Petitioner states that it operates six SW-15 locomotives which are equipped with non-self propelled trailer units. These locomotives are restricted to hump and yard service. Clearance problems when traversing through car retarders make it impossible for complying locomotives to remain in operation on humps. Petitioner, therefore, seeks a permanent waiver of compliance for these six specific units.

### Conemaugh and Black Lick Railroad Company

[FRA Waiver Petition Docket No. LI-80-3]

The Conemaugh and Black Lick Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with and end plate, a pilot or a snowplow. The railroad currently operates twenty-two switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

### Patapsco and Black Rivers Railroad Company

[FRA Waiver Petition Docket No. LI-80-4]

The Patapsco and Black Rivers Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates thrity-two switch locomotives and nine non-self propelled slug units that do not comply with this requirement. The Railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

### Philadelphia, Bethlehem and New England Railroad Company

[FRA Waiver Petition Docket No. LI-80-5]

The Philadelphia, Bethlehem and New England Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates twenty-five switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not

experience incidents in which vandals place objects on the tracks.

**South Buffalo Railway Company**

[FRA Waiver Petition Docket No. LI-80-6]

The South Buffalo Railway seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates thirty-one switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

**Steelton and Highspire Railroad Company**

[FRA Waiver Petition Docket No. LI-80-7]

The Steelton and Highspire Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates eight switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

**Peoria and Pekin Union Railway**

[FRA Waiver Petition Docket No. LI-80-8]

The Peoria and Pekin Union Railway seeks a permanent waiver of compliance with 49 CFR 229.117. Section 117 requires that locomotives operated at speeds in excess of twenty miles per hour must be equipped with a speed indicator by December 31, 1980. Petitioner states it operates thirteen switcher locomotives which are not equipped with speed indicators. The nature of operations on this railroad precludes trains or locomotives from obtaining speeds in excess of twenty miles per hour with one exception. This one train tavels approximately seven miles and reaches twenty-five miles per hour. Equipping all locomotives with speed indicators or designating only one locomotive for this single operations impractical in the opinion of the railroad. Consequently, a waiver is sought to continue operations at speeds of up to twenty-five miles per hour with unequipped locomotives.

**McKeesport Connecting Railroad**

[FRA Waiver Petition Docket No. LI-80-9]

The McKeesport Connecting Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates six switcher locomotives that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant. Consequently, the railroad believes that no useful purpose would be served by installing a device to bring the locomotives into compliance.

**Johnstown and Stoney Creek Railroad**

[FRA Waiver Petition Docket No. LI-80-10]

The Johnstown and Stoney Creek Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates three switcher locomotives that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant. Consequently, the railroad believes that no useful purpose would be served by installing a device to bring the locomotives into compliance.

This notice issued under the authority of section 5 of the Locomotive Inspection Act, 36 Stat. 914 (45 U.S.C. 28) and § 1.49(c)(5) of the regulations of the Secretary of Transportation 49 CFR 1.49(c)(5).

Issued in Washington, D.C., on November 25, 1980.

J. W. Walsh,

*Chairman, Railroad Safety Board.*

[FR Doc. 80-37684 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-06-M

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## National Highway Traffic Safety Administration

### Calendar of Public Meetings

This calendar consists of NHTSA-sponsored meetings in which public interest or participation is expected. It is published for planning purposes and meeting dates and places are subject to change.

*December 1980—May 1981*

Alcohol and Occupant Restraint Workshops; City Locations and Dates Below

Purpose: NHTSA will conduct 36 two-State workshops to present the state-of-the-art in materials and program findings for reducing alcohol-related crashes and increasing the use of safety belts. Meetings are scheduled as follows: Dec. 1-5, Kansas City, Missouri and Louisville, Kentucky; Dec. 8-12, Boise, Idaho and Oklahoma City, Oklahoma; Dec. 15-19, Montgomery, Mississippi; Jan. 5-9, Charlotte, North Carolina; Jan. 12-16, Detroit, Michigan and Worcester, Massachusetts; Jan. 12-23, Las Vegas, Nevada; Jan. 26-30, Sacramento, California and Concord, New Hampshire; Feb. 2-6, Shreveport, Louisiana; Feb. 16-20, Nashville, Indiana; Feb. 23-27, Eau Claire, Wisconsin and Hershey, Pennsylvania; Mar. 2-6, Austin, Texas and Charlottesville, Virginia; Mar. 9-13, Salt Lake City, Utah; Mar. 23-27, Rapid City, South Dakota and Dover, Maryland; Apr. 6-10, Anchorage, Alaska and San Juan, Puerto Rico; May 4-8, Honolulu, Hawaii

Coordinator: James L. Nichols, Traffic Safety Programs (NTS-14), 202-426-2180

*December 1-2, 1980*

Automotive Fuel Economy Contractors' Coordination Meeting

Sheraton National Hotel, Arlington, Virginia

Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Economy Research Program will be explained

Coordinator: Charles L. Gauthier, Research and Development (NRD-13), 202-426-2957

*December 9-11, 1980*

Symposium on Automotive Ratings

Host Farm Inn, 2300 Lincoln Highway, East Lancaster, Pennsylvania

Purpose: To exchange information on the "state-of-the-art" of automotive ratings, crashworthiness, damageability and ease of diagnosis and repair, as well as to provide an opportunity for those affected by the ratings to comment. In addition to technical data, public comment and reaction will be solicited to insure the ratings program is responsive to consumer needs

Coordinator: Ivy Baer, Office of Rulemaking (NRM-30), 202-426-1750

*January 8, 1981*

Biomechanics Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C.
Purpose: This Committee reviews NHTSA's procedures, programs and projects requiring the use of live and deceased humans for research in order to validate the need for such use, to minimize the risk of injury to volunteers, and to assure the rights and dignity of the subjects
Coordinator: Kathy Hasse, Executive Secretariat (NOA-11), 202-426-2872

*January 19-21, 1981; Tentative*

National Highway Safety Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation may be prepared
Coordinator: Robert Doherty, Executive Secretariat (NOA-11), 202-426-2872

*January 21, 1981; and April 15, 1981*

NHTSA-Public-Industry Technical Meeting

EPA Conference Room, Motor Vehicle Environmental Laboratory, Ann Arbor, Michigan
Purpose: Technical, interpretative or procedural questions from the public and industry regarding NHTSA's bumper, vehicle safety and consumer information programs will be answered. Questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities
Coordinator: Michael Finkelstein, Rulemaking (NRM-01), 202-426-1810

*February 18, 1981; Tentative*

Automotive Controls Standardization Briefing

Ann Arbor, Michigan
Purpose: This will be a contractor's interim briefing to review with representatives of industry and other interested persons the progress of a study being conducted for NHTSA by Minicars, Inc. to develop and evaluate recommendations for standardizing the location and operation of automotive controls
Coordinator: Michael Perel, Research and Development (NRD-41), 202-755-8753

*Spring 1981*

Problem—Behavior Workshop: 55 Non-Compliance and Other Unsafe Driving Actions

Washington, D.C.
Purpose: To bring together interested practitioners and researchers to review NHTSA program plans in order to obtain comments and suggestions for improvement
Coordinator: Monroe Snyder, Research and Development (NRD-42), 202-426-2977

*June 15-17, 1981*

National Highway Safety Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C.
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation will be considered
Coordinator: Robert Doherty, Executive Secretariat (NOA-11), 202-426-2872

*October 12-16, 1981*

Second International Automotive Fuel Economy Research Conference

Rome, Italy
Purpose: Government Status Reports on Automotive Transportation Conservation Programs and reports of research in automotive technology for improved fuel economy will be presented
Coordinator: James C. Shively, Research and Development (NRD-10), 202-426-2862

*Fall 1981*

National Accident Sampling System Advisory Committee Meeting

Washington, D.C.
Purpose: To review program status and make recommendations on data collection, field procedures and analysis, including plans and operations
Coordinator: Russell A. Smith, Research and Development (NRD-30) 202-472-7040

*Fall 1981 and 1982*

Fatal Accident Reporting System Annual Workshop

Place to be determined
Purpose: To solve interpretation and operations problems and to provide a mechanism for installing system changes and updating training. This is a regularly scheduled working meeting of FARS State Analysts and NHTSA regional and headquarters technical managers
Coordinator: John McGowan, Research and Development (NRD-32) 202-426-4820

*——1982*

Ninth International Technical Conference on Experimental Safety Vehicles

Japan
Purpose: The ESV Conferences are conducted to provide a forum for exchanging the results of integrated vehicle development. Various automobile manufacturers, as well as NHTSA contractors have designed and developed vehicles which incorporate advanced systems to satisfy national goals in safety, fuel economy, and vehicle emissions. This meeting will be hosted by the Government of Japan. The Governments of the Federal Republic of Germany, France, Great Britain, Italy, Japan, Sweden and the United States as well as manufacturers of these countries and others will participate
Coordinator: James C. Shively, Research and Development (NRD-10) 202-426-4862

*Fall 1982*

Automotive Fuel Economy Contractors' Coordination Meeting

Location undetermined
Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Economy Research Program will be explained
Coordinator: Charles L. Gauthier, Research and Development (NRD-13), 202-426-2957

Persons desiring additional information on a particular meeting may phone the coordinator listed under each meeting.

Alternatively, the coordinator can be reached by mail at the following address: U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on November 25, 1980.

Wm. H. Marsh,
*Executive Secretary.*

[FR Doc. 80-37322 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-59-M

## Office of the Secretary

[OST File No. 80-21]

## Research and Development Policy; Request for Public Comment on Proposed Policy Statement

**AGENCY:** Department of Transportation/ Office of the Secretary.

**ACTION:** Request for public comment.

**SUMMARY:** The Department of Transportation seeks public comment on a proposed research and development policy statement for the Department. A key element in the health and future development of the American economy and the Nation's ability to achieve important national goals is technological innovation. Innovation contributes to building economic strength by improving the U.S. position in foreign as well as domestic markets, increasing productivity, and helping to create jobs. The need for research and development is urgent in the transportation sector where productivity declines and the inflationary pressues of rising fuel costs have hit hard. This policy statement proposes to be the guiding mechanism for developing a coordinated, balanced research and development program for the Department of Transportation.

**DATE:** Comments must be received by December 24, 1980.

**ADDRESS:** Comments should be sent to Docket Clerk, OST File No. 80-21, Office of the General Counsel, C-50, Department of Transportation, Washington, D.C. 20590. Comments will be available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation Building, 400 Seventh Street SW., Washington, D.C., from 9:00 a.m. to 5:30 p.m. e.t., Monday through Friday except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**
Jack Harman, Office of Transportation Industry Policy, Department of Transportation, Washington, D.C. 20590, Telephone No. 202-426-4220
or
Rick Yates, Office of Transportation Industry Policy, Industry Operations Division, Department of Transportation, Washington, D.C. 20590, Telephone No. 202-426-4203.

**SUPPLEMENTARY INFORMATION:** Public comment is invited on the points raised in the proposed policy and on any other issues relevant to the policy statement. Comments should be sent to the address above and must be received by the closing date. All comments received by the closing date will be considered in preparation of the final policy statement.

Issued at Washington, D.C., on November 28, 1980.

Donald F. Mazziotti,

*Deputy Assistant Secretary for Policy and International Affairs.*

## Research and Development Policy Statement of the Department of Transportation

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### I. The Research and Development Policy Context

The nation is in need of greater and more inspired efforts from the R&D community to assure continued technological progress vital to real economic growth, national security, and the rebuilding of American industry. The transportation sector, as a major component of the national economy, must demonstrate greater creativity in technological innovation if the country is to regain its former place of preeminence in the global economic system. The President has recognized such a need, and has called for new efforts in both basic and applied research.

### The National Need for R&D

The future economic health of the nation depends on our effectiveness in dealing with a number of interrelated, tenacious problems—inflation, dependence on imported oil, exporting of jobs, strong foreign competition in our own as well as overseas markets, stagnating productivity, and trade deficits.

One of the factors contributing to our slippage in world markets is the general decline in America's investment in research and development, a trend that must be reversed.

Government and industry research spending has in fact declined since 1968 in real dollars. Federal funding for basic research, for example, has slipped by 45 percent during the last ten years. Part of this decline can be attributed to the increased complexity of the domestic and international economic environment with its attendant burdens on industry and barriers to innovation. Inflation and the resulting credit and capital squeezes have also contributed. These factors, however, have not diminished the need for technological development and innovation in order to maintain the progress, and indeed the viability of our economy.

The importance of technological progress to economic growth has been the subject of much study. There is a common thread of agreement, summed up in the observation of Simon Kuznets, that "continuous technological progress and the underlying series of scientific advances are the necessary condition for the high rate of modern growth" (*Economic Growth and Structure*, 1965). The precise relationship between productivity and technological change/ innovation may be arguable, but there is no disagreement that it is a necessary element in economic growth. One study, conducted in 1971 by the Midwest Research Institute and based on earlier Brookings Institution research, concluded that, of the increase in private non-farm output between 1949 and 1968, 40 percent was attributable to new technology. Another, conducted by the National Science Foundation (NSF) in 1977, estimated that technological innovation was responsible for 45 percent of the nation's economic growth from 1929 to 1969. And, when NSF compared low- and high-technology industries during that period, it found that high technology had twice the productivity growth rate, triple the real growth rate, six times fewer price increases, and nine times more growth in employment.

Encouraging industrial revitalization and innovation will require tax incentives, increased Federal support of science and technology, and more effective use of patent, procurement and regulatory mechanisms.

### The Transportation Sector's Need for R&D

As part of the national need for technological innovation, the need for

R&D in the transportation sector is particularly urgent. The problem of the nation's high energy consumption is a preeminent case-in-point. While transportation accounts for roughly 10 percent of the GNP and 15 percent of our exports, it accounts for roughly 50 percent of the petroleum consumed in the nation. With approximately 50 percent of our petroleum imported, the transportation sector contributes heavily to the drawdown of our balance of payments. This problem, nevertheless, is amenable to new R&D solutions, both technological and non-technological.

The cause for concern and the need for remedial action in the transportation sector are further indicated in the following examples:

• *Declining productivity* in the transportation industry requires new knowledge, new management approaches, and new investment, as well as technological and institutional change.

• *Many segments of the nation's highway system* are deteriorating, contributing to stagnating productivity. At the same time, the traditional petroleum-based products and materials required for its restoration are rapidly escalating in price.

• *The automobile industry* has suffered erosion of domestic and export sales in the face of foreign competition, with far-reaching economic dislocation throughout American industry.

• *The passenger aircraft industry* is being challenged in long- and short-haul areas. Only two U.S. companies remain in operation in the U.S. with capability to forge parts for larger aircraft.

• *The bus manufacturing industry* faces an uncertain future, despite growing needs for local and intercity surface transportation other than by automobile.

• *Railroad passenger train technology* is heavily imported from abroad, coupled with a small and decreasing U.S. capability to produce in this area.

• *The mobility needs* of the poor and the handicapped living in rural and suburban areas are not being met by conventional public transportation systems.

**The Contribution of R&D to the Roles of the Department of Transportation**

Research and development are essential to the Department's successful performance and of a number of its roles and missions. In the Department, R&D activities are undertaken largely to serve the following purposes:

• Stimulate Technological Advances in Transportation. This role is assigned to the Department by its organic legislation. The Department itself is not a provider of transportation, with the exception of the Alaska Railroad, the St. Lawrence Seaway, and the Metropolitan Washington Airports. R&D performed in this category stimulates innovation in non-DOT provided services and facilities, in both private industry and the public sector.

• Provide a Basis for Sound Regulations. This category may support the substance of a proposed or existing regulation, its enforcement, or a regulation's statistical effectiveness or cost-benefit results. Application areas include safety, fuel economy, and even standard time zones, among others.

• Improve the Effectiveness of Federal Grants. This category may involve studies of alternative analyses, construction standards or processes, and operation or management of transportation projects. The bulk of R&D activities in this category supports highway, urban transit, and airport grant programs. The R&D effort may be contracted directly by the Department or by the grantee agency.

• Support the Department's Operational Missions. In this category the results of the R&D are applied in a system which DOT operates, such as the Federal Aviation Administration air traffic control system or the Coast Guard's search and rescue mission.

• Support Policy and Analysis and Development. Essential to the development of public policy aimed at promoting the effectiveness and efficiency of the nation's transportation is sound, comprehensive, and up-to-date knowledge.

Because the Department of Transportation (DOT) encompasses agencies with different missions, there are necessarily different R&D objectives and activities within the DOT. This diversity is shown in Appendix A, "The Department's R&D Programs."

It should be emphasized that the concept of transportation R&D must be thought of not simply in terms of hardware development, but in terms of generating new understanding. The R&D process must involve economics and behavioral and political sciences, as well as physics and engineering. Within the Department, the stages of R&D will be defined as shown in Figure 1.

Despite the important role R&D plays in a number of DOT missions, the Department's R&D program has tended to languish in several key respects. In recent years there has been:

• *A steady decline in the availability of R&D resources.* As shown in Figure 2, over the last eight years, the DOT capacity to perform R&D support to the principle DOT mission has declined by 38% in constant dollars (1972). Moreover, DOT's R&D investment (less than 1.9% of the total budget) falls well below the Federal average of 5% and has impacted both basic and applied reseach.

• *A movement away from long-term basic reseach* to the quick payoff of applied R&D projects by all elements of the Department. This movement has resulted in an emphasis on near-term operational, regulatory, and grant-in-aid programs.

• *A sporadic and declining interest in transmodal R&D.* This is reflected in a lack of significant R&D on major issues of a multi-modal nature such as modally integrated freight, urban modal interchanges, and transmodal construction, safety, navigation, energy, and data systems research.

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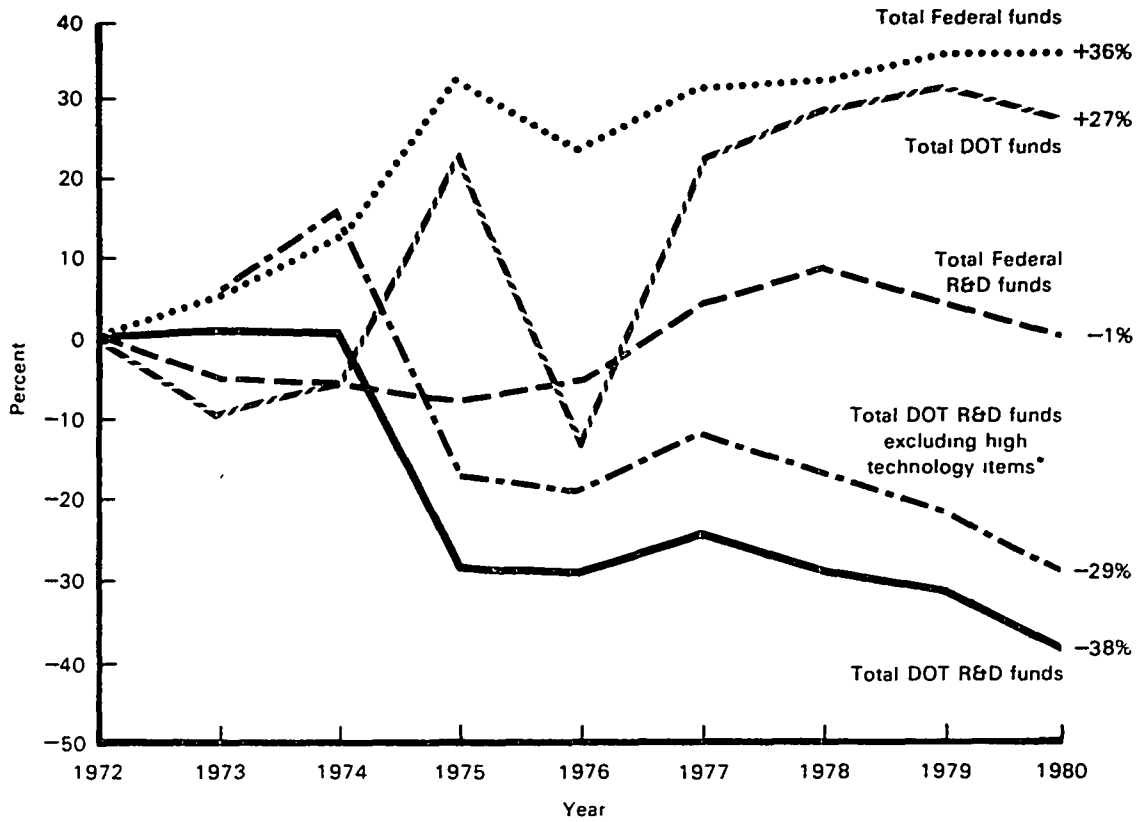
*Research* is a systematic study directed toward gaining fuller scientific knowledge or understanding of the subject studied

In *Basic Research* the objective of the sponsoring agency is to gain fuller knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications toward processes or products in mind.

In *Applied Research* the objective of the sponsoring agency is to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met. (For the purposes of the Departmental R&D expenditure tallies, analyses and studies done in support of policy are categorized as applied research.)

*Development* is the systematic use of knowledge or understanding gained from research, directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. Demonstration, the last stage of development, provides for evaluation of the products of development in the operating environment

Figure 1.—R&D definitions used by NSF and DOT in reporting documents.




*High Technology items include the Urban Tracked Air Cushion Vehicle, Morgantown Personal Rapid Transit, Advanced Personal Rapid Transit, Linear Induction Motor, Magnetic Levitation, Tracked Air Cushion Vehicle, and Advanced Automated Transit Management System.

Source. Federal funds for R&D, National Science Foundation (NSF)

Figure 2.—Eight-year funding trends (1972 dollars).

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• *Serious attrition in DOT scientific and engineering manpower.* DOT's substantial complement of technical people, many of them with long experience in the various modes of transportation, is being diminished in the process of attrition that accompanies the continuous decline of DOT R&D funds, and the perceived loss of management support of R&D.

These trends require that the Department respond by adjusting policy, organization, and R&D management. This policy statement is proposed to respond effectively in developing the Department's overall research and development efforts.

## II. Departmental R&D Policy Principles

The following principles have been established to guide the Department and its operating administrations in developing a coordinated, balanced R&D program, and a structure and process to sustain it.

(1) Needed throughout the Department is a consistent commitment to the broad role R&D must play in understanding and strengthening the nation's transportation system and its supporting industries.

Continuity of R&D is often critical to its success. Inadequate funding and start-and-stop directives waste monies, demoralize scientific talent and disrupt programs promising to contribute to improved transportation and economic development. The improvement of our transportation system per se, as well as the revitalization of our nation's transportation industry, is a long-term process that requires imaginative new approaches and solutions. These, in turn, will require major long-term investments in research and development targeted at high priority areas of national concern.

(2) Strategic direction of R&D policy and planning and coordination of R&D programs across the Department will be provided by the Secretary's Research and Technology Advisor.

To be credible and effective, the new commitment to transportation research and technology must be reflected in the Department's organization as well as in policy and resource allocation. The Office of the Secretary must have the capability to perform a comprehensive overview of all R&D activity within the Department, to provide guidance on the selection of R&D priorities, and to coordinate R&D programs agency-wide.

To carry out this strategic guidance function, the Secretary will appoint a *Research and Technology (R&T) Advisor,* who will become fully involved in the development of Departmental R&D policy and broad resource allocation decisions. The R&T Advisor will focus on translating Secretarial goals and objectives into R&D priorities; on the technical soundness and relevance of DOT R&D activities; on seeing that resources are committed to the most promising areas; and on identifying new opportunities (including opportunities for joint projects among the operating administrations). The R&T Advisor will not, however, be concerned with day-to-day monitoring of the full gamut of R&D projects; this function will continue to be the responsibility of the operating administrations which perform the R&D.

The R&T Advisor will be assisted by a small staff, organized as the newly established *Office of Research and Technology* in the Office of the Secretary, as well as by a formal *scientific advisory committee* to be established by the Secretary for the purpose of providing a detached viewpoint on the thrust and character of the Department's R&D efforts.

(3) R&D requirements and priorities for the Department as a whole will be determined by a regularized coordination process.

Throughout the Department, there needs to be created and nurtured an R&D environment in which emphasis is placed on competition among good ideas as opposed to a competition for resources. It will be the responsibility of the Research and Technology Advisor to encourage the best ideas to come forward from all R&D elements in the Department, and to coordinate their formation into a coherent, prioritized program of research and development.

The R&T Advisor, specifically, will coordinate the development of an *annual R&D priorities document* to provide guidance to all elements of the Department in the development of their own research agendas, Spring Preview and R&D budget submissions:

• Development of these research agenda documents should support and precede the budget and related processes, to assure that R&D objectives and needs are specified annually.

• The agendas should provide a basis for Departmental review of modal R&D objectives and planned initiatives to assure that the total DOT program is coordinated and prioritized.

• The agenda's annual update of research priorities will reflect changes in national needs and policy objectives within the context of a stable, developing program.

Coordination of the Departmental R&D priorities document will be a joint effort with the Assistant Secretaries for Policy and for Budget and Programs, with ongoing assistance from a Departmental advisory group composed of a representative from each operating administration. The document will be submitted to the Secretary for his approval and transmittal to the administrations in January, in ample time to be integrated into other Departmental management processes. Figure 3 indicates several sources of input to DOT R&D initiatives, which will be received through the R&T Advisor, and demonstrates how the R&D policy-planning process will tie into the Department's annual planning-budget cycle.

(4) R&D activities will be performed and managed by the operating administrations within the context of Departmental coordination and oversight.

The operating administrations will continue to be responsible for the planning, funding, management and performance of R&D in support of their missions and functions while the R&T Advisor will be responsible for overall R&D program coordination and oversight. The diverse roles and responsibilities of the operating administrations (summarized in Appendix A) include establishing their research agendas (i.e., establishing modal goals, objectives, and priorities) and providing the resources needed to accomplish their missions. The strengthened structure and process needed to effect the coordination and management of Departmental R&D will not, however, centralize R&D activity at the expense of undermining the work of the operating administrations. The operating administrations are more familiar with their relevant operational environments, in closer contact with the potential user community, and have the technical expertise to better evaluate R&D needs and priorities; they are well positioned to involve potential users in their R&D programs through their advisory committees.

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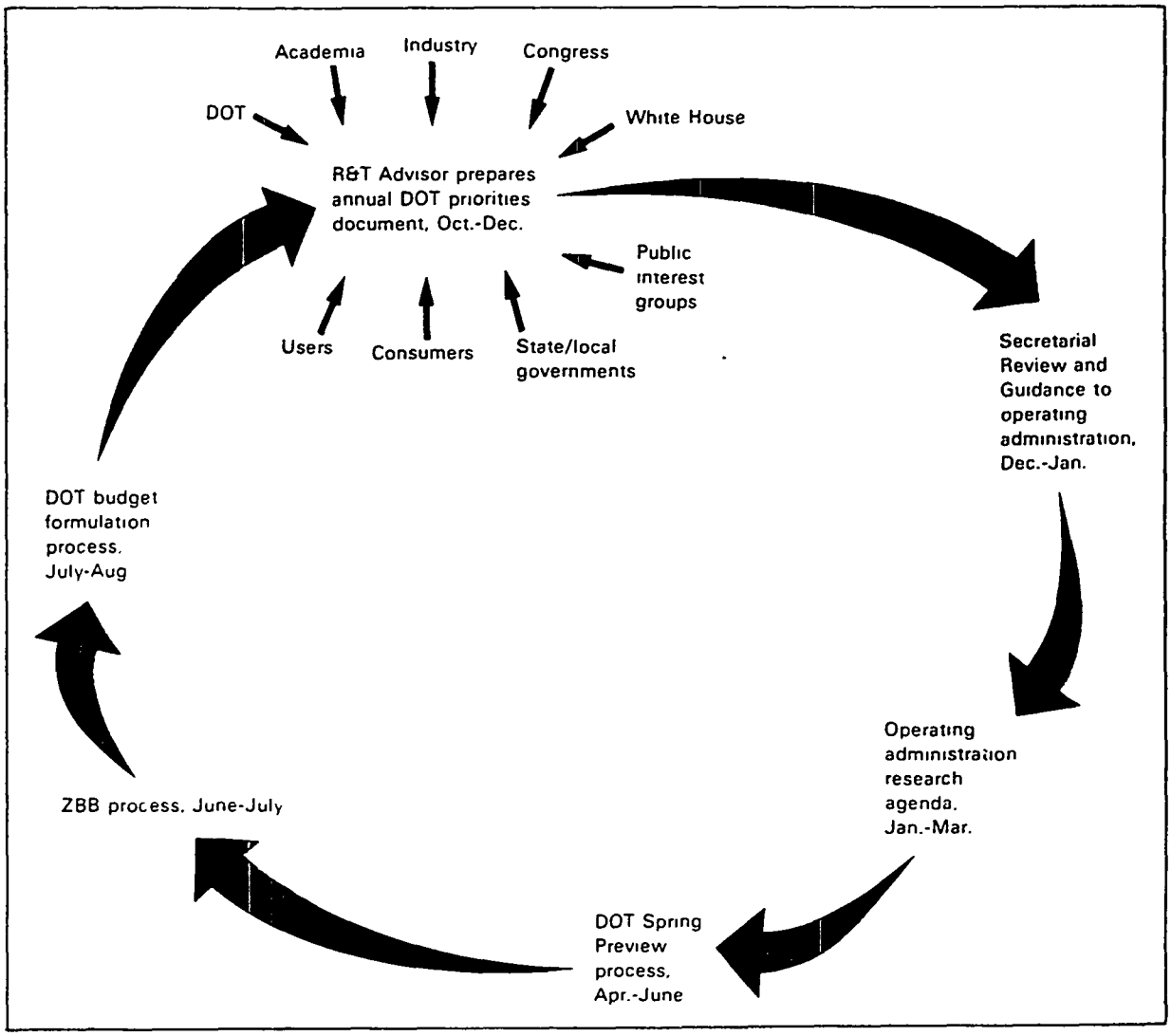


Figure 3.—The R&D prioritization document and the DOT annual planning budgeting cycle.

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Research to stimulate technological advances in transportation, especially in segments of the transportation sector for which there is no other operating administration in the Department, will be performed and managed by the Research and Special Programs Administration (RSPA), in close coordination with the R&T Advisor. There has long been a compelling need for the Department to conduct R&D in intermodal and transmodal transportation as well as R&D that relates to the transportation sector as a whole. Such research should lead to a richer understanding of and stimulate technological advances in these areas.

Research as a basis for sound regulation is typically performed by an operating administration in direct support of its missions and functions. The Department's (R & T Advisor's) role will be to review large programs, to ensure consistent standards, and to review technical aspects of regulations as a member of the DOT Regulatory Council.

Research to improve the effectiveness of Federal grants is carried out directly by several operating administrations. However, Federally sponsored research in highways, for example, is also managed by State governments and by the Transportation Research Board. These decentralized mechanisms should be encouraged where they are effective. The Research and Technology Advisor will primarily review large projects and participate in and advise the Secretary on the effectiveness of the decentralized research management mechanisms, such as the Federally Coordinated Program (FCP) of Research in Highway Transportation.

Research in support of Departmental operational missions is usually undertaken in direct response to an administration's missions and functions (e.g., in FAA or Coast Guard) and the results are also consumed by that administration. The Departmental oversight role will be at a high level, concerning itself with very large projects and with the general technical soundness of directions taken.

Policy analysis and development is also usually undertaken in direct response to the missions and functions of an administration or the Office of the Secretary and usually involves relatively small quantities of money. The Department's oversight role should concern the soundness of research chosen and undertaken, especially research on R&D policy.

(5) The Department will establish and sustain a broad-based program of basic research in order to stimulate new understanding, new techniques of analysis, new technology, and new ideas for their application.

The March, 1979 Presidential statement on science and technology emphasized the national need for basic research:

* * * New technologies can aid in the solution of many of our nation's problems. These technologies in turn depend upon a fund of knowledge derived from basic research. The Federal Government should, therefore, increase its support both for basic research, and where appropriate, for the application of new technologies * * * Prudent planning for the future demands a deliberate and continued commitment to basic research.

This commitment to basic research is essential if the Department is to contribute new knowledge and insights into the phenomena underlying transportation research problems that the nation will face over the next decade.

The Research and Technology Advisor and the Research and Special Programs Administration will play a central role in the departmental level basic research program, drawing upon expertise throughout the Department and the transportation community. The Cooperative Automotive Research Program is the first program under the new administrative structure of Department-wide, intermodal basic research. It will serve as a model for research programs that transcend modal responsibilities and missions.

At the same time, the Research and Technology Advisor and staff must maintain an overview of the modal basic research programs being conducted by the operating administrations. With the Cooperative Automotive Research Program and other departmental research efforts, considerable emphasis will be placed on using the present as well as developing new mechanisms to assure the coordination of research projects, the timely exchange of information among R&D project staffs across the Department and their involvement in work germane to the mission of their organizational elements.

(6) R&D throughout the Department must be assigned a higher budget priority and more stable funding.

Adequate and stable funding and program continuity are essential if the full benefits of R&D activities are to be realized and wasteful expenditures curbed. Multi-year funding, with annual evaluation, should be made available to provide a stable base for long-term R&D efforts. If basic research is to survive in a cost-conscious budget process, it requires a firm long-term commitment by the Department.

With respect to *level of funding*, an annual rate of growth of at least 3% should be maintained for the Department's overall R&D effort, but especially for basic research.

The concept of "sustained level of effort" should be adopted and incorporated in the Departmental budget process for basic research. This should be stated, for example, as a minimum proportion of the total annual program levels, rather than as a proportion of R&D resources, because the latter fluctuates more severely from year to year than do the former.

At the same time, the Department must assure that in funding R&D, if finds the constructive mix of the elements of basic and applied research, development, and demonstration. Thus, rate of growth in funding should be addressed each year in the Secretary's R&D agenda.

Finally, we should establish, at the *outset* of a new R&D program, its economic, social, or regulatory basis, the primary vs. secondary R&D objectives, the desired Federal and private sector roles in both R&D and implementation, acceptable general terms and conditions for conduct of the program, and a range of acceptable outcomes, costs, risks and uncertainties. Having done so, the program manager must be allowed to proceed as long as there are no fundamental changes in these underlying premises. For large procurements, the Transportation System Acquisition and Review Council (TSARC) provides one mechanism for performing this review, but there should be others within each administration.

(7) R&D should be undertaken in close cooperation with potential users (manufacturers/owners/operators).

Each element of the Department engaged in the performance of R&D should assure that potential user groups are actively involved in the design and objectives of R&D programs. Coordination with the manufacturer/user constituency must be accomplished through the operating administration's own advisory groups. It must begin as early as the development of the research agenda and must be maintained throughout to assure that the commercialization process is accomplished.

Involvement of representatives of the clientele groups or user community expected to benefit from the R&D should provide support in maintaining continuity in R&D. It should also provide support for adaptive change in the program when underlying conditions change.

(8) The Department recognizes the need to accept risk in research and development—though the assumption of such risk must be guided by management criteria.

Risk is an inherent element in R&D. Government must be willing to take controlled risks and to accept failures as a vital part of the learning process, and of the technology development process, especially where industry is unwilling to take such risks, or where the research is directed at public functions.

Within the Department, the basic method of managing risk is by developing a balanced program so that the possible failure of one project or one approach is unlikely to force termination of the entire effort to solve the broad transportation need or problem addressed. it may also be appropriate to reduce risk through pursuit of competitive technologies by reliance upon competing teams of development contractors with different capabilities, market orientations and management approaches.

Operating administrations will seek to contain risks and uncertainties in performance, cost, and schedule within a particular project by assigning competent program managers and by phasing expensive, complex, or technologically ambitious projects so that each successive phase or technological building block is successfully accomplished before entering into the next stage of development.

Further reduction of risk can be achieved by effective program monitoring within the Department and use of outside project review panels, including representatives of clientele groups expected ultimately to buy or use the innovations being developed and tested.

(9) Justification for Departmental involvement in advanced development or prototype development projects will be determined by different, more exacting criteria than those used to justify DOT support of research.

Cost benefit criteria, when applied to the more speculative, high-risk areas of research (e.g., magnetic levitation) will generally drive decisions away from such research and towards mundane, proven technology. On the other hand, *advanced and prototype development* work, which involves a larger commitment of fiscal and manpower resources than basic and applied research, needs to be subjected to such criteria. In the operating admininstrations, advanced and prototype development initiatives must be carefully analyzed to justify Federal involvement, even in the FAA and Coast Guard where they are almost completely mission-oriented.

The Federal role is justified in supporting advanced development where public benefits are calculated to be high and when industry chooses not to commit its resources to new and advanced transportation systems, because of high costs, high technological risks, dubious current (as opposed to long-range) market acceptance, low volume of production, or other reasons.

Awareness of the appropriate limits of DOT involvement in advanced development work, based on assessment of the potential public benefits versus the associated costs is essential to a successful R&D program.

(10) The Department must work creatively to encourage use of the results of R&D in the public and private sectors.

The Department should make effective use of existing mechanisms in promoting the innovation and commercialization process. The Department's technology transfer program currently provides many of the types of information exchange that are required by potential innovators. The Department should also compile and disseminate information on transportation problems and opportunities for innovation identified in local areas across the country. Existing technology transfer expertise should be the basis for a newly emphasized and coordinated R&D commercialization effort, employing such mechanisms as: R&D report and technical summary distribution, public information campaigns, seminars/workshops/conferences, clearinghouse functions, and opportunities for innovation identified in local areas across the country.

Departmental procurement policy offers several mechanisms for promotion of commercialization of the products of R&D. Primary methods used are: Grants to State and local governments which require performance specifications rather than design specifications, establishment of means for funding unsolicited proposals based on perceived needs in certain technical areas, broad use of incentive contracts, and efforts to remove disincentives (such as the requirement to repay R&D costs). The adoption of more flexible patent policies, including grants of exclusive licenses to developers subject to commercialization of the process or product within a given period, should also be pursued, as they have been in other Federal agencies.

Demonstration can also be an effective tool for marketing new or innovative concepts since it provides, once an innovation is technologically well in hand; i.e., thoroughly understood and well tested, the important connection between the results of R&D and the marketplace. This linkage presents an excellent opportunity to show potential users the capabilities of an R&D product and to create user confidence in the product's ability to solve a particular transportation problem.

(11) The Department will take a more active role in developing and maintaining for the nation a competitive technological posture in the international transportation products market through R&D.

U.S. transportation technology has lost ground to that of other nations. As a result, the international trade position of U.S. transportation industries has been on the decline. Innovations arising out of R&D, however, can lead to increases in productivity and consumption that result in overall economic growth. Through these mechanisms, R&D can make a significant contribution toward improving the posture of the U.S. transportation industry in the international products market. The Department will make a concerted effort to stimulate and support both technological advancement by U.S. industry and its direct sales to international markets.

(12) Jointly funded research programs with industry, including sponsorship of research in industrial laboratories, should be encouraged to help stimulate R&D in the private sector.

If the Department is to play a major role in the revitalization of America's industrial base; if energy, scarce raw materials and other complex issues that will impact the transportation sector in the 1980s are to be addressed with purpose, greater cooperation between government and industry is essential.

Joint Departmental efforts with industry in research and development should seek to:

- Stimulate technical and organizational innovation within industry,
- Define appropriate public and private research efforts,
- Increase productivity in the transportation sector,
- Promote export of transportation products, and
- Alleviate safety, energy, and environmental problems now confronting the nation's transportation systems.

The R&T Advisor, after careful study, and guided by the General Counsel, will make specific recommendations to the Secretary with respect to other mechanisms that the Department's

operating administrations might employ to stimulate creative R&D by industry. Such mechanisms, successfully employed by other Federal agencies include:

- Independent Research and Development (IR&D),
- Granting of exclusive patents (Government waives its rights but retains royalty-free use),
- Unsolicited proposals—which, under control, could elicit useful new ideas.

The nation's independent research contract centers and numerous small businesses engaged in R&D represent a rich resource for contributing to the development of new transportation solutions and assessments of the alternatives. This store of talent should continue to be utilized by the Department in support of its R&D activities.

(13) Universities are a primary source for basic research for the Department, and will play a major supporting role in long-range, multimodal programs. University research must be directed to areas of priority Departmental concern.

Basic research is an integral part of the university's primary mission of education; it expands the font of knowledge that can be shared with students. Government must use that vast national resource in ways that at once strengthen the universities and extract products germane to the agency mission. Wise and patient nurturing of university relationships will yield dividends over the long term.

The Department will continue to expect of universities a professional capability to deal with research problems on an inter-disciplinary, inter-departmental, systems basis. DOT will also expect that university research supported by it will be responsive to the Department's mission. DOT will develop and use carefully drawn contractual instruments to assure relevance and reasonable timeliness of the research.

There will be greater encouragement of unsolicited proposals from university researchers under a structured program of set-aside funds. At the same time, cost-sharing by the universities should be encouraged as a means of assuring institutional commitment to the research. The objective of these programs will be to elicit creative new ideas and approaches from university research teams, and eventually from other sources as well. Mechanisms should be established so that a mutual exchange of information on R&D programs will occur among the modal administrations and the university community. On the one hand, greater knowledge of the thrust and nature of Departmental programs will encourage more responsive unsolicited proposals from universities. On the other hand, greater knowledge of the specialized capabilities and resources of universities will encourage more Departmental initiatives in seeking research support from universities.

(14) The extensive technical resources of Federal agency R&D establishments are a national resource, which should be tapped by the Department through cooperative relationships with other agencies engaged in relevant R&D.

The skills and specialized facilities of the Energy Technology Centers of the Department of Energy (DOE), the Environmental Protection Agency (EPA), National Aeronautics and Space Administration (NASA) Research Centers, the National Bureau of Standards, and numerous facilities of the Department of Defense are examples of resources which could be used effectively in support of Departmental mission objectives, along with the Transportation Systems Center and other DOT R&D facilities.

Much work germane to the DOT mission takes place in these agencies. Development of batteries for electric cars in DOE and gas mileage studies in EPA are but two outstanding examples. Much aviation work has been performed at NASA, which has the breadth of experience and disciplines among its staff and the physical facilities to contribute even more substantially to transportation R&D. What is needed to exploit these resources is the will and initiative of DOT R&D managers and formal linkages to facilitate information-sharing, joint undertakings, funding, and guidance.

DOT participation in transportation research programs conducted by other Federal agencies will include appropriate budgetary support and cooperative technical direction to assure that DOT research objectives are accomplished.

The Office of the Research and Technology Advisor will establish appropriate liaison with other Federal agencies which maintain or operate laboratories, technology research centers, test facilities, and other R&D capabilities. Each operating administration will establish and maintain linkages with other agencies as needed to assure maximum benefits through R&D program coordination and information-sharing.

(15) The Department must stimulate creative research and technology efforts among State and local entities.

State and local entities are often not only closest to transportation problems, but must ultimately solve them. The Federal grant programs in transportation should therefore be looked to as a major source of support of State and local transportation research activities. There are important precedents for so doing. For example, 1½% of the Highway Trust Fund may be used for research, development, test and evaluation (RDT&E) as well as for planning, and NHTSA 402 grants support research activities by State and local governments to develop highway safety programs. Similarly, the HUD 701(b) clause, contained within the Comprehensive Metropolitan Planning Act, allows up to 5% of the funds authorized and appropriated under 701 to be used for RDT&E. This, in principal, is a way to greatly increase the amount of RDT&E funds to be made available to improve the efficiency and effectiveness with which those Federal grant monies are being spent. With these funds, universities, local professional groups, and local commercial and not-for-profit institutions could be called upon, and supported, to study transportation problems of priority concern to communities across the nation.

(6) Formidable foreign competition in both domestic and world marketplaces makes it imperative that the Department monitor closely the progress of technology development abroad and participate to a greater extent in international R&D activities.

The Cooperative Research Program, through which the Department seeks mutually beneficial exchanges and shared projects with foreign governments and international organizations has proven effective in obtaining quicker results from R&D, as well as effecting savings in resources and avoiding the wrong turns of others. Under this program, we share research results, exchange visits and personnel, sponsor symposia, jointly sponsor research, and contract with foreign sources to supply the transportation community with needed research not available domestically.

Reviewing published documents is but one method of obtaining information on foreign R&D. Exchange of technical visits, participation in scientific conferences, and shared research are also highly effective and at times essential methods of keeping abreast of foreign technology.

We must therefore support and encourage more exchanges of technical experts and more shared research in the area of foreign transportation technology.

(17) The Department will recruit and develop the highest level professional competence and mix of skills required to address the Department's R&D agenda.

All decisions of major consequence to DOT programs, including basic planning, technical, direction and management, are the ultimate responsibility of full-time DOT employees and cannot be delegated to outside organizations. The success of the Department's R&D programs depends to a large extent upon the ability of its employees to plan and make sound decisions on highly technical matters.

Essential to the attraction and retention of able staffs, and to the performance of good research, is the creation in DOT of an atmosphere that encourages creativity, innovation, and responsible risk-taking; an environment which does not freeze people into rigid assignments, but permits them to be flexibly matched with stimulating work assignments.

The Department places emphasis not only on the importance of first-class performance and individual competence at each level of the organization, but also on patterns of administration that foster the development of excellence in in-house research and careful and responsible judgment as an instinctive approach to R&D.

**Appendix A—The Department's R&D Programs**

- Coast Guard R&D efforts are directed toward its operating missions involving *search and rescue systems, aids to navigation, commercial shipping and recreational boating safety, environmental protection, port safety and security and icebreaking technology.*
- The Federal Aviation Administration's programs consist of efforts to improve the safety, performance, and productivity of the *national aviation system* and to increase the capacity of that system to meet future traffic demands. *Aviation research and development* is directed toward increased effectiveness of air traffic controllers and pilots, as well as toward environmental protection.
- The Federal Highway Administration's R&D program includes *research in highways, safety, demonstration projects, and specialized research* for the Bureau of Motor Carrier Safety to improve both safety and performance along the highways.
- The Federal Railroad Administration conducts research in the areas of *rail safety, economics, technology and policy research,* focusing on near and intermediate-term conventional rail problems.
- The National Highway Traffic Safety Administration focuses on R&D on the *safety of motor vehicles on the highway, on fuel economy, and accident and data analysis,* through its Motor Vehicle and Traffic Safety Programs.
- The Urban Mass Transportation Administration conducts R&D under Section Six of the Urban Mass Transportation Act, emphasizing, for example, *improved safety, performance and reduced life cycle costs of conventional mass transit systems, high payoff/risk automated systems, central city revitalization, and accessibility for elderly and handicapped citizens.*
- The Research and Special Programs Administration performs R&D in support of the Secretary, the operating administrations and in support of its own missions, with attention to *intermodal and transmodal issues such as intermodal terminals, transportation use of energy, and hazardous materials transport and pipeline safety.*
- The Office of the Secretary supports the Secretary with policy analysis and provides overall guidance with respect to Departmental goals and objectives for R&D.

[FR Doc. 80-37714 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-62-M

## DEPARTMENT OF THE TREASURY

### Fiscal Service

**[Dept. Circ. 570, 1980 Rev., Supp. No. 12]**

### 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 $387,000 has been established for the company.

*Name of Company:*

SENTINEL INSURANCE COMPANY, LTD.

*Business Address:*

P.O. Box 1140
Honolulu, Hawaii 96807

*State of Incorporation:*

Hawaii

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 44511 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: November 25, 1980.

W. E. Douglas,
*Commissioner, Bureau of Government Financial Operations.*

[FR Doc. 80-37600 Filed 12-3-80; 8:45 am]
BILLING CODE 4810-190-M

# Sunshine Act Meetings

Federal Register
Vol. 45, No. 235
Thursday, December 4, 1980

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

**COPYRIGHT ROYALTY TRIBUNAL.**

**TIME AND DATE:** 10 a.m., Wednesday, December 10, 1980.

**PLACE:** Postal Rate Commission; Room 500, 2000, L Street NW., Washington, D.C. 20036.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Possible adjustment of coin-operated phonorecord players (jukeboxes) royalty rate
2. Possible adjustment of mechanical royalty rate Contact person for further information: Clarence L. James, Jr., Chairman, Copyright Royalty Tribunal, (202) 653 5175.

Clarence L. James, Jr.,

*Chairman.*

[S-2215-80 Filed 12-2-80; 2:33 pm]

BILLING CODE 1410-03-M

### 2

**FEDERAL ELECTION COMMISSION.**

**DATE AND TIME:** Tuesday, December 9, 1980, 10 a.m.

**PLACE:** 1325 K Street NW., Washington, D.C.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Personnel. Compliance. Litigation. Audits.

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**DATE AND TIME:** Thursday, December 11, 1980, 10 a.m.

**PLACE:** 1325 K Street NW., Washington, D.C. (Fifth floor).

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates for future meetings
Correction and approval of minutes
Certification
Advisory opinions:
  Draft AO 1980.122—Lawrence A. Mandelker, New Yorkers for Myerson, Inc.
  Draft AO 1980.132—LouAnn Diamond, Secretary, Alaskans for Gruening
1980 Election and related matters
Appropriations and budget:
  Budget execution report
Pending legislation
Classification actions
Routine administrative matters.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Leona L. Stafford,

*Acting Secretary to the Commission.*

[S-2216-80 Filed 12-2-80; 3:30 pm]

BILLING CODE 6715-01-M

### 3

**FEDERAL ENERGY REGULATORY COMMISSION.**

December 1, 1980.

**TIME AND DATE:** 9:30 a.m., December 15, 1980.

**PLACE:** 825 North Capitol Street NW., Washington, D.C. 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Staff briefing on rate of return on common equity for electric utilities.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

Kenneth F. Plumb,

*Secretary.*

[S-2211-80 Filed 12-2-80; 11:50 am]

BILLING CODE 6450-85-M

### 4

**FEDERAL MARITIME COMMISSION.**

**TIME AND DATE:** 9 a.m., December 9, 1980.

**PLACE:** Hearing room one, 1100 L Street NW., Washington, D.C. 20573.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Docket No. 80–13: Licensing of Independent Ocean Freight Forwarders.

**CONTACT PERSON FOR MORE INFORMATION:** Francis C. Hurney, Secretary (202) 523–5725.

[S-2209-80 Filed 12-1-80; 4:40 pm]

BILLING CODE 6730-01-M

### 5

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.**

December 1, 1980.

**TIME AND DATE:** 10 a.m., Wednesday, December 3, 1980.

**PLACE:** Room 600, 1730 K Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. Kerr-McGee Corporation, CENT 79–156–M (Petition for Discretionary Review; issues include interpretation and application of 30 CFR § 57.15–5).
2. Cyprus Industrial Minerals Corp., DENV 78–558–M (Issues include whether area in question is a "mine" subject to the 1977 Mine Act).
3. Co-Op Mining Company, DENV 79–1–P (Issues include whether record establishes no violation of 30 CFR § 70.250(b), and if so, whether approval of penalty assessment was in error).
4. Big Hill Coal Company, PIKE 78–28–P, etc. (Request pursuant to 29 CFR § 2700.65(c)).
5. Tazco, Inc., VA 80–121, and Goode Contractors, WEVA 80–540 (Issues include propriety of suspending payment of penalty assessment).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, 202–653–5632.

[S-2214-80 Filed 12-2-80; 1:51 pm]

BILLING CODE 6820-12-M

### 6

**NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.**

**MEETING:** Community Information and Referral Services Task Force.

**DATE AND TIME:**

Tuesday, December 9, 1980, 9:30 a.m.–4:30 p.m.
Wednesday, December 10, 1980, 8:30 a.m.–4:00 p.m.

**PLACE:** Columbia Room, Mayflower Hotel.

**STATUS:** Open.

**MATTERS TO BE DISCUSSED:** Determination of the Role that Public Libraries are to Play in Information and Referral.

December 1, 1980.

Mary Alice Hedge Reszetar,

*Associate Director, NCLIS.*

[S-2213-80 Filed 12-2-80; 1:51 pm]

BILLING CODE 7527-01-M

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7

**NATIONAL MUSEUM SERVICES BOARD.**

**DATE AND TIME:**

December 12 and 13, 1980:

On December 12: 10 a.m.–4:30 p.m.
On December 13: 8:30 a.m.–12 p.m.

**PLACE:**

(December 12) First floor auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20202.
(December 13) Textile Museum, 2310 S Street NW., Washington, D.C. 20008

**STATUS:** Certification has been received from the Department of Education Office of General Counsel, that in the opinion of that office, the NMSB "would be authorized to close portions of its meeting on December 13, 1980, under 5 U.S.C. 552b(c)(2) and (6) and 34 CFR 64.78 for the purpose of discussing the change in Administrations and how this may require changes in the staffing and hiring practices at the Institute of Museum Services." Agenda item #9 will be closed, the rest of the agenda remains open to the public.

**MATTERS TO BE CONSIDERED:** December 12:

1. Introduction (10:00 to 10:10 a.m.)
2. Minutes of previous NMSB meeting (10:10 to 10:20 a.m.)
3. Speaker from Education Task Force (10:20 to 10:40 a.m.)
4. Director's Report (10:10 to 11:10 a.m.)
5. Legislation (11:10 to 11:30 a.m.)
6. Policy Issues (11:30 to 12:00 noon)
7. FY 1982 Budget (12:00 to 12:30 p.m.)
8. Report of Ad Hoc Committee studying IMS Review Procedures (1:30 to 4:30 p.m.)

December 13:

9. Executive Session (8:30 to 9:30 a.m.) Closed to the Public
10. Administration (9:30 to 10:15 a.m.)
11. Report of Committee on Renovation (10:15 to 10:30 a.m.)
12. Policy Issues (10:30 to 11:30 a.m.)
13. Report on *The Humanities in American Life* (11:30 to 11:45 a.m.)
14. Remarks by Mr. Ward Dworshak of the Textile Museum (11:45 til close)

**CONTACT PERSON FOR MORE INFORMATION:** Kate Merlino, Executive Secretary, NMSB; telephone 202/426-6577.

Dated: December 2, 1980.

Kate Merlino,

*Executive Secretary, National Museum Services Board.*

[S-2210-80 Filed 12-2-80, 11:46 am]

BILLING CODE 4000-02-M

Federal Register

Thursday
December 4, 1980

## Part II

# Department of Transportation

### Federal Aviation Administration

**Airworthiness Standards: Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 21, 39, and 91**

**[Docket No. 20660; Notice 80-13B]**

## Airworthiness Standards: Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This notice announces a second extension of the comment period for Notice of Proposed Rule Making (NPRM) No. 80-13 (45 FR 57688; August 28, 1980), which proposed to amend certain certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers. It is clear that there is a great deal of misunderstanding concerning the intent of this proposal, in respect to both FAA policy and some wording in the proposed rules. In addition, the agency realizes that it may have misjudged the conceived economic impacts and other implications of the rule changes. The purpose of this extension is to allow the FAA to discuss the proposal further with concerned groups. All such meetings will be docketed. This will allow all interested parties to reconsider their views subsequent to these meetings. At the end of this comment period, a new NPRM will be issued for comment using all information received. The new NPRM will be designed to more thoroughly explore the purpose and anticipated impacts of the proposed policies and rules as was done at the public hearing.

**DATE:** Comments must be received on or before March 31, 1981.

**ADDRESS:** Comments on the subject proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 20660, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 20660. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Marvin J. Walker, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: (202) 755-8714.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environment, energy, or economic impact that might result from adoption of proposals contained in the notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact concerned with the proposal will be filed in the Rules Docket. Commenters wishing acknowledgment of mailed comments should enclose a stamped, self-addressed postcard on which the following statement is made: "Comments on Docket No. 20660." The postcard will be dated and time stamped and returned to the commenter.

Each proposal in the notice is numbered separately. Persons submitting comments should refer to proposals by these numbers or by the sections of the regulations to which they relate.

### Availability of Additional Copies of Notice

Any person may obtain a copy of the notice of proposed rule making (NPRM) or the extension notices by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: (202) 426-8058. Each communication must specify the notice number desired. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

### Availability of Copies of Hearing Proceedings

Transcripts of the proceedings of the public hearing held November 12 through 14, 1980, at FAA Headquarters, Washington, D.C. may be purchased from Neal Gross and Company, 1330 Vermont Avenue, NW., Washington, D.C. 20005; Telephone: (202) 234-4433. A copy of the transcript will be placed in the Rules Docket and be available for examination in Room 916, FAA Headquarters, Washington, D.C., between 8:30 a.m. and 5:00 p.m. A copy of the transcript will also be available for examination in the Regional Counsel's Office of each FAA Regional Headquarters:

Alaskan Region AAL-7, Alaskan Federal Office Building, 701 C Street, Anchorage, AL 99513, Telephone: (907) 271-5269

European Office Headquarters (Aircraft Certification Staff), 15 Rue De La Loi, 1030, Brussels, Belgium, Telephone: AUT 451-2445-574

Central Region ACE-7, Federal Building, Room 1558A, Kansas City, MO 64106, Telephone: (817) 374-5446

Eastern Region AEA-7, JFK International Airport, Federal Building, Room 109, Jamaica, NY 11430, Telephone: (212) 995-2814

Great Lakes Region AGL-7, 2300 East Devon Avenue, Room 405, Des Plaines, IL 60016, Telephone: (312) 694-4500 ext. 311

New England Region ANE-7, 12 New England Executive Park, Room 311, Burlington, MA 01803, Telephone: (617) 273-7385

Northwest Region ANW-7, FAA Building, Boeing Field, Third Floor, Seattle, WA 98108, Telephone: (206) 767-2670

Pacific Region APC-7, Federal Building, Room 7102, 300 Ala Moana Boulevard, P.O. Box 50109, Honolulu, HA 90850, Telephone: (808) 546-5621

Rocky Mountain Region ARM-7, 10455 East 25th Avenue, Aurora, CO 80010, Telephone: (303) 837-4846

Southern Region ASO-7, 3400 Whipple Street, Room 770, East Point, GA 30320, Telephone: (404) 763-7204

Southwest Region ASW-7, 440 Blue Mound Road, Room 3B, Fort Worth, TX 76101, Telephone: (817) 624-4911

Western Region AWE-7, 15000 Aviation Boulevard, Room 6W14A, Hawthorne, CA 92007, Telephone: (213) 536-6270

### Explanatory Session

At the public hearing, it became clear that the subject of this proposal, while relatively simple in concept, has caused deep-seated concern among the public. In light of the fact that this is a

certification reevaluation proposal of somewhat novel concept, it is important to have a full and common understanding of its implications. Accordingly, the FAA will contact interested groups and individuals who have expressed strong representative positions thus far and hold further discussions during the extended comment period. Any other person or organization wishing to participate in this process should contact the designee named above under "For Further Information Contact."

## Background

NPRM No. 80-13, which was published in the Federal Register on Thursday, August 28, 1980, proposed amendments ot the certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers, including major changes. Amendments to Parts 39 and 91 were also proposed to facilitate retroactive application of type design change requirements to aircraft, aircraft engines, and propellers in service when necessary.

Published as part of the notice was an extensive background discussion of factors leading to promulgation of the proposed rules, as well as a statement of the policy changes envisioned by the FAA which would be implemented by adoption of the proposed amendemts. A detailed explanation of each proposed regulatory change was provided. In addition to inviting comments on the substance of the proposals, the notice solicited specific information from the public regarding anticipated economic and other impacts. The comment period was initially 60 days from publication date of the notice, or until October 27, 1980.

In response to this notice, the FAA received numerous communications expressing the need for both a public hearing, at which certain important positions could be presented and discussed in open forum, and an extension to the comment period, which would provide the parties additional time in which to submit their viewpoints. Consequently, Notice 80-13A was issued and published in the Federal Register on Thursday, October 30, 1980. It announced a public hearing, and extended the comment period on the initial notice until November 26, 1980.

The public hearing began at 1:00 p.m. on November 12, 1980, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. and carried through the business hours of November 12, 13 and 14 approximately as scheduled. Nearly 100 persons registered, representing aviation trade organizations, manufacturers, modifiers and the general public. Twenty-one oral presentations were made, and the proposed policies and positions of the FAA were further delineated, together with a detailed discussion of each proposed rule change and its anticipated impact.

## Discussion and Extension of Comment Period

Many comments received at the hearing and in the docket prior to the hearing indicated misunderstandings by the commenters of the policy and regulatory changes proposed by Notice 80-13. As a result of these comments, the FAA has concluded that a new notice should be issued to more clearly explain the changes proposed. Additional comments on Notice 80-13 as written, and on the the exchange of views expressed at the hearing, would be helpful to the FAA in developing this new notice. Persons who were unable to attend the hearing will have an opportunity to review the proceedings of the hearing before they provide comments. Important information on the future issuance of special conditions and special retroactive regulations was published in the discussion of Proposal 8-2 in Airworthiness Review Program Amendment No. 8A on Thursday, September 11, 1980 (45 FR 60154). Also, an important clarification of the intent of § 21.117(a) was published in Notice 80-13A on Thursday, October 30, 1980 (45 FR 72020). Both of these documents should be reviewed by persons commenting on Notice 80-13.

Accordingly, the comment period on Notice 80-13 is extended, and closes on March 31, 1981.

At the close of this extended comment period, the FAA will review all comments received in Docket No. 20660 and the proceedings of the public hearing. Based on that review, the FAA will prepare a new notice proposing rules and a statement of associated policies.

(Secs. 313, 314 and 601 through 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355 and 1421 through 1430); Sec. 6(c), Department Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that this extension of comment period is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and that a regulatory evaluation is not required.

Issued in Washington, DC, on November 25, 1980.

Langhorne Bond,

*Administrator.*

[FR Doc. 80-37334 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Register

Thursday
December 4, 1980

# Part III

# Department of Energy

## Economic Regulatory Administration

## Domestic Crude Oil Allocation Program; Entitlements Notice for September 1980

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

### Domestic Crude Oil Allocation Program; Entitlements Notice for September 1980

**AGENCY:** Department of Energy, Economic Regulatory Administration.

**ACTION:** September 1980 Entitlements Notice.

**SUMMARY:** Under the Department of Energy's (DOE) Domestic Crude Oil Allocation (Entitlements) Program, this is the monthly Entitlements Notice which sets forth the entitlements purchase or sale requirements of domestic refiners and eligible firms for September 1980.

**DATES:** Payments for entitlements required to be purchased under this notice must be made by November 30, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by December 10, 1980.

**FOR FURTHER INFORMATION CONTACT:**

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6212C, Washington, D.C. 20461, (202) 653-3873.

Jeffrey Stoermer (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

**SUPPLEMENTAL INFORMATION:** In accordance with the provisions of 10 CFR 211.67 relating to the Domestic Crude Oil Allocation Program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for September 1980 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlements adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); October 1980 deliveries of crude oil to the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for September is calculated to be .135185.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of September 1980 each barrel of old oil is equal to one barrel of deemed old oil, each barrel of upper tier crude (excluding ANS upper tier) oil is equal to .699037 of a barrel of deemed old oil and each barrel of ANS upper tier crude oil is equal to .361614 of a barrel of deemed old oil.

The issuance of entitlements for the month of September 1980 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of September 1980 is hereby fixed at $26.07, which is the exact differential as reported for the month of September between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of September 1980 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of September 1980 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of September 1980 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for the month and other firms issued entitlements shall sell such entitlements to refiners to purchase entitlements.

The listing of refiner's old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the Appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

In accordance with 10 CFR 211.67(a)(7), adopted effective August 29, 1980 (45 FR 56788, August 25, 1980), the Strategic Petroleum Reserve (SPR) has been issued entitlements for crude oil purchased, delivered and accepted for delivery into the SPR in the month of October. An entry in the Appendix for the SPR has been included.

The listing contained in the Appendix identifies, in a separate column labeled "Exceptions and Corrections", additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix includes the "Consolidated Sales" entry initiated in the October 1977 entitlements notice. The "Consolidated Sales" entry is equal to the September 1980 entitlements purchase requirements of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its September entitlements purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlements Notice for October 1977* (42 FR 64401, December 23, 1977).

For the month of September 1980 imports of residual fuel oil eligible for entitlement issuances totaled 22,043,932 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

| | Volumes | Weighted average gravity (degrees) |
|---|---|---|
| California Lower Tier Crude Oil | 994,628 | 25 |
| California Upper Tier Crude Oil | 1,808,997 | 27 |

The total number of entitlements required to be purchased and sold under this notice is 17,412,083.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for September 1980 the pricing composition and weighted average costs thereof are as follows:

| | Volumes in thousands of B/D | Weighted average cost | Percent of total volumes[1] |
|---|---|---|---|
| Lower tier | 1,011 | $7.37 | 7.7 |
| Upper tier (excluding ANS) | 1,462 | 15.21 | 11.1 |
| ANS upper tier | 621 | 24.01 | 4.7 |
| Exempt domestic: | | | |
| Other ANS | 581 | 30.37 | 4.4 |
| Heavy and market tier | 1,636 | 32.51 | 12.4 |
| Naval petroleum reserve | 80 | 33.68 | 0.6 |
| Newly discovered | 462 | 35.88 | 3.5 |
| Stripper | 2,046 | 31.92 | 15.6 |
| Tertiary | 65 | 32.09 | 0.5 |
| Total domestic | 7,963 | 25.37 | 60.6 |
| Imported | 5,187 | 34.46 | 39.4 |
| Total uncontrolled (exempt domestic and imported) | 10,055 | 33.44 | 76.5 |
| Total reported crude oil receipts | 13,150 | 28.96 | |
| Total reported crude oil runs to stills | 13,849 | | |

[1] Volumes may not total 100% due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for September 1980 must be made by November 30, 1980.

On or prior to December 10, 1980, each firm which is required to purchase or sell entitlements for the month of September shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of September 1980.

The monthly transaction report forms (ERA-116) for the month of September 1980 have been mailed to all reporting firms. Firms that have been unable to locate other firms for the required entitlements transactions by November 30, 1980, are requested to contact the ERA at (202) 653-3873 to expedite consummation of these transactions. For firms that have failed to consummate required entitlements transactions on or prior to November 30, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed by January 5, 1981.

Issued in Washington, D.C. on November 25, 1980.

Hazel R. Rollins,

*Administrator, Economic Regulatory Administration.*

**Notice of Entitlements for Domestic Crude Oil**

[September 1980]

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position: Total issued | Exceptions and corrections | Entitlements: Product | Entitlements: California | Required to buy | Required to sell |
|---|---|---|---|---|---|---|---|
| Consol'd-Sales | −23,549 | 0 | 0 | 0 | 0 | 0 | [1]23,549 |
| A-Johnson | 0 | 63,151 | 0 | 21,232 | 0 | 0 | 63,151 |
| Adm | 0 | 7,463 | 0 | 0 | 0 | 0 | 7,463 |
| Akron-Ohio | 0 | 1,479 | 0 | 0 | 0 | 0 | 1,479 |
| Alexandria-VA | 0 | 28 | 0 | 0 | 0 | 0 | 28 |
| Allied | 177 | 33,591 | 0 | 0 | 0 | 0 | 33,414 |
| Amer-Agri-Fuels | 0 | 156 | 0 | 0 | 0 | 0 | 156 |
| Amer-Petrofina | 281,577 | 540,989 | 0 | 0 | 0 | 0 | 259,412 |
| Amerada-Hess | 1,528,519 | 2,128,211 | 0 | 61,525 | 0 | 0 | 599,692 |
| Ames-Iowa | 0 | 526 | 0 | 0 | 0 | 0 | 526 |
| Amoco | 6,740,971 | 3,962,813 | 0 | 0 | 0 | 2,778,158 | 0 |
| Anchor | 0 | 25,426 | 0 | 0 | 0 | 0 | 25,426 |
| Apex | 0 | 46,522 | 0 | 46,522 | 0 | 0 | 46,522 |
| Arco | 2,286,869 | 2,567,491 | 0 | 0 | 97 | 0 | 280,622 |
| Arizona | 36,341 | 12,792 | 0 | 0 | 317 | [1]23,549 | 0 |
| Arizona-Chem | 0 | 191 | 0 | 0 | 0 | 0 | 191 |
| Asamera | 63,034 | 125,207 | [2]29,076 | 0 | 0 | 0 | 62,173 |
| Ashland | 679,384 | 1,420,234 | 0 | 4,143 | 0 | 0 | 740,850 |
| Bayou | 5,303 | 8,353 | 0 | 0 | 0 | 0 | 3,050 |
| Beacon | 11,295 | 80,298 | 0 | 0 | 494 | 0 | 69,003 |
| Belcher | 0 | 44,941 | 0 | 44,941 | 0 | 0 | 44,941 |
| Beloit-WI | 0 | 4 | 0 | 0 | 0 | 0 | 4 |
| Bergen-County | 0 | 155 | 0 | 0 | 0 | 0 | 155 |
| Bi-Petro | 1,824 | 0 | 0 | 0 | 0 | 1,824 | 0 |
| Boston-Quincy | 0 | 896 | 0 | 0 | 0 | 0 | 896 |
| Bronco | 7,848 | 24,555 | 0 | 0 | 0 | 0 | 16,707 |
| Bruin | 23,643 | 63,037 | 0 | 0 | 0 | 0 | 39,394 |
| Cadence-Chem | 0 | 4,195 | 0 | 0 | 0 | 0 | 4,195 |
| Calcasieu | −6,116 | 43,606 | 0 | 0 | 0 | 0 | 49,722 |
| Calumet | −1,113 | 10,639 | 0 | 0 | 0 | 0 | 11,752 |
| Canal | 11,171 | 27,991 | 0 | 0 | 0 | 0 | 16,820 |
| Carbonit | 0 | 42,303 | 0 | 0 | 0 | 0 | 42,303 |
| Caribou | 71,923 | 35,603 | [3]4,197 | 0 | 0 | 36,320 | 0 |
| Cea | 0 | 677 | 0 | 0 | 0 | 0 | 677 |
| Central | 0 | 10,100 | 0 | 10,100 | 0 | 0 | 10,100 |
| Champlin | −356,959 | 602,455 | 0 | 0 | 690 | 0 | 959,414 |
| Charter | 0 | 339,472 | 0 | 0 | 0 | 0 | 339,472 |
| Chevron | 5,033,885 | 4,857,974 | 0 | 0 | 36,474 | 175,911 | 0 |
| Cibro | 0 | 94,525 | 0 | 13,584 | 0 | 0 | 94,525 |
| Citgo | 1,276,820 | 875,447 | 0 | 0 | 0 | 401,373 | 0 |
| City-of-Wichita | 0 | 152 | 0 | 0 | 0 | 0 | 152 |
| Claiborne | 32,833 | 40,996 | 0 | 0 | 0 | 0 | 8,163 |
| Clark | 263,048 | 445,428 | 0 | 0 | 0 | 0 | 182,380 |
| Costal | 68,224 | 723,854 | 0 | 22,643 | 0 | 0 | 655,630 |
| Costal-Petro | 0 | 22,133 | 0 | 0 | 0 | 0 | 22,133 |
| Coldwater | 0 | 89 | 0 | 0 | 0 | 0 | 89 |
| Colonial | 0 | 13,812 | 0 | 13,812 | 0 | 0 | 13,812 |
| Con-Ed | 0 | 43,278 | 0 | 43,278 | 0 | 0 | 43,278 |
| Conoco | 1,240,356 | 1,049,182 | 0 | 16,736 | 11,769 | 191,174 | 0 |
| Consumers-Power | 0 | 192,928 | [4]154,247 | 38,681 | 0 | 0 | 192,928 |
| Copano | 2,382 | 46,270 | 0 | 0 | 0 | 0 | 43,888 |
| Coral | 0 | 217,777 | 0 | 8,082 | 0 | 0 | 217,777 |
| Corco | 0 | 515,689 | [5]−129,619 | 350,076 | 0 | 0 | 515,689 |
| Cra-Farmland | 175,057 | 296,054 | 0 | 0 | 0 | 0 | 120,997 |
| Cross | 17,409 | 39,732 | 0 | 0 | 0 | 0 | 22,323 |

**Notice of Entitlements for Domestic Crude Oil—Continued**

[September 1980]

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position | | | | | |
|---|---|---|---|---|---|---|---|
| | | Total issued | Exceptions and corrections | Entitlements | | Required to buy | Required to sell |
| | | | | Product | California | | |
| Crown | 176,855 | 332,843 | 0 | 0 | 0 | 0 | 155,988 |
| Crystal-Oil | 52,406 | 60,273 | 0 | 0 | 0 | 0 | 7,867 |
| Crystal-Ref | 0 | 10,688 | 0 | 0 | 0 | 0 | 10,688 |
| Cumberland | 0 | 4 | 0 | 0 | 0 | 0 | 4 |
| Delta | 84,718 | 246,546 | 0 | 0 | 0 | 0 | 161,828 |
| Demenno | 0 | 45,054 | 0 | 0 | 0 | 0 | 45,054 |
| Detroit-Ed | 0 | 26,248 | 0 | 26,248 | 0 | 0 | 26,248 |
| Diamond | 276,256 | 204,713 | 0 | 0 | 0 | 71,543 | 0 |
| Dillman | 0 | 302 | 0 | 0 | 0 | 0 | 302 |
| Dorchester | 428 | 103,619 | 0 | 0 | 0 | 0 | 103,191 |
| Dow | 188,937 | 552,388 | 0 | 0 | 0 | 0 | 363,451 |
| Downers-Grove | 0 | 3 | 0 | 0 | 0 | 0 | 3 |
| E-Seaboard | 0 | 29,233 | 0 | 29,233 | 0 | 0 | 29,233 |
| Eagle-Refining | 3,267 | 6,834 | [4] 3,239 | 0 | 0 | 0 | 3,567 |
| East-Bay-Mud | 0 | 130 | 0 | 0 | 0 | 0 | 130 |
| Eastern-Mwd | 0 | 11 | 0 | 0 | 0 | 0 | 11 |
| Eco | 0 | 53,715 | 0 | 0 | 0 | 0 | 53,715 |
| Eddy | 11,863 | 14,690 | 0 | 0 | 0 | 0 | 2,827 |
| Elgin-IL | 0 | 4 | 0 | 0 | 0 | 0 | 4 |
| Energy-Coop | 3,541 | 282,959 | 0 | 0 | 0 | 0 | 279,418 |
| Enterprise | 0 | 4,356 | 0 | 4,356 | 0 | 0 | 4,356 |
| Ergon | 38,441 | 124,622 | 0 | 0 | 0 | 0 | 86,181 |
| Erickson | 1,600 | 130,244 | 0 | 0 | 0 | 0 | 128,644 |
| Essex-Union | 0 | 101 | 0 | 0 | 0 | 0 | 101 |
| Evangeline | 0 | 11,461 | 0 | 0 | 0 | 0 | 11,461 |
| Ewing-Lawrence | 0 | 22 | 0 | 0 | 0 | 0 | 22 |
| Exxon | 7,073,571 | 5,655,401 | 0 | 289,581 | 0 | 1,418,170 | 0 |
| EZ-Serve | 20,932 | 14,891 | 0 | 0 | 0 | 6,041 | 0 |
| Farmers-Un | 162,132 | 114,744 | 0 | 0 | 0 | 47,388 | 0 |
| Fletcher | 14,822 | 47,317 | 0 | 0 | 0 | 0 | 32,495 |
| Flint | 3,802 | 3,586 | 0 | 0 | 0 | 216 | 0 |
| Friendswood | 881 | 44,542 | 0 | 0 | 0 | 0 | 43,661 |
| Funding | 44,806 | 20,964 | 0 | 0 | 0 | 23,842 | 0 |
| Gary | 36,912 | 40,882 | 0 | 0 | 0 | 0 | 3,970 |
| Getty | 748,708 | 644,154 | 0 | 0 | 6,533 | 104,554 | 0 |
| Getty-Syn | 0 | 777 | 0 | 0 | 0 | 0 | 777 |
| Giant | 11,764 | 36,900 | 0 | 0 | 0 | 0 | 25,136 |
| Gibson | 0 | 14,386 | 0 | 0 | 0 | 0 | 14,386 |
| Glacier-Park | −8,779 | 0 | 0 | 0 | 0 | 0 | 8,779 |
| Gladieux | 7,575 | 57,364 | 0 | 0 | 0 | 0 | 49,789 |
| Glenrock | 0 | 8,693 | 0 | 0 | 0 | 0 | 8,693 |
| Golden-Eagle | 0 | 28,312 | 0 | 0 | 0 | 0 | 28,312 |
| Goldking | 5,704 | 84,245 | 0 | 0 | 0 | 0 | 78,541 |
| Good-Hope | 28,883 | 259,607 | 0 | 0 | 0 | 0 | 230,724 |
| Guam | 0 | 156,080 | 32,298 | 0 | 0 | 0 | 156,080 |
| Gulf | 4,615,989 | 2,727,325 | 0 | 25,999 | 8,4810 | 1,888,664 | 0 |
| Gulf-Energy | 0 | 5,787 | 0 | 0 | 0 | 0 | 5,787 |
| Gulf-Sts | 16,020 | 86,639 | 0 | 0 | 0 | 0 | 70,619 |
| Harrisburg-PA | 0 | 2,737 | 0 | 0 | 0 | 0 | 2,737 |
| Health-Care | 0 | 59 | 0 | 0 | 0 | 0 | 59 |
| Hri | 54,783 | 255,265 | 0 | 0 | 0 | 0 | 200,482 |
| Howell | 464,643 | 154,473 | 0 | 0 | 0 | 310,170 | 0 |
| Hudson-Oil | 0 | 78,189 | 0 | 0 | 0 | 0 | 78,189 |
| Hunt | 145,989 | 86,336 | 0 | 0 | 0 | 59,653 | 0 |
| Huntway | 0 | 21,966 | 0 | 0 | 0 | 0 | 21,966 |
| Husky | 296,577 | 296,577 | [2] 103,092 | 0 | 0 | 0 | 0 |
| Independent-Ref | 0 | 57,192 | 0 | 0 | 0 | 0 | 57,192 |
| Indiana-Farm | 13,131 | 76,120 | 0 | 0 | 0 | 0 | 62,989 |
| Indust-Fuel | 14,852 | 18,376 | 0 | 0 | 0 | 0 | 3,524 |
| Inter-Petro | 0 | 10,513 | 0 | 10,513 | 0 | 0 | 10,513 |
| Inter-Process | 0 | 91,222 | 0 | 0 | 0 | 0 | 91,222 |
| Kenco | 34,763 | 19,368 | 0 | 0 | 0 | 15,395 | 0 |
| Kentucky | 17,713 | 17,521 | [5] 9,438 | 0 | 0 | 192 | 0 |
| Kern | 132,991 | 97,749 | 0 | 0 | 1,273 | 35,242 | 0 |
| Kerr-McGee | 841,191 | 39,933 | 0 | 0 | 0 | 801,258 | 0 |
| Koch | 274,251 | 483,737 | 0 | 31,830 | 0 | 0 | 209,486 |
| La-County | 0 | 2,811 | 0 | 0 | 0 | 0 | 2,811 |
| La-Crosse | 0 | 14 | 0 | 0 | 0 | 0 | 14 |
| Laglona | 215,424 | 203,861 | 0 | 0 | 0 | 11,563 | 0 |
| Lake-Charles | 0 | 84,274 | 0 | 0 | 0 | 0 | 84,274 |
| Lakeside | 842 | 12,517 | 0 | 0 | 0 | 0 | 11,675 |
| Laketon | 112,627 | 91,955 | [5] 78,103 | 0 | 0 | 20,672 | 0 |
| Liquid-Energy | 0 | 24,098 | 0 | 0 | 0 | 0 | 24,098 |
| Little-Amer | 549,810 | 320,486 | 0 | 0 | 0 | 229,324 | 0 |
| Louisiana-Land | 438,152 | 9,886 | 0 | 0 | 0 | 428,266 | 0 |
| MacMillan | 8,354 | 88,890 | 0 | 0 | 515 | 0 | 80,536 |
| Madison-Chatham | 0 | 7 | 0 | 0 | 0 | 0 | 7 |
| Madison-City-WI | 0 | 443 | 0 | 0 | 0 | 0 | 443 |
| Madison-WI | 0 | 208 | 0 | 0 | 0 | 0 | 208 |
| Mallard | − 1,896 | 22,415 | 0 | 0 | 0 | 0 | 24,311 |
| Marathon | 2,271,251 | 1,484,496 | 0 | 0 | 0 | 786,755 | 0 |
| Marion | − 2,925 | 93,906 | 0 | 0 | 0 | 0 | 96,831 |
| Marlex | 1,238 | 52,878 | 0 | 0 | 92 | 0 | 51,640 |
| Metro-Seattle | 0 | 176 | 0 | 0 | 0 | 0 | 176 |
| Metropolitan | 0 | 107,953 | 0 | 107,953 | 0 | 0 | 107,953 |
| Mid-Amer | 6,371 | 25,389 | [5] 10,929 | 0 | 0 | 0 | 19,018 |
| Midwest-Solv | 0 | 514 | 0 | 0 | 0 | 0 | 514 |
| Milwaukee-WI | 0 | 429 | 0 | 0 | 0 | 0 | 429 |

**Notice of Entitlements for Domestic Crude Oil—Continued**

[September 1980]

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position | | | | | |
|---|---|---|---|---|---|---|---|
| | | Total issued | Exceptions and corrections | Entitlements | | Required to buy | Required to sell |
| | | | | Product | California | | |
| Mobil | 4,097,570 | 2,788,875 | 0 | 0 | 7,808 | 1,308,695 | 0 |
| Mobile-Bay | 2,472 | 41,227 | 0 | 0 | 0 | 0 | 33,755 |
| Monoco | 0 | 7,463 | [4] 2,311 | 5,152 | 0 | 0 | 7,463 |
| Monroe-WI | 0 | 15 | 0 | 0 | 0 | 0 | 15 |
| Monsanto | 239,844 | 103,127 | 0 | 0 | 0 | 136,717 | 0 |
| Morrison | 50,390 | 13,455 | 0 | 0 | 0 | 36,935 | 0 |
| Mountaineer | 3,260 | 2,445 | 0 | 0 | 0 | 815 | 0 |
| MSDGC | 0 | 975 | 0 | 0 | 0 | 0 | 975 |
| MT-Airy | 286 | 58,229 | 0 | 0 | 0 | 0 | 57,943 |
| Murphy | 512,644 | 357,221 | 0 | 0 | 0 | 155,423 | 0 |
| N-Amer-Petro | −600 | 49,888 | 0 | 0 | 0 | 0 | 50,488 |
| N-Little-Rock | 0 | 329 | 0 | 0 | 0 | 0 | 329 |
| N-San-Mateo | 0 | 13 | 0 | 0 | 0 | 0 | 13 |
| Nashville-Tenn | 0 | 2,184 | 0 | 0 | 0 | 0 | 2,184 |
| Nassau-County | 0 | 155 | 0 | 0 | 0 | 0 | 155 |
| Natchez | 0 | 19,155 | 0 | 0 | 0 | 0 | 19,155 |
| Natl-Coop | 48,702 | 172,239 | 0 | 0 | 0 | 0 | 123,537 |
| Navajo | 226,696 | 133,149 | [5] 1,455 | 0 | 0 | 93,547 | 0 |
| Neptune | 0 | 7 | 0 | 0 | 0 | 0 | 7 |
| Nevada | 431 | 8,422 | 0 | 0 | 0 | 0 | 7,991 |
| New-Edgington | 2,151 | 105,089 | 0 | 0 | 192 | 0 | 102,938 |
| New-Engl-Petro | 0 | 164,712 | 0 | 164,712 | 0 | 0 | 164,712 |
| New-Engl-Power | 0 | 24,620 | 0 | 24,620 | 0 | 0 | 24,620 |
| New-York-EP | 0 | 4,007 | 0 | 0 | 0 | 0 | 4,007 |
| Newhall | 250 | 63,684 | 0 | 0 | 24 | 0 | 63,434 |
| Northeast-Petro | 0 | 11,669 | 0 | 11,669 | 0 | 0 | 11,669 |
| Ocean-Township | 0 | 4 | 0 | 0 | 0 | 0 | 4 |
| Ocean-Utilities | 0 | 44 | 0 | 0 | 0 | 0 | 44 |
| Oconomowoc-WI | 0 | 3 | 0 | 0 | 0 | 0 | 3 |
| Oke | 20,090 | 86,119 | 0 | 0 | 0 | 0 | 66,029 |
| Okla-Ref | −5,056 | 65,858 | 0 | 0 | 0 | 0 | 70,914 |
| Orange-County | 0 | 892 | 0 | 0 | 0 | 0 | 892 |
| Osceola-AR | 0 | 127 | 0 | 0 | 0 | 0 | 127 |
| Oxnard | 0 | 15,751 | 0 | 0 | 0 | 0 | 15,751 |
| Peerless | 0 | 5,183 | 0 | 0 | 0 | 0 | 5,183 |
| Pennzoil | 151,270 | 202,792 | 0 | 0 | 0 | 0 | 51,522 |
| Pester | 118,521 | 112,598 | 0 | 0 | 0 | 5,923 | 0 |
| Petraco-Valley | 0 | 17,305 | 0 | 0 | 0 | 0 | 17,305 |
| Petro-Heat-PA | 0 | 6,824 | 0 | 6,824 | 0 | 0 | 6,824 |
| Philadelphia-PA | 0 | 305 | 0 | 0 | 0 | 0 | 305 |
| Phillips | 1,132,558 | 906,740 | 0 | 0 | 0 | 225,818 | 0 |
| Phillips-Pr | 0 | 159,999 | 0 | 159,999 | 0 | 0 | 159,999 |
| Pioneer | 21,052 | 26,652 | 0 | 0 | 0 | 0 | 5,600 |
| Placid | 180,625 | 169,722 | 0 | 0 | 0 | 10,903 | 0 |
| Plateau | 101,010 | 121,768 | [5] 44,594 | 0 | 0 | 0 | 20,758 |
| Port | 0 | 32,186 | 0 | 0 | 0 | 0 | 32,186 |
| Powerine | 22,615 | 138,230 | 0 | 0 | 1,216 | 0 | 115,615 |
| Pride | 0 | 126,794 | 0 | 0 | 0 | 0 | 126,794 |
| Quaker-St | 9,822 | 111,676 | 0 | 0 | 0 | 0 | 101,854 |
| Quitman | 0 | 21,711 | 0 | 0 | 0 | 0 | 21,711 |
| Racine-Waste-Ut | 0 | 37 | 0 | 0 | 0 | 0 | 37 |
| Rahway | 0 | 67 | 0 | 0 | 0 | 0 | 67 |
| Resco | 0 | 6,415 | 0 | 0 | 0 | 0 | 6,415 |
| Richards | 0 | 250 | 0 | 0 | 0 | 0 | 250 |
| Road-Oil | 0 | −51,566 | 0 | 0 | 0 | 51,566 | 0 |
| Rock-Island | 13,715 | 169,439 | 0 | 0 | 0 | 0 | 155,724 |
| Saber-TEX | 12,089 | 73,254 | 0 | 12,866 | 0 | 0 | 61,165 |
| Sabre-CAL | 407 | 52,670 | [5] −3,145 | 0 | 3 | 0 | 52,263 |
| Sage-Creek | 3,564 | 2,616 | 0 | 0 | 0 | 948 | 0 |
| Salem-VA | 0 | 283 | 0 | 0 | 0 | 0 | 283 |
| San-Joaquin | 0 | 78,532 | 0 | 0 | 0 | 0 | 78,532 |
| San-Jose-CA | 0 | 965 | 0 | 0 | 0 | 0 | 965 |
| Santa-Cruz-CA | 0 | 48 | 0 | 0 | 0 | 0 | 48 |
| Scallop | 0 | 154,758 | 0 | 154,758 | 0 | 0 | 154,758 |
| Scanoil | 0 | 14,880 | 0 | 14,880 | 0 | 0 | 14,880 |
| Schulze | 0 | 3,242 | 0 | 0 | 0 | 0 | 3,242 |
| Seaview | 0 | 77,654 | 0 | 0 | 0 | 0 | 77,654 |
| Seminole | 19,450 | 52,006 | 0 | 0 | 0 | 0 | 32,556 |
| Sentry | 0 | 90,896 | 0 | 0 | 0 | 0 | 90,896 |
| Shell | 5,823,142 | 3,000,890 | 0 | 0 | 3,000 | 2,822,252 | 0 |
| Shepherd | 1,468 | 7,300 | 0 | 0 | 0 | 0 | 5,832 |
| Sigmor | 5,242 | 97,121 | 0 | 0 | 0 | 0 | 91,879 |
| Silver-Eagle | 0 | 3,331 | 0 | 0 | 0 | 0 | 3,331 |
| Slapco | 18,983 | 40,476 | 0 | 0 | 0 | 0 | 21,493 |
| SMRSA | 0 | 17 | 0 | 0 | 0 | 0 | 17 |
| So-Hampton | 9,213 | 65,161 | 0 | 0 | 0 | 0 | 55,948 |
| SohioOHIO | 1,981,591 | 1,501,750 | 0 | 0 | 0 | 479,841 | 0 |
| Somerset | 15,191 | 29,927 | [5] 10,462 | 0 | 0 | 0 | 14,736 |
| Sooner | 0 | 32,939 | 0 | 0 | 0 | 0 | 32,939 |
| Sound | 13,842 | 32,994 | 0 | 0 | 0 | 0 | 19,152 |
| Southern-Union | 106,396 | 167,344 | 0 | 0 | 0 | 0 | 60,948 |
| Southland | 157,275 | 140,931 | [5] 46,619 | 0 | 0 | 16,344 | 0 |
| Southwest-Petro | 0 | 16,899 | 0 | 0 | 0 | 0 | 16,899 |
| Southwestern | −4,059 | 2,619 | [5] 12 | 0 | 0 | 0 | 6,678 |
| SPR | 0 | 3,835,022 | [6] 3,835,022 | 0 | 0 | 0 | 3,835,022 |
| Sprague | 0 | 47,555 | 0 | 47,555 | 0 | 0 | 47,555 |
| Steuart | 0 | 21,571 | 0 | 21,571 | 0 | 0 | 21,571 |

**Notice of Entitlements for Domestic Crude Oil—Continued**

[September 1980]

| Reporting firm short name | Deemed old oil adjusted receipts | Entitlement position | | | | | |
|---|---|---|---|---|---|---|---|
| | | Total issued | Exceptions and corrections | Entitlements | | Required to buy | Required to sell |
| | | | | Product | California | | |
| Stevens-Pt-WI | 0 | 8 | 0 | 0 | 0 | 0 | 8 |
| Sunland | 2,157 | 53,109 | 0 | 0 | 47 | 0 | 50,952 |
| Sunoco | 2,042,602 | 1,837,009 | 0 | 46,830 | 0 | 205,593 | 0 |
| Swann | 0 | 29,781 | 0 | 29,781 | 0 | 0 | 29,781 |
| T & S | 599 | 8,279 | 0 | 0 | 0 | 0 | 7,680 |
| Tarco | 23,944 | 10,414 | 0 | 0 | 0 | [3] 13,530 | 0 |
| Tenneco | 351.117 | 259,824 | 0 | 0 | 1,387 | 91,293 | 0 |
| Tesoro | 267,880 | 252,249 | 0 | 0 | 0 | 15,631 | 0 |
| Texaco | 4,502,276 | 2,959,502 | 0 | 77,798 | 19 | 1,542,774 | 0 |
| Texas-American | −8,116 | 30,494 | 0 | 0 | 0 | 0 | 38,610 |
| Texas-City | 263,388 | 446,940 | 0 | 0 | 0 | 0 | 183,552 |
| Texas-Standard | 0 | 3,122 | 0 | 0 | 0 | 0 | 3,122 |
| Thagard | 3,358 | 40,376 | 0 | 0 | 248 | 0 | 37,018 |
| Thorn-Creek | 0 | 11 | 0 | 0 | 0 | 0 | 11 |
| Thriftway | 26,938 | 16,355 | [5] 7,021 | 0 | 0 | 10,583 | 0 |
| Thunderbird | 20,567 | 37,762 | 0 | 0 | 0 | 0 | 17,195 |
| Tipperary | 1,092 | 37,857 | 0 | 0 | 0 | 0 | 36,765 |
| Tonkawa | 0 | 54,223 | 0 | 0 | 0 | 0 | 54,223 |
| Tosco | 570,042 | 640,684 | 0 | 0 | 13,338 | 0 | 70,642 |
| Total-Petroleum | 33,406 | 348,755 | 0 | 0 | 0 | 0 | 315,349 |
| UCC-canbe | 0 | 45,277 | 0 | 45,277 | 0 | 0 | 45,277 |
| Uni-ref | 0 | 43,198 | 0 | 0 | 0 | 0 | 43,198 |
| Union-oil | 1,886,954 | 1,567,219 | 0 | 0 | 2,146 | 319,735 | 0 |
| Unid-ref | 64,974 | 173,261 | 0 | 0 | 0 | 0 | 108,287 |
| US-oil | 0 | 73,813 | 0 | 0 | 0 | 0 | 73,813 |
| USA-petrochem | 3,954 | 90,704 | 0 | 0 | −448 | 0 | 86,750 |
| Val-verde | 0 | 2,412 | 0 | 0 | 0 | 0 | 2,412 |
| Vickers | 69,778 | 145,833 | 0 | 0 | 0 | 0 | 76,055 |
| Vicksburg | 0 | 24,419 | 0 | 0 | 0 | 0 | 24,419 |
| Warrior | 5,842 | 24,500 | [5] 10,803 | 0 | 0 | 0 | 18,658 |
| Watson | 0 | 425 | 0 | 0 | 0 | 0 | 425 |
| West-Coast | 0 | 99,292 | 0 | 0 | 0 | 0 | 99,292 |
| West-Monmouth | 0 | 15 | 0 | 0 | 0 | 0 | 15 |
| Westchester-NY | 0 | 140 | 0 | 0 | 0 | 0 | 140 |
| Western | 0 | 45,878 | 0 | 0 | 0 | 0 | 45,878 |
| Winston | 33,508 | 53,886 | 0 | 0 | 0 | 0 | 20,378 |
| Wireback | 0 | 206 | 0 | 0 | 0 | 0 | 206 |
| Witco | 1,841 | 88,016 | 0 | 0 | 1 | 0 | 86,175 |
| Wooster | 0 | 19 | 0 | 0 | 0 | 0 | 19 |
| Wyoming | 24,961 | 30,591 | 0 | 0 | 0 | 0 | 5,630 |
| Young | 27,946 | 32,186 | [5] 13,903 | 0 | 0 | 0 | 4,240 |
| Total | 64,319,442 | 64,319,442 | 4,264,057 | 2,045,360 | 95,716 | 17,412,083 | 17,412,083 |

[1] See discussion in Notice.

[2] This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in *Husky Oil Co.* v. *DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), *remanded* 582 F.2D 644 (TECA, August 10, 1978).

[3] This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co.* v. *FEA*, Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[4] Correction of prior month.

[5] Exception from Office of Hearings and Appeals.

[6] Valued accrued from SPR deliveries. See discussion in Notice.

[FR Doc. 80-37469 Filed 12-03-80; 8:45 am]

BILLING CODE 6450-01-M

federal register

Thursday
December 4, 1980

# Part IV

# Department of the Interior

## Fish and Wildlife Service

## Final Findings for Export of Bobcat, Lynx, River Otter, Alaskan Gray Wolf and Alaskan Brown Bear Taken in 1980-1981 Season

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Parts 23 and 810**

## Final Findings for Export of Bobcat, Lynx, River Otter, Alaskan Gray Wolf and Alaskan Brown Bear Taken in 1980-81 Season

**AGENCY:** U.S. Fish and Wildlife Service.

**ACTION:** Notice of final findings and final rule.

**SUMMARY:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora is a treaty regulating the international shipment of certain wildlife and plant species. Under the Convention, exports of wildlife or plants listed in Appendix I or II 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 their protection.

The Service must make such decisions with respect to the bobcat, lynx, river otter, Alaskan gray wolf and Alaskan brown bear, which are all included in Appendix II. This notice announces the Scientific Authority and Management Authority decisions concerning export of specimens of these species taken in the 1980-81 season. These findings for export are made on a state-by-state basis for all specimens taken in a particular season, considering all available information on the population status, management and utilization of the species.

**EFFECTIVE DATE:** December 4, 1980.

**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 by appointment 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. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.

*Management Authority findings*—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:** In carrying out the responsibilities of the United States under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Service is continuing the practice of developing general Scientific Authority and Management Authority findings on the export of certain species, applicable to all specimens taken in a particular season. This approach is more meaningful than the alternative of developing findings on a permit-by-permit basis for species subject to frequent international trade.

The Service published proposed findings on the export of bobcat, lynx, river otter, Alaskan gray wolf, and Alaskan brown bear in the September 29, 1980, **Federal Register** (45 FR 64520). That publication contained a summary of information supplied by state agencies on biology, management, and harvest of bobcat, lynx, and river otter, and it cited earlier references providing such information for Alaskan gray wolf and brown bear.

### Criteria

The **Federal Register** notice of September 29, 1980, set forth criteria used by the Service in making Scientific Authority and Management Authority decisions on export of bobcat, lynx, and river otter. The Service adopted criteria used in previous years by the Endangered Species Scientific Authority (ESSA) in making Scientific Authority decisions on export of these species taken in the 1980-81 harvest season.

These criteria involve assessment by the Scientific Authority of the biological information and management program for each species in each state. Minimum requirements for biological information are: (1) population trend information, method of determination to be a matter of state choice; (2) information on total harvest of the species; (3) information on distribution of harvest; and (4) habitat evaluation. Minimum requirements for a management program are: (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; and (3) harvest level objective should be determined annually.

In its proposed export findings for this year, the Service noted that it agreed with the ESSA's view that intensive efforts to improve the state's information on populations and harvests, and other information may provide reasonable assurance that export will not be detrimental to the survival of the species, in cases where not all of the above Scientific Authority criteria are met.

Criteria listed above are for decisions on whether export of bobcat, lynx, or river otter will not be detrimental to the survival of the species. As stated in the notice of proposed findings, the Service believes that the listing of these species in Appendix II is also for the purpose of effectively controlling international trade in other species of cats or otters. Accordingly, the Service is considering the impact of trade in bobcat, lynx, and river otter on the effectiveness of the CITES in controlling trade in other related species, when determining conditions under which export may be allowed.

Management Authority criteria for export require an ongoing state tagging program as proof that pelts of bobcat, lynx, or river otter are legally taken. Under this program, tags must: (1) be made of metal or some other permanent material; (2) be permanently attached to each pelt, preferably by state personnel; (3) accompany finished products to the port where the state tags will be collected by U.S. Fish and Wildlife Service officers (tags are necessary to show source and tag number 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.

Nations participating in the 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 is, accordingly, based on the impact of that trade on the effectiveness of the CITES in controlling trade in other subspecies or geographically separate populations that they were listed to protect.

### Information and Comments

The Service received a limited amount of information beyond that summarized in the proposed export findings (45 FR 64520). Each state for which the Service proposed to approve export, pending receipt and approval by the Service of 1980-81 sample tags or tagging information or both, submitted materials satisfying this requirement.

The principal new materials considered by the Service subsequent to the proposed findings are as follows: The Wyoming Game and Fish Department submitted data on 1979-80 bobcat harvest estimates and on quantities and prices of furs purchased. The California Fish and Game

Commission, the Maine Department of Inland Fisheries and Wildlife, the North Carolina Wildlife Resources Commission, and the Nevada State Board of Wildlife Commissioners provided copies of revised state regulations for tagging of bobcat pelts. The Oregon Department of Fish and Wildlife pointed out that bobcat habitat includes approximately 70 percent of the state's 62 million acres, and that snow depth, national state parks, and posted private lands normally preclude human access to more than half of the habitat area. Oregon noted that while the harvest of 2,941 western Oregon bobcat was near the harvest goal of 3,000, the harvest of 753 eastern Oregon bobcat was approximately half of the harvest goal of 1,500. Oregon stated that this will result in a large carryover of the eastern bobcat population into this season.

In addition to supplying information, several state agencies commented that they supported the proposed Scientific Authority and Management Authority findings on export of bobcat, lynx, and river otter taken in accordance with state regulations.

The Defenders of Wildlife, Inc., submitted extensive comments on the proposed findings for export of bobcats. Defenders stated that the criteria used for Scientific Authority decisions were deficient, in that even if all of the types of information listed were available, there still would not be enough data for an understanding of the species' role in the ecosystem or for estimating the effects of different levels of harvest on the species' populations. Defenders argued that, at a minimum, the Scientific Authority must consider the current population levels and distribution of the bobcat, its demographic characteristics, movement patterns, food habits, total mortality, birth rate, and the relationship between the bobcat and other species.

The Service, in its capacity as Scientific Authority, believes that the present criteria are appropriate for decisions on whether export of bobcats will not be detrimental to the survival of the species. Information on population trends is more useful than information on current population levels in managing this species. Most states collect data on distribution of harvest. Other types of information are being collected in some states, but not uniformly by all states. The Service believes effective management of bobcats does not require that all of the types of information listed by Defenders be collected throughout the range of the species, considering that factors affecting bobcat populations may vary over the range. One of the intentions of the Service in adopting the present criteria was to allow the states latitude in developing and carrying out research and management programs.

Following the development of Scientific Authority findings announced in this notice, the Service plans to review criteria for Scientific Authority decisions on export of bobcat, lynx, and river otter. As a result, the Service might revise those criteria for decisions on export of the 1981–82 harvest. The Service intends to invite input from state agencies in identifying population parameters that should be studied in order to manage these species at levels consistent with the CITES export requirements. The goal of the Service is to develop realistic and appropriate standards for decisions in these matters. Opportunities for public comment on such standards will be provided.

Defenders also made detailed comments on the information supplied by individual states, identifying particular states that they believed did not meet certain of the Scientific Authority criteria. It is clear from the available records that some states are making much greater efforts than others to study and manage their bobcats, and that they are taking different approaches in doing so. It should be noted that under the Scientific Authority criteria now in use, intensive efforts to improve a state's information on populations and harvests, and other information may provide reasonable assurance that export will not be detrimental to the survival of the species, in cases where not all requirements for biological information or a management program are met. There has been a marked increase in the information available on bobcats during the last few years, due partly to state efforts to satisy the CITES export requirements, although many states instituted bobcat research and management initiatives prior to these requirements.

Defenders further commented that the proposed Scientific Authority findings did not address the status of individual subspecies or geographically separate populations of bobcats within states. The ESSA discussed this issue in detail in their Federal Register notices of September 1, 1978 (43 FR 39308), and September 26, 1979 (44 FR 55542). The Service agrees with the ESSA's conclusion that a state-by-state approach provides a more precise and responsive mechanism than would findings based primarily on subspecies. Bobcat subspecies distinctions generally are not clear-cut; most of them intergrade over wide boundaries, and in addition, boundaries may shift with changes in habitat over time. Descriptions of many bobcat subspecies have been based on differences between a small number of specimens rather than on statistically significant differences in characters between large samples.

Defenders commented that the Service should not allow export of bobcats unless the Management Authority establishes an adequate management program for the species (and noted that they are "* * * encouraged by the progress the Permit Office reports it has made in the past year with regard to compliance with its tagging requirements.") Defenders further stated that the Scientific Authority should not advise in favor of export for states which admit they cannot insure that pelts tagged for export were legally harvested.

The CITES provides that the Management Authority is not to issue export permits unless it is satisfied that specimens were legally taken. As stated earlier, this requirement is met through ongoing state tagging programs. The states, and not the Management Authority, actually manage the species. Scientific Authority criteria include a requirement that pelts be registered and marked. It would be very difficult for states to completely insure that only legally obtained pelts were tagged, because enforcement officers cannot accompany every trapper or hunter. States have instituted regulations and procedures for tagging, and penalties for violations, to minimize the tagging of illegally taken pelts.

The International Association of Fish and Wildlife Agencies (IAFWA) submitted a summary of state-enforced restrictions on the taking of bobcats. This summary concerned only restrictions that directly limit the hunters' or trappers' ability to take bobcats, not measures such as pelt tagging that are primarily directed toward monitoring the harvest. Each state for which export approval was proposed has restrictions on taking. The IAFWA submitted this summary as evidence that exports of bobcats from these states would not be unlimited, as claimed by Defenders.

### Impact on Other Species

The Service considers the bobcat, lynx, and river otter to be included in Appendix II under the provisions of both Article II.2(a) and II.2(b) of the CITES. This means that the Scientific Authority must consider the impact of trade in these species on the effectiveness of the CITES in controlling international trade in other species of cats or otters they were listed to protect.

The ESSA published their findings on this question in the September 26, 1979, Federal Register (44 FR 55545). Major issues under the Scientific Authority finding relative to Article II.2(b) are identification of species in trade and possible stimulation of trade in other species. The ESSA stated that to the degree it could place confidence in the CITES system, it could be correspondingly satisfied that existing procedures are adequate to insure that specimens of one species will not be confused, intentionally or unintentionally, with specimens of other species.

The ESSA concluded that export of bobcat, lynx, and river otter would not reduce the effectiveness of the CITES in controlling trade in other listed species or populations. The ESSA reached the same conclusion on export of Alaskan gray wolf and Alaskan brown bear. They pointed out the following reasons:

(1) Tagging of pelts helps provide assurance that specimens will be identified properly;

(2) Most of the exports of these five species go to countries that are CITES Parties, and that have not taken reservation for these or related species;

(3) Evidence from annual reports of the CITES Parties indicates that few Appendix I species are now in international trade, so that opportunities for look-alike confusion are limited; and

(4) While trade in the above five species might stimulate trade in other species, it also might supplant trade in other species.

The Service concurs with the ESSA's previous findings concerning Article II.2(b) for the five species in question. There is no new evidence to contradict any of the reasons listed above.

### Court Decision

In the notice of proposed findings for export of bobcat and other species (45 FR 64520), the Service reported that the U.S. District Court for the District of Columbia issued an Order (Civil Action No. 79-3060) on December 12, 1979, enjoining the export of bobcat pelts taken in the 1979-80 season from Florida, Massachusetts, New Mexico, North Dakota, Wisconsin, eastern Oregon, and the high plains ecological area of Texas. This decision has been appealed to the United States Court of Appeals for the District of Columbia Circuit.

The Order does not apply to the present findings for the 1980-81 season, although it is still in effect for the export of 1979-80 pelts from the named states. Certain of the affected states have taken steps to correct conditions that the Court considered to be deficiencies. The Service has reviewed information supplied by the states named above, and has considered the Court's concerns, in making Scientific Authority findings for this season.

### Final Rule

Final Scientific Authority and Management Authority findings for the export of American alligator and American ginseng taken in the 1980-81 season were published in the October 21, 1980, Federal Register (45 FR 69844). As announced in that notice, the Service is incorporating the findings on the export of certain Appendix II species into Part 23 of Title 50, Code of Federal Regulations.

The Service concludes that both Scientific Authority and Management Authority criteria have been met for the export of bobcat, lynx, and river otter taken in the 1980-81 season, in those states for which the Service earlier proposed to approve export. The condition on this approval is that pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

Each of the three species occurs in certain states for which export is not approved. Scientific Authority criteria are not met for the export of lynx taken in Idaho and Washington, although the ESSA advised in previous years that such export will not be detrimental to the survival of the species. For all other states not addressed in the proposal, either the taking of these species is not allowed by the state, the species do not occur in the state, or the state did not provide the Service with information on which to base Scientific Authority and Management Authority findings.

The Service also concludes that both Scientific Authority and Management Authority criteria have been met for the export of Alaskan gray wolf and Alaskan brown bear taken in the 1980-81 season. The condition on this approval is that pelts must be tagged as required by the state of Alaska.

The findings announced in this notice are effective December 4, 1980, because the harvest season has already begun in some states, and delaying issuance of the findings could adversely impact state conservation programs for these species. The Service also considers a delay in the effective date to be unnecessary because the findings were preceded by an opportunity for comment and because they do not substantially modify an earlier procedure or practice (43 CFR 14.5(c)(4)).

An environmental assessment has been prepared in conjunction with this notice. It is on file in the Service's Office of the Scientific Authority, room 536, 1717 H Street, N.W., Washington, D.C. and may be examined during regular business hours.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority (202) 653-5948.

Note.—The Service has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: November 28, 1980.

**Robert S. Cook,**

*Acting Director, Fish and Wildlife Service.*

Accordingly, Parts 23 and 810 of Title 50, Code of Federal Regulations, are amended as set forth below:

1. Amend table of Sections of Part 23 as follows:

## PART 23—ENDANGERED SPECIES CONVENTION

* * * * *

**Subpart E—Scientific Authority Advice [Reserved]**

**Subpart F—Export of Certain Species**

Sec.
23.51 American ginseng (*Panax quinquefolius*)
23.52 Bobcat (*Lynx rufus*)
23.53 River otter (*Lutra canadensis*)
23.54 Lynx (*Lynx canadensis*)
23.55 Gray wolf (*Canis lupus*)
23.56 Brown bear (*Ursus arctos*)
23.57 American alligator (*Alligator mississippiensis*)

Authority: Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; 87 Stat. 884).

2. Add new subparts E and F as follows:

## Subpart E—Scientific Authority Advice [Reserved]

## Subpart F—Export of Certain Species

### § 23.51 American ginseng (Panax quinquefolius).

State populations for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1978 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting.

For further information see: 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

(b) *1979 Harvest:* Arkansas, Georgia, Illinois, Iowa, Kentucky, Maryland,

Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting. Wild roots must be certified by the state as legally collected. For further information see: 44 FR 25384, April 30, 1979; 44 FR 3107, June 1, 1979; and 44 FR 47912, August 15, 1979.

(c) *1980 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, New York, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state or origin and season of collecting. Wild and cultivated roots must be certified by the state as legally collected, and such certification must be presented upon export.

**§ 23.52 Bobcat (Lynx rufus).**

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alabama (Quota 4,000), Arizona (Q 8,000), Arkansas (Q 3,000), California (Q 6,000), Colorado (Q 4,000), Florida (Q 3,500), Georgia (Q 4,000), Idaho (Q 1,475), Louisiana (Q 4,000), Maine (Q 500), Massachusetts (Q 50), Michigan (Q 350), Minnesota (Q 150), Mississippi (Q 4,000), Montana (Q 1,070), Nebraska (Q 400), Nevada (Q 2,225), New Mexico (Q 6,000), New York (Q 225), North Carolina (Q 800), North Dakota (Q 165), Oregon (Q 3,000), South Dakota (Q 500), Tennessee (Q 1,000), Texas (Q 10,000), Vermont (Q 200), Virginia (Q 1,500), Washington (Q 6,000), West Virginia (Q 500), Wisconsin (Q 300), Wyoming (Q 2,000), Navajo Nation (Q 500).

For further information: See 42 FR 43729, August 30, 1977; 43 FR 11081, March 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978–79 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico (Q 6,000), New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming (Q 2,000) and the Navajo Nation.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, March 16, 1978; 43 FR 13913, April 3, 1978; 43 FR 15097, April 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

(c) *1979–80 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, [Florida], Georgia, Idaho, Kansas, Louisiana, Maine, [Massachusetts], Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, [New Mexico (Q 6,000)], New York, North Carolina, [North Dakota], Oklahoma, Oregon [eastern portion], South Carolina, South Dakota, Tennessee, Texas [high plains ecological area], Utah, Vermont, Virginia, Washington, West Virginia, [Wisconsin], Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service. The U.S. District Court for the District of Columbia has enjoined export of bobcat pelts harvested in 1979–80 season in those states or portions of states named above in brackets.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979; and 45 FR 60455, September 12, 1980.

(d) *1980–81 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampsire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

**§ 23.53 River otter (*Lutra canadensis*).**

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alabama (Quota 1,500), Alaska (open), Arkansas (Q 400), Connecticut (Q 100), Delaware (Q 60), Florida (Q 6,000), Georgia (Q 4,000), Louisiana (Q 7,500), Maine (Q 600), Maryland (Q 165), Massachusetts (Q 68), Michigan (Q 810), Minnesota (Q 700), Mississippi (Q 350), Montana (Q 36), New Hampshire (Q 200), New York (Q 700), North Carolina (Q 1,200), Oregon (Q 335), Rhode Island (Q 15), South Carolina (Q 650), Vermont (Q 50), Virginia (Q 585), Washington (Q 770), Wisconsin (Q 1,200).

For further information: See 42 FR 43729, August 30, 1977; 43 FR 11081, March 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978–79 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, Rhode Island, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, March 16, 1978; 43 FR 13913, April 3, 1978; 43 FR 15097, April 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

(c) *1979–80 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Conditions on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

**§ 23.54 Lynx (Lynx canadensis).**

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alaska (open), Idaho (Quota 25), Minnesota (Q 25), Montana (Q 200), Washington (Q 35).

For further information: See 42 FR 43729, August 30, 1977; 43 FR 11081, March 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978–79 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, March 16, 1978; 43 FR 13913, April 3, 1978, 43 FR 15097, April 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978, and 43 FR 39305, September 1, 1978.

(c) *1979–80 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Conditions on findings: Pelts must be clearly identified as to state of origin and state of taking, including tagging according to standards and conditions established by the Service.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31585, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81 Harvest:* Alaska, Minnesota, Montana.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

**§ 23.55 Gray wolf (Canis lupus).**

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(b) *1978–79 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(c) *1979–80 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

**§ 23.56 Brown bear (Ursus arctos).**

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(b) *1978–79 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(c) *1979–80 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

**§23.57 American alligator (Alligator mississippiensis).**

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1979 and Previous Harvest:* Florida, Louisiana.

(b) *1980–81 Harvest:* Florida, Louisiana.

## PART 810—EXPORT OF APPENDIX II SPECIES

3. Delete Chapter 8, Part 810 entirely from Title 50, Code of Federal Regulations.

[FR Doc. 80-37648 Filed 12-3-80; 8:45 am]

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federal register

Thursday
December 4, 1980

# Part V

# Department of Transportation

## Federal Aviation Administration

## Aircraft Miscellaneous Amendments; Proposed Rulemaking

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 21, 23, 25, 29, 43, 45, 61, 63, 65, 91, 121, 129, and 135**

**[Docket No. 21129; Notice No. 80-23]**

## Miscellaneous Amendments

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

**ACTION:** Notice of proposed rule making.

**SUMMARY:** This notice proposes to amend various sections of the Federal Aviation Regulations (FAR). Most of the proposals are clarifying, editorial, or corrective in nature. Other proposals would relax current regulations. In the interest of upgrading safety, this notice proposes use of approved altimeters on all aircraft operated under instrument flight rule (IFR) conditions, notifying passengers of the definition of firearms, and requiring all transport category aircraft to have ditching emergency exits, whether or not the ditching certification is requested.

**DATE:** Comments must be received on or before February 4, 1981.

**ADDRESS:** Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC-204), Docket No. 21129, 800 Independence Ave., SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Ave., SW., Washington, D.C. 20591. All comments must be marked: Docket No. 21129. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Dan Keenan, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8714.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications must identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21129." The postcard will be date and time stamped and returned to the commenter.

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular 11-2 which describes the application procedures.

### Background

A number of these proposals are brought about due to numerous requests for exemptions and extensions of compliance dates. Also several areas in the FAR require interpretation and clarification. The remaining changes may be considered minor in nature since most involve corrections to punctuation, spelling, and technical nomenclature. Most of the proposed changes concern unrelated items that have accumulated over recent years and are appropriate for consolidation in a miscellaneous amendment package.

### Part 21—Certification Procedures for Products and Parts

*§ 21.197 Special flight permits.*

Section 21.197(c), dealing with special flight permits with a continuing authorization, presently applies only to certificate holders operating under Part 121 or 127 or air taxi operators conducting operations with large aircraft under § 135.2. To provide Part 135 operators with the same benefits as Part 121 or 127 operators, this proposal would amend § 21.197(c) to encompass additional aircraft that are required to be maintained under a continuous airworthiness maintenance program specified in § 135.411(a)(2). Further, operators who elect to maintain aircraft under a continuous airworthiness program under § 135.411(b) would also be eligible for the permits. Specific guidelines, conditions, and limitations for administering the authorization are included in the certificate holder's operations specifications and are further documented in the company manual. The purpose of the special flight permit with continuing authorization is to eliminate the unnecessary burden on the certificate holders and the FAA of individually dealing with each special flight permit needed for ferrying aircraft to bases where maintenance can be performed. By virtue of the continuous airworthiness maintenance program and specific procedures in the company manual used by these operators and their operations specifications, procedures have been established to provide for the issuance of special flight permits with continuing authorizations for such ferry flights. Such procedures afford an equivalent level of safety that would be established if the FAA were to individually issue the special flight authorizations.

### Part 23—Airworthiness Standards: Normal, Utility, and Acrobatic Category Airplanes

*§ 23.301 Loads.*

Section 23.301(d), dealing with design loads, provides, in part, that for conventional, single-engine airplanes, with design weights of 6,000 pounds or less, the design criteria of Appendix A are an approval equivalent of §§ 23.331 through 23.399. This listing of sections is incomplete. The correct sections are listed in Appendix A, Section A23.1(a), as §§ 23.321 through 23.459. For consistency, § 23.301(d) would be amended to reflect the correct sections.

*§ 23.305 Strength and deformation.*

Sections 23.305(a) and 25.305(a) contain parallel requirements for structural strength and deformation; however, these include differences in wording and punctuation from the corresponding statements contained in the similar, but correctly stated, §§ 27.305(a) and 29.305(a). The requirement is that the structure be able to support limit loads without detrimental or permanent deformation. The proposal amends §§ 23.305(a) and 25.305(a) by placing the word "or" between the words "detrimental" and "permanent".

*§ 23.441 Maneuvering loads.*

Section 23.441(b), dealing with maneuvering loads, references paragraphs (a)(1), (a)(2), and (a)(3), respectively, in connection with Figures B6, B7, and B8 of Appendix B of Part 23. These paragraphs are listed in the wrong order. To ensure that the correct

tail load distribution is imposed for the flight condition, the paragraphs should be listed as "(a)(2), (a)(1), and (a)(3), respectively, of this section." The proposal amends the paragraph accordingly.

*§ 23.473 Ground load conditions and assumptions.*

Section 23.473(f) requires energy absorption tests to be made by free drop tests under § 23.725. The FAA proposes to amend the requirement to reference § 23.723(a) instead. This change would permit drop tests other than the free drop tests and would make the requirement consistent with the corresponding sections of Parts 25, 27, and 29.

*§ 23.1549 Powerplant instruments.*

In § 23.1549(d), the adjective "red" was inadvertently omitted in describing the arcs. This proposal amends the paragraph accordingly.

*§ 23.1587 Performance information.*

Section 23.1587(a)(1) contains a reference to § 23.201(b). Since the requirement applies to airplanes with independent controls, the reference should be § 23.201(a). The proposal corrects this reference.

Part 23—Appendix A23.3; Special Symbols.

Appendix A to Part 23 contains errors in the equation constants noted under A23.3, Special Symbols. On August 13, 1969, Amendment 23–7 (34 FR 13078) changed all references to "miles" and "miles per hour" to "nautical miles" and "knots," respectively, whenever used in Part 23. The change to the term "knots" was inadvertently omitted from paragraph A23.3 of Appendix A of Part 23 and was corrected by Amendment 23–16 (41 FR 5290; February 5, 1976). In changing from "miles per hour" to "knots" in Amendment 23–16, a conversion factor (.869) was not applied to the constants in the equations of paragraph A23.3 to correlate with the change in terminology. The FAA proposes to amend these equations to correct the constant values.

Part 25—Airworthiness Standards: Transport Category Airplanes

*§ 25.305 Strength and deformation.*

The change proposed in § 25.305(a) concerning the meaning of detrimental permanent deformation is discussed under § 23.305(a).

*§ 25.807 Passenger emergency exits.*

The FAA has received several inquiries as to whether §§ 25.807(d) and 29.807(d) apply to all transport category aircraft or only to aircraft for which ditching approval is requested. Since their adoption, the rules have been applied to all transport category aircraft under the rationale that every aircraft will be operated at some time in an environment in which a crash landing could mean a water landing. The FAA proposes to amend the respective sections to make it clear that all transport category aircraft must have ditching emergency exits whether or not ditching certification is requested.

Part 25—Appendix F

The FAA proposes a number of minor editorial corrections to Appendix F of Part 25.

Part 29—Airworthiness Standards: Transport Category Rotorcraft

*§ 29.807 Passenger emergency exits.*

The changes proposed in § 29.807(d) concerning ditching emergency exits, are discussed under § 25.807(d).

Part 43—Maintenance, Preventive Maintenance, Rebuilding, and Alteration

*§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.*

Section 43.3 lists the persons who may perform work on aeronautical products and sets forth the limitations under which the work is performed. The section, however, omits coverage of Canadian persons who are authorized to perform certain work under § 43.17. This proposal makes Part 43 internally consistent by amending § 43.3 to include Canadian persons authorized under § 43.17.

Part 45—Identification and Registration Marking

*§ 45.15 Replacement and modification parts.*

Section 45.15(a)(4) requires that parts produced under a Parts Manufacturer Approval be marked with the name and model designation of each type certificated product on which the part is eligible for installation. For parts that are too small or on which it is otherwise impractical to mark this information, the regulation allows the marking to be shown on a tag attached to the part or its container. On some parts, however, the marking required by § 45.15(a)(4) is so extensive that to mark it on a tag is impractical because of the large number of type certificated products on which the part may be used. The FAA proposes to revise the rule so that when it is impractical to do the required eligibility marking on the tag attached to the part or container, the tag may refer to a specific and readily available reference manual or catalog which contains the required information.

Part 61—Certification: Pilots and Flight Instructors

*§ 61.39 Prerequisites for flight tests.*

Section 61.39, as presently written, requires that an applicant for an airline transport pilot certificate or additional rating must have been continuously employed since passing the written examination and be participating in a pilot training program before being exempted from the 24-month requirement. This has been interpreted to mean that a person must have been employed by a carrier immediately (within 24 hours) after taking the written examination for the exception to apply, and that a strike or furlough constitutes a break in continuous employment and invalidates the exception.

The FAA has determined that this is too restrictive, since it is possible for a pilot to be on vacation for longer periods of time than some strikes or furloughs last, and it would be unfair to apply the exception provision to the vacationing pilot but not the striking or furloughed pilot. Accordingly, it is proposed to amend § 61.39 to provide that the applicant need only be employed within the period ending 24 calendar months after the month in which the applicant passed the written examination and at the time of the flight test. This proposal would also eliminate the continuous employment requirement and substitute a requirement to complete initial training and, when appropriate, transition or upgrade training, and to meet the recurrent training requirements. Requiring an individual's training to be current is a better means of ensuring retention of the knowledge tested by the written test than requiring continuous employment.

*§ 61.51 Pilot logbooks.*

Section 61.51(c)(3) provides that, for meeting the requirements for a certificate or rating, a pilot may log as second-in-command time all flight time during which that pilot acts as second in command of an aircraft on which more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is conducted. When this provision was adopted by Amendment 61–60 (38 FR 3156; February 1, 1973), the FAA intended that this rule should apply to the experience requirements for each kind of pilot certificate. However, at that time no change was made in § 61.155(d) which provides that a commercial pilot may credit toward the total flight time

required for an airline transport pilot certificate any second-in-command time "in operations under Part 121." This proposal eliminates that phrase so that all second-in-command time which meets the requirements of § 61.51(c)(3) may be credited under § 61.155.

**Part 63—Certification: Flight Crewmembers Other Than Pilots**

*§ 63.35 Knowledge requirements.*

Section 63.35(d) presently requires continuous participation in a maintenance, flight engineer, or pilot training program of a Part 121 certificate holder in order for an applicant for a flight engineer certificate to be exempted from the 24-month validity period for the written examination. Similar to § 61.39, this section has been interpreted to mean that any break in employment, such as a strike or furlough, constitutes an interruption of continuous participation in a training program and prevents the exception from applying. As already noted, the FAA has reevaluated this requirement and has determined that continuous participation in a training program is not essential. Currency in a certificate holder's training program for a flight crewmember or recency of experience for a mechanic employed by a certificate holder ensures knowledge retention better than continuous participation in a training program. Therefore, the FAA proposes to amend § 63.35(d) to apply the exception provision to a flight crewmember or mechanic who is employed by a certificate holder within the period ending 24 calendar months after the month in which the applicant passed the written examination, and whose training is current or meets the recent experience requirements for a mechanic under § 65.83. It is also proposed to expand the rule to include employment by a commuter air carrier.

**Part 65—Certification: Airmen Other Than Flight Crewmembers**

*§ 65.101 Eligibility requirements: General.*

Section 65.101 does not currently recognize formal training for applicants for a repairman certificate, as an alternative to the 18 months of practical experience required for repairman certification. A formal training program established by certain FAA-certificated air agencies or pertinent aviation manufacturers or air carriers could provide an equivalent level of competency as an alternative to the prescribed 18 months. Accordingly, the FAA proposes to amend § 65.101 to allow this formal training to be substituted for the practical experience now required for repairman certificate eligibility.

*§ 65.127 Facilities and equipment.*

Section 65.127(b) provides that certificated parachute riggers may not exercise the privileges of their certificates unless they have available to them a compartment for hanging parachutes vertically for drying and airing. This requirement was necessary when parachute canopies were made of silk pongee and cotton materials. However, parachutes are now manufactured from nylon, dacron, and other synthetic materials. These parachutes may be hung horizontally and properly aired and dried by agitating the folds with warm air and occasionally turning them. For this reason, a vertical compartment for hanging these parachutes is unnecessary to exercise the privileges of a parachute rigger certificate. Accordingly, the FAA proposes to amend § 65.127(b) to provide that a parachute rigger need only have available suitable housing that is adequately heated, lighted, and ventilated for drying and airing parachutes.

**Part 91—General Operating and Flight Rules**

*§ 91.28 Special flight authorization for foreign civil aircraft.*

Section 91.28 authorizes FAA Regional Directors to issue special flight authorizations for the operation of foreign civil aircraft that do not pssess airworthiness certificates. When § 91.28 was adopted, the FAA considered it appropriate to limit the purposes for issuance of special flight authorizations and to require an exemption to obtain a special flight authorization for any other purpose. After reviewing the experience since adoption of the rule, the FAA has determined that the limitation for those purposes is no longer necessary. To eliminate the burden on both the public and the FAA imposed by the exemption procedures, the FAA proposes to delete the list of purposes in § 91.28(b) and to give Regional Directors the authority to issue special flight authorizations subject to any conditions and limitations deemed necessary. This flight authorization would be issued to the applicant by the FAA with the understanding that authority is also granted to the applicant by the Civil Aeronautics Board (CAB) in the form of an exemption, order, or a regulation (14 CFR 375.20). The FAA authorization in no way removes the responsibility of the applicant to obtain CAB authorization in the form specified.

*§ 91.170 Altimeter system tests and inspections.*

Section 91.170(c) prohibits operation of an airplane in controlled airspace under IFR at an altitude above the maximum altitude to which an altimeter of that airplane has been tested. The section was originally adopted when few, if any, aircraft other than airplanes were approved for operations under IFR. The number of IFR-approved helicopters using the airspace is growing rapidly. Safety in the national airspace system requires all aircraft including helicopters, operating under IFR to use altimeters which have been tested for the altitudes at which operations are conducted. The FAA proposes to amend § 91.170 by adding the words "or helicopters" after the word "airplanes" to ensure that altimeters on airplanes and helicopters operated under IFR meet the same certification and airworthiness standards.

**Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft**

*§ 121.135 Contents.*

Section 121.135(b)(23) (i), (ii), and (iii) contain references to § 103.3. Part 103 was revoked effective July 1, 1976, concurrent with the Department of Transportation's adoption and consolidation of Hazardous Materials Regulations into title 49 of the Code of Federal Regulations. The FAA proposes to amend § 121.135 by deleting references to Part 103 and inserting appropriate references to Title 49 CFR and by making conforming editorial changes related to the new references.

*§ 121.319 Crewmember interphone system.*

Section 121.319(a) requires, in part, that airplanes with a seating capacity of more than 19 passengers must be equipped with a crewmember interphone system. Section 121.319(b)(5)(i) requires that for large turbojet-powered airplanes the interphone system must be accessible for use at enough flight attendant stations so that all floor-level emergency exists in each passenger compartment are observable from one or more of those stations. From a security and operational viewpoint, if the floor-level exit is located within a galley and the entryway to the galley is observable, this will satisfy the operational/security requirements and it is unnecessary to view the exit itself. The FAA proposes to amend § 121.319(b)(5)(i) accordingly.

Sections 121.385, 121.389, 121.695, and 121.697 contain inconsistencies in the

use of the words "aircraft" and "airplanes." The FAA proposes to replace the word "aircraft" with the word "airplane" where it appears in §§ 121.385(a) and (b)(1), 121.389(a)(2), 121.695(a), and 121.697 (a)(c) and (d). These editorial corrections will make the language consistent with the applicable word definitions.

*§ 121.585 Carriage of weapons.*

Section 121.585 provides that a deadly or dangerous weapon may not be carried in checked baggage unless the certificate holder determines that the weapon is unloaded. On March 16, 1978, § 121.585 was further amended to require that firearms in checked baggage be carried in containers the certificate holder considers appropriate. This amendment has been successful in deterring the carriage of loaded weapons aboard aircraft or checked in baggage. A definition of a loaded firearm was added to § 121.585(b) by Amendment 121–156 (45 FR 13059; February 28, 1980). The FAA proposes to amend § 121.585(c) to require the certificate holder to notify passengers with firearms in checked baggage of the definition contained in § 121.585(b). This notification should help to eliminate uncertainty on the part of the public about what constitutes a loaded weapon for the purpose of this regulation.

Proposed paragraph (c)(6) of this section states that if the certificate holder determines that ammunition is carried, that ammunition must be carried in accordance with the Hazardous Material Regulations as defined in 49 CFR 171.8.

*§ 121.703 Mechanical reliability reports.*

Section 121.703(d) requires certificate holders to comply with the mechanical reliability reporting requirements of § 121.703(d) by filing a report by 9:00 a.m. of the day following the occurrence of a reportable event. This requirement is an unnecessary burden on certificate holders that do not have clerical staffs normally working holidays and weekends because the present rule requires them to assign additional staff to meet the "next workday" requirement. Accordingly, the FAA proposes to revise the section to change the reporting time to 9:00 a.m. of the second workday following the date of the reportable event for reports covering holidays and weekends.

**Part 129—Operations of Foreign Air Carriers**

Part 129 prescribes rules governing the operation within the United States of aircraft of foreign air carriers holding a permit issued by the Civil Aeronautics Board (CAB) under Section 402 of the Federal Aviation Act of 1958. The CAB is issuing exemptions to permit temporary foreign air carrier operations without a Section 402 permit conditioned, however, upon compliance with Part 129. Accordingly, the FAA proposes to amend § 129.1 of the FAR to make Part 129 applicable to foreign air carriers who hold either a Section 402 permit or other appropriate economic authority or exemption issued by the CAB which requires compliance with that part.

**Part 135—Air Taxi Operators and Commercial Operators**

*§ 135.243 Pilot in command qualifications.*

Section 135.243(b)(3), pilot in command qualifications, which became effective on December 1, 1978, requires that a pilot in command hold an instrument rating.

Following publication of revised Part 135, FAA received numerous petitions for exemption from the instrument rating requirement and 25 grants of extension of the compliance date of that rule were issued in response to the requests. Several inquiries regarding the requirement were received from members of Congress who were seeking information regarding constituents who wanted relief from the instrument rating requirements.

The majority of these requests for relief from the instrument rating requirements was from certificate holders who conduct on-demand charter operations in remote areas which are located in the northern United States. Almost all of the requests were from seaplane operators conducting day VFR operations to carry hunting or fishing groups to isolated locations, or providing cargo service to small, isolated settlements, which lack access to other transportation means. In virtually all instances, these operators serve areas that are so remote there are no radio navigation facilities suitable for use. Because of the absence of these facilities, and the day VFR nature of the operations, their aircraft are not equipped for instrument flight operations. Consequently, they use pilots who do not hold instrument ratings. However, these pilots are highly experienced and are thoroughly familiar with the terrain, alternate landing areas, and weather patterns in the area of operations. The FAA's review of their safety record indicates that it has been very satisfactory.

In response to the situation, Amendment No. 135–1, effective May 7, 1979, permitted operators and pilots to delay meeting the instrument rating requirement until December 1, 1980. This action was taken to provide time for FAA to restudy this requirement and possibly adopt changes regarding its scope.

The FAA has reviewed the necessity for an instrument rating in light of the above factors. It has concluded that it is appropriate to propose a limited exception to that requirement in the case of certain single reciprocating engine powered seaplane operations. A new paragraph (d) would be added to § 135.243 to implement the exception. There are several conditions. Since the certificate holders conducting the operations in the remote areas discussed above are on-demand charter operators, the proposal does not apply to certificate holders conducting scheduled operations or operations which would qualify them as a commuter air carrier. The exclusion in proposed § 135.243(d)(2) is not expressed in terms of a commuter air carrier, however, in order to exclude all operators who conduct any scheduled operation which equates with that of a commuter air carrier without regard to whether the operator meets the technical definition of a commuter air carrier in Part 298 of the regulations of the Civil Aeronautics Board. The FAA has found, for example, that there are certain operators in Alaska who, although they are not classified as commuter air carriers, nevertheless conduct scheduled operations substantially similar to the Part 298 commuter. Exclusion of commuter-like operators is consistent with the general upgrade of commuter operations achieved when Part 135 was revised effective December 1, 1978.

Paragraph (d)(3) of the proposal conditions relief from the instrument rating requirement on the absence of VOR or NDB navigation facilities within 40 nautical miles of the certificate holder's main base, the destination, or the straight-line course between the main base and destination. This part of the concept is based upon the remote nature of these seaplane operations as evidenced by the absence of radio navigational facilities.

In order to provide adequate safety levels, each flight must be conducted under day VFR with a ceiling of not less than 1,000 feet and visibility of not less than 3 miles. In addition, the pilot in command must determine from weather reports or forecasts, or in the absence of them from the observations of that pilot or those of other persons competent to supply weather observations, that the weather conditions specified in

proposed paragraph (d)(5) will exist for the period commencing with the planned departure and ending within 30 minutes after the planned arrival.

An additional safety measure is the proposed requirement that any route to be flown by a pilot in command who does not have an instrument rating must be approved by the FAA Flight Standards District Office. That office reviews the requested route and determines that it may be safely flown by a non-instrument rated pilot.

Finally paragraph (d)(7) would impose limitations on the length of the flight. February 1, 1973, is the dividing line because that date is used in Part 61. Prior to that date, an instrument rating was not required for issuance of a commercial pilot's certificate. After that date, any commercial pilot certificate issued without an instrument rating is endorsed with a limitation prohibiting the carriage of passengers for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night. This mileage limitation is contained in this proposal. In addition, although commercial pilot certificates initially issued prior to February 1, 1973, without an instrument rating are not subject to a passenger carrying for hire mileage limitation, a 250-mile limitation is contained in the proposal. This is a safeguard against a flight which is of such a length that quickly changing weather conditions might make VFR flights impossible. In addition, this 250-mile limitation is consistent with representations made by various operators that their seaplane operations by non-instrument rated pilots are of relatively short mileage.

*§ 135.297 Pilot in Command: Instrument passenger check requirements.*

When Part 135 was revised effective December 1, 1978, the pilot-in-command instrument proficiency check requirements were modified. Under that revision, § 135.297 requires each pilot in command to demonstrate satisfactorily at least one instrument approach procedure using an instrument landing system (ILS), a very high frequency omnirange station (VOR), and a nondirectional radio beacon (NDB). It has been contended by some air taxi certificate holders that the revised requirement is too restrictive. For example, some certificate holders state they have no need to use ILS facilities and that the nearest ILS facility is located a significant distance from the certificate holder's operations base. It is argued that the present rules requires unreasonable expenditure of aircraft and pilot operational expense to demonstrate proficiency on a facility which is not used by some certificate holders.

This notice proposes that only those procedures which the certificate holder desires to use are required to be demonstrated. Thus, each certificate holder would determine from the characteristics of its operations which procedures it needs. To ensure an adequate level of safety, the proposed revision of § 135.297(b) would allow a pilot to use only those precision approach procedures satisfactorily demonstrated. In order to use any nonprecision instrument approach procedure, a pilot would be required to demonstrate satisfactorily that procedure, or any other two nonprecision instrument approach procedures. It would also require that all instrument approach procedures to be used by the operator be included in the operator's initial and recurrent training programs. This would ensure that each pilot receives training on all procedures to be used. The letter of competency would be deleted to reduce recordkeeping. The operator would be issued operations specifications which would contain the instrument approach procedures authorized. This notice also proposes to delete § 135.297(h). The certificate holders are required by § 135.63 to maintain records showing the qualifications of their pilots and to designate operations their pilots are authorized to conduct. That recordkeeping includes types of instrument approach procedures and facilities authorized and pilot in command autopilot authorizations. Therefore, § 135.297(h) is redundant.

**Economic Impact**

The FAA solicits the views of interested persons with respect to the economic impact relative to costs and benefits of any of the proposals and especially the following:

(1) Section 25.807(d), ditching emergency exists for passengers.

(2) Section 29.807(d), ditching emergency exists for passengers.

(3) Section 91.170, altimeter system tests and inspections.

The proposals contained in this notice provide for safety, help to conserve aviation fuel, and reduce both aircraft and pilot operating costs incurred by certificate holders. As a part of the FAA's program to upgrade the Federal Aviation Regulations, these proposals are fully in compliance with the President's directive (Executive Order 12044) that regulations be as simple and clear as possible and impose no unnecessary burden on the public.

**The Proposed Amendment**

Accordingly, the Federal Aviation Administration (FAA) proposes to amend Parts 21, 23, 25, 29, 43, 45, 61, 63, 65, 91, 121, 129, and 135 of the Federal Aviation Regulations (14 CFR Parts 21, 23, 25, 29, 43, 45, 61, 63, 65, 91, 121, 129, and 135) as follows:

## PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By revising § 21.197(c) to read read as follows:

**21.197 Special flight permits.**

* * * * *

(c) Upon application, as prescribed in § 121.79, § 127.27, and § 135.17 of this chapter, a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements but are capable of safe flight for the purpose of flying aircraft to a base where maintenance or alterations are to be performed. The permit issued under this paragraph is an authorization, including conditions and limitations for flight, which is set forth in the certificate holder's operations specifications. The permit issued under this paragraph may be issued to—

(1) Certificate holders authorized to conduct operations under Part 121 or 127 of this chapter; or

(2) Certificate holders authorized to conduct operations under Part 135 for those aircraft they operate and maintain under a continuous airworthiness maintenance program prescribed by § 135.411(a)(2) or (b) of that part.

## PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

**§ 23.301 [Amended]**

2. By amending the second sentence of § 23.301(d) by deleting the words "equivalent of §§ 23.331 through 23.399" and inserting the words "equivalent of §§ 23.321 through 23.459" in their place.

**§ 23.305 [Amended]**

3. By amending § 23.305(a) by deleting the comma after the word "detrimental" and inserting the word "or" in its place.

**§ 23.441 [Amended]**

4. By amending § 23.441(b) by deleting the phrase "(a)(1), (a)(2), and (a)(3), respectively" and by inserting the phrase "(a)(2), (a)(1), and (a)(3), respectively, of this section," in its place.

§ 23.473 [Amended]

5. By amending § 23.473(f) by deleting the reference "§ 23.725" and inserting the reference "§ 23.723(a)" in its place.

§ 23.1549 [Amended]

6. By amending § 23.1549(d) by inserting the word "red" before the word "arcs".

§ 23.1587 [Amended]

7. By amending § 23.1587(a)(1) by deleting the reference "§ 23.201(b)" and inserting "§ 23.201(a)" in its place.

Appendix A [Amended]

8. By amending Appendix A, paragraph A23.3, by deleting the numbers 12.5, 17.0, 19.5, and 27.3 appearing in the equations and inserting the numbers 11.0, 15.0, 17.0, and 24.0, respectively, in their place.

## PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

§ 25.305 [Amended]

9. By amending § 25.305(a) by inserting the word "or" between the words "detrimental" and "permanent".

10. By amending § 25.807(d) by amending the initial portion of the lead-in to read as follows:

§ 25.807 Passenger emergency exits.

* * * * *

(d) *Ditching emergency exits for passengers.* Whether or not ditching certification is requested, ditching emergency exits must be provided in accordance with the following requirements, unless * * *

* * * * *

Appendix F to Part 25 [Amended]

11. By amending Appendix F of Part 25 as follows:

1. By inserting a comma after "5°" in paragraph (a).

2. By deleting the colon after the phrase "most critical flammability conditions" in the fourth sentence of paragraph (b) and inserting a period in its place.

3. By deleting the reference to paragraph (h) in the first sentence of paragraph (c) and inserting a reference to paragraph (g) in its place.

4. By deleting the reference to paragraph (g) in the last sentence of paragraph (d) and inserting a reference to paragraph (h) in its place.

5. By deleting the reference to paragraph (g) in the next to last sentence of paragraph (g) and inserting a reference to paragraph (h) in its place.

## PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

12. By revising the lead-in of § 29.807(d) to read as follows:

§ 29.807 Passenger emergency exits.

* * * * *

(d) *Ditching emergency exits for passengers.* Whether or not ditching certification is requested, ditching emergency exits must be provided in accordance with the following requirements, unless emergency exits required by paragraph (b) of this section already meet them:

* * * * *

## PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

§ 43.3 [Amended]

13. By amending the first sentence of § 43.3(a) by adding the words "and in § 43.17" immediately following the word "section".

## PART 45—IDENTIFICATION AND REGISTRATION MARKING

14. By amending § 45.15(b) by adding a sentence at the end to read as follows:

§ 45.15 Replacement and modification parts.

* * * * *

(b) * * * If the marking required by paragraph (a)(4) of this section is so extensive that to mark it on a tag is impractical, the tag attached to the part or container may refer to a specific readily available manual or catalog for part eligibility information.

## PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

15. By revising § 61.39(b) to read as follows:

§ 61.39 Prerequisites for flight tests.

* * * * *

(b) Notwithstanding the provisions of paragraph (a)(1) of this section, an applicant for an airline transport pilot certificate or rating may take the flight test for that certificate or rating if—

(1) The applicant—

(i) Within the period ending 24 calendar months after the month in which the applicant passed the first of any required written tests, was employed as a flight crewmember by a U.S. air carrier or commercial operator operating either under Part 121 or as a commuter air carrier under Part 135 (as defined in Part 298 of this title) and is employed by such a certificate holder at the time of the flight test;

(ii) Has completed initial training, and, if appropriate, transition, or upgrade training; and

(iii) Meets the recurrent training requirements of the applicable part; or

(2) Within the period ending 24 calendar months after the month in which the applicant passed the first of any required written tests, the applicant participated as a pilot in a pilot training program of a U.S. scheduled military air transportation service and is currently participating in that program.

16. By revising the introductory phrase in § 61.155(d) to read as follows:

§ 61.155 Airplane rating: Aeronautical experience.

* * * * *

(d) A commercial pilot may credit the following flight time toward the 1,500 hours total flight time requirement of paragraph (b)(2) of this section:

* * * * *

## PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

17. By revising § 63.35(d) to read as follows:

§ 63.35 Knowledge requirements.

* * * * *

(d) An applicant for a flight engineer certificate or rating must have passed the written tests required by paragraphs (a) and (b) of this section since the beginning of the 24th calendar month before the month in which the flight is taken. However, this limitation does not apply to an applicant for a flight engineer certificate or rating if—

(1) The applicant—

(i) Within the period ending 24 calendar months after the month in which the applicant passed the written test, is employed as a flight crewmember or mechanic by a U.S. air carrier or commercial operator operating either under Part 121 or as a commuter air carrier under Part 135 (as defined in Part 298 of this title) and is employed by such a certificate holder at the time of the flight test;

(ii) Is employed as a flight crewmember, has completed initial training, and, if appropriate, transition or upgrade training; and

(iii) Meets the recurrent training requirements of the applicable part or, for mechanics, meets the recency of experience requirements of Part 65;

(2) Within the period ending 24 calendar months after the month in which the applicant passed the written test, the applicant participated in a flight engineer or maintenance training program of a U.S. scheduled military air

transportation service and is currently participating in that program.

## PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

18. By revising § 65.101(a)(5) to read as follows:

### § 65.101 Eligibility requirements: General.

* * * * *

(a) * * *

(5) Have either—

(i) At least 18 months of practical experience in the procedures, practices, inspection methods, materials, tools, machine tools, and equipment generally used in the maintenance duties of the specific job for which the person is to be employed and certificated; or

(ii) Completed formal training that is acceptable to the Administrator and is specifically designed to qualify the applicant for the job on which the applicant is to be employed; and

* * * * *

19. By revising § 65.127(b) to read as follows:

### § 65.127 Facilities and equipment.

* * * * *

(b) Suitable housing that is adequately heated, lighted, and ventilated for drying and airing parachutes.

* * * * *

## PART 91—GENERAL OPERATING AND FLIGHT RULES

20. By revising § 91.28 to read as follows:

### § 91.28 Special flight authorizations for foreign civil aircraft.

(a) Foreign civil aircraft may be operated without airworthiness certificates required under § 91.27 if a special flight authorization for that operation is issued under this section. Application for a special flight authorization must be made to the Regional Director of the FAA region in which the applicant is located or to the region within which the U.S. point of entry is located.

(b) The Administrator may issue a special flight authorization for a foreign civil aircraft subject to any conditions and limitations that the Administrator considers necessary for safe operations in the U.S. airspace and under Civil Aeronautics Board (CAB) authority.

(c) The special flight authorization is conditional upon the applicant having appropriate CAB authority to conduct the flight in the form of a CAB exemption, order, or regulation.

### § 91.170 [Amended]

21. By amending § 91.170 by adding the words "or helicopter" after the word "airplane" in paragraphs (a), (a)(1), (a)(2)(iv), and (c).

## PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

22. By revising § 121.135(b)(23)(i), (ii), and (iii) to read as follows:

### § 121.135 Contents.

* * * * *

(b) * * *

(23) * * *

(i) Procedures for determining the proper shipper certification required by Title 49 CFR, proper packaging, marking, labeling, shipping documents, compatability of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification procedures for reporting hazardous materials incidents as required by Title 49 CFR.

(iii) Instructions and procedures for the notification of the pilot in command when there are hazardous materials aboard, as required by Title 49 CFR.

* * * * *

23. By revising § 121.319(b)(5)(i) to read as follows:

### § 121.319 Crewmember interphone system.

* * * * *

(b) * * *

(5) * * *

(i) It must be accessible for use at enough flight attendant stations so that all floor-level emergency exits (or entryways to those exits in the case of exits located within galleys) in each passenger compartment are observable from one or more of those stations so equipped;

* * * * *

### § 121.385 [Amended]

24. By amending § 121.385(a) and (b)(2) by deleting the word "aircraft" wherever it appears and substituting the word "airplane".

### § 121.389 [Amended]

25. By amending § 121.389(a)(2) by deleting the word "aircraft" and substituting the word "airplane".

26. By revising § 121.585(c) by adding the following:

### § 121.585 Carriage of weapons.

* * * * *

(c) * * *

(5) The certificate holder notifies the passenger that a firearm is considered to be loaded if it has a live round of ammunition, cartridge, detonator, or powder in the chamber or in a clip, magazine, or cylinder inserted in such firearm.

(6) The certificate holder determines that ammunition is carried in accordance with the Hazardous Material Regulations as defined in 49 CFR 171.8.

### § 121.695 [Amended]

27. By amending § 121.695(a) by deleting the word "aircraft" and inserting the word "airplane".

### § 121.697 [Amended]

28. By amending § 121.697(a), (c) and (d) by deleting the word "aircraft" and inserting the word "airplane" in its place.

### § 121.703 [Amended]

29. By amending § 121.703(d) by amending the last sentence to read as follows: "However, a report that is due on a Saturday, Sunday, or holiday must be delivered by not later than 9:00 a.m. on the second workday thereafter."

## PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

30. By revising § 129.1 to read as follows:

### § 129.1 Applicability.

This part prescribes rules governing the operation within the United States of each foreign air carrier holding a permit issued by the Civil Aeronautics Board under Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) or other appropriate economic or exemption authority issued by the Civil Aeronautics Board conditioned upon the foreign air carrier complying with the requirements of this part.

## PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

31. By revising § 135.243 by adding a new paragraph (d) to read as follows:

### § 135.243 Pilot in command qualifications.

* * * * *

(d) Paragraph (b)(3) of this section does not apply to a non-stop flight between the certificate holder's main base and a seaplane landing area, or the return flight, when—

(1) The aircraft used is a single reciprocating engine powered seaplane;

(2) The certificate holder does not conduct any operations pursuant to a published flight schedule which specifies five or more round trips a week between two or more points and places between which the round trips are performed, and does not transport mail

by air under a contract or contracts with the United States Postal Service having a total amount estimated at the beginning of any semi-annual reporting period (January 1–June 30; July 1–December 31) to be in excess of $20,000 over the 12 months commencing with the beginning of the reporting period;

(3) There is no VOR or NDB facility within 40 nautical miles of the certificate holder's main base, the destination or the straight-line course between the main base and destination;

(4) Each flight is conducted under day VFR with a ceiling of not less than 1,000 feet and visibility not less than 3 statute miles;

(5) Weather reports or forecasts, or any combination of them, indicate that for the period commencing with the planned departure and ending 30 minutes after the planned arrival at the destination the flight may be conducted under VFR with a ceiling of not less than 1,000 feet and visibility of not less than 3 statute miles, except that if weather reports and forecasts are not available, the pilot in command may use that pilot's observations or those of other persons competent to supply weather observations if those observations indicate the flight may be conducted under VFR with the ceiling and visibility required in this paragraph;

(6) The routes to be flown, including departure point, destination point and alternate landing areas suitable for use by seaplanes in the event the weather deteriorates below VFR, 1000-foot ceiling, and 3 statute miles visibility, are approved by the certificate holding FAA Flight Standards District Office; and

(7) The distance of each flight from departure point to destination does not exceed 250 nautical miles in the case of a pilot in command who holds a commercial pilot certificate with an airplane category rating, issued prior to February 1, 1973, without an instrument rating, or 50 nautical miles in the case of a pilot in command who holds a commercial pilot certificate with an airplane category rating, initially issued after January 31, 1973, without an instrument rating.

32. By deleting § 135.297(h) and revising § 135.297(b) to read as follows:

**§ 135.297 Pilot in command: Instrument proficiency check requirements.**

* * * * *

(b) No pilot may use any type of precision instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated that type of approach procedure. No pilot may use any type of nonprecision approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated either that type of approach procedure or any other two different types of nonprecision approach procedures. The instrument approach procedure or procedures must include at least one straight-in approach, one circling approach, and one missed approach. Each type of approach procedure demonstrated must be conducted to published minimums for that procedure. All instrument approach procedures to be used shall be included in the certificate holder's initial and recurrent training program.

* * * * *

(Secs. 313(a), 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)); and 14 CFR 11.45)

Note.—The Federal Aviation Administration has determined that this document involves proposed regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Policies and Regulatory Procedures (44 FR 11034, February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the person identified under the caption "For Further Information Contact:".

Issued in Washington, D.C., on November 28, 1980.

Walter S. Luffsey,

*Associate Administrator for Aviation Standards.*

[FR Doc. 80-37696 Filed 12-3-80; 8:45 am]

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Thursday
December 4, 1980

# Part VI

# Department of Transportation

## Federal Aviation Administration

## Commuter Pilot-in-Command Operating Experience Requirements and Extension of Compliance Date for Instrument Rating Requirement

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 135**

**[Docket No. 21134; Amdt. No. 135-9]**

## Commuter Pilot-in-Command Operating Experience Requirements and Extension of Compliance Date for Instrument Rating Requirement

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

**ACTION:** Final rule.

**SUMMARY:** This amendment clarifies the commuter pilot-in-command operating experience requirement which became effective on March 1, 1980. The intent is to require commuter pilots to meet certain operating experience requirements in the make and basic model aircraft to be flown during commuter passenger-carrying operations prior to being designated as pilot in command. It became apparent, during its implementation, that clarification of the rule is necessary to ensure that the required operating experience is acquired. This amendment also extends the compliance date for the instrument rating requirement for pilots in command of aircraft operating under Part 135 to give the agency adequate time to consider alternatives and determine a course of action.

**DATES:** Effective date: December 1, 1980. Comments must be received on or before January 5, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. H. E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

**ADDRESS:** Comments on this amendment may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21134, 800 Independence Avenue, S.W., Washington, D.C. 20591; or be delivered in duplicate to Room 916, 800 Independence Ave., S.W., Washington, D.C. 20591. All comments must be marked "Docket No. 21134." Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

**SUPPLEMENTARY INFORMATION:**

### Background

*Operating Experience for Commuter Pilots in Command*

On January 30, 1980, the FAA issued Amendment Number 135-3, which contains commuter pilot-in-command operating experience requirements. These changes were necessary to upgrade pilot experience to provide a higher level of safety for commuter operations. During the implementation of these changes, which affect all passenger-carrying commuter operators, it became evident that a clarification of certain requirements is necessary.

The preamble for Amendment 135-3 cites the need for a pilot in command to obtain operating experience in commuter passenger-carrying operations while being observed by a check airman. This is similar to the Part 121 pilot-in-command operating experience requirement. The intent was to upgrade safety standards and to make passenger-carrying commuter operating experience as consistent as possible with that required by Part 121 as mandated by the Airline Deregulation Act of 1978.

Section 135.244, Operating experience, contains the increased pilot-in-command qualifications for commuter operations. Section 135.244(b)(2) states that the experience must be acquired during operations "under this Part." The intent of this requirement is to require pilots to acquire operating experience under the supervision of a check airman during commuter passenger-carrying operations prior to designation as pilot in command. However, some certificate holders interpret the phrase "under this Part" to mean that the operating experience may be flown under commuter and/or on-demand passenger or cargo air taxi operations.

Since the purpose of the commuter operating experience requirement is to give the pilot in command pilot time in the aircraft under operational conditions peculiar to commuter operations, it was not the intent to allow for experience accrued during charter or on-demand operations because of the differences in those types of operations from scheduled operations. For example, in contrast with scheduled commuter operations over predetermined routes, charter operations are not normally conducted in accordance with a schedule or established route schedules and do not require the great number of takeoffs, instrument approaches, and landings normally associated with scheduled operations. Another example is the greater exposure to adverse weather experienced in scheduled operations because of the increased frequency of flights as opposed to infrequent charter flights.

Since many of the functions of a commuter operation, such as scheduling, flight planning, weight and balance, passenger and cargo loading, and fueling are not performed by the pilots, their ability to assess these functions in the commuter operating environment is critical. This makes it necessary for a prospective pilot in command to obtain the experience in passenger-carrying commuter operations. These examples clearly show the increased safety level by having the pilot meet the commuter passenger pilot-in-command experience requirement in commuter-type operations.

The acquisition of operating experience in commuter passenger-carrying operations only is imperative. With the growth of commuter air carriers, an ever-increasing number of aircraft that can carry a higher number of passengers are being introduced into service. Many of the pilots being designated to be pilots in command on these operations have very little experience in the make and basic model of aircraft. It is important that these pilots be well acquainted with the aircraft, its operating procedures, and its limitations before acting as pilot in command. The operating experience requirement provides this exposure.

This experience, similar to that required in Part 121, provides the pilot experience flying the line with an experienced check airman on board to supervise the operation prior to the pilot being designated as a pilot in command. Such experience can only be adequately acquired on scheduled passenger operations. It provides familiarization with the aircraft in these circumstances, which includes operations at maximum gross weights and during critical performance conditions, which are important areas that need attention in accident prevention. Familiarization with the aircraft systems, operating limitations, performance characteristics and other pertinent procedures are ensured by the check airmen. When the pilot is designated as a pilot in command after the operating experience requirements are met, that pilot is better prepared to assume these duties.

To accomplish the necessary clarifying change, the phrase "operations under this Part" in § 135.244(b)(2) is amended to read "commuter passenger-carrying operations under this Part."

Section 135.244(a) requires that the pilot acquire the operating experience in each make and model aircraft to be flown by the pilot as a pilot in command in commuter passenger-carrying

operations. The intent of make and model aircraft in this section is to permit the pilot to acquire the necessary experience in any make and basic model of the aircraft involved. For instance, all series models of Piper PA–31, Cessna 310, Beech 99, or DeHavilland DHC–6 aircraft can be flown to meet the operating experience in that particular make and model aircraft. Clarification of this requirement is necessary because it is interpreted by some to mean that the operating experience in that make and model is limited to one specific model, that is, a Cessna 310A. To accomplish this clarifying change, the words "basic model" are substituted for the word "model" whenever it appears in § 135.244(a).

In regard to cost factors, some operators will incur higher costs as a result of obtaining this operating experience only during commuter passenger-carrying operations. However, relaxation of the requirement to permit this experience to be obtained in the basic model of each make and model of aircraft results in a substantial cost reduction but with no derogation in safety.

The operating experience requirement needs to be met only one time for another particular make and basic model aircraft. It can be transferred by the pilot to another certificate holder provided satisfactory documentation is provided to the new certificate holder and the experience is obtained in the same make and basic model aircraft.

*Compliance Date for Instrument Rating Requirements*

On October 10, 1978, Part 135 was revised under the Regulatory Review Program. This revision became effective on December 1, 1978. The requirement for all pilots in command to hold an instrument rating was to be effective no later than June 1, 1979. Numerous petitions were received by the FAA requesting 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. In response, Amendment No. 135–1, effective May 7, 1979, changed the compliance date in § 135.10 for the instrument rating requirement to December 1, 1980.

Additional studies and rulemaking actions are being conducted at the present time. These studies disclose that additional limited exceptions to the pilot-in-command instrument rating requirement may be appropriate. To provide adequate time to determine a course of action, the FAA is issuing this amendment to extend the compliance date for the instrument rating to February 1, 1981.

Need for Immediate Adoption

When § 135.244 was issued, there was an urgent need to effect the amendment as soon as possible. At that time, notice and public procedure were determined to be impracticable and contrary to public interest. Since clarification of that rule is necessary, the same need for immediate adoption is present. The purpose of § 135.244 is to upgrade commuter pilot competency and to require operating experience to be acquired during commuter passenger-carrying operations. The acquisition of this experience in other types of operations is not adequate. Section 135.10 has a compliance date of December 1, 1980, for all pilots in command to hold an instrument rating in Part 135 operations. Studies are in progress at this time to determine the feasibility of limited exceptions and will not be completed by December 1, 1980. By extending the compliance date to February 1, 1981, the FAA will have sufficient time to determine a course of action. Therefore, I find that notice and public procedure are impracticable and contrary to the public interest and good cause exists for making the amendments to §§ 135.244 and 135.10 effective in less than 30 days.

However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 21134." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective December 1, 1980 as follows:

**§ 135.244 [Amended]**

1. Section 135.244(a) is amended by substituting the words "basic model" for the word "model" wherever it appears.

2. The first sentence of § 135.244(b)(2) is amended to read as follows:

**§ 135.244 Operating experience.**

* * * * *

(b) * * *

(2) The experience must be acquired in flight during commuter passenger-carrying operations under this Part. * * *

* * * * *

3. Section 135.10(c) is amended to read as follows:

**§ 135.10 Compliance dates for certain rules.**

* * * * *

(c) A certificate holder or pilot is allowed until February 1, 1981, to comply with the instrument rating requirements of § 135.243(b)(3).

* * * * *

(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.—The FAA has determined that this document involves regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Policies and Regulatory Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of these regulations is so minimal that an evaluation is not required.

This is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). 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 Washington, D.C., on November 28, 1980.

Langhorne Bond,

*Administrator.*

[FR Doc. 80-37697 Filed 12-1-80; 4:09 pm]

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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 FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
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| 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

**NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.**

## REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

### Rules Going Into Effect Today

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73043 11-4-80 / Ohio; approval and promulgation of implementation plan for sulfur dioxide

FEDERAL COMMUNICATIONS COMMISSION

73059 11-4-80 / Amendment of television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programing

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

58841 9-5-80 / Investigational device exemptions; effective date extended

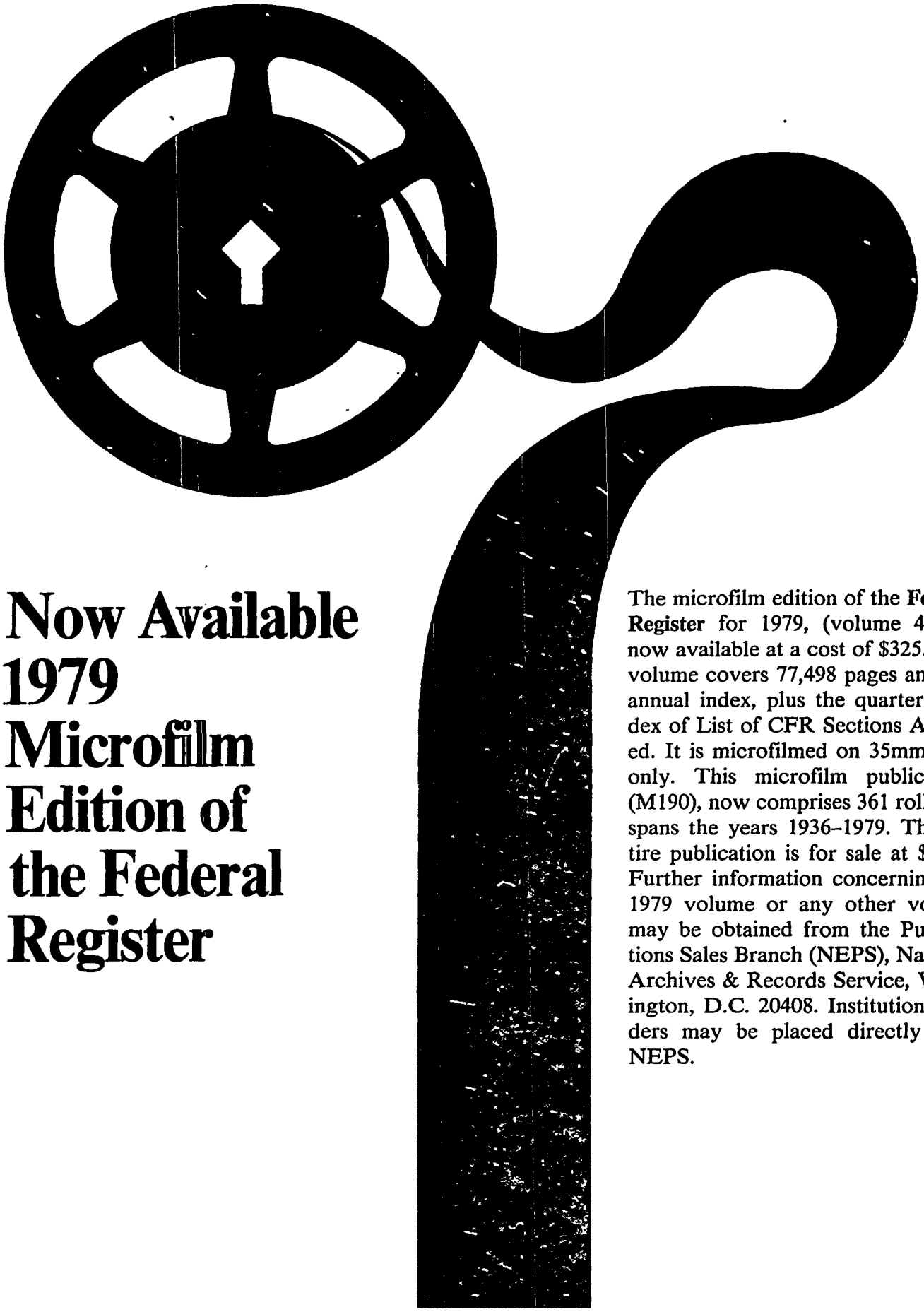
[Originally published at 45 FR 3732, 1-16-80]

### List of Public Laws

Last Listing December 1, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

**S. 2357 / Pub. L. 96-486** Federal Question Jurisdictional Amendments Act of 1980 (Dec. 1, 1980; 94 Stat. 2369)
Price $1.



# Now Available 1979 Microfilm Edition of the Federal Register

The microfilm edition of the **Federal Register** for 1979, (volume 44), is now available at a cost of $325. This volume covers 77,498 pages and the annual index, plus the quarterly index of List of CFR Sections Affected. It is microfilmed on 35mm rolls only. This microfilm publication, (M190), now comprises 361 rolls and spans the years 1936–1979. The entire publication is for sale at $4693. Further information concerning the 1979 volume or any other volume may be obtained from the Publications Sales Branch (NEPS), National Archives & Records Service, Washington, D.C. 20408. Institutional orders may be placed directly with NEPS.