12-15-80
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FEDERAL REGISTER

Book 1 of 2 Books
Monday, December 15, 1980

Highlights

Seminar on Principles of Regulations Writing—For details on seminar in Washington, D.C., see announcement in the Reader Aids section at the end of this issue.

82151 **Live Cattle Imports** Presidential proclamation implementing certain tariff concessions

82361 **Grant Programs—Housing and Community Development** HUD/CPD solicits proposals for Small Multifamily Rental Property Rehabilitation Demonstration Program; apply by 3-6-81

82272 **Grant Programs—Housing and Community Development** HUD/CPD proposes to amend rule relating to program benefits to low- and moderate-income persons; comments by 2-13-81

82273 **Grant Programs—Housing and Community Development** HUD/FHC proposes to amend procedure for allocation of assistance funds; comments by 2-13-81

82254 **Medicaid** HHS/HCFA revises rules for determining financial eligibility and level of payments for institutional care for aged, blind, and disabled, when one spouse is institutionalized; effective 12-15-80

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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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82264, 82265 **Motor Vehicle Safety** DOT/NHTSA allows use of thinner padding in some child restraints and specifies use of triaxial accelerometer in test dummy representing 3-year-old child; effective 12-15-80 (2 documents)

82354 **Grant Programs—Environmental Protection** EPA makes available draft document for guidance on preparation of municipal wastewater treatment facility plans receiving Step 1 grants in FY 1981; comments by 1-29-81

82253 **Environmental Protection** EPA revokes portions of final effluent limitations guidelines for phosphate manufacturing and meat products point source categories; effective 4-28-76 and 11-24-75

82248 **Continental Shelf** DOT/CG issues ballast requirements for tank vessels engaged in transfer of cargo oil from offshore oil exploitation or production facilities; effective 1-1-81

82300 **Petroleum** DOE/ERA issues bimonthly notice of crude oil cost data

82586 **Gasoline** DOE/ERA amends allocation program to foster equitable distribution; effective 1-14-81 (Part VI of this issue)

82608 **Budget** OMB issues cumulative report on status of deferrals for FY 1981 (Part VIII of this issue)

82161 **Mortgages** FHLBB publishes amendments to renegotiable rate regulation; effective 10-8-80

82162 **Savings and Loan Associations** FHLBB adopts final rules regarding acquisition, exercise, and termination of trust powers; effective 1-1-81

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Presidential Documents

Title 3—

The President

Proclamation 4808 of December 11, 1980

Proclamation To Implement Certain Tariff Concessions on Live Cattle Imports

By the President of the United States

A Proclamation

1. On September 17, 1979, under the authority of section 101(a)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2111(a)(1)), the United States entered into a trade agreement with Canada containing concessions by the United States on five tariff items regarding imports of live cattle. Section G of Annex III of Proclamation No. 4707 of December 11, 1979, provided for the staged reduction in the rates of duty for four of the tariff items on cattle. Those staged reductions were subsequently implemented by a notice published in the Federal Register 45 FR 20603 (1980)). Implementation of the concession on a fifth tariff item was made contingent upon the conclusion of certain trade negotiations with the United Mexican States. Those negotiations were concluded on March 18, 1980.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Title I and section 604 of the Trade Act (19 U.S.C. 2483), do proclaim that:

(1) Section G of Annex III of Proclamation No. 4707 of December 11, 1979, is amended, as provided in the Annex to this proclamation, to notify and publish the effective dates, as required by Proclamation No. 4707, and to add an additional tariff item.

(2) The aforesaid amendment shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1980, and as to which the liquidation of entries or withdrawals has not become final and conclusive under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514). If applicable, reliquidation under 19 U.S.C. 1520 is authorized.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of December, in the year of our Lord nineteen hundred and eighty and of the Independence of the United States of America the two hundred and fifth.

ANNEX

Section G of Annex III of Proclamation No. 4707 of December 11, 1979, is hereby amended by substituting the following in lieu thereof:

" Section G. *Staged rate modifications effective as to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1980.*

Item in TSUS as modified by Annex II	Rate from which staged	Rates of duty [1], effective with respect to articles entered on and after—		
		January 1, 1980	January 1, 1981	January 1, 1982
Schedule 1,	*Part 1*			
100.40	1.5¢ per lb.	1.3¢/lb.	1.1¢/lb.	1¢/lb.
100.43	2.5¢ per lb.	2¢/lb.	1.5¢/lb.	1¢/lb.
100.45	2.5¢ per lb.	2¢/lb.	1.5¢/lb.	1¢/lb.
100.53	1.5¢ per lb.	1.3¢/lb.	1.1¢/lb.	1¢/lb.
100.55	2.5¢ per lb.	2¢/lb.	1.5¢/lb.	1¢/lb.

[1] The symbol "/" indicates per stated unit of quantity. "

Jimmy Carter

[FR Doc. 80-39085
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Rules and Regulations

Federal Register
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Monday, December 15, 1980

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

Office of the Secretary

7 CFR Part 2

Delegation of Authority Regarding Certain Functions Under the Trade Agreements Act of 1979

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule delegates to the Under Secretary for International Affairs and Commodity Programs and the Administrator, Foreign Agricultural Service the responsibility to operate within the Department of Agriculture a technical office pursuant to the authority of section 412(a)(2) of the Trade Agreements Act of 1979 (Pub. L. 96-39) (hereinafter referred to as the "Act"). Section 1-103 of Executive Order 12188, January 2, 1980, delegated to the Secretary of Agriculture the authority to prescribe the functions of the technical office established within the Department of Agriculture.

EFFECTIVE DATE: This rule shall become effective on December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas B. O'Connell, Trade Relations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-6106.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, this final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been determined to be exempt from those requirements. John F. Hudson, Director, International Trade Policy, Trade Relations Division, made this determination because this rule involves internal agency management.

The Act provides the statutory framework for the implementation of U.S. obligations assumed in the Tokyo Round of the Multilateral Trade Negotiations. One of the agreements concluded in those negotiations was the Agreement on Technical Barriers to Trade (hereinafter referred to as the "Agreement"). Title IV of the Act implements U.S. obligations under the Agreement. The Agreement recognizes that no country should be prevented from promulgating technical regulations, such as product standards and regulations to protect human, plant or animal health, the environment or the consumer, but stipulates that such measures should not create unnecessary barriers to international trade. Governments further undertake to notify each other of proposals for new regulations and to receive comments on those proposals.

Section 1-103 of Executive Order 12188 delegated to the Secretary of Agriculture (hereafter referred to as the "Secretary") the authority to prescribe the functions of the Technical Office established pursuant to section 412(a)(2) of the Act. Pursuant to that authority, the functions of the Technical Office shall be to:

A. Receive from the National Bureau of Standards titles of notices of proposed foreign signatory government and private standards-related activities and to distribute them, as appropriate, to the technical agency concerned;

B. Receive from the National Bureau of Standards a copy of each foreign signatory notification to the Secretariat of the General Agreement on Tariffs and Trade (GATT) of proposed central government mandatory standards and distribute them, as appropriate, to the technical agency concerned;

C. Publish a notice in the Federal Register that (i) titles from foreign public notices of proposed standards related activities, and (ii) copies of foreign notifications to the GATT Secretariat of proposed standards related activities will be disseminated, upon request, by the Technical Office to state agencies and interested persons, as well as through contacts with appropriate trade associations, state advisors, and the private sector;

D. Furnish the titles and notifications to all interested parties and appropriate federal agencies;

E. Receive comments from private persons and state and federal agencies on proposed foreign signatory government mandatory standards or certification systems; and

(1) When comments from federal agencies, state agencies and private persons are not in conflict, transmit the comments directly to the foreign government concerned; or

(2) When comments from federal agencies are in conflict, attempt to obtain a unified U.S. government position; and

(3) When comments of state agencies and private persons are in conflict, attempt to obtain a unified U.S. position;

F. Facilitate the transmission of comments by private persons, state agencies and federal agencies on proposed foreign voluntary standards directly to the appropriate foreign body;

G. Arrange for bilateral discussions, as necessary, to discuss comments sent to foreign countries;

H. Facilitate access for U.S. suppliers to national certification systems of foreign signatories and to regional certification systems in which foreign signatories are members;

I. In cooperation with the technical agencies, prepare and disseminate to state agencies, trade associations, and private standards and certification organizations voluntary guidelines on procedures relating to the development and application of standards-related activities;

J. Disseminate to state agencies, federal agencies, and private persons, information on the benefits and opportunities of the Agreement for the United States, including but not limited to:

(1) New possibilities for the U.S. Government to pursue complaints about foreign standards related activities;

(2) Improved access for U.S. products to certification systems of foreign signatories or of which foreign signatories are members; and

(3) New opportunities for private persons, state agencies and federal agencies to comment on proposed foreign standards-related activities;

K. Establish and operate a procedure for responding to domestic requests for administrative assistance necessary to comply with implementation of Title IV of the Act;

L. Facilitate initiation and development of appropriate discussions and negotiations between the United States and other signatories to the Agreement concerning the reciprocal acceptance of test results and certificates or marks or conformity;

M. Inform, consult, and coordinate with the United States Trade Representative with respect to matters that arise as a result of implementation of the Agreement and Title IV of the Act that affect the trade policy of the United States;

N. Carry out other responsibilities, as appropriate, in accordance with the objectives of Title IV of the Act;

O. Promulgate such rules and regulations as are necessary to carry out the above listed functions.

Accordingly, Part 2, Subtitle A, Title 7 of the Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, and the Director of Economics, Policy Analysis and Budget.

1. Section 2.21 is amended by adding a new paragraph (d)(29) to read as follows:

§ 2.21 Delegations of authority to the Under Secretary for International Affairs and Commodity Programs.

* * * * *

(d) *Related to foreign agriculture.* * * *

(29) Operate a technical office established under section 412(a)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2542(a)(2)).

* * * * *

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs.

2. Section 2.68 is amended by adding a new paragraph (a)(32) to read as follows:

§ 2.68 Administrator, Foreign Agricultural Service.

(a) *Delegations* * * *

(32) Operate a technical office established under section 412(a)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2542(a)(2)).

(Sec. 412 of the Trade Agreements Act of 1979, Pub. L. 96-39, 19 U.S.C. 2542; Executive Order 12188; Reorganization Plan No. 2 of 1953)

For Subpart C:

Dated: December 9, 1980.

Bob Bergland,

Secretary of Agriculture.

For Subpart H:

Dated: December 9, 1980.

Dale E. Hathaway,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 80-38711 Filed 12-12-80; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Irregularly Operated Charter Flights

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule delegates authority to regional commissioners to enter into preinspection agreements with irregular charter flight operators so that their passengers and crews may be inspected at locations outside the United States. Preinspection of passengers and crews at locations outside the United States is a convenience to the air carriers and their passengers because it avoids long delays in processing when they arrive in the United States.

EFFECTIVE DATE: January 12, 1981.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048

For specific information: Ellis B. Linder, Immigration Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-2694.

SUPPLEMENTARY INFORMATION: This final rule delegates authority to regional commissioners to enter into preinspection agreements with irregular charter flight operators so that their passengers and crews may be inspected at locations outside the United States. Preinspection of passengers and crews at locations outside the United States is a convenience to the air carriers and their passengers because it avoids long delays in processing when they arrive in the United States. Regional commissioners are now authorized to enter into such preinspection agreements for the Service provided they have responsibility for such foreign locations. The provisions of 5 U.S.C. 535 as to notice of proposed rule making is not necessary because the change merely affects Service procedure without imposing any additional burdens on the public.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Section 238.1 is revised to read as follows:

§ 238.1 Contracts.

The contracts with transportation lines referred to in section 238(a) of the Act shall be made by the regional commissioner in behalf of the government and shall be on Form I-421. The contracts with transportation lines referred to in section 238(b) of the Act shall be made by the regional commissioner in behalf of the government and shall be on Form I-420. The contracts with transportation lines referred to in section 238(d) of the Act shall be made by the Commissioner in behalf of the government and shall be on Form I-426. The contracts with transportation lines desiring their passengers and crews preinspected at places outside the United States shall be made by the Commissioner in behalf of the government and shall be on Form I-425; except that contracts for irregularly operated charter flights may be made by the regional commissioner having jurisdiction over the location where the inspection will take place.

* * * * *

(Secs. 103 and 202; 8 U.S.C. 1103 and 1228)

Dated: December 8, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-38681 Filed 12-12-80; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 541, 544, 545, 561, 563, 563c, 569a, 577 and 578

[80-729]

Mutual Capital Certificates

Dated: November 21, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: As part of its implementation of the Depository Institutions Deregulation and Monetary Control Act

of 1980, the Federal Home Loan Bank Board ("Board") has adopted regulations that govern the issuance of mutual capital certificates ("MCCs") by Federal mutual associations and Federal mutual savings banks. The regulations also provide that MCCs issued pursuant thereto shall constitute a part of the statutory reserve and net worth account of issuing Federal mutual associations, Federal mutual savings banks, and state chartered mutual institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation (the "Corporation"). In summary, the regulations set forth: (1) procedures for membership approval of authorization for board of director issuance of MCCs; (2) membership proxy solicitation rules and purchaser disclosure requirements; (3) preapproved charter amendments for Federal mutual associations and Federal mutual savings banks; (4) permissible and mandatory legal attributes of MCCs issued pursuant to the Board's regulations; and (5) procedures for application to the Board for approval of the issuance of MCCs.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Harry M. Zimmerman, Jr., Associate General Counsel, (202) 377-6459, or John P. Soukenik, Attorney, (202) 377-6427, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 407(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221, 94 Stat. 132) authorized the issuance of MCCs by Federal mutual associations and Federal mutual savings banks by amending Section 5(b) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(b). Also, by amending Section 404(b) of the National Housing Act of 1934 ("NHA"), 12 U.S.C. 1726(b), Congress provided that in accordance with the regulations of the Corporation, MCCs shall form part of the statutory reserve of issuing state-chartered insured mutual institutions. On August 15, 1980, the Board, by Resolution 80-490 (45 FR 55750, published August 21, 1980) proposed regulations that provided for implementation of the statutory authority. The public comment period ended on October 20, 1980, with receipt of 29 comment letters from Federal mutual associations, state-chartered insured mutual institutions, mutual savings banks, Federal Home Loan Banks, trade groups, investment banking firms, and law firms. The proposed regulations received the support of most of the commenters, although many recommended certain modifications. Having reviewed the comments and other pertinent information, the Board has determined to adopt the regulations substantially as proposed with modifications as described below.

SUMMARY OF COMMENTS AND MODIFICATIONS

I. Proxy Solicitation Requirements

Comments

The Board received 12 comments on the proposed requirement for a special solicitation of proxies in connection with the membership vote on charter amendments authorizing the issuance of MCCs. Nine of the commenters opposed the requirement, primarily because of the expense an issuing mutual institution would incur in complying with it.

Board Response

The Board finds that the issuance of MCCs would substantially alter the rights of mutual institution members. As a result, the Board has determined that mutual institution members are entitled to the protections of disclosure, and that general proxies may not be used in connection with the membership vote on charter amendments authorizing the issuance of MCCs. Therefore, the Board has provided in the regulations for a special proxy solicitation.

In setting forth the proxy solicitation requirements in the regulations, the Board has sought to balance the necessity of requiring disclosure to the members with reasonable limitations on the extent and frequency (and resultant expense) of that disclosure. No prior filing or Office of General Counsel approval of the proxy solicitation materials is required (§ 563.7-4(d)(3)). The information to be furnished in the proxy solicitation materials is far less extensive than that required in connection with a proposed conversion to stock form (§ 563.7-4(d)(2)). Only one vote pursuant to a single proxy solicitation will be required for an unlimited number of issuances of MCCs in future years by Federal mutual associations (§ 544.2-1(b)(11)), Federal mutual savings banks (§ 577.1-1(b)(12)), and state chartered insured mutual institutions whose state laws conform with the Board's regulations.

II. Voting Rights of MCC Holders

Comments

Several commenters questioned whether MCCs issued pursuant to § 563.7-4 were required to include voting rights or whether the granting of voting rights was optional. Other commenters suggested that the Board clarify the procedures for electing MCC holders' representatives to the issuing institution's board of directors.

Investment banking firms suggested that the Board allow an issuing institution to provide for voting rights in instances in addition to those set forth in proposed § 563.7-4(m)(2)(vii), now § 563.7-4(1)(2)(vii).

Board Response

The Board notes that the provisions for MCC holder voting rights in proposed § 563.7-4(m)(2)(vii) were intended to be optional to the issuing institution rather than mandatory, and appropriate language to that effect has been included in § 563.7-4(1)(2)(vii).

Also in § 563.7-4(1)(2)(vii), the Board has left the number of directors to be elected by MCC holders in certain defined circumstances to the discretion of the issuing institution, up to a maximum of one-third of the directors, if such voting rights are granted to MCC holders.

Finally, the Board has added in § 563.7-4(1)(2)(vii) (*e*) and (*f*) additional circumstances under which voting rights may be granted in connection with certain proposed amendments to an issuing mutual institution's charter.

III. Statutory Reserve

Comments

Proposed § 563.7-4(b)(4) provided that the aggregate amount of all MCCs outstanding and proposed to be issued pursuant to § 563.7-4 could not exceed 20 percent of the applicant mutual institution's § 563.13(a) statutory reserve requirement. Twelve commenters suggested that the 20-percent limitation be either expanded or eliminated.

Board Response

The Board imposed the 20-percent eligibility requirement in its proposed regulations primarily because under proposed § 563.7-4(m)(2)(v), now § 563.7-4(1)(2)(v), issuing mutual institutions could provide for the redemption of MCCs. In such a case, MCCs would not constitute a form of nonwithdrawable capital stock, especially in the instance of a redemption of a class of MCCs with an average redemption date of ten years or more. The statutory reserve may be used only to absorb losses, and by proposing to limit the aggregate amount of MCCs that could be issued by a mutual institution, the Board recognized that redeemable MCCs would not be available for loss absorption, if, in fact, they were redeemed.

The final regulations retain in §§ 561.13 and 563.13 the 20-percent of net worth and statutory reserve limitation on the aggregate amount of MCCs that may be issued pursuant to the Board's regulations if there is a redemption provision allowing redemption pursuant to a ten-year or more average redemption date under § 563.7–4(1)(2)(v)(*a*).

However, §§ 561.13 and 563.13 have been amended to provide that the full aggregate amount of MCCs issued by a mutual institution which are not redeemable, or which permit redemption only in the very limited instances set forth in § 563.7–4(1)(2)(v) (*b*) and (*c*), shall be included in the issuing institution's net worth and reserve account.

This revision was made because of the Board's recognition that MCCs that are not redeemable do constitute a form of nonwithdrawable capital stock, and that MCCs that are redeemable only in the two instances noted above and set forth in § 563.7–4(1)(2)(v) (*b*) and (*c*) have substantial attributes of nonwithdrawable capital stock.

IV. Redemption

Comments

Six commenters questioned the manner in which the ten-year average redemption date required for redemption of MCCs other than by way of approved merger, consolidation or reorganization, or by way of approved refunding (§ 563.7–4(1)(2)(v) (*b*) and (*c*)), would be applied by the Board. One commenter questioned whether the ten-year average redemption date provision would restrict certain optional redemption provisions from being implemented by the issuing institution. Another commenter expressed concern that under the provision a complete issue of MCCs could be redeemed in the tenth year after issuance.

Board Response

Under § 563.7–4(1)(2)(v)(*a*), as adopted, a mutual institution that plans to redeem MCCs with a ten-year or more dollar weighted average term may do so only pursuant to a redemption schedule. The Board will require the redemption schedule to be filed with the application for approval to issue MCCs, and Board resolutions approving issuances of such redeemable MCCs will be conditioned upon the issuing institutions' adherence to their redemption schedules.

The dollar weighted average term of an issue of MCCs will be determined by calculations based on the redemption schedule filed with the application. Certain MCCs would be selected for redemption at pre-determined periods pursuant to that schedule. The issuing mutual institution, also pursuant to its schedule, may reserve the option to redeem MCCs other than those scheduled for redemption. Under the regulations, the ten-year or more dollar weighted average term requirement will be applied to both scheduled and optional redemptions.

The "dollar weighted average term" of an issue of MCCs shall be the sum of the products calculated in accordance with formula in the next sentence. Each product shall be calculated by multiplying the term of the MCC by a fraction, the numerator of which shall be the total dollar amount of each MCC in an issue with the same term and the denominator of which shall be the total dollar amount of MCCs in the entire issue. For example, an issue with scheduled redemptions of 15 percent of the issue in year eight, and 40 percent of the issue in year nine, and 45 percent in year fifteen would have a dollar weighted average term of 11.55 years. ((15/100×8 years)+(40/100×9 years)+(45/100×15 years)=11 and 55/100 years). If the MCC redemption schedule provides for optional redemptions by the mutual institution and that option were exercised, the dollar weighted average term would be required to be recalculated, after taking the optional redemptions into account. The recalculated dollar weighted average will be required to be ten years or more. Exercise of an optional redemption provision could require the redemption schedule for the remaining MCCs in the issue to be lengthened in order for the overall ten-year or more dollar weighted average term requirement to be met. The redemption schedule filed with the application must, if it contains optional redemption provisions, specify how such adjustments will be calculated.

In response to the concern expressed that the regulation would permit the redemption of a complete issue once a ten-year period after issuance had passed, the Board notes that under § 563.7–4(1)(2)(v) redemption is prohibited if it would cause the issuing mutual institution to fail to meet its net worth or statutory reserve requirements.

V. Eligibility Requirements

Comments:

Three commenters opposed the eligibility requirements of proposed § 563.7–4(b)(2).

Board Response:

The Board has determined that the proposed requirements in regard to maximum scheduled-item levels and the offsetting of appraised losses need not be included as regulatory prerequisites to a mutual institution's eligibility to issue MCCs. Paragraph 563.7–4(i) provides that "[N]o application for approval of the issuance of mutual capital certificates * * * shall be approved if, in the opinion of the Corporation, the policies, condition, or operation of the applicant is a basis for supervisory objection to the application." This general supervisory authority gives the Corporation sufficient latitude to review all relevant aspects of a mutual institution's operations prior to approval of its application to issue MCCs.

VI. Minimum Denomination

Comments:

Ten comments were received concerning the requirement of § 563.7–4(e)(1) that mutual capital certificates have a minimum denomination of $100,000. Eight commenters suggested that the minimum denomination be either lowered or eliminated.

Board Response:

The Board's MCC minimum-denomination rule is patterned after the Board's regulations applicable to the sale of debt securities. The commenters may have failed to note that the exceptions to the minimum denomination rule set forth in § 563.7–4(e)(2) allow a mutual institution to issue MCCs in any denomination so long as it meets certain conditions concerning the place of sale, potential buyers, and disclosure. In fact, with the exception of over-the-counter sales at the offices of the mutual institution and its affiliates, the minimum-denomination provision provides for public and non-public sale of MCCs of any denomination.

VII. Tax Ramifications

Comments:

Four commenters voiced concern that the redemption of MCCs may be subject to Internal Revenue Code Section 593(e), which provides that "any distribution or redemption of stock by a savings and loan institution shall be treated as made first out of the untaxed portion of its loan loss reserve", and shall "be included in gross income of the taxpayer." The application of this rule could significantly inhibit the redemption of MCCs.

Board Response:

The Board recognizes that I.R.C. Section 593(e) possibly could be interpreted to apply to the redemption of MCCs. However, this is a matter to be determined by the Internal Revenue Service, which has yet to rule on this question.

VIII. Status of MCCs in Stock Conversion

Comments:

Three commenters suggested that the Board provide in its regulations that MCCs may be convertible to the stock of a mutual institution converting to the stock form.

Board Response:

Section 563.7–4(1)(2)(ix) provides that MCCs may "not be convertible into any * * * security". This provision precludes the conversion of MCCs to stock or the exchange of MCCs for stock in a mutual-to-stock conversion. As stock institutions are not permitted to issue MCCs, on conversion to the stock form a mutual institution would be required to redeem its outstanding MCCs. A redemption of MCCs by the use of funds raised through the sale of the capital stock of a converting mutual institution is permissible pursuant to § 563.7–4(1)(2)(v).

IX. Procedures for Issuance

By deleting proposed § 563.7–4(i), and by delegating in §§ 544.1(d) and 577.1(d) to the Principal Supervisory Agent authority to approve applications for approval of the charter amendments for Federal mutual associations and Federal mutual savings banks authorizing the issuance of MCCs, the Board has clarified in the final regulations the distinction between (1) an application for Board approval of the charter amendments set forth in §§ 544.1 and 577.1 providing for authority to issue MCCs, which must be adopted by vote of the members of the Federal mutual association or the Federal mutual savings bank, and (2) an application for Board approval of charter amendments constituting supplementary charter sections adopted by a Federal mutual association's board of directors or a Federal mutual savings bank's board of trustees and providing for the issuance of a particular class of MCCs.

Accordingly, the Board hereby amends Parts 541, 544, and 545, Subchapter C; Parts 561, 563, 563c, and 569a, Subchapter D; and Parts 577 and 578, Subchapter E; Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

1. Revise § 541.15 to read as follows:

§ 541.15 Net worth.

The sum of general reserves, surplus, capital stock (including mutual capital certificates issued pursuant to § 563.7–4 of this Chapter and eligible for inclusion in net worth under § 561.13 of this Chapter), and any other account designated as part of net worth under this Subchapter.

PART 544—CHARTER AND BYLAWS

2. Amend paragraph (a) of § 544.1 to read as follows:

§ 544.1 Issuance of charter.

(a) *Charter N.* Except as provided in paragraph (b) of this section, when the Board approves a petition for a charter for a Federal association under Section 5(a) or Section 5(i) of the Act, it shall issue a charter in the following form, or a form including the additional provisions set forth in § 544.2–1 if such provisions are specifically requested, known as Charter N.

* * * * *

3. Add new § 544.2–1 to read as follows:

§ 544.2–1 Mutual capital certificate charter amendment.

(a) *Approval of mutual capital certificate charter amendment.* No Federal mutual association shall be authorized to issue mutual capital certificates unless it adopts a charter amendment in the form set forth in paragraph (b) of this section. Approval of the amendment shall be by a majority of the outstanding eligible votes, cast in person or by proxy, at a legal meeting of the members called for the purpose of voting on the amendment. Proxies shall be specifically solicited for that purpose. Except as provided herein, the provisions of this section shall constitute the approval of the Board of the proposal by the board of directors of any Federal mutual association of the charter amendment set forth in paragraph (b) of this section.

(b) A mutual association adopting a charter amendment authorizing the issuance of mutual capital certificates shall delete charter Section 11 and add new charter Sections 11 and 12, to read as follows:

11. *Mutual capital certificates.* The association may issue mutual capital certificates pursuant to the rules and regulations of the Board. Subject to such rules and regulations, the board of directors of the association is authorized without the prior approval of the members of the association and by resolution or resolutions from time to time adopted and approved by the Board, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the association shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issues of mutual capital certificates.

12. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such proposal is made by the board of directors of the association, submitted to and approved by the Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Board, as of the date of the final approval of, or as fixed by, the members, or the board of directors in the case of supplementary sections to Section 11 of this charter, provided, however, that holders of mutual capital certificates may be granted in supplementary sections to Section 11 of this charter the right to vote on amendments, additions, alterations, changes, or repeals to this charter, in any of the instances set forth in 12 CFR 563.7–4(1)(2)(vii) (*b*) through (*f*).

(c) An application for final Board approval of the charter amendment set forth in paragraph (b) of this section shall include, in addition to other documents or information that may be required by the Board, a certified copy of each resolution adopted at the meeting of the members relating to the adoption of the proposed charter amendment, together with a certification by the secretary of the association that the resolutions were adopted in accordance with the provisions of this section.

(d) The Principal Supervisory Agent may approve applications for final approval of the charter amendment set forth in paragraph (b) in this section, provided that all approvals shall be made in accordance with the provisions of this section and the guidelines established by the Board. The Principal Supervisory Agent shall promptly transmit a copy of any approvals, with conforming amendments, to the Secretary to the Board. All recommendations for disapproval shall be transmitted by the Principal Supervisory Agent to the Board for action.

PART 545—OPERATIONS

4. Add new § 545.5-1 to read as follows:

§ 545.5-1 Issuance of mutual capital certificates.

A federal mutual association may issue mutual capital certificates as its charter permits and in accordance with § 563.7-4 of this Chapter, or as the Board may otherwise authorize in writing.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

5. Amend the final sentence of § 561.3 to read as follows:

§ 561.3 Insured account.

* * * Mutual capital certificates, subordinated debt securities and mortgage-backed bonds issued by an insured institution are deemed not to be "accounts", and such securities are not insurable.

6. Amend the first sentence of § 561.13 to read as follows:

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, permanent stock, mutual capital certificates (issued pursuant to § 563.7-4 of this Subchapter) and any other nonwithdrawable accounts of an insured institution, except that (1) capital stock may be included as net worth if it would otherwise qualify as permanent stock but for either a provision permitting redemption in the event of a merger, consolidation or reorganization approved by the Corporation where the issuing institution is not the survivor, or a provision permitting redemption where the funds for redemption are raised by the issuance of permanent stock, and (2) the aggregate amount of all outstanding and proposed mutual capital certificates which include a redemption provision permitted under § 563.7-4(1)(2)(v)(*a*) shall not exceed 20 percent of the issuing institution's net worth. * * *

PART 563—OPERATIONS

7. Add new § 563.7-4 to read as follows:

§ 563.7-4 Mutual capital certificates.

(a) *General.* No insured mutual institution shall issue mutual capital certificates pursuant to this section or amend the terms of such certificates, unless it has obtained written approval of the Corporation. No approval shall be granted unless the proposed issuance of the mutual capital certificates and the form and manner of filing of the application are in accordance with the provisions of this section.

(b) *Eligibility requirements.* The Corporation will consider and process an application for approval of the issuance of mutual capital certificates pursuant to this section only if the issuance is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws.

(c) *Application form; supporting information.* An application for approval of the issuance of mutual capital certificates pursuant to this section shall be in the form prescribed by the Corporation. Such application and instructions may be obtained from the Supervisory Agent. Information and exhibits shall be furnished in support of the application in accordance with such instructions, setting forth all of the terms and provisions relating to the proposed issue and showing that all of the requirements of this section have been or will be met.

(d) *Membership approval.* No application for approval of the issuance of mutual capital certificates pursuant to this section may be filed unless the amendment to the institution's charter, constitution or bylaws or other actions conferring such authority shall have been approved, at a legal meeting called for that purpose, by a majority, or by such higher percentage as may be required by applicable law, of the outstanding eligible voters of the institution who may be present in person or by proxy. Only proxies solicited in accordance with this section are valid for the purpose of voting on the approval of such matters.

(1) *Eligibility and notice.* The notice and eligibility requirements of the vote by the membership of the institution shall be determined by the requirements set forth in paragraphs (b) and (c) of § 563b.6 of this Subchapter, except that, for purposes of this section, any reference to "plan of conversion" in those paragraphs shall be deemed to be a reference to "authority to issue mutual capital certificates" and any reference to an eligible or supplemental account holder shall be disregarded.

(2) *Proxies and ancilliary provisions.* Matters relating to the form and solicitation of proxies, and the content and distribution of the proxy statement required under this section, shall be governed by: (i) §§ 563b.5(a)(1) and (2), 565b.5(c) (except that no prior Corporation authorization is required), 563b.5(d), 563b.5(g)(1), and 563b.5(h) of this Subchapter; (ii) Items 6, 7, and 8 of Form AR of § 563.45 of this Part; and (iii) Items, 1, 2, 3, 4, 5, 9, 10, 11, and Note 3 of Item 15 of Form PS of Part 563b of this Subchapter. Any reference to a meeting held to consider a plan of conversion in the above-referenced provisions, for the purpose of this section, shall be deemed to be a reference to a meeting at which the authority to issue mutual capital certificates is considered.

(3) *Proxy filing requirements.* No later than three days after the date on which copies of any proxy statement, form of proxy, or other soliciting materials are furnished to the members of an institution, 10 copies of any materials so furnished shall be filed with the Securities Division of the Office of General Counsel of the Board by the soliciting party. Notwithstanding any other provision of this section, nothing contained herein shall be construed to require prior Corporation approval of any proxy soliciting materials.

(e) *Minimum denominations of mutual capital certificates.*—(1) *General rule.* The minimum denomination of a mutual capital certificate shall be $100,000.

(2) *Exceptions. (i)* There is no minimum denomination for mutual capital certificates issued in a private placement to institutional investors, as that term is defined in § 563.8(f)(3) of this Part.

(ii) There shall be no minimum denomination if the mutual capital certificates are not offered or sold at any office of the institution or any of its affiliates, and

(*a*) They are not sold to more than 35 persons or offered by any advertisement, including any broadcast or written communication published in a newspaper, magazine or similar medium, or by any letter, circular, or other written communication, sent, given, or communciated to more than 35 persons who prior to such communication have not indicated an interest in pruchasing the securities, and any purchases by such persons are for their own account and not with a view to distribution; or

(*b*) prior to or simultaneously with any offering, and prior to issuance, purchasers of the mutual capital certificates have been furnished a final offering circular which conforms to the requirements of § 563.8(h) (2) and (3) of this part.

(f) *Disclosure.* No institution shall, directly or indirectly in connection with the offer, sale, or issuance of a security evidencing a mutual capital certificate pursuant to this section, make any statement that (1) is false or misleading with respect to any material fact, or (2) omits to state any material fact (i) necessary in order to make the statements made, in light of the circumstances under which they were

made, neither false nor misleading, or (ii) necessary to correct any earlier statement that has subsequently become false or misleading.

(g) *Filing requirements.* The application for issuance of mutual capital certificates shall be publicly filed with the Board by transmitting concurrently three copies to the Principal Supervisory Agent and the original and three copies to the Securities Division of the Office of General Counsel of the Board.

(h) *Final offering circular filing requirements.* The applicant shall file with the Securities Division of the Office of General Counsel of the Board 10 copies of each preliminary offering circular as to which preliminary review may be requested by the applicant, and 25 copies of each final offering circular required under this section. No final offering circular shall be furnished to purchasers under subparagraph (e)(2)(*b*) of this section unless it is filed with the Securities Division of the Board's Office of General Counsel, and declared effective.

(i) *Supervisory objection.* No application for approval of the issuance of mutual capital certificates pursuant to this section shall be approved if, in the opinion of the Corporation, the policies, condition, or operation of the applicant afford a basis for supervisory objection to the application.

(j) *Limitation on an offering period.* Following the date of the approval of the application by the Corporation, the institution shall have an offering period of not more than one year in which to complete the sale of the mutual capital certificates issued pursuant to this section. The Corporation may in its discretion extend such offering period if a written request showing good cause for such extension is filed with it not later than 30 days before the expiration of such offering period or any extension thereof.

(k) *Reports.* Within 30 days after completion of the sale of mutual capital certificates issued pursuant to this section, the institution shall transmit concurrently to the Supervisory Agent and to the Securities Division of the Office of General Counsel of the Board, a written report stating the total dollar amount of securities sold, and the amount of net proceeds received by the institution, and within 90 days it shall transmit a written report stating the number of purchasers.

(l) *Requirements as to mutual capital certificates.*—(1) *Form of certificate.* Each mutual capital certificate and any governing agreement evidencing a mutual capital certificate issued by an institution pursuant to this section:

(i) Shall bear on its face, in bold-face type, the following legend: "This security is not a savings account or a deposit and it is not insured by the Federal Savings and Loan Insurance Corporation"; and (ii) shall clearly state that the certificate is subject to the requirements of § 563.7–4(1).

(2) *Legal Requirements.* Mutual capital certificates issued pursuant to this section shall:

(i) Be subordinate to all claims against the institution having the same priority as savings accounts, savings certificates, debt obligations or any higher priority;

(ii) Not be eligible for use as collateral for any loan made by the issuing institution;

(iii) Constitute a claim in liquidation not exceeding the face value plus accured dividends of the certificates, on the general reserves, surplus and undivided profits of the institution remaining after the payment in full of all savings accounts, savings certificates and debt obligations;

(iv) Be entitled to the payment of dividends, which may be fixed, variable, participating, or cumulative, or any combination thereof, only if, when and as declared by the institution's board of directors out of funds legally available for that purpose, provided that no dividend may be declared or paid without the approval of the Corporation if such payment would cause the institution to fail to meet its statutory reserve requirement or its net worth requirement under §563.13 of this part;

(v) Not be redeemable, except: (*a*) where the dollar weighted average term of each issue of mutual capital certificates to be redeemed is ten years or more and redemption is to be made pursuant to a redemption schedule; (*b*) in the event of a merger, consolidation or reorganization approved by the Corporation; or (*c*) where the funds for redemption are raised by the issuance of mutual capital certificates approved pursuant to this section, or in conjunction with the issuance of capital stock pursuant to Section 563b of this Subchapter: *provided*, that mandatory redemption shall not be required; that mutual capital certificates shall not be redeemable on the demand or at the option of the holder; and that mutual capital certificates shall not receive, benefit from, be credited with or otherwise be entitled to or due payments in or for redemption if such payments would cause the institution to fail to meet its statutory reserve requirement or its net worth requirement under § 563.13 of this part; and *provided further*, for the purposes of this paragraph (v), the "dollar weighted average term" of an issue of mutual capital certificates shall be the sum of the products calculated for each year that the mutual capital certificates in the issue have been redeemed or are scheduled to be redeemed. Each product shall be calculated by multiplying the number of years of each mutual capital certificate of a given term by a fraction, the numerator of which shall be the total dollar amount of each mutual capital certificate in the issue with the same term and the denominator of which shall be the total dollar amount of mutual capital certificates in the entire issue;

(vi) Not have preemptive rights;

(vii) Not have voting rights, except that an institution may provide for voting rights if:

(*a*) The institution fails to pay dividends for a minimum of three consecutive dividend periods, and then the holders of the class or classes of mutual capital certificates granted such voting rights, and voting as a single class, with one vote for each outstanding certificate, may elect by a majority vote a maximum of one-third of the institution's board of directors, the directors so elected to serve until the next annual meeting of the institution succeeding the payment of all current and past dividends;

(*b*) Any merger, consolidation, or reorganization (except in a supervisory case) is sought to be authorized, where the issuing institution is not the survivor, provided that the net worth of the resulting institution available for payment of any class of mutual capital certificate on liquidation is less than the net worth available for such class prior to the merger, consolidation, or reorganization;

(*c*) Action is sought to be authorized which would create any class of mutual capital certificates having a preference or priority over an outstanding class or classes of mutual capital certificates;

(*d*) Any action is sought to be authorized which would adversely change the specific terms of any class of mutual capital certificates;

(*e*) Action is sought to be authorized which would increase the number of a class of mutual capital certificates, or the number of a class of mutual capital certificates ranking prior to or on parity with another class of mutual capital certificates; or

(*f*) Action is sought which would authorize the issuance of an additional class or classes of mutual capital certificates without the institution having met specific financial standards;

(viii) Not constitute an obligation of the institution and shall confer no rights which would give rise to any claim of or action for default;

(ix) Not be convertible into any account, security, or interest; and

(x) Provide for charging of losses after the exhaustion of all other items in the net worth account.

8. Amend § 563.13 by amending subparagraph (a) (3), by redesignating existing paragraph (c) thereof as paragraph (d), and adding new paragraphs (c) and (e) thereto, to read as follows:

§ 563.13 Reserve accounts.

(a) *Statutory reserve requirement.*

* * *

(3) Institutions may count as reserves meeting the reserve requirement those items listed in the definition of net worth, as set forth in § 561.13 of this Subchapter, except that the following items shall be excluded:

(i) Subordinated debt securities;

(ii) Specific loss reserves; and

(iii) Mutual capital certificates which include a redemption provision pursuant to § 563.7–4(1)(2)(v)(*a*) to the extent the amount of such certificates included in the institution's net worth in accordance with § 561.13 exceeds 20 percent of the statutory reserve requirement.

* * * * *

(c) *Mutual capital certificates.* Mutual capital certificates issued by insured mutual institutions and approved pursuant to § 563.7–4 of this Part shall be included in meeting the reserve and net worth requirements of paragraphs (a) and (b) of this section.

* * * * *

(e) *Charging of losses to statutory reserve.* Losses charged to the statutory reserve under paragraph (a) of this section shall exhaust all other net worth accounts in the statutory reserve before constituting a charge against mutual capital certificates.

PART 563c—ACCOUNTING REQUIREMENTS

9. Amend subparagraph (a)(2) of § 563c.1 to read as follows:

§ 563c.1 Application of this Subpart.

(a) * * *

(2) Any offering circular or private placement memorandum required to be used in connection with the issuance of mutual capital certificates under § 563.7–4 of this Subchapter and the issuance of debt securities under §§ 563.8 and 563.8–1 of this Subchapter.

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL SAVINGS AND LOAN ASSOCIATIONS

10. Amend paragraph (c) of § 569a.7 to read as follows:

§ 569a.7 Priority of claims.

* * * * *

(c) In the case of institutions having nonwithdrawable accounts or mutual capital certificates outstanding, the claims specified in paragraphs (a) and (b) of this section shall have priority, in the order stated above, over any claims by the holders of mutual capital certificates or nonwithdrawable accounts.

If a surplus remains after making distribution in full to prior claimants as set forth in paragraphs (a) and (b) of this section, such surplus shall be distributed to the mutual capital certificate holders and nonwithdrawable account holders, in accordance with the terms, conditions and priorities specified in the instruments establishing their interests in the institution. If such instruments do not specify the terms, conditions, and priorities for liquidation, the distribution of the surplus shall be pro rata.

* * * * *

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 577—CHARTER AND BYLAWS

11. Amend the first paragraph of § 577.1 as follows:

§ 577.1 Prescribed form.

Unless otherwise authorized by the Board, and until amended pursuant to the procedures set forth in the charter, a Federal mutual savings bank shall operate under a charter of the following form which form shall include the additional provisions set forth in § 577.1–1 if specifically requested.

12. Add new § 577.1–1 as follows:

§ 577.1–1 Mutual capital certificate amendment.

(a) *Approval of mutual capital certificate charter amendment.* No Federal mutual savings bank shall be authorized to issue mutual capital certificates unless it adopts a charter amendment in the form set forth in paragraph (b) of this section. Approval of the amendment shall be by a majority of the outstanding eligible votes, cast in person or by proxy, at a legal meeting of the members called for the purpose of voting on the amendment. Proxies shall be specifically solicited for that purpose. Except as provided herein, the provisions of this section shall constitute the approval of the Board of the proposal by the board of trustees of any Federal mutual savings bank of the charter amendment set forth in paragraph (b) of this section.

(b) A Federal mutual savings bank adopting a charter amendment authorizing the issuance of mutual capital certificates shall delete charter Section 12 and add new charter Sections 12 and 13 as follows:

12. *Mutual capital certificates.* The bank may issue mutual capital certificates pursuant to the rules and regulations of the Board. Subject to such rules and regulations, the board of trustees of the bank is authorized, without the prior approval of the members and by resolution or resolutions from time to time adopted and approved by the Board, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the bank shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issues of mutual capital certificates.

13. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such proposal is made by the board of trustees of the bank, approved by the Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Board, as of the date of the final approval of, or as fixed by the members, or the board of trustees in the case of supplementary sections to Section 12 of this charter, provided, however, that holders of mutual capital certificates may be granted in supplementary sections to Section 12 of this charter the right to vote on amendments, additions, alterations, changes, or repeals to this charter, in any of the instances set forth in § 563.7–4(1)(2)(vii)(*b*) through (*f*).

(c) An application for final Board approval of the charter amendment set forth in paragraph (b) of this section shall include, in addition to other documents or information that may be required by the Board, a certified copy of each resolution adopted at the meeting of the members relating to the adoption of the proposed charter amendment, together with a certification by the secretary of the association that the resolutions were adopted in accordance with the provisions of this section.

(d) The Principal Supervisory Agent may approve applications for final approval of the charter amendment set forth in paragraph (b) of this section, provided that all approvals shall be made in accordance with the provisions of this section and the guidelines established by the Board. The Principal Supervisory Agent shall promptly

transmit a copy of any approval, with conforming amendments, to the Secretary to the Board. All recommendations for disapproval shall be transmitted by the Principal Supervisory Agent to the Board for action.

PART 578—OPERATIONS

11. Add new § 578.5 to read as follows:

§ 578.5 Issuance of mutual capital certificates.

A Federal mutual savings bank may issue mutual capital certificates as its charter permits and in accordance with § 563.7–4 of this Chapter, or as the Board may otherwise authorize in writing.

(Sec. 5, 48 Stat. 134, as amended; 12 U.S.C. § 1464. Secs. 402, 403, 406, 48n Stat. 1256, 1257, 1259, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board,

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-38831 Filed 12-12-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 545

[80-793]

Renegotiable Rate Mortgages; Corrective Amendments

Dated: December 4, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: These technical amendments correct minor errors and omissions in the Board's renegotiable rate mortgage regulation (12 CFR 545.6–4a). The amendments modify the regulation to accurately reflect the Board's September 30, 1980, actions with respect to that regulation.

EFFECTIVE DATE: October 8, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Hall, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone: (202) 377–6466.

SUPPLEMENTARY INFORMATION: Effective October 8, 1980, the Board amended its renegotiable rate mortgage regulation (12 CFR 545.6–4a) to authorize federally-chartered savings and loan associations to structure a renegotiable rate mortgage (RRM) as a single, adjustable-rate, long-term note (FHLBB Res. No. 80–611; 45 FR 67059 (1980)). Prior to the amendment, Federal associations were required to structure an RRM as a short-term note automatically renewable each three, four or five years for up to thirty years.

The Federal Register document setting out the amendment contained certain errors and omissions that made it inconsistent with the regulatory action undertaken by the Board. Specifically, the notice required by subparagraph (e)(2) of the regulations, as amended, omits the words "on property" from the first sentence of the notice. Also, the word "minimum," which should have been deleted, appears in the last sentence of paragraph (b), and in the third and seventh sentences of the seventh paragraph in paragraph (f). Finally, the words "elect not to" are omitted from the next-to-the-last sentence of the seventh paragraph in paragraph (f).

The amendment also deletes all parts of the regulation that indicate the maximum overall term of an RRM is thirty years. This amendment is necessary to conform the regulation to the Board's action of November 10, 1980, which extended the maximum term of a mortgage loan from thirty to forty years (FHLBB Res. No. 80–700; 45 FR 76095 (1980). Instead of referring to a specific number of years, the regulation simply references, in paragraph (a), the regulation that establishes the maximum permissible mortgage term (12 CFR 545.6–2(a), as amended by FHLBB Res. No. 80–700).

The Board finds that notice and public procedure with respect to the amendments pursuant to 5 U.S.C. 553(b) and 12 CFR 508.11 are unnecessary because (1) these are merely technical corrections to the regulation and (2) it is in the public interest to publish the amendments without delay since they correct errors and omissions in the regulation. The Board also finds that the thirty-day delay of the effective date following publication as prescribed in 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reasons, and that it is necessary to make these amendments effective October 8, 1980, which is the date FHLBB Res. No. 80–700 became effective.

Accordingly, the Board hereby amends Part 545 of Subchapter C, Chapter V, Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Amend the first sentence of paragraph (b) and amend paragraph (f) and subparagraph (e)(2), of 12 CFR 545.6–4a, to read as set forth below:

§ 545.6–4a Renegotiable rate mortgage instruments.

* * * * *

(b) *Description.* For purposes of this section, a renegotiable rate mortgage loan is a loan (1) issued for a term of three, four or five years and automatically renewable at equal intervals except as provided in subparagraph (c)(1) of this section, or (2) issued for a single term and providing for adjustment of the interest rate at intervals of three, four or five years except as provided in subparagraph (c)(1) of this section. * * *

* * * * *

(e) *Notice to borrower.* * * *

(2) If the loan is structured as a long-term note, at least ninety (90) and not more than one-hundred twenty (120) days before adjustment of the interest rate, the association shall send written notification to the borrower in the following form:

Notice

The interest rate on your loan with ——— Federal Savings and Loan Association, secured by a [*mortgage/deed of trust*] on property located at [*address*], is scheduled to be adjusted on * * *

* * * * *

(f) *Application disclosure.* * * *

* * * * *

[As the borrower, you have the right to decline the lender's offer of renewal. If you decide not to renew, you will have to pay off the remaining balance of the mortgage. Even if you decide to renew, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the notice period for the first renewal. To give you enough time to make this decision the lender, at least ninety (90) but not more than one-hundred twenty (120) days before renewal, will send a notice stating the due date of the loan, the principal balance as of that date, the new interest rate and the monthly payment amount. If you elect not to pay the loan in full by the due date, the loan will be automatically renewed at the new rate. You will not have to pay any fees or charges at renewal time.] *[As the borrower, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the notice period of the first interest rate adjustment. To give you enough time to make this decision, the lender, at least ninety (90) but not more than one-hundred twenty (120) days before interest rate adjustment, will send a notice stating the date of adjustment, the principal balance as of that date, the new interest rate and the monthly payment amount. If you elect not to pay the loan in full by the due date, the*

interest rate will be adjusted to the new rate. You will not have to pay any fees or charges at the time of interest rate adjustment.]

* * * * *

(Sec. 5, 48 Stat. 132, as amended 12 U.S.C. 1464; Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-38640 Filed 12-12-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 550 and 571

[No. 80-738]

Trust Powers

Dated: November 26, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: The Federal Home Loan Bank Board adopts final regulations regarding the acquisition, exercise, and termination of trust powers by Federal savings and loan associations. These regulations implement section 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980, which empowers the Board to grant trust authority to Federal associations.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone: (202) 377-6457.

SUPPLEMENTARY INFORMATION: By Resolution No. 80-528 (August 21, 1980), the Federal Home Loan Bank Board proposed regulations implementing the recent statutory authorization for the granting of trust powers to Federal savings and loan associations. *See* 45 FR 57728 (Aug. 29, 1980). As empowered by Section 403 of the Depository Institutions Deregulation and Monetary Control Act, the Board proposed procedures for the acquisition, exercise, and termination of trust powers with respect to Federal associations. As part of the same resolution, the Board proposed a policy statement regarding the exercise of trust powers by institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and their service corporations.

The Board received approximately 25 comment letters in response to the proposal. Although comments were generally favorable, changes were suggested for several provisions. These suggestons are summarized below.

Definitions: § 550.1. Several commenters urged the Board to enumerate fully the activities encompassed in the term "trust powers". It was noted that the definition in § 550.1(k) did not list all the fiduciary activities contained in the parallel provision of the Comptroller of the Currency's regulation (12 CFR 9.1(d)). Commenters expressed apprehension that the Board might be taking a more restrictive view of the trust powers available to Federal associations.

Board Response. It is the Board's view that Federal associations are eligible for the full range of trust powers available to national banks and other institutions. The definition in proposed § 550.1(k) tracked the language of section 403 of the Depository Institutions Deregulation and Monetary Control Act. Although the definition of trust powers contained in section 403 differs slightly from that in the National Bank Act, 12 U.S.C. 92a, there is no evidence that Congress intended less trust authority for savings associations. Section 403 explicitly authorizes Federal associations to act in any fiduciary capacity allowed to "State banks, trust companies, or other corporations which come into competition with [Federal] associations" 12 U.S.C. 1464(n). In view of the confusion on this point, however, the Board has expanded the list of powers enumerated in § 550.1(k) to include some of the more common fiduciary activities engaged in by other institutions.

Applications: § 550.2. Several commenters took issue with the requirement of § 550.2(b)(2) that the Board take into account the needs of the community to be served in passing on applications for trust powers. Some commenters seemed to assume that this criterion could be satisfied only if trust services were not currently available in the community. In any event, it was feared that community needs would be difficult to demonstrate in most areas due to the prevalence of bank trust departments.

Commenters also criticized proposed § 550.2(c) which reserved the right of the Board to grant partial and conditional trust powers. Some commenters expressed concern as to whether application could be made for general trust powers under proposed Part 550.

Board Response. The Board acknowledges that market penetration by bank trust departments may inhibit demand for the trust services of Federal associations. The statute, however, explicitly suggests that community needs be examined. Moreover, it is the Board's view that community need is a valid factor to be considered in passing on an application for trust powers. In view of the impact of a grant of trust powers, the Board cannot foreclose itself from an area of inquiry that may be relevant to an applications decision.

The final regulation deletes § 550.2(c) which reserved the authority of the Board to grant limited trust powers. This provision appears to have generated considerable confusion and is moreover superfluous.

The Board has also amended the wording of § 550.2(a) to clarify the duty of Federal associations to obtain prior approval of any exercise of trust powers through a service corporation subsidiary. Federal associations are reminded that they are responsible for the proper conduct of fiduciary activities by their subsidiaries.

Deposit of Securities with State Authorities: § 550.4. Proposed § 550.4 requires Federal associations with trust authority to deposit securities with state officials when state law requires such deposits of state-chartered corporate trustees. If state officials refuse to accept a deposit of securities by a Federal association, the securities may be deposited with the Federal Home Loan Bank of which the association is a member. Several commenters suggested that it would be more efficient to have securities deposited with the Federal Home Loan Banks in all instances.

Board Response. Although there would be merit to a uniform requirement, section 403 of Pub. L. 96-221 specifically requires that securities be deposited with state authorities. *See* 12 U.S.C. 1464(n)(6).

Administration of Trust Powers: § 550.5. Proposed § 550.5 set forth the principle that the proper exercise of trust powers is the responsibility of the board of directors of the association. The proposal further established requirements to ensure that the board is informed about trust department activities and to prevent misuse of association personnel and insider information. One of the duties placed on the board of directors was the requirement that all trust accounts be reviewed annually. *See* proposed § 550.5(a)(2). In the preamble, it was stated that the annual review requirement would extend to those accounts whose investments are directed by other parties. Several commenters noted that the proposed regulation specifically mentioned reviews only of those accounts for which the association had investment responsibility. It was further maintained that full-scale reviews of directed investment accounts would be inappropriate since the association may not have the power to dispose of the assets of such accounts. Commenters

suggested that the board's duties, in these circumstances, should be limited to periodic reviews aimed at ensuring that investments conform to instructions.

Section 550.5 also provided authority for the Board to require additional bonding for trust department employees. *See* proposed § 550.5(d). The Board requested comments on whether the regulation should contain specific dollar amounts for bond coverage and, if so, what those amounts should be.

Commenters generally suggested that a hard and fast rule on bond coverage was not desirable. In the opinion of the Surety Association of America, the bonding required of larger institutions under Insurance Regulation § 563.19 would be adequate for a trust department. The Surety Association also took the position that if additional bonding were warranted, the requirement could be imposed as part of the applications process. The Surety Association also noted that it would not be appropriate to require additional bonding only of trust department employees since losses may result from collusion with other departments of the association.

Board Response. The Board agrees that an association's board of directors should not be required to conduct annual reviews of directed accounts to determine the advisability of retaining or disposing of account assets. It also is of the view, however, that the board of directors should have some responsibility to periodically monitor such accounts to ensure that investments have been made in accordance with instructions and that investment instructions comport with the terms and purposes of the trust. Although not explicitly stated, such a duty is implied by the regulation. As part of each examination, the Board's staff will review the propriety of investments of funds held in trust. Since the association's directors would be responsible for any misfeasance, it would be in their interest to periodically review directed trusts. In the final regulation, this duty is more specifically stated.

In view of the comments received with respect to bond coverage, the Board is persuaded not to establish specific dollar amounts. The final regulation, however, has been rephrased to allow the Board to require additional bonding of all association employees, not just those engaged in the operation of the trust department.

Funds Awaiting Investment or Distribution: § 550.8. Proposed § 550.8 authorized trust departments to deposit trust funds in other departments of the association provided that the association deposited collateral with the trust department. Section 550.8(b)(2) additionally imposed the requirement that such deposits of trust funds must "earn interest at competitive market rates". Several commenters felt this phrase was vague and construed it to require the payment of money-market rates on all deposits of trust funds.

Board Response. Proposed § 550.8(b)(2) was intended to prevent associations from placing trust funds awaiting investment or distribution in non-income-producing accounts. Although the Board does not agree with the extreme interpretation given § 550.8(b)(2) by some commenters, the final regulation has been reworded. The final regulation incorporates the requirment of the Comptroller of the Currency that such assets be made productive. It is noted that the Comptroller has recently proposed amendments to Regulation 9 to clarify the duty of national banks to pay competitive rates of return on temporarily-held trust funds. *See* Proposed § 9.10(c), 45 FR 71574 (Oct. 29, 1980). The Board intends to study the Comptroller's final regulation.

Self-dealing: § 550.10: Proposed § 550.10 generally prohibited an association from entering into transactions with accounts that it held as fiduciary. Under paragraph (b), an association would have been barred from purchasing assets from trust accounts in most instances. Among the exceptions to this rule would have been those situations in which retention of the asset could potentially expose the association to some form of liability. Such purchases could only have been made with the approval of the association's board of directors and the Supervisory Agent. Two commenters questioned the need for the participation of the Supervisory Agent. It was asserted that this constituted an unnecessary interference with the duties of the directors.

Paragraph (c) of the proposed § 550.10 addressed the ability of an association to vote its own shares which it held as a fiduciary. Consistent with the restriction imposed on national banks by 12 U.S.C. 61, paragraph (c) prohibits associations from voting such shares unless actually directed by the donor or beneficiary of the trust. One commenter objected that 12 U.S.C. § 61 applied only to elections of directors and argued that the donor's grant of voting discretion to the association as fiduciary should not be limited in other areas.

Board Response. Discussions with the trust examination staffs of other agencies indicate that § 550.10(b)(2) is a seldom-used exception to the prohibition against self-dealing. Nevertheless, it is an exception which could be abused. The participation of the Supervisory Agent ensures some uniformity in application. Moreover, it is expected that the concurrence of the Supervisory Agent will not be unreasonably withheld.

On re-examination of 12 U.S.C. 61, it does appear that § 550.10(c) is more restrictive than the National Bank Act with regard to the voting of shares held in trust. The final regulation, like the National Bank Act, therefore only limits voting in elections of directors.

Compensation of Association: § 550.12. Proposed § 550.12(c) prohibits trust department employees from accepting bequests or gifts of trust assets without the approval of the board of directors. One commenter noted that this provision is not contained in the Comptroller's Regulation 9 and urged that it be eliminated.

Board Response. Section 550.12 (c) was included at the suggestion of trust examiners at the other federal financial regulatory agencies. It has been their experience that gifts and bequests to trust department employees often result in suits against banks by the other beneficiaries of the trust. Section 550.12(c) does not prohibit such gifts and bequests, but ensures that the board of directors is informed of such occurrences. It is the Board's view that § 550.12(c) is a reasonable requirement and that it should be retained in the final regulation.

Policy Statement for FSLIC-insured Institutions: § 571.15. Part 550 applies directly only to Federally-chartered associations conducting fiduciary activities. It was noted that FSLIC-insured state-chartered institutions and their subsidiaries may soon be authorized to exercise trust powers under state law. In order to preserve the safety and soundness of the FSLIC-insured savings and loan system, the Board proposed a policy statement urging state-chartered insured institutions to conduct their fiduciary activities in accordance with the principles enunciated in Part 550.

Several commenters took objection to this proposal. Some interpreted it as an attempt to preempt state authority. Others construed the proposal as beyond the Board's proper sphere of concern.

Board Response. Proposed § 571.15 is clearly not intended to usurp state jurisdiction over state-chartered associations. The safety and soundness of insured institutions is the paramount concern of the Board in this area. The acquisition of trust powers represents a

major change in the character of savings and loan associations. These new powers also expand the risks that the Federal Savings and Loan Insurance Corporation is called upon to insure.

Part 550 represents a comprehensive system of regulation which the Board believes will preserve the safety and soundness of insured institutions. By making its views known through its policy statement, the Board seeks to provide insured institutions with an indication as to how the safety and soundness requirement may be satisfied.

Other Comments. Several commenters urged the Board to adopt the interpretations of Regulation 9 contained in the Comptroller's Handbook for National Trust Examiners. These opinions cover a broad range of issues and provide guidance with respect to the application of Regulation 9 to various situations. Although the Regulation 9 interpretations provide a valuable body of expertise and will certainly be looked to in construing Part 550, it is the Board's view that the staff should have the opportunity to analyze the issues presented in the context of thrift institution regulation. Accordingly, the Board will not incorporate by reference the materials in the Comptroller's Handbook.

Several commenters also urged the Board to seek an amendment to the Federal securities laws to give the Board jurisdictional parity with the other Federal financial regulatory agencies. The Board agrees with this concept, and has directed the staff to prepare a legislative proposal for this purpose.

Accordingly, the Board hereby adds a new Part 550, Subchapter C, and amends Part 571, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

1. Add a new Part 550, to read as follows:

SUBCHAPTER C—REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

PART 550—TRUST POWERS OF FEDERAL ASSOCIATIONS

Sec.

550.1 Definitions.
550.2 Applications.
550.3 Consolidation or merger of two or more Federal associations.
550.4 Deposit of securities with state authorities.
550.5 Administration of trust powers.
550.6 Books and accounts.
550.7 Audit of trust Department.
550.8 Funds awaiting investment or distribution.
550.9 Investment of funds held as fiduciary.
550.10 Self-dealing.
550.11 Custody of investments.
550.12 Compensation of association.
550.13 Collective investment.
550.14 Surrender of trust powers.
550.15 Effect on trust accounts of appointment of conservator or receiver or voluntary dissolution of association.
550.16 Revocation of trust powers.

Authority: Sec. 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132, 12 U.S.C. § 1464(n); Secs. 402, 403, & 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 Fed. Reg. 4981, 3 CFR 1071 (1943-48 Compilation).

§ 550.1 Definitions.

For purposes of this Part:

(a) "Account" means the trust, estate or other fiduciary relationship which has been established with an association;

(b) "Custodian under a uniform gifts to minors act" means an account established pursuant to a state law which is substantially similar to the Uniform Gifts to Minors Act As published by the American Law Institute and with respect to which the association operating such account has established to the satisfaction of the Secretary of the Treasury that it has duties and responsibilities similar to the duties and responsibilities of a trustee or guardian.

(c) "Fiduciary" means an association undertaking to act alone, through an affiliate, or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes trustee, executor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer, or paying agent, trustee of employee pension, welfare and profit sharing trusts, and any other similar capacity;

(d) "Fuduciary records" means all matters which are written, transcribed, recorded, received or otherwise come into the possession of an association and are necessary to preserve information concerning the actions and events relevant to the fiduciary activities of an association;

(e) "Guardian" means the guardian, conservator, or committee by whatever name employed by local law, of the estate of an infant, an incompetent individual, an absent individual, or a competent individual over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws:

(f) "Investment authority" means the responsibility conferred by action of law or a provision of an appropriate governing instrument to make, select or change investments, review investment decisions made by others, or to provide investment advice or counsel to others;

(g) "Local law" means the law of the state or other jurisdiction governing the fiduciary relationship;

(h) "Managing agent" means the fiduciary relationship assumed by an association upon the creation of an account which names the association as agent and confers investment discretion upon the association;

(i) "State-chartered corporate fiduciary" means any state bank, trust company, or other corporation which comes into competition with associations and is permitted to act in a fiduciary capacity under the laws of the state in which the association is located;

(j) "Trust department" means that group or groups of officers and employees of an association or of an affiliate of an association to whom are assigned the performance of fiduciary services by the association;

(k) "Trust powers" means the power to act in any fiduciary capacity authorized by § 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132, 12 U.S.C. 1464(n). Under the Act, a Federal association may be authorized to act, when not in contravention of local law, as trustee, executor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer, and paying agent, trustee of employee pension, welfare, and profit-sharing trusts, or in any other fiduciary capacity which state-chartered corporate fiduciaries exercise under local law: *Provided,* That the granting to, and exercise of, such powers shall not be deemed to be in contravention of state or local law whenever the laws of such state authorize or permit the exercise of any or all of the foregoing powers by state banks, trust companies, or other corporations which compete with Federal associations.

§ 550.2 Applications.

(a) An association desiring to exercise fiduciary powers, either through a trust department or through an affiliate, shall file with the Supervisory Agent an application indicating which trust services it wishes to offer and providing the information necessary to make the determinations under paragraph (b).

(b) In addition to any other facts or circumstances deemed proper, the Board, in passing upon an application to exercise trust powers, will give consideration to the following:

(1) the financial condition of the association, provided that in no event shall trust powers be granted to an association if its financial condition is such that the association does not meet the financial standards required by state

laws of state-chartered corporate fiduciaries;

(2) the needs of the community for fiduciary services and the probable volume of such fiduciary business available to the association;

(3) the general character and ability of the management of the association;

(4) the nature of the supervision to be given to the fiduciary activities, including the qualifications, experience and character of the proposed officer or officers of the trust department; and

(5) whether the association has available legal counsel to advise and pass upon fiduciary matters wherever necessary.

§ 550.3 Consolidation or merger of two or more Federal associations.

Where two or more Federal associations consolidate or merge, and any one of such associations has, prior to such consolidation or merger, received a permit from the Board to exercise trust powers which permit is in force at the time of the consolidation or merger, the rights existing under such permit pass to the resulting association, and the resulting association may exercise such trust powers in the same manner and to the same exent as the association to which such permit was originally issued; and no new application to continue to exercise such powers is necessary. However, when the name or charter number of the resulting association differs from that of the association to which the right to exercise trust powers was originally granted, the Board will issue a certificate to that association showing its right to exercise the trust powers theretofore granted to any of the associations participating in the consolidation or merger.

§ 550.4 Deposit of securities with state authorities.

Whenever local law requires corporations acting as fiduciary to deposit securities with State authorities for the protection of private or court trusts, associations in that state authorized to exercise trust powers shall, before undertaking to act in any fiduciary capacity, make a similar deposit with the state authorities. If the state authorities refuse to accept such a deposit, the Securities shall be deposited with the Federal Home Loan Bank of which the association is a member, and such securities shall be held for the protection of private or court trusts with like effect as though the securities had been deposited with the state authorities.

§ 550.5 Administration of trust powers.

(a)(1) *Responsibility of the board of directors.* The board of directors is responsible for the proper exercise of fiduciary powers by the association. All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the association in the exercise of its fiduciary powers, are the responsibility of the board. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the association's trust powers as it may consider proper to assign to such director(s), officer(s), employee(s), or committee(s) as it may designate.

(2) *Administration of accounts.* No fiduciary account shall be accepted without the prior approval of the board, or of the director(s), officer(s), or committee(s) to whom the board may have assigned the performance of that responsibility. A written record shall be made of such acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the association has investment responsibilities, a prompt review of the assets shall be made. The board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in or held for each fiduciary account for which the association has investment responsibilities are reviewed to determine the advisability of retaining or disposing of such assets. The board of directors should act to ensure that all investments have been made in accordance with the terms and purposes of the governing instrument.

(b) *Use of other association personnel.* The trust department may utilize personnel and facilities of other departments of the association, and other departments of the association may utilize personnel and facilities of the trust department only to the extent not prohibited by law.

(c) *Compliance with Federal securities laws.* Every Federal association exercising trust powers shall adopt written policies and procedures to ensure that the Federal securities laws are complied with in connection with any decision or recommendation to purchase or sell any security. Such policies and procedures, in particular, shall ensure that the association's trust departments shall not use material inside information in connection with any decision or recommendation to purchase or sell any security.

(d) *Legal counsel.* Every association exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be readily available to pass upon fiduciary matters and to advise the association and its trust department.

(e) *Bonding.* In addition to the minimum bond coverage required by § 563.19 of this Chapter, directors, officers, and employees of an association engaged in the operation of a trust department shall acquire such additional bond coverage as the Board may require.

§ 550.6 Books and accounts.

(a) *General.* Every association exercising trust powers shall keep its fiduciary records separate and distinct from other records of the association. All fiduciary records shall be so kept and retained for such time as to enable the association to furnish such information or reports with respect thereto as may be required by the Board. The fiduciary records shall contain full information relative to each account.

(b) *Record of pending litigation.* Every association shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of trust powers.

§ 550.7 Audit of trust department.

At least once during each calendar year, the association's trust department shall be audited by auditors in a manner consistent with § 563.17–1 of this Chapter. A copy of the report of the audit shall be promptly filed with the District Director-Examinations of the Federal Home Loan Bank District in which the home office of the association is located. Trust department audits may be made as part of the annual audits required by § 563.17–1.

§ 550.8 Funds awaiting investment or distribution.

(a) *General.* Funds held in a fiduciary capacity by an association awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

(b) *Use by association in regular business.* (1) Funds held in trust by an association, including managing agency accounts, awaiting investment or distribution may, unless prohibited by the instrument creating the trust or by local law, be deposited in other departments of the association, provided that the association shall first set aside under control of the trust department as collateral security:

(i) Direct obligations of the United States, or other obligations fully guaranteed by the United States as to principal and interest;

(ii) Readily marketable securities of the classes in which state-chartered corporate fiduciaries are authorized or permitted to invest trust funds under the laws of the state in which such association is located; or

(iii) Other readily marketable securities as the Board may determine.

(2) Collateral securities or securities substituted therefor as collateral shall at all times be at least equal in face value to the amount of trust funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by the Federal Savings and Loan Insurance Corporation. The requirements of this paragraph are met when qualifying assets of the association are pledged to secure a deposit in compliance with local law, and no duplicate pledge shall be required in such case.

(3) Any funds held by an association as fiduciary awaiting investment or distribution and deposited in other departments of the association shall be made productive.

§ 550.9 Investment of funds held as fiduciary.

(a) *Private trusts.* Funds held by an association in a fiduciary capacity shall be invested in accordance with the instrument establishing the fiduciary relationship and local law. When such instrument does not specify the character or class of investments to be made and does not vest in the association, its directors, or its officers investment discretion in the matter, funds held pursuant to such instrument shall be invested in any investment in which state-chartered corporate fiduciaries may invest under local law.

(b) *Court trusts.* If, under local law, corporate fiduciaries appointed by a court are permitted to exercise discretion in investments, or if an association acting as fiduciary under appointment by a court is vested with discretion in investments by an order of such court, funds of such accounts may be invested in any investments which are permitted by local law. Otherwise, an association acting as fiduciary under appointment by a court must make all investments of funds in such accounts under an order of that court. Such orders in either case shall be preserved with the fiduciary records of the association.

(c) *Collective investment of trust funds.* The collective investment of funds received or held by an association as fiduciary is governed by § 550.13 of this Part.

§ 550.10 Self-dealing.

(a) *Purchase of obligations, etc., from association.* Unless lawfully authorized by the instrument creating the relationship, or by court order or local law, funds held by an association as fiduciary shall not be invested in stock or obligations of, or property acquired from, the association or its directors, officers, or employees, or individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the association in acquiring the property, or in stock or obligations of, or property acquired from, affiliates of the association or their directors, officers or employees.

(b) *Sale or transfer of trust assets to association.* Property held by an association as fiduciary shall not be sold or transferred, by loan or otherwise, to the association or its directors, officers, or employees, or to individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the association in selling or transferring such property, or to affiliates of the association or their directors, officers or employees, except:

(1) When lawfully authorized by the instrument creating the relationship or by court order or by local law;

(2) In cases in which the association has been advised by its counsel in writing that it has incurred as fiduciary a contingent or potential liability and desires to relieve itself from such liability, in which case such a sale or transfer may be made with the approval of the board of directors and the Supervisory Agent, *provided,* That in all such cases the association, upon the consummation of the sale or transfer, shall make reimbursement in cash at no loss to the account;

(3) As provided in the laws and regulations governing collective investments; and

(4) When required by the Board.

(c) *Investment in stock of association.* Except as provided in § 550.8(b) of this Part, funds held by an association as fiduciary shall not be invested by the purchase of stock or obligations of the association or its affiliates unless authorized by the instrument creating the relationship or by court order or by local law: *provided,* That if the retention of stock or obligations of the association or its affiliates is authorized by the instrument creating the relationship or by court order or by local law, it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders, unless such exercise is forbidden by local law. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired. In elections of directors, an association's share held by the association as sole trustee, whether in its own name as trustee or in the name of its nominee, may not be voted by the registered owner unless, under the terms of the trust, the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and the donor or beneficiary actually directs how the shares will be voted.

(d) *Transactions between accounts.* (1) An association may sell assets held by it as fiduciary in one account to itself as fiduciary in another account if the transaction is fair to both accounts and if such transaction is not prohibited by the terms of any governing instrument or by local law.

(2) An association may make a loan to an account from the funds belonging to another such account, when the making of such loans to a designated account is authorized by the instrument creating the account from which such loans are made, and is not prohibited by local law, and the terms of the transaction are fair to all accounts.

(3) An association may make a loan to an account and may take as security therefor assets of the account, provided such transaction is fair to such account and is not prohibited by local law.

§ 550.11 Custody of investments.

(a) *Segregation of trust assets and joint custody.* The investments of each account shall be kept separate from the assets of the association, and shall be placed in the joint custody or control of not fewer than two of the officers or employees of the association designated for that purpose either by the board of directors of the association or by one or more officers designated by the board of directors of the association, and all such officers and employees shall be adequately bonded. To the extent permitted by law, an association may permit the investments of a fiduciary account to be deposited elsewhere.

(b) *Segregation of accounts.* The investments of each account shall be either:

(1) Kept separate from those of all other accounts, except as provided in § 550.13 of this Part; or

(2) Adequately identified as the property of the relevant account.

§ 550.12 Compensation of association.

(a) *General.* If the amount of the compensation for acting in a fiduciary capacity is not regulated by local law or provided for in the instrument creating the fiduciary relationship or otherwise agreed to by the parties, an association acting in such capacity may charge or deduct a reasonable compensation for its services. When the association is acting in a fiduciary capacity under appointment by a court, it shall receive such compensation as may be allowed or approved by that court or by local law.

(b) *Officer or employee of association as co-fiduciary.* No association shall, except with the specific approval of its board of directors, permit any of its officers or employees, while serving as such, to retain any compensation for acting as a co-fiduciary with the association in the administration of any account undertaken by it.

(c) *Bequests or gifts to trust officers and employees.* No association shall permit an officer or employee engaged in the operaton of its trust department to accept a bequest or gift of trust assets unless the bequest or gift is directed or made by a relative or is approved by the board of directors of the association.

§ 550.13 Collective investment.

(a) When not in contravention of local law, funds held by an association as fiduciary may be held in:

(1) A common trust fund maintained by the association exclusively for the collective investment and reinvestment of moneys contributed thereto by the association in its capacity as trustee, executor, administrator, guardian, or custodian under a Uniform Gifts to Minors act; or

(2) A fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from Federal income taxation under the Internal Revenue Code.

(b) Collective investments of funds or other property by an association under paragraph (a) of this section shall be administered in accordance with Comptroller of the Currency Regulation 9.18, 12 CFR 9.18: *provided,* That any documents required to be filed with the Comptroller of the Currency under that regulation shall also be filed with the Supervisory Agent and that the Board may review such documents for compliance with these and other laws and regulations.

(c) As used in this section, the term association shall include two or more associations which are members of the same affiliated group with respect to any fund established pursuant to § 550.13 of this Part of which any of such affiliated associations is trustee, or of which two or more of such affiliated associations are co-trustees.

§ 550.14 Surrender of trust powers

(a) Any association which has been granted the right to exercise trust powers and which desires to surrender such rights shall file with the Board a certified copy of the resolution of its board of directors signifying such desire.

(b) Upon receipt of such resolution, the Board shall make an investigation and if it is satisfied that the association has been discharged from all fiduciary duties which it has undertaken, it shall issue a certificate to such association certifying that it is no longer authorized to exercise fiduciary powers.

(c) Upon issuance of such a certificate by the Board, an association: (1) shall no longer be subject to the provisions of these regulations, (2) shall be entitled to have returned to it any securities which it may have deposited with state authorities or a Federal Home Loan Bank under § 550.4 of this Part, and (3) shall not exercise thereafter any of the powers granted by this Part without first applying for and obtaining new authorization to exercise such powers.

§ 550.15 Effect on trust accounts of appointment of conservator or receiver or voluntary dissolution of association.

(a) *Appointment of conservator or receiver.* Whenever a conservator or receiver is appointed for an association under Part 547 of this title, such receiver or conservator shall, pursuant to the instructions of the Board and the orders of the court having jurisdiction, proceed to close such of the association's trust accounts as can be closed promptly and transfer all other such accounts to substitute fiduciaries.

(b) *Voluntary dissolution.* Whenever an association exercising trust powers is placed in voluntary dissolution, the liquidating agent shall, in accordance with local law, proceed at once to liquidate the affairs of the trust department as follows:

(1) All trusts and estates over which a court is exercising jurisdiction shall be closed or disposed of as soon as practicable in accordance with the order or instructions of such court; and

(2) All other accounts which can be closed promptly shall be closed as soon as practicable and final accounting made therefor, and all remaining accounts shall be transferred by appropriate legal proceedings to substitute fiduciaries.

§ 550.16 Revocation of trust powers.

(a) In addition to the other sanctions available, if, in the opinion of the Board, an association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this Part or otherwise fails or has failed to comply with the requirements of this Part, the Board may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this Part. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(b) Such hearing shall be conducted in accordance with the provisions of Part 509 of this Chapter, and shall be fixed for a date not earlier than thirty days and not later than sixty days after service of such notice unless an earlier or later date is set by the Board at the request of an association so served.

(c) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent or if, upon the record made at any such hearing, the Board shall find that any allegation specified in the notice of charges has been established, the Board may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this Part except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(d) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

2. Add a new § 571.15, to read as follows:

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 571—STATEMENTS OF POLICY

§ 571.15 Fiduciary activities of state-chartered insured institutions and service corporations.

Although state law would primarily govern the fiduciary activities of state-chartered insured institutions and service corporations in which these institutions invest, it must be recognized that these activities may have implications with respect to the Federal interest in the safe and sound operation of insured institutions. Accordingly, insured institutions are urged to follow the standards for the exercise of trust powers contained in Part 550 of this Chapter. Insured institutions are particularly urged not to engage in dealings prohibited by § 550.10. In establishing trust departments, insured institutions should also observe the procedures and policies required by §§ 550.5, 550.6, 550.7, 550.8, 550.9, 550.11, and 550.13. Insured institutions should also take whatever steps are necessary to ensure that their service corporation subsidiaries adhere to these standards. The examinations staff will monitor the fiduciary activities of all insured institutions and may take exception to practices which deviate materially from the standards of Part 550, and the Corporation may regulate or prohibit such fiduciary activities that threaten the safety or soundness of insured institutions.

(Sec. 403 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132, 12 U.S.C. § 1464(n); Secs. 402, 403, and 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 Fed. Reg. 4981, 3 CFR 1071 (1943-48 Compilation))

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-38679 Filed 12-12-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 563

[No. 80-739]

Technical Correcting Amendment Relating to Credit Card Authority

Dated: November 26, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulation.

SUMMARY: The Federal Home Loan Bank Board has adopted an amendment to 12 CFR 563.43, regulation that relates to its restrictions on loans and other investments involving affiliated persons, to clarify the availability of credit card loans to affiliated persons of institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

EFFECTIVE DATE: November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley (202-377-6444), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The types of loans that may be granted by an insured institution to an "affiliated person" (defined generally in 12 CFR 561.29 as an officer, director, controlling person, or one of their immediate family members) are enumerated in 12 CFR 563.43(b)(1)(i)-(vii). An insured institution is specifically permitted to extend credit in the form of "consumer loans in the aggregate not exceeding $10,000" to an affiliated person under subparagraph (b)(1)(vii) of that section.

On July 3, 1980, the Board adopted final regulations (Resolution No. 80-408, 45 FR 46338, July 10, 1980) implementing the credit card authority of the Depository Institutions Deregulation and Monetary Control Act of 1980 (§ 402, Pub. L. No. 96-221, 94 Stat. 132, 12 U.S.C. 1464(b)). An intended consequence of those new regulations was that any of the types of loans permitted by 12 CFR 563.43(b)(1)(i)-(vii) could be made with a credit card held by an affiliated person. This result was inadvertently altered by the Board's adoption of new final regulations regarding investments in consumer loans on November 10, 1980 (Resolution No. 80-701, 45 FR 76104, November 18, 1980). That Resolution adopted a definition of "consumer loan" in new 12 CFR 541.25 that excluded "credit extended in connection with credit cards."

Because of the definition in 12 CFR 541.25 is applicable to the term "consumer loan" as it appears in 12 CFR 563.43(b)(vii), it precludes insured institutions from making consumer loans to affiliated persons through credit cards. This result in practical effect precludes an institution from issuing a credit card to an affiliated person, since most loans through credit cards are for consumer purposes.

The Board has adopted a technical amendment to 12 CFR 563.43 that obviates the problem created by the new definition of "consumer loan" as it applies to 12 CFR 563.43(b)(1)(vii). The amendment empowers insured institutions to make loans to affiliated persons in the form of "consumer loans and extensions of credit in connection with credit cards."

The section also requires prior approval of each loan to an affiliated person by the board of directors. Since this would not be practical with respect to credit card loans (i.e., approval would be required prior to each credit card purchase), the language has been changed to require approval of each new extension of credit in the case of credit card lending. Thus, an institution's board of directors must approve in advance a line of credit (and each enlargement thereof) extended in connection with a credit card held by an affiliated person.

The definition of "consumer loan" in new 12 CFR 541.25 also excludes "loans in the nature of overdraft protection." It should be noted that 12 CFR 563.43 was accordingly amended by Resolution No. 80-613 ("NOW Accounts," Sept. 30, 1980, 45 FR 66781, Oct. 8, 1980), to specifically permit overdraft protection on NOW accounts held by affiliated persons (12 CFR 563.43(b)(1)(v)).

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. § 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. § 553(d) is unnecessary due to the technical nature of this amendment and the fact that it relieves a restriction.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations,* as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Revise paragraph (b)(1)(vii) of § 563.43, to read as follows:

§ 563.43 Restrictions on loans and other investments involving affiliated and nonaffiliated persons.

* * * * *

(b) *Restrictions concerning loan transactions with affiliated persons.* (1) * * *

(vii) An aggregate of consumer loans and extensions of credit in connection with credit cards (including any amounts borrowed under subdivision (ii) of this subparagraph) not exceeding $10,000.

With respect to loans covered by the exceptions in (i), (ii), (iii), (v), (vi) and (vii) of the preceding sentence, each loan (or, in the case of a credit card loan or a loan described in subdivision (v), each new extension of credit) must be approved in advance by a resolution duly adopted with full disclosure by at

least a majority (with no director having an interest in the transaction voting) of the entire board of directors of such institution or subsidiary. * * *

* * * * *

(Sec. 402, 94 Stat. 132, 12 U.S.C. 1464(b); Sec. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1730); Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-38680 Filed 12-12-80; 8:45 am]

BILLING CODE 67-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-53-AD; Amdt. 39-3990]

Airworthiness Directives; Rockwell NA-265-60 Airplanes Modified in Accordance with Raisbeck Group STC SA687NW and Rockwell NA-265-80 Airplanes Modified in Accordance With Raisbeck STC SA847NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On October 24, 1980, the FAA issued a telegraphic Airworthiness Directive, AD T80-22-54, effective upon receipt, which required inspection of the aileron cables and sectors for damage inflicted by incorrect drilling procedures, on Rockwell NA-265-60 and NA-265-80 airplanes which have been modified in accordance with Raisbeck Group STC SA687NW and STC SA847NW respectively.

Six airplanes were inspected for this condition, and all six exhibited varying degrees of damage. The AD is hereby published in the Federal Register to make it effective to all persons.

DATES: Effective date. This AD was effective earlier to all recipients of the telegraphic AD T80-22-54 dated October 24, 1980. Initial compliance is before further flight.

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

SUPPLEMENTARY INFORMATION: One operator reported that the aileron control cables had been damaged by what appeared to be a drill bit. Similar damage, apparently caused during the installation of the Raisbeck modification, was found on five other subsequently inspected airplanes. The condition upon which the telegraphic AD was issued is likely to exist on other Rockwell NA-265-60 and NA-265-80 airplanes modified in accordance with Raisbeck STC SA687NW and STC SA847NW.

Since a situation existed that required immediate adoption of this regulation, it was found that notice and public procedure thereon were impracticable and good cause existed at the time of issuance, and still exists, for making this amendment effective in less than 30 days.

Adoption of the Amendment

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

Rockwell: Applies to Rockwell NA-265-60 airplanes modified in accordance with Raisbeck Group STC SA687NW and Rockwell NA-265-80 airplanes modified in accordance with Raisbeck STC SA847NW. To prevent failure of the lateral control system, accomplish the following:

A. Before further flight visually inspect for nicks, burns or other damage, the aileron cables, and the sector to which the cables attach, in the area of the sector, at approximately wing station 160. Inspect these parts in both wings.

B. Cables found damaged are to be replaced. Sectors found damaged are to be replaced or repaired, as necessary, in accordance with FAR Part 43, or in a manner approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

C. Airplanes may be ferried in accordance with FAR 21.199 to a Maintenance Base, for the purpose of complying with this AD.

D. This Airworthiness Directive is not applicable to airplanes inspected in accordance with the above if the inspections were accomplished after October 20, 1980.

This amendment becomes effective December 24, 1980, and was effective earlier to those recipients of telegraphic AD T80-22-54 dated October 24, 1980.

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

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

Issued in Seattle, Washington, on December 4, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-38667 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NE-09, Amdt. 39-3986]

Sikorsky S-76A Helicopters Certificated in All Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment amends an existing airworthiness directive (AD) 80-06-01, Amendment 39-3918, applicable to S-76A helicopters certificated in all categories. This amendment removes required inspections from the AD for aircraft with installed main transmission support structure reinforcement kits and refers the owners/operators of these aircraft to the manufacturer's Maintenance Manual, "Airworthiness Limitations" Section, for less restrictive mandatory inspections.

DATES: Effective date—December 23, 1980. Comments must be received on or before February 23, 1981.

ADDRESS: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 80-NE-09, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins may be obtained from Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. Copies of the service bulletins are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Stephen Soltis, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone 617-273-1328.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

This notice further amends Amendment 39-3709, 45 FR 15174, AD 80-06-01, as amended by Amendment

39-3786, 45 FR 37808, and further amended by Amendment 39-3918, 45 FR 62793, which currently requires 10-hour repetitive inspections of reinforced as well as unreinforced main transmission support beams.

At the time when Amendment 39-3786 was issued, additional reinforcements were added to the transmission support structure on new production aircraft (serial numbers 760055, 760074, 760077, and subsequent) and were available as reinforcement kits for retrofit on delivered aircraft.

FAA engineering evaluation of the design determined that the added reinforcements improved the integrity of the support beams. However, data and analysis were not sufficiently developed at that time to quantify an increase in the initial and repetitive inspection interval. The AD (Amendment 39-3918) was amended to include new procedures for inspecting the reinforced beams and at the same time maintained, for all configurations, the inspection interval already established for the original unreinforced structure.

Analysis of all current data indicate that less restrictive initial and repetitive inspection requirements are appropriate for aircraft with reinforced beams. These inspection requirements have been incorporated into the S-76 Maintenance Manual "Airworthiness Limitations" Section. Compliance with this section is mandatory per §§ 91.163(c) and 43.16 of the Federal Aviation Regulations (FARs) (14 CFR 91.163(c) and 14 CFR 43.16).

Operators and owners who have incorporated the modification kits, or have aircraft with the reinforcements installed at the factory, are referred to the Maintenance Manual, "Airworthiness Limitations" Sections for less restrictive mandatory inspections.

Need for Amendment

Subsequent to publication of AD 80-06-01, Amendment 39-3786, the manufacturer provided the FAA with analytical and test data for reinforced S-76A main transmission support structure. The agency determined that a less restrictive inspection interval is appropriate for those helicopters with reinforced structure.

As this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are impracticable and unnecessary; a good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which relieves a restriction and imposes no additional burden on any person and, thus, was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended effective December 23, 1980, by amending Amendment 39-3918 (45 FR 62793), AD 80-06-01, as follows:

1. Change applicability statement to read:

Applies to Sikorsky Model S-76A helicopters certificated in all categories.

Owners/operators of aircraft serial numbers 760055, 760074, 760077, and subsequent, and those aircraft retrofitted with main transmission support reinforcement kits in accordance with Sikorsky Service Bulletin 76-53-12, dated September 5, 1980, must inspect for cracks in accordance with Chapter 4 of the Sikorsky S-76 Maintenance Manual, SA 4047-76-2, "Airworthiness Limitations" Section, Revision No. 4-7 and subsequent, for mandatory inspections.

2. Combine paragraphs 1.a. with 1.a.i. to read:

a. Gain access to the 76209-03001-041 and -042 main transmission support structure fittings as follows:

Remove the 76205-08001 main gearbox fairing assemblies to obtain access to the 87209-03001-041 and -042 main transmission support structure fittings.

3. Eliminate paragraph 1.a.ii. and the "Note" that follows.

4. Change paragraph 1.c. to read:

Using a light and mirror, visually inspect for cracks all accessible flanges and webs of the transmission support structure fittings.

5. Remove from paragraph 1.d. "and the 76070-20012-012 kit, if installed."

6. Revise the Note listing references as follows:

Add:

3. Sikorsky Service Bulletin 76-53-12, dated September 5, 1980.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective December 23, 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 involves a final regulation which is not significant under Executive Order 12044 as amended, on June 27, 1980, by Executive Order 12221, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Mass., on December 3, 1980.

Robert E. Whittington,

Director, New England Region.

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

[FR Doc. 80-38668 Filed 12-12-80; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASW-35]

Alteration of Transition Area Correction; Woodward, Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the Federal Register on October 30, 1980, Vol. 45, page 71772, altering the transition area at Woodward, Oklahoma, there was a typographical error in the description of the transition area change. This action corrects that error; thereby, making the description of the transition area airspace to conform

with the area intended for the protection of aircraft executing instrument approach procedures to the West Woodward Airport.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Federal Register Document 80-33470, published on October 30, 1980, (45 FR 71772), altered the transition area at Woodward, Oklahoma, to encompass an instrument approach procedure based on a newly established NDB. In describing the transition area a typographical error occurred which caused the transition area to be improperly described. Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) was published in the Federal Register on January 2, 1980 (45 FR 445). Since this correction is a minor matter upon which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

Adoption of The Amendment

In Federal Register Document No. 80-33470 as published in 45 FR 71772 on October 30, 1980, under Woodward, Okla., delete: "7-mile radius southwest of Gage VORTAC;" and substitute therefor: "7-mile radius southwest to the Gage VORTAC."

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as inplemented 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 Fort Worth, Texas, on December 4, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-38669 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-29]

Section 206(d) Rule Exempting Agricultural Uses From Incremental Pricing Surcharges; Effective Date

September 11, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of effective date.

SUMMARY: On May 7, 1980, the Federal Energy Regulatory Commission (Commission) issued a rule (45 FR 33601, May 20, 1980) providing an exemption for agricultural uses of natural gas from incremental pricing surcharges until such time as the Commission determines there is an economically practicable and reasonably available alternative fuel for a particular use. On the same day, the rule was transmitted to Congress for review as required by section 206(d) of the Natural Gas Policy Act of 1978. During the period for Congressional review, neither House disapproved the submittal. The exemptive rule thus became effective immediately upon expiration of the thirty-day Congressional review period.

EFFECTIVE DATE: June 12, 1980.

FOR FURTHER INFORMATION CONTACT: Alice Fernandez, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9095.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38355 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 282

[Docket No. RM79-21]

Rule Further Exempting Industrial Boiler Fuel Facilities From Incremental Pricing Above the Price of No. 6 Fuel Oil and Applying Ceiling Prices to Forty-Eight Incremental Pricing Regions; Effective Date

September 11, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of effective date.

SUMMARY: On May 7, 1980, the Federal Energy Regulatory Commission (Commission) adopted Order No. 81, a final rule subject to Congressional review, which provided that large industrial boiler fuel facilities subject to the incremental pricing program will continue to be surcharged only at the level of the high sulfur No. 6 fuel oil price through October 31, 1981, (45 FR 31300, May 13, 1980). The rule was later transmitted to Congress for review as required by section 206(d) of the Natural Gas Policy Act of 1978. During the period for Congressional review, neither House disapproved the submittal. The exemptive rule thus became effective July 1, 1980.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Alice Fernandez, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9095.

Kenneth F. Plumb,

Secretary

[FR Doc. 80-38354 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-80-843]

Schedule A—Fair Market Rents for new Construction and Substantial Rehabilitation, Philadelphia, Pennsylvania; Section 8 Projects

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

ACTION: Recission of interim rule.

SUMMARY: A conflict exists between the October 1, 1980 effective date of the Annual Revision of the Fair Market Rents for New Construction and Substantial Rehabilitation for all market areas, and the October 23, 1980 effective date of the Special Revision of the Fair Market Rents for the Philadelphia, Pennsylvania market area. Accordingly, the Secretary is rescinding the Interim Rule for Effect, Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation for the Philadelphia, Pennsylvania market area which was published in the Federal Register on September 3, 1980.

EFFECTIVE DATE: September 3, 1980.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily

Housing Development, 451 7th Street, SW., Washington, D.C. 20410. (202) 755-5743. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On September 3, 1980 at 45 FR 58337 HUD published an Interim Rule for Effect which amended 24 CFR, Part 888, Subpart A, Schedule A, regarding the Fair Market Rents for the Philadelphia, Pennsylvania market area.

The purpose of this Special Revision was to modify the October 1, 1979 rent schedule applicable to that market area, thereby permitting the use of these amended rents to meet fiscal year 1980 production goals during September 1980. However, the publication of this Special Revision in the Federal Register took longer than had been anticipated, and it became effective October 23, 1980.

Meanwhile, the Annual Revision of the Fair Market Rents for New Construction and Substantial Rehabilitation for all market areas was published as an Interim Rule for Effect in the Federal Register on August 29, 1980, with an effective date of October 1, 1980.

Since it was originally intended that the Annual Revision of the Fair Market Rents effective October 1, 1980 would supersede on that date the Special Revision Fair Market Rents planned for use in September 1980, the fact that the Special Revision of the Fair Market Rents for the Philadelphia, Pennsylvania market area published September 3, 1980 had an effective date of October 23, 1980 rendered this Special Revision useless for its intended purposes. Accordingly, the Secretary has determined that the September 3, 1980 Interim Rule for Effect must be rescinded.

The prior Fair Market Rent schedule for the Philadelphia, Pennsylvania market area which was published on August 29, 1980 with an effective date of October 1, 1980, will, without further publication in the Federal Register, be continued as a Final Rule.

(Sec. 7(d) of the Department of HUD Act; (42 U.S.C. 3535(d)))

Issued at Washington, D.C. on, December 8, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-38712 Filed 12-12-80; 8:45 am]

BILLING CODE 4210-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits contains the interest rates and factors for the period beginning January 1, 1981. The interest rates and factors are to be used to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after January 1, 1981, and enables the PBGC to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes a notice revising them.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before December 1, 1980. (29 CFR 2610 (1979), 44 FR 42180, 44 FR 58908, 45 FR 2026, 45 FR 21228, 45 FR 43164, 45 FR 64907, 45 FR 75658).

On November 14, 1980, the PBGC published the first set of prospective interest rates for plans that terminate on or after December 1, 1980 (45 FR 75209). Those rates will be in effect for plans that terminate on or after December 1, 1980 and before January 1, 1981.

Appendix B is amended by this document to add a set of interest rates and factors for plans that terminate on or after January 1, 1981. These rates and factors will remain in effect until such time as PBGC publishes another notice which changes the rates.

As a rule, these rates will be in effect for at least one month. If these new rates are to be changed for the month of February, 1981, PBGC will publish a notice to that effect no later than the 15th of January. If no change is to be made, no notice will be published, and the January, 1981 rates will remain in effect at least through the month of February, 1981.

Because of the need to determine and issue new interest rates and factors within a very tight time frame, so that the rates can be as accurate as possible and issued on a prospective basis, the PBGC finds that notice of and public comment on this amendment are impracticable and contrary to the public interest. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1981, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the interim regulation effective less than 30 days after publication.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by revising the heading of Table XXI and by adding a new Table XXII to Appendix B, as follows:

Appendix B—Interest Rates and Quantities Used To Value Benefits

* * * * *

XXI. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after December 1, 1980 and before January 1, 1981.*

* * * * *

XXII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after January 1, 1981.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 9½ percent shall be used to value immediate annuities, to compute the quantity "G_y" in § 2610.6 and to value both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1=1.0875$
(2) $k_2=1.075$
(3) $k_3=1.04$
(4) $n_1=7$
(5) $n_2=8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025–27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)))

Issued at Washington, D.C., on this 8th day of December, 1980.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 80-38565 Filed 12-11-80; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Conditional Approval of the Permanent Program Submission From the State of Colorado Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On February 29, 1980, the State of Colorado submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Colorado program meets the minimum requirements of SMCRA and the permanent program regulations, except for minor deficiencies discussed below under "Supplementary Information." Accordingly, the Secretary of the Interior is conditionally approving the Colorado program.

A new Part 906 is being added to Subchapter T of 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective December 15, 1980.

This conditional approval will terminate on December 1, 1981 as specified in 30 CFR 906.11 unless the deficiencies identified below have been corrected in accord with 30 CFR 906.11 adopted below.

ADDRESSES: Copies of the Colorado program and the administrative record on the Colorado program, including the letter from the Colorado Department of Natural Resources (DNR agreeing to correct the deficiencies which resulted in the conditional approval, are available for public inspection and copying during business hours at:

Colorado Department of Natural Resources, 1313 Sherman Street, Denver, CO 80203; Telephone: (303) 839–3567.

Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; Telephone: (303) 837–5421.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Ave. NW., Washington, DC 20240; Telephone: (202) 343–4728.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Ave. NW., Washington, DC 20240; Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into six major parts:

A. General Background on the Permanent Program.

B. General Background on the State Program Approval Process.

C. Background on the Colorado Program Submission.

D. Secretary's Findings.

E. Disposition of Comments.

F. Secretary's Decision.

Part A sets forth the statutory and regulatory framework of the environmental protection regulatory scheme under SMCRA.

Part B sets forth general statutory and regulatory scheme applicable to all states which wish to obtain primary jurisdiction to implement the permanent program within their borders.

Part C summarizes the steps undertaken by Colorado and officials of the Department of the Interior, beginning with Colorado's initial program submission and its subsequent amendments and additional materials and leading to the decision being announced today.

Part D contains the findings the Secretary has made with respect to each of the criteria found in SMCRA and the Secretary's regulations for evaluation of a state program.

Part E contains a detailed analysis of relevant comments from the public, industry, and other government agencies with respect to the Colorado program.

Part F identifies and explains the Secretary's decisions.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands which received state permits on or after that date and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977 under 30 CFR Parts 710–725, 42 FR 62639 et seq.

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal rules for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state program must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064); and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at

44 FR 15312–15463 (March 13, 1979). Errata notices were published at 44 FR 15485 (March 14, 1979), 44 FR 49673–49687 (August 24, 1979), 44 FR 53507–53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980), and 45 FR 47424 (July 15, 1980). Amendments to the regulations have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), 44 FR 75302–75303 (December 19, 1979), 44 FR 77440–77447 (December 31, 1979), 45 FR 2626–2629 (January 11, 1980), 45 FR 25998–26001 (April 16, 1980), 45 FR 33926–33927 (May 20, 1980), 45 FR 37818 (June 5, 1980), 45 FR 39446–39447 (June 10, 1980), 45 FR 52306–52324 (August 6, 1980), and 45 FR 76932 (November 20, 1980). Portions of these rules have been suspended, pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447–77454 (December 31, 1979), 45 FR 6913 (January 30, 1980) and 45 FR 51547–51550 (August 4, 1980).

B. General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal rules governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by the Office of Surface Mining Reclamation and Enforcement (OSM) and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable set by the Secretary, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions of the program to correct the items which needed change to meet the requirements of SMCRA and the applicable federal regulations. If this revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

Different criteria apply to various elements of a state program for the purpose of determining whether they can be approved by the Department. There are three categories of potential program elements, each with its own standard of review, as follows:

1. *"State window" proposals*—Pursuant to 30 CFR 731.13, an alternative proposed by a state to a provision of the Secretary's regulations must be both "in accordance with" SMCRA and "consistent with" the Secretary's regulations. Under 30 CFR 730.5, "in accordance with" SMCRA means that the state alternative meets the minimum requirements and includes all applicable provisions of SMCRA, while "consistent with" the Secretary's regulations means that the state proposal is no less stringent than and meets the applicable provisions of 30 CFR Chapter VII.

The state window provision may not be used to vary the requirements of SMCRA. The Secretary will approve a state window item that achieves the same or greater degree of environmental protection and procedural safeguards as the federal regulation. In addition, the state must demonstrate that the alternative provision is necessary because local requirements or local environmental conditions are such that either the use of the federal regulations would not allow the state to accomplish the intended result or the alternative will accomplish the result in a more efficient or effective manner.

2. *Regulations for Inspection and Enforcement*—As required by Section 518 of SMCRA, the civil and criminal penalty provisions of a state program must be no less stringent than the requirements of Section 518 and must be consistent with the federal regulations in 30 CFR Part 845 (see Item 1 above for meaning of "consistent with"). However, as discussed below, a recent court decision by the U.S. District Court for the District of Columbia, *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (May 16, 1980, p. 56) has held that states cannot be required to establish a point system like that in Part 845, and the Secretary cannot require that state systems result in penalties as high as those under OSM's point system. Under Section 521 of SMCRA, the sanctions in a state program must also be no less stringent than those in Section 521 and must be consistent with 30 CFR Part 808, Sections 843.11, 843.12, 843.19, and Subchapter G (Permit Systems). State regulations which establish the procedural requirements related to civil and criminal penalties and sanctions must be the same as or similar to the procedures in Sections 518 and 521 of SMCRA and must be consistent with 30 CFR Parts 808, 843, 845, and Subchapter G.

3. *Other State Program Elements*—If a state provision is neither a state window alternative nor a procedure or sanction related to inspection and enforcement, then the standard to be applied in evaluating each element is whether the state provision is consistent with the corresponding provision of the federal regulations and in accordance with the relevant section of SMCRA, as set forth in 30 CFR 732.15(b) for each of the 16 state program requirements. Under Section 505 of SMCRA and 30 CFR 730.11, state provisions which provide more stringent land use and environmental controls are not to be considered inconsistent with the federal requirements.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732. As a result of the litigation in the U.S. District Court for the District of Columbia discussed below, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. Section 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in § 732.13 (45 FR 33927, May 20, 1980).

The Colorado program was submitted to OSM on February 29, 1980. The 104th day after February 29 was June 12, 1980.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. With respect to the Colorado program, the Secretary has used as criteria the federal rules as corrected, amended, and suspended in the Federal Register notices cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (February 26, May 16, and August 15, 1980). That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

There have been three recent decisions from the District Court that affect the decision-making process. Because of the complex litigation, the court has issued its decision in two "rounds." The Round I opinion, dated

February 26, 1980, rejected several generic attacks on the permanent program regulations, but resulted in suspension or remand of all or part of 22 specific regulations. The Round II opinion, dated May 16, 1980, rejected additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations.

The court in its Round II opinion also ordered the Secretary to "affirmatively disapprove, under Section 503 [of SMCRA], those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in the paragraph below. Therefore, the Secretary is applying the following standards to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either before the enactment of SMCRA or after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. The Secretary need not affirmatively disapprove provisions based upon suspended or remanded federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 505(b) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended or remanded regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which remanded or suspended regulations were based.

5. A state program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on provisions other than those that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, conditionally approved, or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as a result of the Round I and Round II litigation was published in the Federal Register on July 7, 1980 (45 FR 45604). A notice of the availability of a proposed list of Colorado provisions incorporating the suspended or remanded federal regulations was published at 45 FR 46823 (July 11, 1980). All of Colorado's provisions in the areas of suspended or remanded rules were promulgated after the District Court's Round II opinion. Accordingly, no provisions of the program are being affirmatively disapproved by the Secretary.

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Colorado will be found in 30 CFR Part 906.

C. Background on the Colorado Program Submission

On February 29, 1980, OSM received a proposed regulatory program from the State of Colorado. The program was submitted by the Colorado Department of Natural Resources (DNR), the agency which will be the regulatory authority under the Colorado permanent program. Notice of receipt of the submission initiating the program review was published in the March 11, 1980, Federal Register (45 FR 15581–15583) and in newspapers of general circulation within the State. The announcement noted information for public participation in the initial phase of the review process relating to the Regional Director's determination of whether the submission was complete.

On April 17, 1980, the Regional Director held a public review meeting on the program and its completeness in Denver, Colorado. The public comment period on completeness began on March 11, 1980, and closed on April 28, 1980.

On May 2, 1980, the Regional Director published notice in the Federal Register announcing that he had determined the program to be complete (45 FR 29311–29312). The notice specified that the submission included all elements required by 30 CFR 731.14.

On June 12, 1980, DNR submitted amendments to the program submission which contained:

1. A memorandum addressing OSM's review of the Colorado Surface Coal Mining and Reclamation Act.

2. Attachment E—Changes to the Colorado regulations based on public review and comment, OSM review and comment, OSM suspensions of or changes to regulations occurring after December 1, 1979, and the two opinions rendered by Judge Thomas J. Flannery, U.S. District Court for the District of Columbia, concerning the OSM Permanent Regulatory Program.

3. Supplementary Materials:

a. State forms approved by Mined Land Reclamation Board;

b. Severability section of State law, 2–4–204 CRS 1973;

c. State law on protection of State employees, 18–8–102 and 18–8–106;

d. Opinion of the Colorado Attorney General on selected issues raised by OSM; and

e. Proposed amendments to the Colorado Surface Coal Mining Reclamation Act (see Finding 1(g) below).

On June 23, 1980, the Regional Director published notice in the Federal Register (45 FR 41969–41971) and in the newspapers of general circulation within the State that the revisions to the Colorado permanent program submission were available for public review and comment. The notice set forth procedures for the public hearing and comment period on the substance of the Colorado program. In response to public comments, the hearing date and close of the public comment period were

changed to provide more time for public review and comment. On July 3, 1980, the Regional Director published a notice in the Federal Register making these changes (45 FR 45313).

On July 11, 1980, the Office of Surface Mining published a notice in the Federal Register (45 FR 46821) which invited public comment on the Secretary's tentative determination identifying provisions in the Colorado State program which incorporate suspended or remanded rules.

On July 16 and 25, 1980, Colorado submitted additional proposed statutory and regulatory changes and clarifying information. This information has been considered by the Secretary in the findings of Section D and in his decision.

On July 25, 1980, the Regional Director held a public hearing on the Colorado submission in Denver, Colorado. The public comment period on the Colorado regulatory program ended on July 28, 1980.

On July 30, 1980 the Regional Director submitted to the director of OSM his recommendation that the Colorado program be conditionally approved, together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On September 16, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Colorado program.

On August 20, 1980, the Office of Surface Mining published in the Federal Register a notice of the availability of the comments on the Colorado program submitted by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and other federal agencies (45 FR 55479).

On September 17, 1980, the Director of OSM recommended to the Secretary that the Colorado program be conditionally approved. On October 3, 1980, the Secretary decided to conditionally approve Colorado's program, and on November 12, 1980, the State accepted the conditions of approval.

D. Secretary's Findings.

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Colorado has, subject to the exceptions in the findings noted below, the capability to carry out the provisions of SMCRA and to meet its purpose in the following ways:

(a) The Colorado Surface Coal Mining and Reclamation Act and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Colorado in accordance with SMCRA;

(b) The Colorado Surface Coal Mining Reclamation Act provides sanctions for violations of Colorado laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the DNR or its inspectors;

(c) The Colorado Department of Natural Resources has sufficient administrative and technical personnel and sufficient funds to enable Colorado to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA.

(d) Colorado law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Colorado;

(e) Colorado has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Colorado has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) 30 CFR 732.11(d) requires that program submissions that do not contain all required and "fully enacted" laws and regulations by the 104th day after submission of the program (June 12, 1980 in Colorado's case) be disapproved pursuant to the procedures for the Secretary's initial decision in 30 CFR 732.13. With respect to the status of Colorado's regulations, the June 11, 1980 letter which accompanied the State's modifications to its proposed program addressed the question of whether the State's rules and regulations are fully enacted for purposes of meeting the requirement of 30 CFR 732.11(d). As indicated in the State's letter, three additional steps had to be undertaken before final promulgation. First, a basis and purpose statement was to be prepared before the Mined Land Reclamation Board could promulgate the rules and regulations as final. The June 11 letter indicates that this statement would consist of (1) adoption, by reference, of appropriate portions of the preamble to OSM's permanent regulatory program; (2) the section-by-section analysis and comparison of the State and federal rules as originally submitted by the State; and (3) Attachment E to the State program submission, which contains revisions to the original program submission, an explanation of the rationale for the decisions made, and OSM comments on the proposed rules and regulations. Since the contents of the basis and purpose statement are either in the preamble to 30 CFR Chapter VII or in the State program submission, as modified, the State characterized the preparation of the statement and final promulgation by the Colorado Mined Land Reclamation Board as merely "ministerial."

Similarly, the State considered the second requirement for an Attorney General opinion after Board promulgation to be satisfied at that time by a statement of the Attorney General attached to the program modification that he anticipated that his ultimate opinion would be favorable.

Third, before the rules and regulations could become effective, publication of such rules and regulations was also required. The State considered this also to be a ministerial action.

The Colorado Administrative Procedures Act (1973, CRS 24-4-103(4), as amended) states that a basis and purpose statement must accompany all rules and regulations. The statement of basis and purpose for rules which involve scientific or technological issues must include a detailed analytical evaluation of the scientific or technological rationale justifying the rules. The Colorado Mined Land Reclamation Board published and promulgated the regulations (as they appeared in Colorado's submission of June 11, 1980) on July 23, 1980. The "basis and purpose statement" is one page in length and refers to OSM's permanent program preamble, the State's side-by-side analysis of the State rules and the federal rules and Attachment E to the Colorado program submission.

Based on the above facts, the Secretary finds that the Colorado program submission of June 11, 1980 contained fully enacted laws and regulations and therefore conforms with 30 CFR 732.11(d). It should be noted that proposed statutory and regulatory changes submitted by the State subsequent to the 104th day have not been considered by the Secretary for purposes of this decision.

2. As required by Section 503(b)(1)-(3) of SMCRA, 30 U.S.C. 1235(b)(1)-(3), and

30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Colorado program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Colorado program which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended, 33 U.S.C. 1151–1175, and the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.*; and

(c) Held a public review meeting in Denver, Colorado on April 17, 1980, to discuss the Colorado program submission and its completeness and held a public hearing in Denver, Colorado on July 25, 1980, on the substance of the Colorado program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds that the State of Colorado has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Colorado program submission, including the section-by-section comparison of the Colorado law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that:

(a) The Colorado program provides for Colorado to carry out the provisions and meet the purpose of SMCRA and 30 CFR Chapter VII.

(b) Colorado has proposed the following alternate approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13:

(i) Impoundments—(30 CFR 816.49(a)(4), 817.49(a)(4); SR 4.05.9(1)(d)) The federal rule states that a permanent water impoundment may be authorized by the regulatory authority if certain demonstrations are made. One of the required demonstrations includes a showing that permanent water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses. Colorado has added the modifying phrase "except in accordance with applicable State law." As an explanation, the State refers to CRS 37–92–501 which, as expected of western state water law, provides for consideration of "the relative priorities and quantities of all water rights." Thus, state law under certain circumstances allows diminution of junior water rights. However, the modification is in accordance with Section 717(a) of the SMCRA, which states that "[n]othing in this Act shall be construed as affecting in any way the right of any person to enforce, protect, under applicable law, his interest in water resources * * *." Therefore, the Colorado change is considered to be justified as a "state window" by the Secretary since it is based on local requirements of State water law and is consistent with SMCRA and 30 CFR Chapter VII.

(ii) Water rights and replacement—(30 CFR 816/817.54; SR 4.05.15) The federal rules require that any person who conducts surface or underground mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water from an underground or surface source, where the water supply has been affected by contamination, diminution, or interruption proximately resulting from such mining activities. Colorado has proposed an alternative which provides that the water supply of "any owner of a vested water right which is proximately injured as a result of the mining activities in a manner consistent with applicable State law" must be replaced and that "replacement water to injured water rights must be provided through a plan for augmentation approved by the District Water Court having jurisdiction in the Water Division in which mining occurs." The Secretary considers the state provision to be an appropriate "state window" because it is necessitated by local requirements and is consistent with SMCRA Section 717(a) and 30 CFR Chapter VII. In Finding 4(c)(xv), the Secretary further discusses the water rights and replacement provisions of the Colorado program.

(iii) Rills and gullies—(30 CFR 816.106, 817.106; SR 4.14.6) The federal rule specifies that when rills or gullies deeper than 9 inches form in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted. The federal rule goes on to state that the regulatory authority shall specify that rills or gullies of lesser size be stabilized and the area reseeded or replanted if the rills or gullies are disruptive to the approved post-mining land use or may result in additional erosion and sedimentation.

Colorado has modified this performance standard for rills and gullies to consider natural geomorphic processes and the erosional characteristics of similar undisturbed areas under good management practices. More specifically, the State rule provides that "when excessive rilling and gullying occurs in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted * * *. The determination of excessive rilling and gullying shall be made by the Division with due consideration to natural geomorphic processes in comparison to baseline conditions or the erosional characteristics of similar undisturbed areas under good management practice. The Division shall specify that other rills or gullies be filled or stabilized, and the area reseeded or replanted if the rills or gullies prohibit successful revegetation, and are disruptive to the approved postmining land use, or may result in excessive erosion and sedimentation."

Colorado's justification for this alternative approach (State submission, July 16, 1980) is the need for the regulation to reflect the nature of semi-arid areas as found in Colorado and to allow deeper gullies which are not inconsistent with the post-mining land use. The State argues that rilling and gullying are part of the natural erosion process in ephemeral watersheds. Colorado states further that it is possible through proper geomorphic design of reclaimed surfaces and proper revegetation to prevent excessive rilling and gullying. In addition, the State argues that:

1. The proposed change is in accordance with SMCRA. Section 515(b)(10) of SMCRA requires that operators "minimize the disturbance to the prevailing hydrologic balance * * *" by "* * * (B)(i) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area * * *". Control of excessive rilling and gullying is consistent with the requirement to prevent *additional* contributions of suspended solids outside the permit area.

2. The proposed change is needed because of local conditions. Both channel gullying and hillslope rilling are common conditions of unmined areas of Colorado.

The State also notes that cycles of aggradation and erosion (gullying) have been common phenomena in ephemeral watersheds in the western United States

for tens of thousands of years. The initiation of channel gullying may have several causes, such as climatic changes, tectonic activity, land use patterns (grazing, urbanization), and intrinsic geomorphic thresholds. When channel gullying is caused by exceeding an intrinsic geomorphic threshold, mitigation measures such as filling, grading, revegetation, or the use of stabilization structures will provide only a temporary solution to the erosion problem.

The State also discusses various mitigation measures and dilemmas stemming from filling, grading, or otherwise stabilizing rillss or gullies deeper than 9 inches (and how some solutions may interfere with the post-mining land use). The State concludes that the proposed alternative for rills and gullies appropriately allows more flexibility in the decision to control rilling and gullying given local environmental conditions, particularly natural rilling and gullying and the nature of the post-mining land use in the majority of cases in Colorado (i.e., grazing, where rills and gullies deeper than 9 inches may not present a problem).

In its submission of July 25, 1980, Colorado proposed to revise the language of SR 4.14.6 to more closely parallel 30 CFR 816.106 and 817.106. More specifically, the State included the concept that where rilling and gullying deeper than 9 inches occur in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded and replanted in accordance with SR 4.15 unless the permittee demonstrates to the satisfaction of the Division that such rilling and gullying is not excessive. The proposed State rule goes on to discuss what should be included in a demonstration that rilling and gullying deeper than 9 inches is not excessive. The State rule also provides that under certain circumstances, the Division may specify filling or stabilizing of rills or gullies of lesser size.

The Secretary has evaluated this proposed "state window" alternative and finds that the general modification is consistent with SMCRA and 30 CFR Chapter VII and is based on local conditions. However, he is concerned that the original language would be difficult to enforce. The Secretary's concern would probably be addressed by the proposed revision submitted on July 25, 1980, that clearly shifts to the operator the burden of demonstrating to the regulatory authority that rills and gullies deeper than 9 inches are not excessive. It appears, subject to public comment, that this proposed change would make the "state window" consistent with SMCRA and 30 CFR Chapter VII. The Secretary therefore conditions his approval on promulgation of an amendment to the regulations which meets the concerns discussed above.

(iv) Embankment top widths (30 CFR 816.46(1), 817.46(1); SR 4.05.6(8)) The federal rules specify that the top width of sedimentation ponds shall not be less than the quotient of $(H + 35)/5$, where H is the height in feet of the embankment as measured from the upstream toe of the embankment. The State has omitted the design equation as provided for in the federal rules. The State notes that it is inappropriate to require this design standard in that sediment ponds with embankments less than 10 feet are generally used as temporary structures (Attachment E, June 11, 1980, p. 151). It further notes that this judgment is more appropriately left to a qualified registered professional engineer on a site-by-site basis. The State argues that this is consistent with SCS Technical Release No. 60, Earth Dams and Reservoirs (referenced in 30 CFR 816.49(a)(5) and 817.49(a)(5)) which specifies that the equation is not applicable to embankments of less than 14 feet in height.

It should be noted that Technical Release No. 60 does specify minimum top widths for all dams (for example, embankments with heights of 14 feet or less should have a minimum top width of 8 feet; embankments 15 to 19 feet in height should have a minimum top width of 10 feet, etc.) Therefore, although the State rules require design by a registered professional engineer for embankments less than 10 feet in height, the minimum top widths for such embankments may be less than that provided for in Technical Release #60 and required by 30 CFR 816.46(1) and 817.46(1). The Secretary finds that the requirement for design by a registered professional engineer does not provide equivalent protection for minimum top widths for such small embankments. The Secretary conditions his approval on Colorado enacting an amendment to SR 4.05.6(8) or otherwise amending its program to specify minimum top widths for embankments less than ten feet in height.

With regard to embankments 10 feet and more in height, the State Engineer rules apparently have no top width requirements for embankments. In its submission of July 25, 1980, Colorado further explains that the State Engineer relies upon criteria set forth in *"Design of Small Dams"*, U.S. Bureau of Reclamation, 2nd Ed., 1977 (page 270) for the minimum top width of an embankment (July 25, 1980 submission, p. 2). This manual suggests the following minimum top width formula for determination of crest width for small earthfill dams: $w = z/5 + 10$ where w = width of crest in feet and z = height of dam in feet above the streambed. Use of this equation for a given embankment height results in greater minimum top width than provided for in 30 CFR 816.46(1) and 817.46(1). Therefore, the Secretary finds that the provision is more stringent than the provisions of 30 CFR Chapter VII.

(v) Excess Spoil Disposal Design (30 CFR 816.71/817.71; SR 4.09.1(3)); Mountaintop Removal Design (30 CFR Part 824; SR 4.26.2(5)); Steep Slope Mining Design (30 CFR Part 826; SR 4.27.3(8)). The federal rules for excess spoil disposal, mountaintop removal, and steep slope mining include very specific design criteria for ancillary disturbances associated with these types of disposal and mining activities. The State rules have added a provision to each of these sections which provides for design flexibility (Attachment E, June 11, 1980, pp. 170, 209, and 211).

The State argues that if alternative design specifications will, based on a thorough analytical demonstration by a qualified registered professional engineer, result in an alternative as environmentally sound and structurally stable as that resulting from structures conforming with the design criteria specified in the rules (which parallel the federal criteria), then such alternative designs should be acceptable. The State explains that this design flexibility is needed because strict compliance with the performance standards could, in some site-specific cases, on particular terrain, result in unnecessary environmental degradation. The State notes in general terms that Colorado is comprised of a broad spectrum of physical and climatological characteristics (e.g., elevation, rainfall, and temperature), and that such extremes necessitate flexible standards to conform with site-specific circumstances. The State also notes that the burden of proof for requesting alternative design and construction specifications rests with the operator or permit applicant. In addition, the State emphasizes that it must be shown to the satisfaction of the Division that the proposed alternative will be as environmentally sound and as structurally stable as the criteria required by other parts of the program (for example, the minimum static safety

factor criterion must be achieved). The State will also require that the request to employ alternative specifications be certified by a qualified registered professional engineer.

In its submission of July 25, 1980 (pp. 2–6), Colorado provided specific examples for the purpose of characterizing the nature of environmental and engineering justifications believed appropriate for approval of alternative specifications for the construction of excess spoil fills and also for materials deposited in fills related to mountaintop removal projects and steep slope mining operations. For example, Colorado points out that for coal spoil fills at elevations approaching 9,000 feet above sea level, with total snowfall in excess of 200 inches in a normal year, placement of material in widespread thin lifts tends to cover and entrain significantly greater amounts of potentially destabilizing ice and snow than an equivalent amount of material placed in confined, thicker lifts. Colorado goes on to note that assuming that required material densities are achieved during the placement of the fill material, the destabilizing effects of frozen precipitation can be decreased by increasing permissible lift thicknesses. As another example, Colorado explains that in semi-arid areas (with precipitation as low as 6 inches), in-place moisture content of excess spoil materials can be maximized by increasing lift thickness during material placement. More specifically, relatively high in-situ moisture contents are common of the typically impermeable high-shale content coal-bearing formation common in Colorado. Excess spoil materials generated from these formations commonly have relatively high optimum moisture contents necessary in order to maximize compaction of fill materials during placement in excess spoil fills. In semi-arid Colorado, water is rarely available for fill compaction purposes. In the low humidity, semi-arid climate, evaporation rates are maximized. The placement of spoils in thin lifts facilitates evaporation of entrained moisture. Evaporation of water from spoil, which is commonly below optimum moisture content, decreases the relative degree of compaction achieved during fill placement, and therefore the stability of the overall fill mass. Spoil placement in lifts of increased thickness decreases evaporation of entrained moisture, thereby facilitating compaction of the spoil and resulting in more stable excess spoil fill masses.

The federal rules include specific design criteria for excess spoil fills and the placement of materials related to mountaintop removal and steep slope mining operations. These design criteria are specified in the rules so that performance standards (e.g., the minimum static safety factor) may be achieved. Although Colorado's analogues for the subject sections included the minimum design criteria of the federal rules, the State rules as noted above provide for the use of unspecified alternative design criteria to achieve the performance standards. The Secretary believes that it is important to specify such criteria in the rules so that a sufficient degree of confidence can be maintained with respect to achieving the performance standards for excess spoil fills and the placement of materials in conjunction with mountaintop removal and steep slope mining operations. The Secretary does note that alternative design criteria have been provided in the federal rules (and incorporated into the state rules) with respect to durable rock fills; however, the Secretary considers this to be a special case based on the nature of the material (44 FR 15207, March 13, 1979). Operators in Colorado can utilize the alternative design criteria for such fills if the materials meet the requirements of SR 4.09.4. The Secretary agrees with Colorado that the coal regions of the State experience a unique range of precipitation, geologic, topographic, and temperature conditions and that such conditions (particularly large amounts and duration of snowfall and high evaporation rates) may well warrant specific alternative design criteria. The Colorado rules presently under consideration contain no such specific, alternative design criteria for fills to be constructed in areas with such conditions. The Secretary invites the State to develop specific alternative design criteria for such fills and to submit these criteria to the Department for evaluation. Prior to the development of such criteria, the Secretary recommends that operators use the experimental practices provisions of SR 2.06.2 to allow experimentation with alternative design criteria in areas of Colorado with special conditions (particularly in areas with high snowfall and in areas with high evaporation rates).

Based on the above explanation, the Secretary finds that the State's rules which provide for design flexibility for excess spoil fills and for the placement of materials related to mountaintop removal and steep slope mining operations are not consistent with 30 CFR Chapter VII.

Therefore, the Secretary conditions his approval on deletion of the provisions for unspecified alternative designs standards for excess spoil disposal, mountaintop removal, and steep slope mining, specifically contained in the Colorado program in SR 4.09.1(3), SR 4.26.2(5), and SR 4.27.3(8) to conform with the requirements of 30 CFR 71/817.71, 30 CFR Part 824, and 30 CFR Part 826.

(C) DNR has, except as specifically noted below, the authority under Colorado laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Colorado program includes provisions to do so. The Colorado law and regulations on performance standards are consistent with SMCRA and 30 CFR Chapter VII, Subchapter K, except as specifically noted below. Conditional approval is based on the following representations made by Colorado concerning Colorado laws and regulations relating to performance standards and on the following exceptions:

(i) (SMCRA 515(b)(12), CRS 34–33–120(2)(1); 30 CFR 816.79, SR 4.19(1)) The State statute and rule require, except under certain conditions, that surface mining activities not take place within 500 feet, *measured horizontally*, from active and abandoned underground mines in order to prevent breakthroughs for health and safety. With respect to this situation, SMCRA refers to 500 feet and 30 CFR 816.79 refers to 500 feet to any point. The State has explained in its submission of July 16, 1980 (page 2) that it interprets the language of the Colorado statute and rule to include any mining that occurs within a 500 foot radius of an underground mine. This determination, according to the State, involves extending a vertical projection from the limits of any underground workings to the surface and then measuring to determine if that projection is within 500 feet, measured horizontally, from surface mining activities. The State maintains that its language is equivalent to that of SMCRA (i.e., all surface mining activities within 500 feet of active or abandoned underground workings must meet the requirements set forth in CRS 34–33–102(2)(1) and SR 4.19(1)). Based on this explanation, the Secretary finds the State statute and rule to be consistent with their federal counterparts.

(ii) (30 CFR 816.116(b), 817.116(b); SR 4.15.7(2)(d)(ii), SR 4.15.7(2)(d)(ii)) specifies that the selection of appropriate technical guidance documents for revegetation success be

made in consultation with the Director of OSM. The federal rules require the approval of the Director of OSM in the selection of such documents, because the use of such documents is crucial in measuring revegetation success. The State explains in its submission of July 16, 1980 (page 5), that it has every intention of working with OSM when alternative technical guidance documents for establishing standards of revegetation success are used. As further clarification, the State indicates that such documents would set standards only for cover and production of an area and that these documents would not establish alternative procedures for determining revegetation success. The Secretary finds that since cover and production are fundamental elements in the determination of revegetation success, such documents must be approved by the Director of OSM and the absence of this specific approval in the State rule makes it inconsistent with 30 CFR Chapter VII. As a result, modification of this provision by the State to require the approval of the Director of OSM is a condition to approval of SR 4.15.7(2)(d)(ii).

(iii) (30 CFR 816.116, 817.116; SR 4.15.7(2)(d)(vi)) The federal rule in 30 CFR 816.116(d) establishes specific numerical standards for percentage ground cover and plant survival rates which must be met for a five year period of time for small surface coal mines that meet the following conditions: (a) must have a permit area of 40 acres or less in size, and (b) must be in a location with an average annual rainfall of more than 26 inches. This provision is an alternative to the two approaches contained in 30 CFR 816.116(b)(1) of comparing the ground cover and productivity of the vegetation on the reclaimed area with either (a) the ground cover and productivity of living plants on the approved reference area, or (b) the standards in other technical guides approved by the Director of OSM. The use of these specific standards by an operator must be approved by the regulatory authority. This alternative method was inadvertently not included for underground mines in 30 CFR 817.116. On April 16, 1980, OSM proposed the addition of this alternative method for determining the success of revegetation for underground mines as well (45 FR 25992).

In SR 4.15.7(2)(d)(vi), Colorado proposes as a "State Window" that the Division could approve the use by an operator of presently unspecified standards set by the Division "based on local environmental conditions and available data for similar sites" for both surface and underground mines that would affect 40 acres or less without regard for average annual rainfall. In its submission of July 25, 1980, Colorado has proposed an amendment to SR 4.15.7(2)(d)(vi) that would provide for the Division to consult with OSM in establishing these standards for small mines.

The Secretary finds SR 4.15.7(2)(d)(vi) inconsistent with 30 CFR 816/817.116 because it does not establish a clear standard for determining the success of revegetation.

Without a clear standard to determine success, the Secretary cannot be certain that the requirement of Section 515(b)(19) of SMCRA will be achieved. Therefore, the Secretary conditions his approval by requiring Colorado to amend SR 4.15.7(2)(d)(vi) to provide that the Director of the Office of Surface Mining must approve any standards developed by the Division for use on these small mines or to otherwise satisfy his concern about the state rule.

(iv) (SMCRA 701(14); CRS 34-33-103(15)) Colorado has proposed the addition of the term "oil shale and oil extracted from shale by in situ processes" to the definition of "other minerals," and has designated this change a "state window." Colorado notes that oil shale is characteristic of the region and should be added to the list of minerals included in the definition. The Secretary finds the addition of this term to be consistent with the definition in SMCRA that lists several specific minerals and in addition includes "any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth." The significance of the term "other minerals" is that "* * * the extraction of coal incidental to the extraction of other minerals when coal does not exceed 16⅔ per centum of the tonnage of minerals removed * * *" is excluded from the definition of "surface coal mining operations" (SMCRA 701(28)) and thus from the regulatory provisions of SMCRA.

(v) (30 CFR 816.46(d), 817.46(d); SR 4.05.6(4)(b)(i)) The federal rules require that water storage resulting from flow into a sedimentation pond shall be removed by a nonclogging dewatering device or a spillway approved by the regulatory authority. They also specify certain design criteria for dewatering devices. In addition to incorporating the federal requirements, the state rule provides that "dewatering shall be achieved in accordance with applicable State law". The Secretary finds that Colorado's provision is equivalent to the federal provision because the rules of 30 CFR Chapter VII do not specify a dewatering schedule as may be required under State water law to meet water right requirements. The State rule requires that effluent limitations be met in all cases, except for the exemptions provided for in SR 4.05.2(8).

(vi) (30 CFR 816.46(q)/817.46(q), SR 4.05.6(10); 30 CFR 816.46(t)/817.46(t), SR 4.05.6(11); 30 CFR 816.49(a)(5)/817.49(a)(5), SR 4.05.9(1)(e); 30 CFR 816.49(f)/817.49(f), SR 4.05.9(10)) The federal rules cited require compliance with Mine Safety and Health Administration (MSHA) regulations and also specify requirements for ponds with embankments more than 20 feet in height or having a storage volume of 20 acre-feet or more. The State has deleted the references to MSHA and substituted requirements of the State Engineer. (*See* Finding 4(d)(iv) for a discussion of the effect of this substitution.)

(vii) (30 CFR 816.49(a)/817.49(a), SR 4.05.9(1)) The federal rules specify that permanent impoundments are prohibited unless authorized by the regulatory authority and that a number of conditions must be met. In addition to the federal requirements, Colorado has proposed the addition of language that restricts permanent impoundments to those authorized by State water law pursuant to CRS 37-92-501. State water law specifies that each division engineer "shall order the release from storage of any water * * * illegally or improperly stored" (CRS 37-92-502(3)). CRS 37-92-501, by requiring the State to "administer, distribute and regulate waters of the state," requires approval of impoundments. The Secretary finds that this provision adds to the federal requirements for permanent impoundments and is therefore equivalent to the federal requirements under 30 CFR 730.11.

(viii) (30 CFR 816.53 and 817.53; SR 4.05.14) The federal rules include specific requirements for the transfer of wells associated with surface coal mining and reclamation operations. The State rules specify that transfer of wells is to be handled by the State Engineer. The State Engineer is bound by CRS 37-90-137 and CRS 37-92-602, which include all groundwater wells (including monitoring wells). Such transfers involve requirements parallel to those in the federal rules. The Secretary finds that the State's provision is consistent with SMCRA and 30 CFR Chapter VII.

(ix) (30 CFR 816.55(d) and 817.55(d); SR 4.05.16) The federal rules require that water shall not be diverted or discharged into underground mine workings unless there is a

demonstration to the regulatory authority that a number of conditions will be met, including minimizing disturbance to the hydrologic balance. Colorado has added the phrase "and does not injure vested water rights." The Secretary finds that this language adds to the requirements of the federal regulations and is therefore consistent with them under 30 CFR 730.11.

(x) (30 CFR 785.19(d)(3)(iii)(A); SR 2.06.8(4)(c)(iii)(A)) The federal rule specifies that the evaluation of the essential hydrologic functions of a designated alluvial valley floor should include consideration of the characteristics supporting the function of regulating the flow of water. The characteristics to be evaluated include the "sinuosity" of the channel. The State rule includes all the characteristics noted in the federal rule except "sinuosity." In its July 16, 1980 submission, Colorado proposed an amendment to its rules to include the term "sinuosity." Since sinuosity is often an important element in alluvial valley floor assessments, the Secretary conditions his approval on promulgation of a State rule which requires that sinuosity be considered in alluvial valley floor assessment consistent with 30 CFR 785.19.

(xi) (30 CFR 816.117 and 817.117; SR 4.15.8(8)) The federal rules set forth forest resource conservation standards for reforestation operations. Colorado has included provisions parallel to the federal rules and has added a provision that requires a permittee to demonstrate that annual increases in woody plant cover and/or height have occurred. The Secretary finds this requirement to be more stringent than the federal rules. However, the State has proposed an amendment in its July 16, 1980 submission to this rule which would delete the word "annual" from the provision. This proposed modification, when enacted, should be submitted as a State program amendment pursuant to the provisions of 30 CFR 732.17.

(xii) (30 CFR 816.117(c)(3) and 817.117(c)(3); SR 4.15.8(7)) The federal rules require that upon the expiration of the 5 or 10 year revegetation responsibility period and at the time of the request for bond release, each permittee shall provide documentation with 80% statistical confidence that the woody plants established on the revegetated site are equal to or greater than 90% of the stocking of live woody plants of the same life form of the approved reference areas. The Colorado rule includes this provision but additionally requires that where the reclamation plan calls for the replacement of predominantly woody vegetation with predominantly herbaceous vegetation, potential adverse impacts on fish, wildlife and related environmental values must be evaluated. Methods for substantial mitigation of these adverse impacts approved by the U.S. Fish and Wildlife Service (FWS) and Colorado Division of Wildlife (DOW)) must also be included in the reclamation plan. The Secretary finds this requirement for impact evaluation and mitigation and for approval by FWS to be more stringent than the federal rules. Colorado has proposed (July 16, 1980 submission) an amendment to this rule to modify the necessary "approval by" to "consultation with" FWS and DOW. This proposed modification will be processed under the state program amendment provisions of 30 CFR 732.17.

(xiii) (30 CFR 816.97, SR 4.18) On June 5, 1980, the Office of Surface Mining published a correction (45 FR 37818) to 30 CFR 816.97(d)(2) (44 FR 15411). This correction modified 30 CFR 816.97(d)(2) to require that "[e]ach person who conducts surface mining activities shall * * * fence roadways where specified by the regulatory authority to guide locally important wildlife to roadway underpasses or overpasses and construct the necessary passages." SR 4.18.4(b) meets the requirements of 30 CFR 816.97(d)(2) as originally promulgated. Colorado will have an opportunity to amend its rule to meet the new requirement under the program amendment procedures of 30 CFR 732.17.

(xiv) (30 CFR 816.65(g)/817.65(g), SR 4.08.4(8)) The federal rule requires that flyrock shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the line of property owned or leased by the permittee or beyond the area of regulated access. SR 4.08.4(8) includes a similar provision with respect to limitations on the casting of flyrock; however, the State has added a phrase which allows flyrock to be cast beyond the property line owned or leased by the permittee where written approval is obtained from the affected landowner and this approval is submitted and approved by the Division prior to blasting. (June 11, 1980 submission, Attachment E, p. 169.) The Secretary finds that the State's addition is unacceptable since the State's revised rule is less stringent than the prohibition provided in 30 CFR 816.65(g) and 817.65(g). Given the imprecision in predicting the distance which flyrock may be cast and the danger to the public from flyrock due to blasting, the Secretary believes that the prohibition on casting flyrock beyond the property line of the permittee is necessary and that a waiver by another landowner as provided by the State rule does not provide sufficient protection to the public. Therefore the Secretary conditions his approval on modification of SR 4.08.4(8) to be consistent with the federal rule by excluding the waiver.

(xv) Water rights and replacement—(SMCRA 717(a), 717(b); CRS 33-34-135(3)) Section 717 of SMCRA requires that (1) SMCRA shall not affect the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation (Section 717(a)), and (2) the operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such surface coal mine operation (Section 717(b)).

The Colorado program contains no provisions equivalent to Section 717(b) of SMCRA and 30 CFR 816/817.54. This statutory provision is not needed, however, as State water law continues to govern relations between water users. Section 717(b) of SMCRA, construed in the light of Section 717(a) of SMCRA, does not create new rights for water users whose rights are presently governed, according to State water law, by decrees of the District Water Court involved.

Colorado water law would, under certain circumstances, allow an operator with a vested water right to "affect" another water user's supply of water as long as the operator's use remains within the limits of its right. The operator could "affect" the other user's water supply only to the extent that it did not infringe upon the other's vested right. As Colorado states in its submission (letter of June 11, 1980, p. 17), "[t]he concept of "injury" does not include diminution of another's water right when the other is junior and when the senior's use is consistent with his decreed right." Finally, the result under Colorado's system is as stringent as that under 30 CFR 816/817.54 because the federal regulations, like Section 717(b) of SMCRA, do not protect water users from the determination of their rights arrived at by the District Water Court.

(d) Except as noted below, DNR has the authority under Colorado laws and regulations and the Colorado program

includes provisions to implement, administer, and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G. The exceptions include the following:

(i) (30 CFR 771.11; SR 2.01.3) The federal rules state that no person shall engage in or carry out surface coal mining and reclamation operations on non-federal and non-Indian lands within a state, unless that person has first obtained a valid permit issued by the regulatory authority under an approved regulatory program. SR 2.01.3 of the State regulations provides that no person shall conduct on lands "within this State" any surface coal mining and reclamation operations unless such person has first obtained a valid permit, omitting the limitation to non-federal and non-Indian lands. The State argues (July 16, 1980 submission, page 5) that its language follows the State statute (CRS 34-33-109), which contains no such exclusions of jurisdiction. The State does note that it does not consider the statute and rules to be applicable on Indian lands, although this concept is not explicitly carried through in the State rules. However, the State also notes that the State law does apply to federal lands within the State and that these regulations will be administered on federal lands (Attachment E, page 30, #89). This approach is not consistent with the federal provisions stating that state programs apply only on non-federal and non-Indian lands and that only under a cooperative agreement (pursuant to Section 523 of SMCRA) is the state's authority extended to federal lands. The Secretary's approval of the Colorado program is based on the State's disclaimer of jurisdiction over Indian lands cited above. The approval of the Colorado program extends only to non-federal and non-Indian lands until such time as the Department and the State of Colorado enter into a Cooperative Agreement to extend the State's authority to federal lands.

(ii) SMCRA section 501(a) This section of the federal law requires a 30-day public notice for rulemaking. The Colorado Surface Coal Mining Reclamation Act is silent on the subject of public notice prior to rulemaking. The Colorado Administrative Procedures Act (APA) (Section 24-4-103) specifically says that notice of "not less than 20 days" is to be given, which does allow for more than 20 days notice. Colorado has passed a resolution from the Colorado Mined Land Reclamation Board setting forth a requirement of at least 30 days notice prior to rulemaking. The State also offers the further explanation that in the past and under the current rulemaking procedure the Board has always allowed at least 30 days public notice. The State's submission of July 16, 1980 (page 1) clearly states that the minimum notice requirement for rulemaking was addressed by the Mined Land Reclamation Board during its meeting of June 10, 1980 where it was moved and passed that "the Board resolve, when engaged in rulemaking under 34-33-101(a) *et seq.*, the Board will always give the public at least 30 days comment on the proposed rules." The Secretary finds this approach to be acceptable.

(iii) (SMCRA 507(b)(17), 508(a)(12), CRS 34-33-111(1)(e) CRS 34-33-110(7); 30 CFR 786.15, SR 2.07.5(1)(b)) With respect to the confidentiality of information submitted in permit applications, the federal statute and regulation limit such protection to the analysis of the "chemical and physical properties" of the coal to be mined. The Colorado statute provides that the quantity of coal also be kept confidential. The Colorado rule at 2.07.5(b) is silent on the "quantity" issue.

The legislative history of SMCRA shows that Congress intended the provision to cover coal quantity information in referring to "chemical and physical" properties: the confidential information will be limited to "selected qualitative and quantitative analysis of the coal seam." (H.R. Rep. No. 218, 95th Cong. 1st Sess. 91(1977)). It can be inferred from this Congressional report that the quantity of coal to be mined is implicit in the term "chemical and physical properties." As a matter of policy, the State has declared (July 16, 1980 memo to OSM, p.1) that direct statements setting forth the extent of in-place coal reserves (i.e., number of tons of coal) will be held as confidential; however, information in the application which is necessary for evaluation of compliance with the performance standards, such as return of land to approximate original contour or maximization of coal recovery, will be available to the public for inspection. Based on this clarification, the Secretary finds the State rule to be consistent with SMCRA and 30 CFR Chapter VII.

(iv) (30 CFR 780.25 and 784.16; SR 2.05.3) the Federal rules relating to reclamation plans for ponds, impoundments, banks, dams, and embankments contain numerous references to the requirements of the Mine Safety and Health Administration (MSHA) (30 CFR 77.216(a)). For example, 30 CFR 780.25(b) and 780.25(e) require plans for sedimentation ponds and coal processing waste dams and embankments, respectively, to comply with the requirements of MSHA (30 CFR 77.216-1 and 77.216-2). Colorado omits these references. Similarly, with respect to the return of coal processing wastes to abandoned underground workings (30 CFR 784.25 SR 2.05.3(8)(f)) the State has deleted the reference to MSHA. The State responds that Colorado does not presume to possess the legal authority, manpower, expertise or resources with which to enforce the design, construction or operational criteria and regulations of MSHA. The State does note, Attachment E, p. 58, June 11, 1980, and July 25, 1980 submission, page 7, that informational references to the federal regulations have been inserted in SR 2.05.3(4)(a) and 2.05.3(8)(a). This revision would remedy the situation; however, these references cannot be found. Therefore, the Secretary conditions his approval on the promulgation of a rule which require plans for sedimentation ponds, coal processing waste dams and embankments to comply with the requirements of MSHA.

(v) (30 CFR 780.25(f), 784.16(f); SR 2.05.3(4)(a)) The federal rules require that if structures are 20 feet or higher, or impound more than 20 acre-feet, the plans for such large facilities shall include a stability analysis, to include, at a minimum, strength parameters, pore pressures, and long-term seepage conditions. The federal rules go on to require that the plans contain a description of each engineering design assumption and calculation. Relevant performance standards for these large structures are at 30 CFR 816.46(q)/817.46(q), 30 CFR 816.46(t)/817.46(t), 30 CFR 816.49(a)(5)/817.49(a)(5), and 30 CFR 816.49(f)/817.49(f). Colorado has modified the criteria for determining which structures are considered "large" to be consistent with the rules of the State Engineer. However, these criteria are less stringent than those in the federal rules since they require that a structure be considered "large" if the sediment pond or impoundment has a capacity of more than 1000 acre-feet, has a dam or embankment in excess of 10 feet in vertical height, or has a surface area at high waterline in excess of 20 acres. For example, a pond with an embankment of 8 feet with a surface area of 15 acres and an average depth of 5 feet (at high waterline) would be considered "large" under the federal rules and "small" under the state rules. Therefore, the Secretary must condition his approval on promulgation of a regulatory change to make the State's "large" structure criteria consistent with those in the federal rules.

The state rules specify that those structures which qualify as large must comply with the requirements of the State Engineer. These requirements were supplied to OSM in the state submission of July 16, 1980. Based on a review of the State Engineer's rules, the Secretary finds that these rules specifically provide for portions of a stability analysis by requiring seepage and hydrostatic analyses. Although the State Engineer's rules do not specifically require strength parameters, the Secretary finds that such information is inherently necessary to demonstrate conformance with SR 4.05.6(9)(b) (30 CFR 816.46(q)(2)/817.46(q)(2)) which requires embankment design and construction with a static safety factor of at least 1.5 to ensure stability. Therefore, the alternative language is consistent with 30 CFR 780.25(f) and 784.16(f) and 30 CFR 816.46(q)(2) and 817.46(q)(2).

(vi) (30 CFR 785.17; SR 2.06.6(2)(h)) With respect to prime farmlands and determining revegetation success, the State rule would require a description of an area of prime farmland outside the area proposed for mining but in the "immediate vicinity" of the mining, but does not define "immediate vicinity." A definition is needed for this term so that revegetation success for prime farmlands can be verified. In its July 16, 1980 submission (page 2), the State further explains that the purpose of this provision is to allow the use of data collected from areas adjacent to the proposed mining area to determine revegetation success much in the same fashion as the use of reference areas. However, to provide clarity, the State has proposed an amendment to its rules to change "immediate vicinity" to "adjacent area." Since this term is defined in the rules, the Secretary finds this change to be appropriate and consistent with respect to prime farmlands and revegetation success aspects of the program. The Secretary conditions his approval on the State's promulgating an amendment to SR 2.06.6(2)(h) by substituting "adjacent area" for "immediate vicinity" or otherwise meeting the concern discussed above.

(vii) (30 CFR 786.5; SR 1.04(145)) The State has modified its earlier definition of "willful violation" to properly include violations of "individual permit conditions," as does the federal rule. However it considers it inappropriate to include other applicable laws and regulations, which the State argues (July 16, 1980 submission, page 9) will have their own enforcement procedures and sanctions and cannot be implemented under SMCRA. The federal definition of "willful violation" refers to violations of the Act, state or federal law or regulations.

However, in its submission of July 16, 1980, the State proposed an amendment to the definition to include violations of SMCRA and OSM regulations since the State believes that such violations would constitute violations of applicable laws within the scope of the Colorado Act (CRS 34-33-114(3)). The regulatory amendment as proposed appears, subject to public comment, to be consistent with SMCRA and the language of the federal definition referring to other applicable laws and regulations. The Secretary conditions his approval of the Colorado program on promulgation of a regulatory amendment to include all violations covered by the definition of "willful violation" in 30 CFR 786.5.

(viii) (30 CFR 786.19(h); SR 2.07.6(2)(h)) The federal rules include as a condition to permit approval a requirement that the applicant submit proof that all reclamation fees required by Subchapter R of the federal rules have been paid. The enacted State rules contain no such provisions. In its submission of July 16, 1980, the State has proposed an amendment to its regulations to include the permit condition of 30 CFR 786.19(h) relating to payment of reclamation fees. The proposed amendment appears, subject to public comment, to be consistent with the federal provision. The Secretary conditions his approval on Colorado enacting a regulation requiring all permit applicants to submit proof that all reclamation fees required by 30 CFR Chapter VII, Subchapter R have been paid.

(ix) (30 CFR 786.27(b); no State equivalent) The federal rule requires that each permit issued by the regulatory authority insure that the permittee shall allow right of entry to authorized representatives of the Secretary. The State rules do not provide for this. The State argues (July 16, 1980 submission, page 7) that conferring legal rights of entry for a federal agency is not an appropriate purpose of State regulations. Further, the State believes such a provision is unnecessary since such right of entry is clearly set forth in Section 517(a) of SMCRA. The Secretary considers this to be an important element of an approvable permit that must be included in the State program under Section 503(a) of SMCRA. Therefore, the Secretary conditions his approval on a modification of the Colorado regulations to require that issued permits insure that permittees allow right of entry to authorized representatives of the Secretary.

(x) (SMCRA 514(c), CRS 34-33-119(4) and (5); 30 CFR 787.11(b)(2)(i), SR 2.07.4(3)(b)) The federal statute and rule require that notice of a formal hearing on a permit application decision be given to all interested persons. The State statute and rule only require notice to be given to the applicant and the person requesting the hearing. In its submission of July 16, 1980, the State proposed a change in its regulations to provide that notice of a formal hearing on a decision be given to all interested parties. The proposed amendment appears, subject to public comment, to be consistent with the federal provisions. The Secretary conditions his approval on Colorado amending SR 2.07.4(3)(b) or otherwise amending its program to provide that notice of a hearing on a permit application decision shall be given to all interested persons.

(xi) (30 CFR 787.11(b)(5), (CRS 24-4-105(7)) The federal regulation places the burden of proof in administrative hearings on permit decisions on the party seeking to reverse the decision of the regulatory authority. The State places the burden of proof on the proponent of the order. However, the State explains (July 16, 1980 submission, p. 7) that there is no discrepancy between the federal language and State language since the "proponent of the order" in CRS 24-4-105(7) is the party seeking an order to reverse an administrative order. Based on this explanation, the Secretary finds the State's counterpart to 30 CFR 787.11(b)(5) to be consistent with the federal requirement.

(xii) (30 CFR 779.17 and 783.17; SR 2.04.7(3)) The federal rules with respect to alternative water supply information require that each application identify the extent to which proposed mining activities may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed mine plan or adjacent areas for domestic, agricultural, industrial, or other legitimate use. In SR 2.04.7(3), Colorado has added water use for "fish and wildlife" as a legitimate use of water. The State has designated this proposed addition as a "state window." The Secretary finds that this addition makes the State provision more stringent than the federal provision and therefore is not a "state window."

(xiii) (SMCRA 701(13), CRS 34-33-103(14)) SMCRA defines the term "operator" as any person engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal

mining within twelve consecutive calendar months in any one location. The definition of "operator" in the Colorado statute closely parallels the federal definition; however, the State definition does not make it clear that the term also applies to underground mining. It should be noted that in its submission of June 11, 1980 (page 15, State Response to Comments on Colorado Act), the State emphasized that it interpreted the existing statutory definition to include "underground mines." However, the State believes that a legislative change is ultimately needed to assure that there is no misunderstanding as to the broad applicability of the term. Therefore, Colorado has proposed an amendment to the State statute to clarify that this term applies to both surface and underground mining. This amendment appears, subject to public comment, to be consistent with SMCRA. The Secretary conditions his approval of the Colorado program on enactment of a statutory amendment and appropriate modification of SR 1.04(80) to clearly include underground mining activities in the definition of the term "operator" consistent with SMCRA.

(xiv) (SMCRA 701(28)(A), CRS 34-33-103(26); 30 CFR 700.5, SR 1.04(127)) The federal statute and rule define the term "surface coal mining operations" to include activities such as processing and preparation, and coal loading at or near the mine site. The phrase "at or near the mine site" in the federal language only applies to coal loading, while the State uses this phrase to modify the other mining activities as well. Colorado has proposed (June 11, 1980 submission, Attachment E, page 23), to modify the language in the statute and rule to more closely parallel the federal definition by clearly stating that "at or near the mine site" applies only to coal loading. The proposed statutory and regulatory amendment appear, subject to public comment, to be appropriate in terms of meeting the requirements of SMCRA and the federal rule. Therefore, the Secretary conditions his approval on the enactment of a statutory amendment and modification of SR 1.04(127) to be consistent with the definition of "surface coal mining operations" in SMCRA. It should be noted that when the State was informed of this problem, it considered this to be a typographical error, and provisions for facilities not "at or near the mine site" are included in SR 4.28. Therefore, the Secretary considers it to be the State's policy to apply "at or near the mine site" only to coal loading.

(xv) (30 CFR 771.21(b)(2), SR 2.08.5; SMCRA 506(d)(3), CRS 34-33-109(7)(f)) The federal act and regulations specify that applications for permit renewals shall be submitted at least one hunded and twenty days prior to expiration of the valid permit. The State act and regulations require the submission of an application for renewal at least one hundred eighty days prior to permit expiration. In addition, the State act specifically authorizes the holder of a valid permit to continue surface mining operations until a "final administrative decision or renewal is rendered." The conflict arises in those situations when the Division has found that the permit should not be renewed and when the operator petitions for administrative review of that decision. In these situations, the "final administrative decision" is made by the Board. The entire process could go well beyond the 120 days.

In the preamble to 30 CFR 788.14 (44 FR 15108, March 13, 1979), OSM specifically rejected a suggestion that an operator be allowed to continue under the terms of the old permit, should the application for renewal be contested beyond the term of the old permit. If further response to that comment, OSM said that if the regulatory authority found that the permit should not be renewed, and the original term of the permit expired *during an appeal,* the operator should not be able to continue to operate under the Act.

The Secretary, therefore, conditions his approval on Colorado amending its program in such a way that no operator could continue mining after the term of the original permit expires if the Division has found that the permit should not be renewed. In response to OSM's concern about this situation, Colorado proposed a statutory change that would require all applications for renewal to be filed at least one year prior to the expiration of the original permit. This approach would appear to allow time for review of the renewal and exhaustion of all administrative review remedies before the original permit actually expired and, subject to public comment, would be acceptable to the Secretary.

(xvi) (SMCRA 510(c), CRS 34-33-114(3); 30 CFR 786.17(c) and (3), SR 2.07.6(1)) The federal statute and rule require that an applicant file with his permit application a schedule listing all notices of violation of SMCRA and any law, rule, or regulation of the United States, or of any department or agency in the United States pertaining to air or water quality protection incurred by the applicant in connection with any coal mining operation during the three year period prior to the date of application. If current violations exist, the permit shall not be issued until the applicant submits proof that such violations have been corrected or are in the process of being corrected, and no permit shall be issued to an applicant (or operator specified in the application) who controls or has controlled mining operations with a demonstrated pattern of willful violations of SMCRA resulting in irreparable damage to the environment so as to indicate an intent not to comply with SMCRA.

Although only minor differences exist in Colorado's statutory analogue to SMCRA 510(c), and the regulatory analogue to 30 CFR 786.17 (c) and (d) is essentially verbatim, the State's Attorney General opinion (July 25, 1980 submission, p. 8) suggests that Colorado may not interpret "any State" law, rule or regulation as referred to in SR 2.07.6(1)(b) to include States other than Colorado, and that "willful violations of the Act" may not refer to violations of SMCRA, as well as the Colorado Act. The Secretary conditions his approval on enactment of a statutory amendment or other measures sufficient to make it clear that violations of other States' laws and of SMCRA must be considered. It should be noted that the State of Colorado, as a matter of practice, has cooperated with other States in terms of providing information on the performance of operators in the State.

(xvii) (30 CFR 700.11(b), SR 1.05.1(2)) The federal rule specifies that 30 CFR Chapter VII applies to all coal exploration and surface coal mining and reclamation operations, except the extraction of coal for commercial purposes where the surface coal mining and reclamation operation affects two acres or less, but does not exempt any such operation conducted by a person who affects or intends to affect more than two acres at physically related sites, or any such operation conducted by a person who affects or intends to affect more than two acres at physically unrelated sites within one year. The State's analogue (SR 1.05.1(2)) simply exempts the extraction of coal for commercial purposes where the surface coal mining operation affects two acres or less. However, the applicability of SMCRA to more than two acres at physically unrelated sites has been eliminated from the federal rule (44 FR 67942, November 27, 1979). Colorado notes further in its submission of July 16, 1980 (Response to Minor Issues, p. 1), that the State does not intend to provide a loophole for a series of less than two acre disturbances at physically related sites. For example, if a 1.5 acre mining

disturbance and a 1.5 acre loadout near the minesite are used by the same operator, the State would not exempt the operation from compliance with the regulatory program. Based on this explanation, the Secretary finds SR 1.05.1(2) to be consistent with SMCRA and 30 CFR Chapter VII.

(xviii) (30 CFR 701.5, SR 1.04(90)) The federal rule defines the term "permittee" to include a person holding a permit as well as a person required to hold a permit. The State rule only includes a person holding a permit, making it inconsistent with the definition of "permittee" in 30 CFR 701.5. The Secretary conditions his approval on Colorado amending the definition of "permittee" in SR 1.04(90) to include a person required to hold a permit.

(e) Sections 34-33-117 and 34-33-120 of the Colorado Surface Coal Mining Reclamation Act provide DNR with the authority to regulate coal exploration consistent with 30 CFR 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR 776 and 815, and the Colorado program includes provisions to do so.

(f) DNR has the authority under Sections 34-33-122 of the Colorado Surface Coal Mining Reclamation Act and Rule 5 of the Colorado regulations to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Colorado. Conditional approval of this program is based on representations made by Colorado concerning Colorado law and regulations on the ability to enter, inspect, and monitor and on the exceptions noted below:

(i) (SMCRA Section 517(c)(1); CRS 34-33-122(4)(b); 30 CFR 840.11(d)(1), SR 5.02.2(3)) Section 517(c)(1) of SMCRA and 30 CFR 840.11(d)(1) provide that inspections shall occur on an irregular basis. CRS 34-33-122(4)(b) and SR 5.02.2(3) limit such inspections to emergency situations and "normal business hours." Colorado interprets "normal business hours" to be all times that a mine is regularly operating or, in the case of a closed mine, the hours it would have been operating if it were open (June 11, 1980 submission, p. 8, State Response to OSM Review of Colorado Act). In order to be consistent with SMCRA and 30 CFR Chapter VII, Colorado has proposed (July 16, 1980 submission) an amendment to the State statute and the State regulations which would delete the phrase relating to "normal business hours" and therefore would provide for inspections on an irregular basis. The State does note that as a matter of policy (except for unusual circumstances), State inspections will occur during normal business hours. The proposed statutory and regulatory amendments appear, subject to public comment, to be consistent with SMCRA and 30 CFR Chapter VII. The Secretary conditions his approval on the State enactment of an amendment to the statute and regulations removing the phrase "normal business hours" from the authority to conduct inspections.

(ii) (30 CFR 840.11(c), SR 5.02.2(2)) The federal rule requires periodic inspections of all coal exploration operations "required to comply in whole or in part" with the Act or rules. SR 5.02.2(2) requires inspections of those coal exploration operations which "substantially disturb the natural land surface," and makes inspections of any other coal exploration operations discretionary. 30 CFR 776.11 requires that any person who intends to conduct coal exploration during which less than 250 tons of coal will be removed in the area to be explored shall file a written notice of intention to explore. This section goes on to require that any person who conducts coal exploration which substantially disturbs the natural land surface shall comply with 30 CFR 815, the performance standards for such exploration, and 30 CFR 776.12 requires that any person who conducts coal exploration in which more than 250 tons of coal are removed shall obtain the written approval of the regulatory authority.

The Secretary interprets Colorado's approach to inspection of exploration activities to be consistent with that of OSM in providing for inspections of exploration activities that do not substantially disturb the land surface on a discretionary basis. This approach is supported by the preamble to the permanent regulatory program (44 FR 15018 March 13, 1979) which states that "[t]he notice of intent to explore is to provide information for the regulatory authority to determine whether close surveillance of the actual operation will be needed in the field * * *" The preamble goes on to explain that "[w]ith these essential elements of information, the regulatory authority and interested members of the public can check, *if necessary*, the conduct and completion of the exploration activities to ensure that they are reclaimed * * *" (emphasis added) Therefore, the Federal rules suggest discretionary inspections of exploration activities which result in very limited disturbance to the natural land surface. The Secretary finds that the State rule meets the requirements of SMCRA and 30 CFR Chapter VII by providing mandatory inspections of exploration activities which result in "substantial disturbance" and allowing discretionary inspections of other exploration activities.

(iii) (30 CFR 840.12(b), SR 5.02.3(2)) The federal rule provides that "[n]o search warrant shall be required (for inspections), except that a State may provide for its use with respect to entry into a building." The State rule is silent on the issue of search warrants. The State has supplied an opinion from its Attorney General (June 11, 1980) which states that the Colorado program includes "no requirement of a warrant but provides for 'power to enter' upon the 'presentation of appropriate credentials.' " The opinion fails to clarify the fact that a search warrant is not required. The absence of a clear statement with regard to search warrants is inconsistent with 30 CFR Chapter VII. The Secretary conditions his approval on Colorado promulgating a regulation to implement the requirement of 30 CFR 840.12(b).

(iv) (30 CFR 842.12(c), SR 5.02.5(3). The federal rule specifies that if a federal inspection is conducted as a result of information provided to OSM by a citizen either in writing or orally followed by a written statement, the citizen shall be allowed to accompany the authorized representative of the Secretary during the inspection. SR 5.02.5(3) does not allow a citizen to accompany an inspector on an inspection unless he or she has submitted a written request for an inspection pursuant to SR 5.02.5(1)(a). This would seem to preclude accompaniment where a citizen has submitted an oral request concerning a significant, imminent hazard that must be inspected immediately. The State has explained (June 6, 1980) that in such a situation it will allow for preparation and submission of a brief written statement to be completed on-site by the citizen at the time the inspection is conducted to meet the "written statement" requirement. The Secretary finds based on this explanation that the requirement of SR 5.02.5(3) is consistent with SMCRA and 30 CFR 842.12(c).

(v) (30 CFR 842.14; SR 5.02.6). The federal rule requires that where a person has notified the Regional Director of an alleged failure to make adequate and complete or periodic inspections, the Regional Director shall, within 15 days, determine whether such inspections are being made, and if not, shall order an inspection to remedy the noncompliance.

Additionally, the Regional Director shall furnish such person with a written statement of the reasons for the

resulting determination and the actions taken, if any. SR 5.02.6 is similar to 30 CFR 842.14 but contains no requirement for a written response. In its submission of July 16, 1980, Colorado has proposed an amendment to SR 5.02.6(2) to appropriately furnish the complainant with a written statement of the reasons for such determinations and the actions taken, if any, to remedy the noncompliance. This amendment appears, subject to public comment, to meet the requirement of 30 CFR 842.14. The Secretary conditions his approval on promulgation of an amendment to the Colorado rules to provide for a written statement of the regulatory authority's determination and the actions taken, if any, to remedy the noncompliance as a result of notification of an alleged failure to make adequate or complete inspections.

(vi) (SMCRA 521(a)(1), CRS 34–33–122(7)). Section 521(a)(1) of SMCRA provides that a person shall be allowed to accompany an inspector during an inspection when such inspection results from information provided by that person. Colorado has modified its counterpart to the federal section to also require that persons accompanying an inspector agree to comply with all applicable State and Federal safety rules and regulations. The Secretary finds that it is not an undue burden to require a citizen who is accompanying an inspector or an inspection pursuant to CFR 34–33–122(7) to agree to comply with all applicable State and Federal safety rules and regulations. The Secretary therefore finds CRS 34–33–122(7) to be consistent with SMCRA and 30 CFR Chapter VII.

(vii) (30 CFR 840.11(d)(3); SR 5.02.2(4)). The federal rule states that inspections by the State shall include the prompt filing of inspection reports "adequate to enforce the requirements of and to carry out the terms and purposes of the State program, SMCRA, 30 CFR Chapter VII, the exploration approval and the permit." SR 5.02.2(4) provides only that inspections include the filing of inspection reports, and that inspection forms be approved by the Board; it does not address the adequacy of the form. The Secretary conditions his approval on Colorado promulgating a regulation to implement the requirement of 30 CFR 840.11(d)(3) or otherwise amending its program to accomplish the same result.

(g) DNR has the authority under Colorado laws and the Colorado program includes provisions to implement, administer, and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. The performance bond and liability insurance provisions of Sections 507(f), 509, and 519 of SMCRA and 30 CFR Chapter VII, Subchapter J are incorporated in Sections 34–3–113 and 34–33–125 of the Colorado Surface Coal Mining Reclamation Act and in Rule 3 of the Colorado regulations. Since no State self-insurance requirements are included in the program submission, the Secretary is not approving any self-insurance provisions as part of this decision in accordance with 30 CFR 806.14(d). Conditional approval of the Colorado program is based on representations made by Colorado concerning performance bonds and the exceptions noted below:

(i) (30 CFR 805.13(c), SR 3.02.3(3)). The state regulation substitutes the term "cropland" for "long-term, intensive agricultural use" in its analogue to 30 CFR 805.13(c), SR 3.02.3(3). 30 CFR 805.13(c) governs the period of bond liability for a long-term agricultural post-mining land use "in accordance with 30 CFR 816.133." This change is consistent with the use of "cropland" in 30 CFR 816.133(c)(a) and SR 4.16.3 and is therefore acceptable.

(ii) (30 CFR 807.11(a), SR 3.02(1) (a) and (c)). Under 30 CFR 807.11(a)(2) an application for bond release must include copies of letters sent to property owners and various government entities. SR 3.03.2(1) requires that letters be sent prior to filing the application, but copies of these letters are only required to be filed within 30 days of filing the application. The State rule "encourages" earlier filing of such letters. Since the notice requirement is the same under the State regulation and must be fulfilled, the Secretary finds the later filing of the letters to be of no consequence and the State provision is therefore acceptable. 30 CFR 807.11(a)(3) requires that the permittee submit proof of publication of its public notice of an application for bond release within 30 days of the filing of the application and that such proof of publication be considered part of the application. SR 3.03.2(1)(c) provides for filing of proof of publication within 30 days of the last publication of the notice in order to complete the application. The Secretary finds that since SR 3.03.2(1)(c) requires timely publication of notice and since proof of publication is necessary to complete the application, the State provision does not limit or impair public participation in the bond release procedures and is therefore consistent with SMCRA and 30 CFR Chapter VII.

(iii) (30 CFR 807.11(a)(1), SR 3.03.2(2)) The federal rule provides that applications for bond release may be filed only during seasons which allow proper evaluation of reclamation and that such seasons must be identified in the mining and reclamation operations plan. SR 3.03.2(2) requires the Division to make an inspection within 30 days of receiving an application for bond release or "as soon thereafter as weather conditions permit." The latter phrase is defined (SR 3.03.2(2)) to mean that "the Division must be able to evaluate properly the reclamation operations alleged to have been completed and, therefore, must be subject to seasonal limitations." The Secretary finds that under the State rules, as under the federal rules, inspections will only be permitted at times that allow proper evaluation of alleged reclamation operations, and therefore the Colorado rule is consistent with SMCRA and 30 CFR Chapter VII.

(iv) (30 CFR 807.11(e), SR 3.03.2(4)) The federal rule requires that informal conferences on applications for bond release be held in the locality of the subject permit area. The State has added a provision that this requirement may be waived by all parties interested in the conference. This waiver provision is inconsistent with the federal requirement and with the District Court order (Mem. Op., February 26, 1980, pp. 41, 42), which requires that such informal conferences include a provision for citizen access to the mine site, and is therefore unacceptable. In its submission of July 25, 1980 (page 4, Bonding Response), Colorado notes that the State Act requires that any informal conference be held in the locality (CRS 34–33–118(6)). The State therefore has proposed a modification to SR 2.07.3(6)(b)(i) to delete the phrase "unless this requirement is waived by all parties interested in the conference". The State rule does provide authority for the Division to arrange for citizen access to the site, and with the changes noted, would appear, subject to public comment, to comply with the court order, SMCRA and 30 CFR Chapter VII. The Secretary conditions his approval on promulgation of an amendment to SR 2.07.3(6)(b)(i) to delete the phrase "unless this requirement is waived by all parties interested in the conference."

(v) (30 CFR 806.12(e)(1), SR 3.02.4(2)(b)(i)(B)) Unlike 30 CFR 806.12(e)(1), SR 3.02.4(2)(b)(i)(B) allows a surety company to cancel its bond without the approval of the Division. However, the bond would not be cancelable for any disturbed lands and could only be canceled for undisturbed lands upon 90 days notice to the permittee and the Division and only as to lands undisturbed on the effective

date of cancellation. The rule goes on to provide that upon the effective date of cancelation, if the permittee is unable to obtain an approved replacement bond, the permit must be suspended, revoked or amended to include only those operations for which remaining bond liability is sufficient. The Secretary finds that the Colorado rule is consistent with 30 CFR 806.12(e)(1) because at no time will land be disturbed for which there is no surety liability.

(vi) (30 CFR 807.11(g), SR 3.03.2(6)) The federal rule provides that after an initial decision on bond release, the permittee or any affected person may file a request for an administrative hearing within 30 days after being notified of the initial decision. SR 3.03.2(6)(a) requires the filing of such a request within 30 days of issuance of the Division's proposed decision. This could result in a substantially shorter period for appeal since it is not clear when parties will receive notification of the decision after it is issued. In its submission of July 25, 1980, Colorado provides a proposed regulatory amendment which clarifies "issuance" as meaning the mailing of written notifications. This proposed amendment in the rules appears, subject to public comment, to be consistent with 30 CFR Chapter VII. The Secretary conditions his approval on promulgation of an amendment to Colorado's rules to clarify the issuance of a proposed decision on bond releases as it relates to subsequent appeal rights.

(vii) (30 CFR 807.11(h)(ii), SR 3.03.2(6)(b)) The federal rule places on parties seeking to reverse an initial decision on bond release the burden of proving their cases by a preponderance of the evidence. SR 3.03.2(6)(b) incorporates 24-4-105, C.R.S. 1973, which requires that the findings of fact of a hearing officer be upheld unless contrary to the weight of the evidence. Since the proposed decision would be a finding by a hearing officer, the Secretary finds this provision to be consistent with SMCRA and 30 CFR Chapter VII.

(viii) (30 CFR 800.11(b), SR 3.02.1(4); 30 CFR 808.12(c), SR 3.04.2(3)) Federal rule 30 CFR 800.11(b) states that liability on the performance bond shall cover all surface coal mining and reclamation operations to be conducted within the permit area during the life of the mine. Federal rule 30 CFR 808.12(c) states that "Liability under any bond, including separate bond increments or indemnity agreements applicable to a single operation shall extend to the entire permit area." SR 3.02.1(4) and SR 3.04.2 state that "[l]iability under any bond, *unless otherwise provided in the bond,* shall extend to all lands disturbed including lands outside the permit area if surface coal mining operations are conducted upon such lands." The phrase "unless otherwise provided in the bond" makes the State rules inconsistent with the provisions of 30 CFR 800.11(b) and 808.12(c) that require the liability of any bond to extend to the entire permit area. The Secretary conditions approval on Colorado amending SR 3.02.1(4) and 3.04.2(1) by deleting the phrase "unless otherwise provided in the bond." In its submission of July 25, 1980, the State has proposed an amendment to SR 3.02.1(4) and SR 3.04.2(3) to delete the phrase "unless otherwise provided in the bond." This part of the proposed amendment to the rules appears acceptable to assure that bond liability extends to all surface mining operations on the permit area. In its submission of July 25, 1980, Colorado has proposed an additional modification in SR 3.02.1(4) and SR 3.04.2 that would if enacted, create an exception to the provisions requiring the liability of any bond to extend to the entire permit area and appears inconsistent with 30 CFR 808.12(c).

(ix) (30 CFR 805.14(a), SR 3.02.2(4) and SR 3.02.2(4)(a)) The federal rule requires that the performance bond amount will be "adjusted by the regulatory authority as the acreage in the permit area is revised, methods of mining operation change, standards of reclamation change or when the cost of future reclamation, restoration or abatement work changes." The federal rule also states that the bond amount is to be reviewed by the regulatory authority when the permit is reviewed under 30 CFR 788.11 (which is to be no later than the middle (2.5 years) of the permit term (5 years in most cases). The State regulations require review of bond amounts every two years. Therefore, the Secretary finds that this aspect of the State requirements is more stringent than the federal requirements.

However, the State (under SR 3.02.2(4)(a)) has no equivalent to the federal requirement under 30 CFR 800.11(a) and 805.14(a) for reviewing a performance bond upon permit renewal. The Secretary finds that if the permit renewal falls between the 2-year review required by the State regulations, the State would not be required to review the performance bonding under the State regulations when a permit is renewed. In its submission of July 25, 1980, the State proposed a regulatory amendment which specifies that the Division shall also review each outstanding performance bond at the time permit renewals are processed. This proposed rule change appears, subject to public comment, to be consistent with 30 CFR 805.14. The Secretary conditions his approval on promulgation of a regulatory amendment to provide for review of outstanding performance when processing permit renewals.

(x) (30 CFR 806.11(b), SR 3.02.4(2)(e)) The federal rule provides criteria for the regulatory authority to use in accepting a self-bond from an applicant. These requirements include the name and address of a suitable agent to receive service of process and a showing that the applicant or the applicant's parent organization has a net worth of no less than six times the total amount of self-bond obligations on all permits issued to the applicant in the United States. The State regulation, SR 3.02.4(2)(e), specifies that the only self-bond it will accept is a collateral bond.

In its submission of July 25, 1980 (page 5, Bonding Response), Colorado addresses the self-bonding issue and states that with the shift of real and personal property first-liens to collateral bonds, under the new bonding regulations, including the federal requirements for the proof of ownership, valuation and limitations on such property should be adequate to meet the intent of the Act. Beyond this, the State emphasized that it is simply not allowing any self-bonds at this time and therefore, is promulgating no rules for such. The State also notes that the self-bonding provision in the State Act is the only authority by which the State can include real and personal property.

The Secretary believes that although there is a difference in the nomenclature, the state regulations provide that the only "self-bond" which will be accepted is one accompanied by a perfected first-lien security interest in real or personal property which will meet the criteria for a collateral bond under SR 3.02.4(2)(c). Accordingly, the Secretary finds the State rule to be consistent with SMCRA and 30 CFR Chapter VII.

(xi) (30 CFR 807.12(b), SR 3.03.1(2)) The federal rule specifies that up to 60 percent of the bond amount may be released after backfilling, grading, drainage control and topsoiling have been completed. An additional amount of up to 25 percent can be released after reclamation phase II is completed. The federal rule further requires that the regulatory authority must retain at least 15 percent of the bond amount until reclamation phase III, including the extended liability period, is completed. SR 3.03.1(2) allows up to 60 percent

bond release without topsoil replacement. The State rule lists no percentages for the other two phases of bond release. In its submission of July 25, 1980 (page 5, Bonding Response), Colorado asserts that it has found reclamation costs to exceed 60% before topsoil replacement occurs and wishes to make releases consistent with reclamation costs so long as the State retains sufficient liability necessary for the Division to complete the approved reclamation plan pursuant to SR 3.03.1(3)(a) and (d). The State rule could allow a higher percentage of bond to be released for a lesser amount of work than permissible under the federal regulations and provide no minimum percentage that must be retained for completion of reclamation phase III—the extended liability on revegetation. Therefore, the Secretary finds SR 3.03.1(2) less stringent and inconsistent with 30 CFR 807.12(b). The Secretary conditions his approval on Colorado amending SR 3.03.1(2) to be consistent with the bond release percentages in 30 CFR 807.12(a).

In addition, the federal rule requires that "[t]he maximum liability under performance bonds applicable to a permit which may be released *at any time prior to the release of all acreage from the permit area* shall be calculated * * *" by a specific formula (emphasis added). The State has no equivalent to the phrase "* * * at any time prior to the release of all acreage from the permit area * * *" in the State regulation. The Secretary finds that this omission is unacceptable. The State rules appear to assume that acreage is released from the permit area when bond is released, which is not the case. The federal requirement is that acreage is not to be released from the permit area until all requirements of the Act, regulations and permit are met. The State, in the July 25, 1980 submission, offers the following proposed amendment to SR 3.02.1(4) to address this concern: "No acreage shall be released from the permit area until the bond liability applicable to the permit area has been fully released under this paragraph and SR 3.03.1(2)(c)." This proposed regulatory amendment appears, subject to public comment, to be consistent with 30 CFR 807.12(b). The Secretary conditions his approval on promulgation of an amendment to Colorado's rules to establish that no acreage shall be released from the permit area until the bond liability applicable to the permit area has been fully released.

(xii) (30 CFR 807.12(d), SR 3.03.1(3)(d)) Section 509(a) of SMCRA requires that "* * * in no case shall the bond for the entire area under one permit be less than $10,000." The Colorado program contains no counterpart. In its submission of July 25, 1980, Colorado has proposed an amendment to its regulations to clearly specify that in no case shall the total bond amount applicable to the permit area be less than $10,000. The Secretary finds this proposed amendment to be consistent with 30 CFR 807.12(d) and therefore conditions his approval on the promulgation of this rule change.

(xiii) Portions of the following federal bonding regulations were proposed for amendment on January 24, 1980 (45 FR 6028–6042): 30 CFR 800.5, 800.11(b)(1), 800.13, Part 801, 805.13, 805.14, 806.11, 806.12, 806.13, 806.14, 806.17, 807.12, 808.11, 808.12, and 808.13(a). Colorado incorporated part of the January 24, 1980, language in its proposed regulations. Final federal regulations on the above referenced bonding sections were published on August 6, 1980 (45 FR 52306–52324). Because of the public comment received by the Secretary during the promulgation process, many changes were made to the proposed rules. The Secretary is taking the position that the program's bonding provisions may be approved if they are consistent with the Federal rules as they existed when the Colorado program was submitted on February 29, 1980, or with the rules as amended August 6, 1980. The Colorado provisions discussed below were based on the federal regulations proposed on January 24, 1980. Because the federal regulations were revised prior to final promulgation on August 6, 1980 the Colorado regulations are in some places inconsistent with the federal requirements.

A detailed discussion of the Colorado rules as they relate to the new bonding regulations follows. At some future time, the Secretary will notify the State of any further changes required under OSM's new bonding regulations and the State will be allowed sufficient time to accomplish the changes as program amendments pursuant to 30 CFR 732.17.

A. (30 CFR 805.13(f), SR 3.02.1) The Secretary finds that the State's language is consistent with the new federal language.

B. (30 CFR 805.13(b), SR 3.02.3(2)) The State has added an exception to beginning the liability period over again by excluding certain selected husbandry practices. However, the State has not included the qualifications found in 30 CFR 805.13(b)(3) for determining whether or not husbandry practices should be allowed. The Secretary finds that this exclusion makes SR 3.02.3(2) less stringent than the federal counterpart and conditions his approval on the State's amending SR 3.02.3(2) to include the qualifying husbandry practices permissible under 30 CFR 805.13(b).

In addition, in SR 3.02.3(2)(d)(ii) the State included OSM's proposed change for 30 CFR 805.13(c)(2) relating to the separation of certain portions of the original bonded area to require extended liability because of augmentation. OSM's final regulations changed the proposed regulation, concerning one of the criteria for these areas, to read: "Is limited to isolated, distinguishable, and contiguous portions of the bonded area and does not comprise scattered or intermittent occurrences throughout the bonded area." The State rule reads: "Is limited to a distinguishable contiguous portion of the bonded area." The State rule, like the proposed federal rule, limits this provision by allowing only one such occurrence for each increment of bonded area because the word "portion" is singular. The final federal provision allows more flexibility. Therefore, the State rule is more restrictive but consistent and acceptable. The intent of the final federal rule was to allow use of this provision on isolated portions and restricting its applicability to scattered occurrences. In light of this, the State may wish to examine this rule and amend it according to the final federal rule and amend its program pursuant to the provisions of 30 CFR 732.17.

C. (30 CFR 806.11, SR 3.02.4(1)) The State, in line with the proposed federal regulations, stipulated that real or personal property for collateral bonding must be located in the State. The final federal regulations deleted the requirement for the property to be located in the State. Therefore, the Secretary finds that the State regulation is more stringent than the federal regulation.

D. (30 CFR 806.12(h), SR 3.02.4(2)(c)) The Secretary finds that the State regulation is consistent with the federal regulation containing the requirements for real and personal property posted as a collateral bond. The only difference is that Colorado will only accept a mortgage or perfected first-lien security interest in real or personal property "located in the State." As discussed above, this makes the State regulation more stringent than the federal regulation.

E. (30 CFR 806.12(g), SR 3.02.4(2)(d)(ii)) The federal regulations state that "the regulatory authority may approve the use of letters of credit as security in accordance with a schedule approved with the permit." The State does not

include this language. The Secretary finds that the State regulation is consistent with the new federal regulation since the above quoted language was not intended to mean that letters of credit could not be used as security other than at the time of permit approval. The Secretary also believes that it is clear under the State language that it is the issuing bank which must give notice of intent to revoke a letter of credit at least 90 days prior to revocation.

F. (30 CFR 808.11(c), SR 3.04.2(5)) The federal regulations "* * * allow the surety to complete the plan, *including achievement of the capability to support the alternative postmining land use approved by the regulatory authority*" (emphasis added). The State regulation contains no equivalent to the italicized portion. The Secretary finds that the State regulation is consistent with the federal regulation since the completion of the reclamation plan would inherently include achievement of the capability to support the approved alternative postmining land use.

G. (30 CFR 801, SR 3.06) In SR 3.06, the State incorporated certain portions of 30 CFR 801, as proposed. Part 801 deals with the bonding requirements for underground coal mines, coal-processing plants, associated structures, and other coal-related long-term facilities and structures. The State rule, however, did not contain provisions equivalent to significant portions of the final federal rule, including the following portions: 30 CFR 801.14—Form of bond, 30 CFR 801.16—Subsidence and mine drainage, and 30 CFR 801.17—Bond Forfeiture. Therefore, the Secretary finds SR 3.06 inconsistent with 30 CFR 801. The Secretary conditions his approval on Colorado amending SR 3.06 to be consistent with 30 CFR 801.

H. (30 CFR 806.12(e)(6)(iii), 806.12(g)(7)(iii), SR 3.02.4(2)(b)(v)(C), 3.02.4(2)(d)(vi)(c)) The federal regulations require that a cessation order be given operators who have not replaced a surety bond within 90 days after incapacity of the surety. The State regulations provide for this but also add "* * * or the Division shall amend the relevant permit to include only those operations for which any other remaining bond liability is sufficient." Although the State regulations provide an alternative to the operator having to secure a bond for the area affected by the surety's incapacity, the operator would not be issued a cessation order on the unbonded area. In addition, if another bond is not secured, no money would be available to the regulatory authority to reclaim land disturbed by the operator while the bond was in effect. Therefore, the Secretary finds that the State regulations are less stringent than their federal counterparts and conditions his approval on the State amending SR 3.02.4(2)(b)(v)(C) and 3.02.4(2)(d)(vi)(c) to be equivalent to 30 CFR 806.12(e)(6)(iii) and 806.12(g)(7)(iii).

(xiv) Colorado has proposed performance bond requirements for coal exploration both on and off mine permit areas under SR 3.05. The Secretary's bonding regulations do not have a section pertaining to coal exploration off a permit area. This addition by the State is considered to make its provision more stringent than the federal rule and therefore consistent with 30 CFR Chapter VII.

(xv) (30 CFR 807.12(d), SR 3.03.1(3)(e)) The federal rule requires that the regulatory authority retain enough bond prior to completion of reclamation phase II for the *regulatory authority* to complete reclamation if it had to achieve reclamation according to the approved reclamation plan. The State rule does not say that it must retain enough bond for the Division to complete reclamation. The Secretary finds that the State's regulation is unaceptable because the regulatory authority's cost of completing reclamation would normally be higher than the operator's cost. The State's rule would allow for the possibility of the retained bond amount being sufficient for the operator to complete reclamation but insufficient for the regulatory authority if it had to contract for reclamation to be completed. Therefore, the Secretary finds SR 3.03.1(3)(e) inconsistent with 30 CFR 807.12(d). In its submission of July 25, 1980, Colorado proposed an amendment to the rules to make it clear that the amount of bond retained must be sufficient for the Division to complete the reclamation. This amendment appears, subject to public comment, to be consistent with 30 CFR 807.12. The Secretary conditions his approval on Colorado promulgating an amendment to SR 3.03.1(3)(e) to clarify that the amount of bond retained must be sufficient for the Division to complete the reclamation.

(xvi) (30 CFR 808.13(a), SR 3.04.1(1)) The State requires that a bond be forfeited if the Board has suspended or revoked the permit *and* either "(a) the permittee has violated any of the terms and conditions of the bond including the requirements of the Act and the permit; *or* (b) the permittee has failed to comply with a compliance schedule approved under 3.04.1(2)." (emphasis added) This contrasts with 30 CFR 808.13(a), which makes each of these three factors independently sufficient grounds for mandatory bond forfeiture. The Secretary finds SR 3.04.1(1) inconsistent with 30 CFR 808.13(a). The Secretary conditions his approval on Colorado amending SR 3.04.1(1) to include the three independent criteria for bond forfeiture consistent with 30 CFR 808.13(a).

(xvii) (30 CFR 806.12(h)(4), SR 3.02.4(2)(e)(ix)(B)(III)(4)). The only securities which may be accepted under SR 3.02.4(2)(c)(ix)(B)(III)(4) are negotiable bonds of the U.S. government or general revenue bonds of the State. Accordingly, the State's omission of the language in the new federal regulation, 30 CFR 806.12(h)(4), concerning rated marketable securities and ratio of bond value to market value, is acceptable because these provisions were added to the final rules specifically to consider valuation fluctuation of securities other than those the State accepts. The State in considering rule changes based on OSM's new bonding regulations should consider incorporating aspects of 30 CFR 806.12(i). The Secretary finds the State rule to be consistent with SMCRA and 30 CFR Chapter VII.

(h) DNR has the authority under Section 34–33–123 of the Colorado Surface Coal Mining Reclamation Act and the Colorado program provides for civil and criminal sanctions for violations of Colorado law, regulations, conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with Section 518 of SMCRA, 30 USC 1268. Conditional approval of this program is based on representations made by Colorado concerning Colorado law and regulations and on the exceptions and conditions noted below:

(i) (SMCRA 518(a), CRS 34–33–123(8)) Section 518(a) of SMCRA provides for assessment of civil penalties against "permittees," which term is defined in 30 CFR Chapter VII to include both those persons with permits and those persons who should have a permit. CRS 34–33–123(8) holds "operators" liable for such assessments. Colorado explains that it uses the term "operator" in order to make it clear it is including those persons operating without a permit (June 11, 1980, p. 9, Responses to OSM Review of Colorado Act). However, Colorado's use of the term would seem to limit the assessment of penalties to only the operator and not the permittee if the permittee were different from the operator. Colorado has stated in its submission of June 11, 1980 (page 9), that where the permittee and operator differ, the permittee may still be the proper party to be assessed civil penalties. As

further explanation in its July 25, 1980 submission (page 8), Colorado states that the language of SR 5.03.3(1)(b) clearly attributes violations to the permittee. Colorado emphasizes that as a matter of policy, the Division will attribute *all* violations to the permittee except in those instances where violations of the Act or regulations are attributed to a person who does not hold a valid permit (i.e., an operator). Based on this explanation and policy statement, the Secretary finds that CRS 34–33–128(8) as carried out in the Colorado rules is consistent with Section 518(a) of SMCRA. See also Finding 4(d)(xviii).

(ii) (SMCRA 518(a); 30 CFR 845.17 through 845.20) On May 16, 1980, the U.S. District Court for the District of Columbia issued its second round decision in the litigation over the permanent regulations, *In re: Permanent Surface Mining Regulations Litigation,* Civil Action No. 79–1144 (May 16, 1980). In that decision the court answered the Secretary's request for clarification regarding the Round I decision (February 26, 1980, p. 14) remanding the civil penalty point system. The court stated that the Secretary may not require states to develop a system to assess penalties at least as stringent as those imposed under the civil penalty system. Instead, states need only develop a penalty system incorporating the four criteria in Section 518(a) of SMCRA, the procedural requirements of 30 CFR 845.17 through 845.20, the requirement of 845.12 that all cessation orders must be assessed, and the requirement of 845.15(b) that a minimum of $750.00 per day be assessed for all cessation orders issued for failure to abate a violation. Based on the District Court's ruling, the Secretary finds the Colorado assessment system to be acceptable.

(iii) (30 CFR 845.18 (a) and (b), SR 5.04.3(3)) The federal rules give an operator 15 days to request a penalty conference and require the conference officer to hold the conference within 60 days from the time of the request. SR 5.04.3(3) shortens these time periods to 10 days and 30 days, respectively. The Secretary finds these differences to be acceptable as they are similar to the federal requirements.

(iv) (SMCRA 520(b)(1)(B), CRS 34–33–135(2)) Section 520(b)(1)(B) of SMCRA provides that any person may intervene as a matter of right in an action brought by the Secretary or the state in a court of the United States. Colorado correctly points out (June 11, 1980, p. 10, Response to OSM Review of Colorado Act) that this provision is intended to mitigate the prohibition in Section 520(b)(1)(B) on *initiation* of a suit by a citizen where the Secretary or the state has already commenced and is diligently prosecuting a civil action to require compliance with the Act. There is no such prohibition in Colorado's program. Colorado states that "[a]ny citizen can bring his own suit including a motion for joinder, if that is appropriate under the circumstances" (Colorado submission, July 11, 1980, p. 11). Accordingly, the Secretary finds that a State counterpart to Section 520(b)(1)(B) is unnecessary and that the State provision is consistent with SMCRA.

(v) (SMCRA 520(b)(2), CRS 34–33–135(2) (a) and (b)) Section 520(b)(2) of SMCRA requires a showing that a violation or order would "immediately affect a legal interest of the plaintiff" as a condition precedent to commencement of a citizen suit without 60 days prior notice. CRS 34–33–135(2) (a) and (b), however, require a plaintiff to show "irreparable injury" before being able to immediately commence a citizen suit. The State has argued (June 11, 1980 submission, p. 13, Responses to OSM Review of Colorado Act) that these provisions are basically intended for emergency situations and that to obtain temporary relief a plaintiff would need to show irreparable injury to obtain such relief under either the federal or State statutes. However, even if this is true, the federal section still allows a citizen or operator to get into court 60 days earlier and thereby obtain final relief sooner. Accordingly, the Secretary finds that CRS 34–33–135(2) (a) and (b) is unacceptable in this respect and conditions his approval of the Colorado program on the enactment of statutory language to remedy this deficiency.

(vi) (SMCRA 520(c), CRS 34–33–135(3)) CRS 34–33–135(3) provides that any civil action shall be tried in such county as is provided by the Colorado rules of civil procedure. The Secretary finds that Colorado Rule of Civil Procedure 98, which provides that venue for all actions affecting real property, franchises or utilities will be in the "county in which the subject of the action . . . is located" is the functional equivalent of Section 520(c) of SMCRA, which limits venue to the judicial district in which the operation is located. The Colorado program therefore provides an acceptable counterpart to SMCRA 520(c).

(vii) (SMCRA 520(d), CRS 34–33–135(4), Colorado Rule of Civil Procedure 65(C)) Section 520(d) of SMCRA gives a court discretion to require security when injunctive relief is requested in a citizen suit in accordance with the Federal Rules of Civil Procedure. CRS 34–33–135(4) provides that the court *shall* require security in accordance with Colorado Rule of Civil Procedure 65(c), which is essentially the same as Section 520(d) of SMCRA. However, since the amount of such cost is discretionary under the Colorado rule, the Secretary finds the provisions to be equivalent.

(viii) (30 CFR 845.20(d)) The Colorado program contains no counterpart to 30 CFR 845.20(d), which requires that any increase in the amount of a penalty resulting from administrative or judicial review must be paid within 15 days after the final order resulting from the review is mailed to the person to whom the initial notice of violation or cessation order was issued. In its submission of July 16, 1980 (page 9), Colorado has proposed an amendment to the State rules at SR 5.04.3(5) which is identical to 30 CFR 845.20(d). The Secretary finds that this proposed change appears to be consistent with SMCRA and 30 CFR Chapter VII and conditions his approval on promulgation of this regulatory amendment or other amendment to Colorado's program to make it consistent with the federal requirement.

(ix) (SMCRA 520(a), CRS 34–33–135(3)) Section 520(a) of SMCRA provides that any person having an interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with SMCRA. Section 520(c)(2) of SMCRA provides that in such actions, the Secretary or the state regulatory authority may intervene as a matter of right. The State act grants no right of intervention to the Division or Board in such citizen suits. Therefore, the Secretary finds CRS 34–33–135(3) inconsistent with Section 520(c)(2) of SMCRA. In the June 11, 1980 submission, Colorado has proposed a statutory amendment to CRS 34–33–135 to allow the Division or Board, if not a party, to intervene as a matter of right. This amendment appears, subject to public comment, to be consistent with Section 520(c)(2) of SMCRA. The Secretary conditions his approval on Colorado enacting an amendment to CRS 34–33–135 granting to the Division or Board the right to intervene in citizen suits.

(x) (30 CFR 843.15(b), SR 5.03.2(6)) 30 CFR 843.15(b) provides that a notice of violation or cessation order which requires cessation of mining expressly or by necessary implication shall not expire within 30 days of its issuance if the regulatory authority fails to hold an informal public hearing, even if the condition, practice, or violation in question has been abated. SR 5.03.2(6) is silent on this point, but makes it clear

that expiration of such an order or notice would not affect the Division's authority to assess civil penalties. The necessary implication of the State rule is that abatement of the condition, practice, or violation does not affect the status of the notice or order either. Such a notice or order would still be counted for such purposes as determining a pattern of violations or a history of previous violations. Accordingly, the Secretary finds the State rule consistent with 30 CFR 843.15(b).

(xi) (SMCRA 518(i), 30 CFR 845.18(d)(1), SR 5.04.3(4)(a)) SR 5.04.3(4)(a) requires that settlement agreements reached at penalty assessment conferences provide that the operator waives all rights to further review of the violation or penalty by paying the agreed penalty within the prescribed time (which may not be more than 30 days after the agreement is signed). The federal regulation, 30 CFR 845.18(d)(1), is similar in requiring that the settlement agreement contain a clause that "the person assessed be deemed to have waived all rights to further review the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement." The Secretary believes that the State provision represents a same or similar procedure in accordance with Section 518(i) of SMCRA.

In reaching this conclusion, the Secretary notes that there is an exemption in the federal regulation from the requirement that settlement agreements contain this language, with no standard for limiting the use of the exemption. In addition, the result of the State regulation is merely to restore the period for appeal of the results of the assessment conference. Failure to pay the penalty set forth in the settlement agreement results in the issuance of a "notice of fixed penalty and order to pay," the same notice and order which is issued if there is no assessment conference or if the conference fails to resolve the issues. The period of time for appeal from this notice and order is the same under all of these circumstances. For these reasons, the Secretary believes the State regulation is similar to the federal requirement and therefore is acceptable.

(i) DNR has the authority under Colorado laws, and the Colorado program contains provisions, to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA, 30 USC 1271, and with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements. The enforcement authorities analogous to Section 521 of SMCRA and the applicable provisions of 30 CFR Chapter VII, Subchapter L are contained in Section 34-33-123 of the Colorado Surface Coal Mining Reclamation Act and in Rule 5 of the Colorado regulations. Conditional approval of this program is based on representations made by Colorado concerning Colorado law and regulations and on the exceptions noted below:

(i) (SMCRA 521(a)(4); SMCRA 525(a); 30 CFR 843.13(d); CRS 34-33-124; SR 5.03.5(3)) Section 521(a)(4) of SMCRA provides for advance notice to all interested parties of the time and place of any hearing concerning a show-cause order and Section 525(a) of SMCRA requires written notice to be given to all interested persons of a hearing to review citations issued for violations of the Act's requirements. CRS 34-33-124 provides for such notice to be given only to the permittee. Although the State statute does not provide individual notice to interested parties, the State publishes a monthly newsletter which has an extensive mailing list. This newsletter contains such notice. The State contends that, as a result, "interested parties" should receive notice of any hearing concerning a show-cause order or review of a citation. While the newsletter may, in fact, provide appropriate notification to "interested parties" in many cases, such a notification system cannot with certainty provide advance notice to "all interested parties" as required by SMCRA 521(a)(4) and SMCRA 525(a). Therefore, the Secretary conditions his approval on Colorado amending CRS 34-33-124 to provide for advance notice to all interested parties of the time and place of any hearing concerning a show-cause order or a hearing to review citations issued for violations of the Act's requirements.

(ii) (SMCRA 525(d), CRS 34-33-124(4); 30 CFR 840.13(e), SR 5.03.3(4)) Section 525(d) of SMCRA provides that, where the Secretary revokes a permit, the permittee shall cease surface coal mining operations on the permit area. CRS 34-33-124(4) and SR 5.03.3(4) provide for cessation of surface coal mining operations under these circumstances "as specified by the Board." Colorado asserts in its submission of June 11, 1980 (page 15), that "the purpose of this language is to allow * * * certain activities which would foster reclamation, but which might not be reclamation activities themselves, to continue." Colorado further explains that under some circumstances a small amount of mining might be required in order to complete reclamation. The State emphasizes that it does not intend to provide a loophole to get around the "pattern of violations" or "show cause order" situations as described in the federal and State laws. The State further notes that, if the Board goes through the process of revoking an operator's permit, it will not reverse itself and grant unreasonable mining activities. Based on the State's explanation, the Secretary believes that CRS 34-33-124(4) will be applied in the same fashion as Section 525(d) of SMCRA, and accordingly finds that CRS 34-33-124(4) is consistent with SMCRA and 30 CFR Chapter VII.

(iii) (SMCRA 521(a)(5), 30 CFR 843.14(a), CRS 34-33-123(4)) SMCRA 521(a)(5) and 30 CFR 843.14(a) require that each notice of violation or cessation order shall be given "promptly" to the permittee or his agent. 30 CFR 843.14(a) provides, with two exceptions, that notices of violation and cessation orders shall be served at the site. CRS 34-33-123(4) requires personal service on the operator or his designated agent (as defined in SR 5.03.4) within twenty-four hours of issuance. The Secretary finds this provision inconsistent with SMCRA and 30 CFR Chapter VII because the consequence of failure to meet the personal service requirement is unclear, which may undermine the efficacy of the notice. The Secretary conditions his approval on Colorado enacting an amendment to CRS 34-33-123(4) by deleting the requirement of personal service of a notice or order within twenty-four hours of issuance.

Colorado has agreed to delete this provision by a proposed statutory amendment (Colorado submission, June 1, 1980, p. 11). Colorado has also proposed to amend this provision to allow for alternative service by certified mail. The State asserts that it is "both willing and able to issue notices of violation and cessation orders in the field." (Colorado submission, June 11, 1980, page 13). The Secretary interprets this to mean that the State intends to engage in field enforcement as a matter of policy.

(iv) (30 CFR 843.11(d), SR 5.03.2) The Colorado rule does not explicitly provide that reclamation operations shall continue while a cessation order is in effect, as required in 30 CFR 843.11(d). The State asserts that since cessation orders issued under this provision will be tailored to the portions of the operations relevant to proscribed conditions, practices, and violations, such cessation orders will necessarily result in the continuation of reclamation operations unconnected with the

cessation orders (Colorado program side-by-side, page 5–24, Volume 4). In view of the State's assertion that reclamation operations will continue while a cessation order is in effect, the Secretary finds that SR 5.03.2 of the Colorado program is consistent with SMCRA and 30 CFR Chapter VII.

(v) (SMCRA Section 516(c), CRS 34–33–121(3) and CRS 34–48–102) The State law calls for consultation with the operator and Division of Mines prior to suspension of undergound mining which creates an imminent danger to certain areas. SMCRA 516(c) calls for suspension by the regulatory authority, with no mention of consultation. The State has modified its rules at SR 4.20.4(3) to eliminate consultation where delay would exacerbate any imminent danger (June 11, 1980 submittal). This change appears to remedy the problem, since consultation will only occur when the danger will not be exacerbated. An example might be found where an operator and a Division of Mines representative are on site and a brief consultation will better enable the inspector to specify appropriate abatement. Given this change, the Secretary finds this section to be consistent with the SMCRA and 30 CFR Chapter VII.

In addition, the State law appears not to require suspension in as broad a range of cases as set out in SMCRA. The federal Act refers to particular facilities which, if adjacent to an underground mine, require suspension of the underground mining if an imminent danger exists. One of these facilities is major impoundments. The State act cross-references to other statutory provisions (including CRS 34–48–102) protecting the particular facilities. Although none of these specifically mentions major impoundments, CRS 34–48–102 refers to "improvements", and Colorado's Attorney General explains that "impoundments" are considered to be "improvements" under State law (Attorney General Opinion, Colorado resubmission, June 11, 1980, page 2).

In addition, CRS 34–48–102 provides that no person has the right to mine under any building or other improvement without securing the owners against damages, "except by priority of right." In its submission of July 25, 1980, Colorado provided an Attorney General's opinion which characterized this provision as an exception to surface owner protection. No such exception appears in the federal statute. The Attorney General's opinion states that the "priority of right" language merely recognizes the principle of *Pennsylvania Coal Co.* v. *Mahon*, 260 U.S. 393, 67 L.Ed. 322, 43 S. Ct. 158 (1922). The opinion goes on to state that the fact that this principle is not explicitly recognized in Section 516(c) of SMCRA does not render it nugatory. However, if Congress had wished to allow such an exception, it could easily have written it into Section 516(c) of SMCRA. The Secretary conditions approval of Colorado's program on a statutory change or other measures to make Colorado's program consistent with Section 516(c) of SMCRA by not allowing any exception to the requirement that underground mining be ceased where it creates imminent danger to persons.

(vi) (30 CFR 845.18(c), SR 5.04.3(5), CRS 34–33–123(8)(b)) The federal rule requires OSM to serve a notice of proposed assessment within 30 days of the issuance of the notice of violation or cessation order and to hold an assessment conference, if requested, within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later. Within 30 days after the conference is held, the conference officer shall issue his decision. Under the State act (CRS 34–33–123(8) and SR 5.04.3(5)(c)(i)), the maximum time between the issuance of a notice of violation or cessation order and the order fixing the penalty is 60 days. In the June 11, 1980 submission, Colorado admits, however, that it is impossible to fulfill other statutory time constraints regarding assessment conferences within the 60 day maximum. To rectify this situation, Colorado proposed (June 11, 1980) a statutory amendment to CRS 34–33–214(8)(d) that will change the above 60 day maximum to 120 days. This amendment appears, subject to public comment, to be consistent with 30 CFR Part 845. Because the State cannot meet its own time constraints, the Secretary conditions his approval on Colorado amending CRS 34–33–123(8)(b) and subsequently modifying its rules to allow an adequate period of time for assessment conferences before requiring the order fixing the penalty.

(vii) (SMCRA 525(c), 30 CFR 843.16, CRS 34–33–124(3), SR 5.03.5(5)) SMCRA 525(a) provides that a person issued a notice of violation or cessation order or a person having an interest which is or may be adversely affected by the issuance, modification, vacation, or termination of a notice or order may apply for an administrative hearing to review that action. SMCRA 525(c) goes on to provide that pending completion of the investigation and hearing, the *applicant* may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued. The use of the term "applicant" in SMCRA 525(c) grants the right to temporary relief in administrative hearings to both the person issued a notice or order and the person having an interest which is or may be adversely affected by such notice or order. CRS 34–33–124(1) appropriately grants the right to administrative review to: (1) an operator issued any notice of violation or cessation order and (2) any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order. CRS 34–33–124(3) grants the right to temporary relief in an administrative hearing to an operator pending completion of the investigation and hearing. Provisions for temporary relief are found at 30 CFR 843.16 and SR. 5.03.5(5). The Secretary finds CRS 34–33–124(3) to be inconsistent with SMCRA 525(c) in that it does not grant the right to temporary relief in administrative hearings to a person having an interest which is or may be adversely affected by the issuance, modification, vacation, or termination of a notice or order. In its submission of June 11, 1980, the State proposed a statutory amendment which deletes the term "operator" and substitutes the term "any person with an interest which is or may be adversely affected" at CRS 34–33–124(3). This amendment appears, subject to public comment, to be consistent with SMCRA and 30 CFR Chapter VII. The Secretary conditions his approval on Colorado enacting a modification to CRS 34–33–124(3) and subsequently to SR 5.03.5(5) that grants the right to temporary relief in administrative hearings to a person having an interest which is or may be adversely affected.

(viii) (30 CFR 843.13(a)(2), SR 5.03.3(2)(a)(iii)) The federal rule lists criteria for determining whether or not a pattern of violations exists. The State rule includes these criteria but additionally provides for consideration of "[t]he extent to which the cited violations were caused by a greater degree of fault than negligence * * *." The Secretary does not consider this additional criterion to be sufficiently quantifiable or meaningful, and therefore finds it inconsistent with 30 CFR 843.12(a)(2). The Secretary conditions his approval on Colorado amending SR 5.03.3(2)(a)(iii) to remove consideration of the extent to which the cited violations were caused by a greater degree of fault than negligence in

the determination of a pattern of violations.

(ix) (30 CFR 843.11(a)(1), SR 5.03.2(1)(a)) There is some ambiguity in SR 5.03.2(1)(a) concerning whether an authorized representative of the State regulatory authority can issue a cessation order for conditions or practices which are not violations of the State program or permit. This is required under Section 521(a)(2) of SMCRA and 30 CFR 843.11(a)(1) if such condition or practice (i) creates an imminent danger to the health or safety of the public, or (ii) is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources. The State rule requires that there be a determination that there is a violation of the State Act, regulations, permit or exploration approval or that there be "any condition or practice subject to the Act." The ambiguity concerns this last phrase.

The Secretary interprets the phrase in question to refer not merely to violations of the State Act, but rather to any condition or practice which comes within the scope of the Colorado statute. The State authority for this regulation is CRS 34-33-123(1), which provides: "When * * * an authorized representative of the division determines that any conditions or practices exist at a surface coal mining operation which is subject to this article * * * " and the necessary conditions exist for a cessation order, such an order must be issued. This provision of the State statute is consistent with Section 521(a)(2) and 30 CFR 843.11(a)(1), and the ambiguous language in 5.03.2(1)(a) should be interpreted consistently with CRS 34-33-123(1). Based upon this interpretation, the Secretary finds the State rule consistent with the requirements of SMCRA and 30 CFR Chapter VII.

(x) (30 CFR 843.11(b)(2), SR 5.03.2(4)(a)(ii)) SR 5.03.2(4)(a)(ii) requires that each notice of violation or cessation order set forth with reasonable specificity a "description of the steps necessary to abate the violation in the most expeditious manner physically possible, including a description of any affirmative obligations imposed * * * ." CRS 34-33-123(1), (2), and (4) require that the period of time for abatement be set forth in the notice or order and CRS 34-33-123(5) provides that cessation orders remain in effect until the condition, practice or violation has been abated or until vacated, modified or terminated by the regulatory authority. The Secretary interprets these provisions to include the requirement of 30 CFR 843.11(b)(2) that the cessation order *require* the person to whom it is issued to take all steps the authorized representative "deems necessary to abate the violations covered by the order in the most expeditious manner physically possible." Consequently, the Secretary finds SR 5.03.2(4)(a)(ii) to be consistent with SMCRA and 30 CFR Chapter VII.

(xi) (30 CFR 843.13(e), SR 5.02.2(4)) 30 CFR 843.13(e) requires that, while a permit is suspended, the permittee must complete all affirmative obligations to abate all conditions, practices, or violations specified in the order. SR 5.02.2(4) is silent on this point. However, the Secretary interprets the State rule to mean that, as a matter of course, a permittee whose permit has been suspended will be required to complete all affirmative obligations to abate all conditions, practices, or violations specified in the order. Accordingly, the Secretary finds SR 5.02.2(4) to be consistent with SMCRA and 30 CFR Chapter VII.

(j) DNR has the authority under Section 33-34-126 of the Colorado Surface Coal Mining Reclamation Act and Rule 7 of the Colorado program contains provisions to designate areas as unsuitable for surface coal mining consistent with CFR Chapter VII, Chapter F. Conditional approval of this program is based on representations made by Colorado concerning Colorado laws and regulations and on the exceptions noted below:

(i) (30 CFR 761.12(e), SR 2.07.6(2)(d)(v)) The federal rule states that where a proposed surface coal mining operation would be conducted within 300 feet of any occupied dwelling, the application must contain a written waiver from the owner of the dwelling consenting to operations within a closer distance. The waiver must be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver. The State rule specifies that valid waivers existing as of August 3, 1979 shall be considered binding for the purposes of this section and binding subsequent owners to such valid waivers by prior owners. Colorado goes on to state that all other waivers must be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver. In its submission of July 16, 1980 (page 4), Colorado notes that the Attorney General advised that a waiver binding subsequent owners may only be considered valid by the Division where it is explicit within the lease or deed of a dwelling. Based on this clarification, the Secretary finds the State rule to be consistent with 30 CFR 761.12(e).

(ii) (30 CFR 764.15(b)(1) and (2), SR 7.06.4(4) and (5)) With respect to initial handling of a petition, the federal rules specify that *within three weeks* after a determination that a petition for unsuitability is complete, the regulatory authority shall circulate copies of the petition (30 CFR 764.15(b)(1)) and also notify the public (30 CFR 764.15(b)(2)). The State rules require such actions to be carried out *30 days* after a determination that a petition is complete. The Secretary does not believe that the time difference is significant and finds the State regulation consistent with the federal rule.

(iii) (SMCRA 522(c), CRS 34-33-126(2); 30 CFR 764.13, SR 7.06.2) With respect to petitions to designate lands unsuitable, the State requires a good faith effort by the petitioner to identify surface and mineral owners. The State says this does not require a title search or production of a complete list of names, but merely an *effort* (Colorado submission, June 11, 1980, page 13). If some effort is made, but no names are provided, the petition will not be deemed to be defective, according to the State. In its submission of July 16, 1980, Colorado has included a form entitled "petition outline." This form describes the information required for a petition. With respect to information on surface and mineral owner(s) of record, the State has included a footnote on the form which states that "[a]bsence of this information will not adversely affect the administration processing of this petition or the validity of the allegation and supporting evidence."

The Secretary has evaluated the State's explanation and the "petition outline" footnote and finds that the request for such information (even as qualified by the footnote) imposes a greater burden on petitioners than that under the federal rule and thus is inconsistent with the petition information requirements of Section 522(c) of SMCRA and 30 CFR 764.13. The Secretary therefore conditions his approval on modification of CRS 34-33-126(2) and SR 7.06.2 to delete the requirements for a good faith effort by petitioner(s) to identify surface and mineral owners.

(iv) (30 CFR 764.15(c), SR 7.06.4(7)) The State rule and CRS 34-33-126(g) provide that "after the filing of a petition and no later than *fifteen days before* the public hearing, and person may intervene." (emphasis added). This contrasts with 30 CFR 764.15(c), which permits intervention until 3 days prior to the hearing. This is applicable both to petitions to designate and petitions to terminate designations. The State's time

period is based upon considerations of due process and administrative convenience (June 11, 1980, Response to OSM Review of Colorado Act, p. 18); it is designed to allow the regulatory authority and parties an adequate period in advance of the hearing to know what allegations are being presented.

The Secretary recognizes that the preamble to OSM's permanent regulations (44 FR 15003, March 13, 1979) rejected a similar change, stating that a "longer period is conducive to greater public involvement." However, the Secretary finds this provision acceptable in Colorado for the following reasons: First, the state provision affects the general public and industry equally as to both petitions to designate and to terminate. Second, under the State Administrative Procedures Act, CRS 24-4-103(4), the Board would be required to afford interested persons an opportunity to submit data, views or arguments at the public hearing, and the Board is further required to consider all submissions. Thus, any interested person would have an opportunity to present evidence equivalent to the opportunity afforded an intervenor. Third, both the federal and State processes for designation provide that a public hearing be held within 10 months of the filing of a petition. The only minimum period before holding a hearing is that created by the notice requirements. In any given case, therefore, the period before the public hearing might be longer under the State system than under the federal system. As a consequence, the difference in cutoff dates for intervention under the two systems does not create a real difference in the period during which a person may intervene and does not limit public participation.

(k) DNR has the authority under the Colorado Administrative Procedures Act, the Colorado Surface Coal Mining Reclamation Act, and Rule 2 of the Colorado program and the Colorado program contains provisions for public participation in the development and revision of Colorado rules and regulations (*see* Finding 4(d)(ii)). Colorado also has the authority to provide for public participation in the permitting process and in the enforcement of its laws except as noted below.

(43 CFR Part 4, SR 5.03.6) 43 CFR Part 4.1290-4.1296 provides for the awarding of attorneys' fees to industry only where industry can prove bad faith on the part of citizens in initiating an action. SR 5.03.6 does not contain a similar provision to limit the awarding of attorneys' fees. The Secretary is concerned that the State's provision might inhibit citizens from initiating meritorious actions.

In its submission of July 16, 1980 (page 8), Colorado recognizes that it may be entirely appropriate to allow awarding of attorney's fees to industry only if industry can prove bad faith. In its submission of July 25, 1980, Colorado has supplied a proposed revision to SR 5.03.6 which provides for awarding of attorney's fees to permittees only where the permittee demonstrates that the person initiated or participated in such a proceeding in bad faith for the purpose of harassing or embarrassing the permittees. However, the State's proposed rule is not totally consistent with 43 CFR Part 4.1290-4.1296. More specifically, the State's proposal has the following problems: (1) the proposal does not explicitly include expert witness fees; (2) the proposal does not provide for collection of costs from the regulatory authority by operators or individuals; (3) the proposal does not explicitly allow the award to include costs and expenses incurred in seeking the award; and (4) the proposal does not provide for appeal of the award by any party. The Secretary, therefore, finds the State's proposed revision to be inconsistent with 43 CFR Part 4.1290-4.1296, and thus conditions his approval on promulgation of a rule consistent with 43 CFR Part 4.1290-4.1296.

(l) DNR has the authority under Colorado laws and the Colorado program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Colorado Mined Land Reclamation Division consistent with 30 CFR 705. The prohibitions against financial interests in coal mining operations are contained in Rule 1.10 of the Colorado regulations.

(m) DNR has the authority under Colorado regulations to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. 30 CFR 732.15(b)(12) does not require a State to implement regulations governing certification and training of persons engaged in blasting until six months after federal regulations in this area have been promulgated. The federal regulations have not been promulgated at this time.

(n) DNR has the authority under Colorado laws and the Colorado program contains provisions in Rule 2 to provide small operator assistance consistent with the requirements of 30 CFR 795.

(o) The Colorado program contains no counterpart to Section 704 of SMCRA concerning protection of government employees. However, on page 16 of its June 11, 1980 submission, Colorado refers to CRS 18-8-102, which makes it a misdemeanor to obstruct government operations. Additionally, CRS 18-8-106 provides that a person commits a petty offense if, knowing that a public servant is legally authorized to inspect property, he refuses to produce or make available that property for inspection at a reasonable hour, or if he refuses to permit the inspection. The penalties for these other two statutes are less than the penalties in Section 704. Therefore, the Secretary conditions his approval on Colorado amending its program provisions to provide protection to employees of the State regulatory authority equivalent to the protection afforded federal employees under Section 704 of SMCRA.

(p) Colorado has the authority under its laws for administrative and judicial review of State program actions in accordance with Section 525 of SMCRA and 30 CFR Chapter VII, Subchapter L. The Attorney General of Colorado submitted an opinion to the Secretary on June 11, 1980 to the effect that the availability of judicial review of actions taken by the State regulatory authority will not in any way restrict the rights of citizens to bring suits as authorized in CRS 34-33-135. In view of the Attorney General's opinion, the Secretary finds that an explicit provision to this effect is not required in the Colorado program.

(q) DNR has the authority under Colorado law and the Colorado program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

(r) The following laws and regulations of Colorado affecting its regulatory program do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII: The Colorado Surface Coal Mining Act and regulations adopted thereunder; Rule 65: Injunction; Uniform Commercial Code (CRS 4-4-301 *et seq.*); Insurance/Bonding (CRS 10-3-102); State Administrative Procedures Act (CRS 24-4-101 *et seq.*); Colorado Open Records Act (CRS 24-72-201 *et seq.*); Colorado Air Quality Control Act (CRS 25-8-101 *et seq.*); Solid Wastes Disposal Sites and Facilities (CRS 30-20-101 *et seq.*); Nongame, Endangered, or Threatened Species Conservation Act (CRS 33-8-101 *et seq.*); Colorado Mined Land Reclamation Act (CRS 34-32-101 *et*

seq.); Colorado Natural Areas Act (CRS 36–10–101 *et seq.*); Transfer of Water (CRS 37–83–101 *et seq.*); Reservoir Plans (CRS 37–87–105); Determination of Designated Ground Water Basins (CRS 37–90–106); Permits to Construct Wells (CRS 37–90–137); Water Right Determination and Administration Act of 1969 (CRS 37–92–101 *et seq.*); Common Provisions Regulation, Air Pollution Control Commission; Regulation No. 1, Emission Control Regulations for Particulates, Smokes, and Sulfur Oxides, Air Pollution Control Commission; Regulation No. 3 (Proposed Repeal and Repromulgation of Regulation No. 3), Regulation Requiring Air Pollutant Emission Notice, Emission Permits and Fees, Air Pollution Control Commission; Ambient Air Standards, Air Pollution Control Commission; Regulation No. 6, Standards of Performance for New Stationary Sources, Air Pollution Control Commission; Regulations for Effluent Limitations, Water Quality Control Commission.

(s) DNR and other agencies having a role in the program have sufficient legal, technical, and administrative personnel and sufficient funding to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable State and federal laws.

The Secretary has undertaken an analysis of the proposed Colorado staffing plan to assess Colorado's ability to properly carry out inspection and enforcement activities and permitting functions as required by the Act. The analysis was based on the necessary activities related to the approximately 40 mines in Colorado on State and federal lands. The analysis revealed that the proposed staffing level was adequate. OSM calculated that Colorado would need approximately 6 Full Time Equivalents (FTE) for inspection and enforcement activities and approximately 14 FTE for permitting activities.

The analysis completed by OSM on the adequacy of staffing and funding did not include mines on federal lands. Colorado is expected to propose to enter into a cooperative agreement with the Department of the Interior which, if approved, would require necessary inspection and permitting staff to carry out program activities on mines which invoke federal lands. The adequacy of the Colorado staffing and funding plan to undertake activities on federal lands will be examined during the review of the proposed cooperative agreement.

(t) On August 15, 1980, Judge Flannery issued a further Memorandum and Order on the question of affirmative disapproval by the Secretary of state program regulations that incorporate items invalidated by the court or suspended by the Secretary. The court recognized that a state rulemaking proceeding conducted subsequent to the court's May 16, 1980 ruling could independently adopt a regulation that the Secretary was without power to require under SMCRA and the Secretary's regulations. This is the case in Colorado. In the July 11, 1980 cover letter from Hamlet J. Berry III, Deputy Director of the Colorado Department of Natural Resources, which accompanied the State's 104th day submission (Administrative Record No. CO–96), Mr. Barry noted that the submission contained "all modifications to the proposed regulations made in response to * * * the Flannery decisions" and went on to state that the submission consisted of changes in the proposed regulations as a result of OSM suspensions or changes and the two opinions rendered by Judge Flannery. The State rulemaking was concluded after the court's May 16, 1980, order and incorporated those changes which the State desired to make in its regulations as a result of Judge Flannery's orders.

As a result of these voluntary actions by the State, and in conformance with the court's August 15, 1980 order, the Secretary finds that these provisions of the Colorado program are no less stringent than the requirements of SMCRA, and that no State regulations need to be affirmatively disapproved under the court's May 16, 1980, order.

E. Disposition of Comments

The comments received on the Colorado program during the public comment periods described under "Background on the Colorado Program Submission" raised several issues. The Secretary considered these comments in evaluating the Colorado program, as indicated below.

1. Performance Standards Comments:

a. The Department of Energy contends that Colorado's definitions of "approximate original contour" (SR 1.04(12)), "permittee" (SR 1.04(90)), and "best technology currently available" (BTCA) (SR 1.04(17)) are incomplete, and that the State has no definition for "compaction," "slope," "steep slope," or "topsoil" as defined in 30 CFR 701.5.

SR 1.04(12) omits the provision that all "coal refuse piles" must be eliminated from the definition of approximate original contour (AOC) in 30 CFR 701.5. The State maintains (June 11, 1980 submission, Attachment E, p. 3) that its definition of AOC is identical to that found in the State and federal statutes. In addition, the State argues that the mandatory reclamation techniques required for coal refuse piles as specified in 30 CFR 816.81–816.93 and SR 4.10–4.11 do not include elimination of coal refuse piles to AOC. The State has added to the AOC definition appropriate cross-references to SR 4.05.11, SR 4.05.17, and SR 4.16 (i.e., ground water protection, post-mining rehabilitation of coal refuse embankments and post-mining land use). The Secretary finds the deletion of coal refuse piles from the definition of AOC to be acceptable based on the statutory definition in SMCRA and the State's addition of appropriate cross-references to the definition of AOC.

Colorado defines "permittee" (SR 1.04(90)) as "a person holding a permit." The Secretary has found this to be inconsistent with the definition of "permittee" in 30 CFR 701.5 and has conditioned his approval on Colorado amending the definition of "permittee" in the State rules to include a person required to hold a permit. (See Finding 4(d)(xviii).)

In its June 11, 1980 submission (Attachment E, p. 4) Colorado has added language (SR 1.04(17)) which gives the Division discretion to determine BTCA on a case-by-case basis (as provided for in 30 CFR 701.5), and has also added language which specifies that the techniques must be "appropriate for the intended use." Colorado has also deleted the provision that BTCA includes technology "available anywhere." The State argues that omission of this phrase does not affect the comprehensiveness or applicability of the definition. Therefore, when Colorado considers "available," the State considers methods, techniques, etc. "available anywhere." The Secretary approves Colorado's definition based on this statement as to how DNR interprets BTCA.

The State has incorporated definitions in SR 1.04 for "compaction" and "slope" that are identical to those in 30 CFR 701.5. The State's definition of "steep slope" is contained in SR 4.06.2(2)(b). All of these definitions are consistent with the federal definitions.

Colorado does not include a definition of "topsoil" in the definition section of the regulations but has added a definition in the performance standards (SR 4.06.2(2)(b)). The definition there includes as topsoil the "A" horizon and may include portions of or all of the B and/or C horizons which are shown to be most suitable as a plant growth medium for the desired post-mining land use. The Secretary finds this incorporation into the performance standards and the description of soil to

be considered as "topsoil" to be acceptable.

b. The Environmental Protection Agency (EPA) is concerned that Colorado's definition of "materially damage the quality or quantity of water". SR 1.04 (72) omits damage from reclamation operations as provided for in 30 CFR 701.5. EPA contends that reclamation operations can harm alluvial valley floors and that the definition should therefore be changed. In its program submission of June 11, 1980, Attachment E, p. 11, Colorado inserted the term "reclamation operations" in its definition. With this change, the State program is consistent with 30 CFR Chapter VII.

c. EPA expresses concern that Colorado, in SR 4.05.2(3)(a), its analogue to 30 CFR 816.42(a)(3)(B), may grant exemptions from water quality standards and effluent limitations if it can be demonstrated that sedimentation ponds and treatment facilities are not necessary to meet either effluent limits *or* applicable State and federal standards. 30 CFR 816.42 requires that *both* criteria be met. EPA is also concerned that Colorado applies this rule only to surface coal mining operations. SR 4.05.2(3)(a) has been revised (June 11, 1980, Attachment E, p. 147) to require conformance with effluent limitations *and* water quality standards. These requirements, like all of the performance standards, apply to both surface and underground coal mining.

d. Regarding Colorado's general requirements for hydrologic balance in SR 4.05, EPA questions why the State omits language in 30 CFR 816.41(d)(1) and 817.41(d)(1) which requires that changes in the flow of drainage be used in preference to water treatment facilities. The State rule will have the same effect as the federal rule, since the omitted language is a general objective rather than a regulatory requirement. The Colorado program contains appropriate provisions with respect to sediment control (e.g., sedimentation ponds) and water treatment.

e. EPA points out two concerns with Colorado's analogue to 30 CFR 817.42(a)(6), which concerns effluent limitations from a mix of drainage from disturbed and undisturbed areas (SR 4.05.2(6)). Specifically, EPA notes that the State specifies disturbances resulting from surface coal mining operations when it should specify underground operations, and that the State has omitted reference to disturbances resulting from reclamation operations.

The State's definition of "surface coal mining operations" includes underground operations. With respect to application of the effluent limitations to drainage from areas undergoing reclamation, the District Court (May 16, 1980, opinion, page 19) remanded 30 CFR 816.42 and 817.42 to the extent that these federal rules require that drainage from reclaimed areas meet the same effluent limitations as drainage from active mining areas. Therefore, the Secretary finds the State's use of the term "surface coal mining operations" to be acceptable.

f. EPA expresses concern regarding Colorado's omission from SR 1.04(72) of the word "reclamation" from the definition of "surface coal mining and reclamation operations" as it appears in the federal rules at 30 CFR 701.5. The State revised the term to include "reclamation" in its program submission of June 11, 1980. This change makes the State rule consistent with the federal regulations.

g. Another concern of EPA is that Colorado's program contains no counterpart to 30 CFR 816.46(f)/817.46(f), which emphasizes that the use of well-designed, well-constructed and properly maintained sediment control measures shall not release the operator from compliance with applicable effluent limitations. The comment continues by pointing out that although the State refers to SR 4.05.6(2), this reference does not contain the requirement. Although Colorado does not have a specific provision comparable to 30 CFR 816.46(f)/817.46(f), SR 4.05.2 clearly requires that discharges of water from areas disturbed by surface or underground mining activities, regardless of sedimentation pond design, shall be made in compliance with the numerical effluent limitations. Therefore, the Secretary has determined that the Colorado program provides protection equivalent to 30 CFR 816.46(f) and 817.46(f).

h. EPA expresses the opinion that Colorado's "state window" explanation regarding the State's analogue (SR 4.05.9(1)(d)) to 30 CFR 816.49(a)(4) is inadequate. This provision concerns the use of permanent water impoundments and the impact of such impoundments on the quality or quantity of water used by adjacent or surrounding users.

The Secretary finds the Colorado change to be consistent with SMCRA and to be justified as a "state window" based on local requirements of State water law, as discussed in Finding 4.(b)(i). With respect to water quality, the Colorado rules require that water quality standards be met, and effluent limitations for discharges from permanent impoundments which are still associated with coal mining operations must be met.

i. The Mine Safety and Health Administration (MSHA) comments that MSHA approval is required before Colorado can authorize under SR 4.05.16(5) the diverting of surface water into an underground well, before impoundments are constructed, modified, or removed, before any coal processing waste fire is extinguished, and before mine wastes are returned to underground workings. Colorado has deleted all references to MSHA. Where MSHA criteria for "large" or "small" structures are used in the federal rules, the State has inserted the State Engineer's criteria. These have been found to be less stringent than the federal criteria, and the Secretary has conditioned his approval on incorporation of criteria as stringent as the MSHA criteria. The Secretary has also conditioned his approval on inclusion in the state rules of a general reference to the requirements of MSHA in order to alert operators that these requirements must also be met. (See Findings 4(d)(iv) and 4(d)(v).

j. EPA is concerned that the intent of 30 CFR 816.95(b)(16) could be compromised by Colorado's addition in SR 4.17.2(p) of language which states that the fugitive dust control measures should include the restriction of activities causing fugitive dust during periods of air stagnation, "as determined by the appropriate air quality regulatory authority." Colorado has revised its rules to delegate protection of air quality to the Colorado Department of Health under a Memorandum of Understanding. This is appropriate, given Judge Flannery's order (Court Opinion May 16, 1980, pp. 27–29) to remand 30 CFR 816.95 and 817.95; Judge Flannery has instructed OSM to review its air quality regulations and limit future air quality regulations to control air pollution caused by wind erosion only. Therefore, the comment is no longer relevant.

k. The U.S. Fish and Wildlife Service (USFWS) questions the inclusion by Colorado of agriculture as an appropriate post-mining land use for the variance from the approximate original contour requirement in mountaintop removal situations (30 CFR 785.14 and Part 824; SR 2.06.3 and SR 4.26). The commenter stated that without a clear definition of what would be included under such a variance, significant amounts of valuable wildlife habitat could be reclaimed to land uses no longer compatible with the wildlife resources. Like the federal statute, the Colorado statute (CRS 34–33–120(3))

allows for a variance to the approximate original contour requirement for mountaintop removal operations. Colorado has included in its law the term "agricultural use" as a post-mining land use category suitable for this variance. The federal statute and applicable portions of the federal rules, 30 CFR 785.14 and Part 824, include "agricultural use" as well. Therefore, the Secretary finds the Colorado program to be consistent with SMCRA and 30 CFR Chapter VII.

1. The Environmental Policy Institute, Public Lands Institute, and the Friends of the Earth point out that Colorado has proposed an alternative system for measuring revegetation success and dealing with revegetation and argue that it is not at all apparent that these provisions will provide the same protection as the Secretary's regulations. Colorado in SR 4.15.7(2)(d)(i–vi) has set up different methods to measure success of the four criteria (production, cover, diversity and density) found within the federal program at 30 CFR 816.116.

The first two standards, reference areas ((d)(i)) and USDA–USDOI standards ((d)(ii)) approved by the Director, follow exactly the approach set out under 30 CFR 816.116(a) and (b)(1) except that Colorado wishes to have final approval of other alternative standards. This is the subject of a condition to approval as discussed in Finding 4(c)(ii). The Secretary requires that approval of standards other than the standards in the USDA and USDOI documents must rest with the Director of OSM.

SR 4.15.7(2)(d) (iii) and (iv) are acceptable because the accumulation of pre-mine baseline vegetation data would approximate the data base that would be collected from comparable reference areas (as provided for in 30 CFR 816.116(a)). Reference areas are used to create a bond release standard based on relative size of pre-mine vegetation communities. Therefore, relatively small vegetation communities have a negligible impact on the magnitude of the standard. (For further information see "A Statistical Evaluation of Revegetation Success on Coal Lands in the West" (draft report), Larry L. Larson, Ph. D., Office of Surface Mining, Region V.) The standard approach in (d)(iii) and (d)(iv) would not be used for critical or unique habitats.

SR 4.15.7(2)(d)(v) is acceptable because it establishes standards for a historical record that collects production and cover data for vegetation communities to be disturbed for a minimum of seven years (Colorado submission, Attachment E, June 11, 1980, page 198). This accumulation of statistically accurate data would supply information that is more accurate than a reference area comparision because climatic variability of vegetation can better be represented in seven years of data than under the federal requirement for two years of data comparisons (30 CFR 816.116(b)(1)(ii)).

SR 4.15.7(2)(d)(vi) has a problem similar to section (ii) of the State rule, in that OSM does not have final approval for these standards. Therefore, as discussed in Finding 4(c)(ii), the Secretary is conditioning his approval on the requirement that the OSM Director approve these standards.

m. The Department of Energy comments that Colorado's analogue to 30 CFR 707.12, regarding information which is to be maintained on the mining site where the miner claims an exemption for coal extraction incident to government financed construction, does not specify precisely what the documents required to be made available should show. The federal rule require documents which show a description of the construction project (including location) and which identify the government agency which is providing the financing and the kind and amount of public financing. SR 1.05.1(3) requires that "appropriate documents for the construction" be maintained on the site of the extraction operation and be available for inspection. The Secretary finds that such documents (including those required by the State Highway Department and other financing agencies) would provide the information required in the federal rule.

n. The Bureau of Mines expresses concern regarding the fact that Colorado, in its analogue to 30 CFR 816.162(d)(5), does not require compacting of topsoil placements on embankments. The State has modified its rule (SR 4.03.2(3)(d)(vii)) to require that successive layers of the embankment shall be compacted evenly by routing the hauling and leveling equipment over the entire width of the embankment (State submission, Attachment E, June 11, 1980, page 141).

o. The Bureau of Mines questions Colorado's contention, in its explanation as to why the State has no analogue to 30 CFR 816.156(a)(7), that cross drains, dikes, and water bars are not appropriate reclamation practices for haul roads. 30 CFR 816.156 includes the requirements for restoration (i.e., reclamation) of Class I roads. The federal regulations have been remanded by Judge Flannery (Court Opinion, May 16, 1980, pp. 32–36). As a result, the Secretary is without authority to hold the State to any particular standard for road construction.

p. Another concern of MSHA is over Colorado's failure to require that all dams and embankments be routinely inspected by a qualified engineer or someone under the supervision of a qualified engineer, as required by 30 CFR 816.49(f). Colorado revised SR 4.05.9(10) to require that all dams and embankments meeting the critieria of the State Engineer must conform with the inspection requirements of SR 4.05.6(11)(a) analogous to 30 CFR 816.49(f) (Colorado submission, Attachment E, June 11, 1980, page 158).

q. MSHA also notes that its rules require that all sediment ponds must be examined by a "qualified person." SR 4.05.9(10) requires that all sediment ponds be examined by a qualified registered professional engineer or by someone under the supervision of a qualified registered professional engineer. The Secretary notes that the MSHA rules continue to also apply to all coal mining operations in the State of Colorado and that his approval is conditioned on the State including in the rules a reference to the requirements of MSHA to alert operators to additional requirements. (See Finding 4(d)(iv).)

MSHA also notes that when a hazardous condition related to impoundments exists, an operator must take specific steps as outlined in Part 77.216–3. As noted above, MSHA rules are in no way obviated by the State program and the State rules must have a reference to the requirements of MSHA.

r. The U.S. Fish and Wildlife Service (USFWS) notes that Colorado in the modification of its program dated June 12, 1980, has withdrawn sections of State Rules 2.04 and 2.05. The commenter contends that these vegetative information and mapping requirements provisions required by these rules were essential to a complete review of permit applications. FWS has withdrawn this comment since the commenter found the sections of concern to be addressed elsewhere in the program at SR 4.15 and SR 4.18.

s. In its comments, the Environmental Protection Agency indicates that underground development waste would not be included by Colorado in its analogue to 30 CFR 817.48(b). In this regulation, the State provides that drainage from acid-forming and toxic-forming underground development waste and spoil shall be avoided by preventing water from coming into contact with acid-forming and toxic-forming "spoil," rather than "material," as in the federal regulation. In its submission of June 11, 1980, Colorado has revised SR 4.05.8(2) (the State's counterpart to 30 CFR 817.48) to specifically require preventing water

from coming into contact with acid-forming or toxic-forming underground development waste or spoil. The Secretary finds that this revision appropriately addresses the commenter's concern.

t. In comments regarding Colorado's counterpart to 30 CFR 817.14(b), the Environmental Protection Agency indicates that the State does not require exposed underground openings to be temporarily sealed until actual use, as does the federal regulation. 30 CFR 817.14(b) requires that coal exploration holes, other drill holes or boreholes, shafts, wells, and other exposed underground openings which have been identified for use to return underground development waste, coal processing waste or water to underground workings, or to be used to monitor ground water conditions, shall be temporarily sealed until actual use. The Secretary finds that the State's counterpart, SR 4.07.2, contains this requirement.

u. In its comments, MSHA indicates that SR 4.05.4(2)(6) requires that diversions that are designed to divert drainage from an upstream area away from an impoundment area shall be designed to carry the peak runoff from a 100-year, 24-hour precipitation event. MSHA indicates that its requirement for such diversions calls for carrying the peak runoff from a 100-year, 6-hour precipitation event, which is more stringent. It should be noted that SR 4.05.4(2)(b) directly parallels the requirement of 30 CFR 816.44(b)(2)/817.44(b)(2). In addition, the State rule allows for requiring capacity for "larger events specified by the Division." Therefore, the Secretary believes that in cases where a diversion was above an impoundment area, a larger event could be required by the State in the design of a diversion. As noted previously, the State rules do not negate the applicable rules of MSHA and reference to the rules of MSHA must be included in the State rules.

2. Inspection and Enforcement Comments

a. EPA questions Colorado's omission of the requirement in 30 CFR 840.11(a)-(c) that evidence be collected of all violations observed on partial inspections (SR 5.02.2(1)). EPA also points out that Colorado has changed the word "shall" to "may" as it appears in 30 CFR 840.11(c), so that the State's regulation provides that "the State regulatory authority *may* conduct periodic inspections of all coal exploration operations which substantially disturb the natural land surface." (emphasis added) In its program submission (June 11, 1980, Attachment E, p. 213), Colorado revised Rule 5.02.2(1) to require the collection of data on partial inspections. However, Colorado continues to limit mandatory inspections to those coal exploration operations that "substantially disturb the natural land surface," and continues to make inspections of any other coal exploration operations discretionary. The Secretary has found (*see* Finding 4(f)(ii)) that Colorado's discretionary inspection of exploration activities which do not "substantially disturb the natural land surface" is consistent with 30 CFR Chapter VII.

b. EPA asserts that Colorado's provisions for serving notices of violation and cessation orders are not as stringent as those contained in 30 CFR 843.14(a) because Colorado allows 24 hours before the notices must be served, and such notices can only be served on specified persons. In its June 11, 1980 submission, Colorado proposed deleting the 24-hour requirement for service of notices and has also proposed a statutory amendment to this provision to allow for alternative service by certified mail (and in person). The Secretary has found that the proposed changes to CRS 34-33-123(4) appear, subject to public comment, to be consistent with SMCRA and 30 CFR Chapter VII and conditions his approval on their enactment. See Finding 4(i)(iii).

c. EPA questions Colorado's omission of the requirement in 30 CFR 843.11(a)(2) that extra personnel and equipment should be provided if necessary for expeditious abatement. In its June 11, 1980 program submission, the State has revised SR 5.03.2(1)(b) to be consistent with 30 CFR 843.11(a)(2) to provide for extra personnel and equipment if necessary for expeditious abatement. The Secretary finds this revision acceptable.

d. The Public Lands Institute and Sierra Club note that Colorado's analogues to SMCRA 517(c) and 30 CFR 840.11(d) (CRS 34-33-122(4)(b) and SR 5.02.2(3), respectively), concerning inspection and monitoring, allow for inspections to occur only during "normal business hours," while the federal Act provides that inspections shall be made "at any time." The commenter states that Colorado's language is contrary to federal intent, and must be changed. The State has proposed to delete the phrase "normal business hours" from CRS 34-33-122(4)(b) and SR 5.02.2(3) and the Secretary has made this a condition of approval. See Finding 4(f)(i).

e. In its comments, the Public Lands Institute indicates that Colorado's program should contain the language of SMCRA 517(h)(1) which establishes procedures for review of any refusal by the State to issue a citation for an alleged violation and requires that a written statement of the State's final disposition be furnished to persons requesting a review. Such an amendment, the commenter states, would bring Colorado's law into conformity with the rights provided by Section 517(h)(1) of SMCRA. The Secretary considers these requirements to be met by SR 5.02.5, which provides sufficient protection.

f. The Public Lands Institute asks that Colorado be required to amend the inspection and monitoring section of the State statute to contain provisions comparable to Section 517(h)(2) of SMCRA. The commenter contends that a statutory mandate is necessary to insure that adequate and complete inspections will be made. However, the Secretary considers this requirement to be met by SR 5.02.5. State regulations are as much a part of State programs as are statutory provisions, and there is no reason to believe that SR 5.02.5 will be ineffective.

g. Another suggestion of the Public Lands Institute is that Colorado's counterpart to SMCRA 520 (CRS 34-33-135), concerning the citizen suits, be amended to include language stating that any person may intervene as a matter of right in any action commenced by the Division or State to require compliance with the provisions of the Act. The commenter maintains that such language will provide the statutory protection to citizens given by Section 520(b)(1)(B) of SMCRA. Colorado has stated on page 11 of its July 11, 1980 submission that in any action commenced by the Division or State to require compliance with the provisions of the Act, "[a]ny citizen can bring his own suit including a motion for joinder, if that is appropriate under the circumstances." (See Finding 4(h)(iv)). In view of this assurance, the Secretary finds that the requirement of Section 520(b)(1)(B) of SMCRA is met.

h. The Public Lands Institute asserts that Colorado's analogue to SMCRA 521(a)(4), (CRS 34-33-123(7)), should provide that upon a permittee's failure to show cause as to why the permit should not be suspended or revoked, the Director or his authorized representative shall forthwith suspend or revoke the permit. Without this addition, the commenter maintains, there is no statutory mandate that failure to show cause will result in swift suspension or revocation of the permit. The Secretary considers these requirements to be met by SR 5.03.3(3) and SR 5.03.5, and finds that no statutory change is necessary.

i. Regarding CRS 34–33–123(8)(c), Colorado's analogue to 30 CFR 845.18(d)(1), which concerns settlement agreements on penalties, the Public Lands Institute suggests that Colorado be required to add the phrase "except as otherwise expressly provided for in the settlement agreement" to the provision that, where there is a settlement agreement, the person assessed waives all further right to review of the violation or penalty. This, according to the commenter, will supplement the Colorado Act so as to provide the necessary requirement that the parties may expressly provide that settlement will not result in a waiver of rights. The Secretary finds that the State provision is more stringent than the federal provision, since it mandates that a settlement is final and puts an end to the operator's right to contest the penalty.

j. Regarding CRS 34–33–123(8)(g), Colorado's analogue to Section 518 of SMCRA, concerning penalties, the Public Lands Institute recommends that the phrase "* * * but not at any rate which may be below 6%" be added to the last sentence, relating to the interest paid on the amount of civil penalty placed in an escrow account. The commenter stresses that as the Colorado provision presently exists, if the interest rate on the escrow account falls below 6%, the interest yield will be less than the minimum rate provided by 30 CFR 845.20(c). The Secretary finds that it is unlikely that the interest rate will fall below 6% and that Colorado's provisions CRS 34–33–123(8)(g), SR 5.04.4(1), and SR 5.04.4(4) are consistent with SMCRA and 30 CFR Chapter VII.

k. The Public Lands Institute expresses the opinion that CRS 34–33–135(2)(b) of Colorado's analogue to Section 520(b)(2) of SMCRA should be amended so that a person may immediately bring a civil suit where the violation complained of will "immediately affect" rather than "irreparably damage" the plaintiff. The commenter argues that Colorado's standards place an unwarranted burden on citizen's actions. The Secretary agrees, and has conditioned approval of Colorado's program on the enactment of statutory language to remedy this deficiency. See Finding 4(h)(v).

l. The Public Lands Institute and the Environmental Protection Agency express concern regarding the omission by Colorado of the stipulation in the State's analogue to 30 CFR 840.12(a) and (b) that a search warrant is not required for the State regulatory authority to enter a coal exploration, mining, or reclamation operation. The Secretary agrees, and has conditioned his approval of SR 5.02.3(2) on a State modification implementing the policy that presentation of a search warrant is not required prior to conducting an inspection, except that the State may provide for its use with respect to entry into a building. See Finding 4(f)(iii).

m. Also concerning Colorado's analogue (SR 5.02.3(2)) to 30 CFR 840.12(a), regarding right of entry, the Public Lands Institute indicates that the State should be required to remove the phrase "at reasonable times" from its present location and place it so as to read in context as: "the Division upon presentation of appropriate credentials shall have the power to enter, without delay, upon or through any surface coal mining and reclamation operations or any coal exploration operations and *at reasonable times* have access to * * *" (emphasis added). The commenter explains that the requirement of entry at reasonable times applies only to inspection of monitoring equipment, records, etc., and is not a requirement for entry "upon or through" mining operations. 30 CFR 840.12(b) contains the phrase "at reasonable times" and applies this term in a generic way to right of entry for all purposes. The Secretary considers the difference between the State and federal provisions to be of no consequence, since the concept of reasonableness is implicit in the Federal Act and rules; there is no circumstance that would justify entry upon or through a mining operation at other than a "reasonable" time.

n. The Public Lands Institute asks that Colorado be required to delete SR 5.02.5(1)(b)(ii), the State's analogue to 30 CFR 842.12(a), concerning a citizen's request for inspection. The commenter contends that this Colorado subsection imposes an unnecessary burden on citizens who request inspections in that the State requires that there be "sufficient" evidence as a component of "sufficient basis to believe" that a violation has occurred. The federal regulation requires that an authorized representative "shall have reason to believe." The Secretary finds that, although the wording differs, the standards to be met are equivalent since SR 5.02.5(1)(b)(ii) requires that "[t]he request either states the basis upon which the facts are known by the requesting citizen *or* provides other corroborating evidence sufficient to give the Division a basis to believe that the violation has occurred." (emphasis added)

o. In its comments, the Public Lands Institute asserts that Colorado should be required to include language omitted in its counterparts (SR 5.02.5(4) and (5)) to 30 CFR 842.12(e) and 30 CFR 842.15(b). The omitted language provides that a report of an inspection conducted as a result of a citizen's request (or of the reasons for a decision not to inspect), shall not, unless otherwise authorized under certain circumstances in subsection (b), contain the name of the citizen when that report is transmitted to the person alleged to be in violation. Without this language, the comment concludes, there is no explicit protection from disclosure of a citizen's identity. SR 5.02.5(2) requires that the identity of any person supplying information to the Division in requesting an inspection shall remain confidential, if requested by that person, unless that person elects to accompany the inspector on the inspection. Therefore, the Secretary considers the State and federal provisions to be virtually identical in meaning and effect.

p. The Public Lands Institute and EPA express concern that Colorado has omitted the requirement in the State's analogue (SR 5.02.5(4)) to 30 CFR 842.14, requiring that the Board furnish the complainant with a written statement of the reasons for the Board's determination in a review of inspection adequacy. This requirement provides a check on the Board by requiring a reasonable and sound determination with the knowledge that such determinations will have to be accounted for in writing to the complainant, the commenters contend. Colorado has proposed an amendment to SR 5.02.6(2) that would appear, subject to public comment, to bring it into conformance with 30 CFR 842.14, and the Secretary has conditioned his approval of this provision amendment of Colorado's program to make it equivalent to the federal rule. See Finding 4(f)(v).

EPA also notes that Colorado uses a 30 day time period instead of the 15 day time period required by this subsection for the determination of compliance with the inspection requirements of 30 CFR 842.11 (b)(1)(i), (c), and (d). The State has revised Rule 5.02.6 to include the 15 day time period for a determination of compliance with the inspection requirements. Accordingly, the Secretary finds this provision to be acceptable.

q. The Public Lands Institute also expresses concern that Colorado omitted the provision in 30 CFR 843.15(g) that the granting or waiver of an informal public hearing on a cessation order or notice of violation shall not affect the right of any person to formal review as provided under Sections

518(b), 521(a)(4), and 525 of SMCRA. The commenter expresses the opinion that, without this provision, the independent right to formal review may be lost. The Secretary does not consider it necessary to have a State rule dealing with the effect of a waiver on third parties' rights to review because SR 5.03.5(1) confers rights to such review without limitation.

r. The Public Lands Institute notes that Colorado's regulations have no parallel to 30 CFR 843.13(a)(4), which presents a method for determining, on the basis of the number of violations per year, whether or not a pattern of violations exists. The Secretary does not consider 30 CFR 843.13(a)(4), which deals solely with federal inspections, to be applicable to a State program.

s. The Public Lands Institute objects to the absence of a provision parallel to 30 CFR 843.13(c) requiring the State to file show cause orders and to publish and post notices of such orders. The State has amended SR 5.03.3(1)(a) to provide appropriate public notice of show cause orders (State submission, Attachment E, June 11, 1980, page 219). The Secretary finds that these amendments bring SR 5.03.3(1)(a) into conformance with 30 CFR 843.13(c).

t. Another omission in the Colorado regulations, according to the Public Lands Institute, is a counterpart to 30 CFR 843.13(d), which provides for public notice in the event a hearing is held under 43 CFR Part 4. Such notice is necessary in order to have a well-informed citizenry, the commenter notes. The Secretary considers the State and federal provisions to be virtually identical, based on the notice requirements of SR 5.03.5.

u. The Public Lands Institute expresses the opinion that the addition by Colorado of SR 5.03.3(2)(a)(iii) to the list of criteria for determining a pattern of violations, as presented in 30 CFR 843.13(a)(2), is neither quantitative nor readily determinable, and is thus open to abuse and should be omitted. SR 5.03.3(2)(a)(iii) is a criterion which considers the degree to which a violation was the result of fault as opposed to negligence. The Secretary agrees, and has conditioned his approval on the State's deletion of this provision. See Finding 4(i)(viii).

v. The Public Lands Institute contends that by extending the time during which a person issued a notice of violation or cessation order or a person with an interest which is or may be adversely affected may file an application for review and request for hearing from 30 days as specified in 30 CFR 843.16(a) to 90 days under SR 5.03.5(1)(a), the Colorado version is three times more lenient and should be changed accordingly. However, the longer time period gives both citizens and permittees a longer time to request a hearing and thus cannot be said to be more or less stringent than 30 CFR 843.16(a).

w. The Public Lands Institute notes that in several places throughout Colorado's procedures for assessment of civil penalties (SR 5.04.3), the State has restricted the rights of parties with regard to assessments. Specifically, the commenter points out that Colorado's analogue (SR 5.04.3(3)) to 30 CFR 845.18(a) requires that an assessment conference be requested within ten days after receipt of notice, as compared to the 15 days allowed by the federal regulations. In addition, the State's counterpart (SR 5.04.3(5)) to 30 CFR 845.18(d)(1) lacks the federal provision allowing the parties to expressly provide in the settlement agreement that it does not constitute a waiver. Finally, PLI asserts that Colorado's analogue (SR 5.04.4(1)) to 30 CFR 845.19(a) requires that a request for a hearing be made within 30 days of receipt of the notice of order, while the federal regulation requires the request to be made 30 days from receipt of the *proposed assessment*. The Secretary finds that each of these State provisions is acceptable as more stringent than the comparable federal provision. See Findings 4(h) (ii) and (iii) and response to comment 2.i.

x. The Public Lands Institute comments that Colorado's analogue (SR 5.04.8) to 30 CFR 843.19 should contain the stipulation that injunctive relief may be requested by the State if an operator refuses to permit inspection of monitoring equipment. The Secretary finds this omission to be of no consequence, since an operator's refusal to permit inspection of monitoring equipment is amply covered under subsections (b), (c) and (d) of SR 5.04.8.

y. The Public Lands Institute notes that Colorado's analogue (CRS 34–33–122) to Section 517 of SMCRA charges the State Board with implementing data collection and monitoring requirements. The commenter contends that DNR should have this responsibility so that inspectors can set such requirements in the field. PLI argues that if the Board, which meets only once a month, has these responsibilities, unreasonable delays could result. The Secretary agrees with Colorado's assertion that "the State regulations require monitoring and recordkeeping in each and every phase." (State submission, June 11, 1980, page 8). The language contained in the state statute would not preclude field enforcement of monitoring and recordkeeping requirements.

z. The Public Lands Institute asserts that Colorado's analogue to SMCRA 517(b) must provide that the monitoring of ground and surface water is mandatory, rather than requiring it only as the State "deems necessary," as in CRS 34–33–122 (2) and (3). The Secretary finds that the State regulations SR 4.05.13 (1) and (2) corresponding to CRS 34–33–122 (2) and (3) require monitoring of ground and surface water and thus provide requirements equivalent to Section 517(b) of SMCRA.

aa. Regarding Colorado's counterpart (SR 4.05.13(1)) to Section 517(b)(2) of SMCRA, the Public Lands Institute contends that the Colorado statute must contain language stating that monitoring sites to record the quantity and quality of surface drainage must be specified for surface mining operations which disturb strata that serve as aquifers which significantly insure the hydrologic balance. However, the corresponding state regulation (SR 4.05.13(1)) provides this requirement, and it is as much an enforceable part of the state program as the statute.

bb. The Public Lands Institute contends that Colorado, in its analogues (CRS 34–33–122(7) and SR 5.02.5(3)) to SMCRA 517(h)(1) and 30 CFR 842.12(c), must delete the provisions requiring a citizen to comply with all safety rules and regulations. These provisions are not found in the federal rules and SMCRA. The commenter argues that the language which should be deleted is legally meaningless but practically intimidating. The Secretary disagrees for the reasons discussed in Finding 4(f)(vi).

cc. EPA notes that Colorado does not provide for citizen right of entry resulting from a citizen's request for inspection, as is required by 30 CFR 842.12(c). In addition, EPA expresses concern that Colorado requires that a citizen to sign a form before he or she is permitted to accompany an inspector, which is not a requirement of 30 CFR 842.12(c). The State has revised its rules to provide for a citizen's right to accompany an inspector on an inspection. However, Colorado maintains that it will not allow a citizen to accompany an inspector on an inspection unless he or she has submitted a written request for an inspection pursuant to SR 5.02.5(1)(a). The State explains that it will allow for preparation and submission of a brief written statement to be completed on-site by the citizen at the time the inspection is conducted. The Secretary considers that this requirement is not unduly burdensome and is consistent with 30 CFR 842.12(a), which requires

that an oral report must be followed by a signed written statement and 30 CFR 842.12(c). See Finding 4(f)(iv).

dd. The Environmental Policy Institute comments that the State program does not include criteria so that a determination can be made whether a pattern of violations exists. The State program includes such criteria in SR 5.03.3(2)(a). The Secretary finds that these criteria are consistent with those found in 30 CFR 843.13(a), except as discussed in Finding 4(i)(viii).

ee. The Public Lands Institute and the Environmental Policy Institute note that although Colorado has revised its regulations to properly provide for citizens to accompany an inspector on an inspection, the statute still includes barriers to citizen involvement in inspections. CRS 34–33–122(2) contains these provisions, and the Secretary finds that these provisions are consistent with Section 521(a)(1) of SMCRA.

ff. The Public Lands Institute comments that Colorado lacks language requiring that affirmative obligations as in 30 CFR 843.11(a)(2) must be imposed where a cessation order will not completely abate the imminent danger or harm in the *most expeditious manner physically possible.* In its submission of June 11, 1980, the State has revised SR 5.03.2(1)(b) to include this phrase.

gg. The Environmental Policy Institute comments that the State rules contain no provision for permit revocation (as opposed to suspension). SR 5.03.3 contains provisions for suspension or revocation of permits. The Secretary finds these provisions consistent with 30 CFR 843.13.

3. Bonding Comments

a. The Environmental Policy Institute asserts that Colorado's analogue (CRS 34–33–113) to Section 509 of SMCRA, which subjects the State regulatory authority's bond amount determination to an administrative appeal, is inconsistent with the federal Act and must be amended. Under CRS 34–33–113, the bond amount is determined as part of the Division's proposed decision on a permit application and is, therefore, subject to review by the Board if the proposed permit decision is appealed under CRS 34–33–119. Although the federal system is somewhat different under Section 514(c) of SMCRA and 30 CFR 787.11(a), a new permittee or other interested person should still be able to obtain review of the bond amount determination under CRS 34–33–119 and SR 2.07.4. Therefore, the Secretary finds that the Colorado statute and rule are consistent with SMCRA and 30 CFR Chapter VII.

b. In its comments, the Environmental Policy Institute contends that Colorado's criteria for self-bonding (SR 3.02.4(2)(e)) are less comprehensive than those provided in 30 CFR 806.11(b). The Secretary finds that even though Colorado has not included all the provisions for self-bonding found in the federal regulations, its provisions are nonetheless consistent. See Finding 4(g)(x).

c. The Environmental Policy Institute points out that Colorado has omitted language from its analogue (CRS 34–33–125(6) to SMCRA 519(f) providing for a bond release hearing to be held in the locality of the mine or in the State capitol, at the option of the objector, and contends that this must be included. The State has made a change in SR 3.03.2(6)(a) that states that the hearing will be held in the locality of the permit area or the State capitol at the objector's option. (See Attachment E, page 125.) This should alleviate the commenter's concern.

d. The Environmental Policy Institute is concerned that Colorado has not proposed a regulatory counterpart to 30 CFR 800.12, which requires the permit applicant to file a certificate of liability insurance, or for 30 CFR 806.14, which sets out the terms and conditions for the liability insurance. A counterpart to both federal regulations exists in SR 2.03.9, which is substantively the same as the cited federal regulations.

e. The Environmental Policy Institute states that Colorado's "good cause" criterion for bond adjustments, which appears in the State's analogue (SR 3.02.2(4)) to 30 CFR 807.11(f)(1), needs to be clarified through definition in the regulations, or it should be deleted. The "good cause shown" standard is discussed in the June 11, 1980, opinion of the Colorado Attorney General (page 2), which explains that the phrase makes it "clear that additional information or criteria are not to be demanded or imposed in an arbitrary or capricious manner." This requirement as construed by the State Attorney General is consistent with OSM's regulations.

f. The Environmental Policy Institute recommends that Colorado add language to its analogue to 30 CFR 806.11 (SR 3.02.4(2)(f)) to make it clear that an alternative bonding system must have Secretarial approval as a State program amendment. It is clear from 30 CFR 806.11(c) that an alternative bonding system must be approved by the Secretary in order to be part of a state program. The State recognizes this in the explanation appearing at page 119 of Attachment E (June 11, 1980) stating that any alternative bonding system found worthy would be proposed, through rule-making, as an addition to the State program, and be subject to the Secretary's approval. This statement is adequate to meet the commenter's concern since it is a binding policy statement.

g. The Environmental Policy Institute asserts that by omitting from SR 3.03.1 the stipulation of 30 CFR 807.12 that the Phase II bond release shall not exceed 25% of the total amount, Colorado would be retaining less than 15% of the total bond amount until the completion of Phase III reclamation. The commenter also expresses concern that Colorado allows in SR 3.03.1(2) for Phase II bond release after completion of any of the listed tasks in 30 CFR 807.12(e)(2), rather than after all the tasks have been completed, as required by the federal regulations. The Secretary agrees with this comment and has conditioned his approval on modification of the State rules to conform with the federal requirements. See Finding 4(g)(xi).

h. The Environmental Policy Institute expresses concern that Colorado's analogue (SR 3.03.2(5)(a)) to 30 CFR 807.11(f)(4) should be amended to include the provision of the federal regulation which states that the notice of the State's proposed decision on a bond release application shall state that the permittee and all interested parties have the right to request a public hearing within 30 days of the date of the proposed decision. In Attachment C, page 7, Colorado added to SR 3.03.2(5) the requirement that the permittee and any other interested parties be notified of their right to request a public hearing in accordance with SR 3.03.2(6) at the time of notification of the proposed decision on bond release. Since that rule incorporates the 30 day period, the public will receive the complete notice needed in order to appeal the decision.

i. The Environmental Policy Institute asserts that Colorado should provide for citizen access to the mine site as part of the informal conference provisions of SR 3.03.2(3) for bond release. The commenter argues that his would make this element of Colorado's regulations consistent with Judge Flannery's remand of 30 CFR 807.11(e). *In re: Permanent Surface Mining Regulation Litigation* (Mem. Op., May 16, 1980). The State has provided for citizen access in this context by incorporating the provisions of SR 2.07.3(6) in SR 3.03.2(4). The former rule provides for such access.

j. The Public Lands Institute states that Colorado's analogue (SR 3.04.3(1)(b)) to 30 CFR 808.13(a)(3), regarding criteria for bond forfeiture, should contain the following language: "(c) The permit for the area under bond has been revoked, unless the operator

assumes liability for completion of reclamation work." The commenter indicated that this should be added to make the provisions more specific.

The State proposed a revised rule, SR 3.04.1 (June 11, 1980 submission, Attachment E, page 126), which addresses and resolves the commenter's concern. Bond is required to be forfeited if a permit is revoked and the permittee has failed to comply with a compliance schedule which must provide for completion of reclamation or if the permittee has violated any of the terms and conditions of the bond. See Finding 4(g)(xvi).

k. The Public Lands Institute points out that Colorado's counterpart (SR 3.04.2(4)) to 30 CFR 808.14(b), regarding the determination of bond forfeiture amount, does not contain language appearing in the federal regulation which requires that the forfeited bond amount for which liability is outstanding must be deposited in an interest-bearing escrow account. SR 3.04.2(4) provides that the proceeds of bond forfeitures must be placed in a separate reclamation account. This provision satisfies the escrow account requirement. The Secretary presumes that any such account would earn interest.

l. The Environmental Policy Institute points out that Colorado's analogue (SR 3.04.3(1)) to 30 CFR 808.13 proposes that a bond can be forfeited if the Board has suspended or revoked the permit *and* the operator has either violated terms and conditions of the bond or has failed to comply with a compliance schedule to correct permit or bond violations. The commenter notes that the federal regulation makes either of the criteria above sufficient to warrant a bond forfeiture determination, rather than requiring that both be met before the forfeiture determination can be made. The Secretary agrees with this comment and has conditioned his approval on an appropriate change in the State regulations. See Finding 4(g)(xvi).

4. Permitting Comments:

a. The Public Lands Institute, the Environmental Policy Institute, and the Friends of the Earth state that there is no provision in Colorado's law comparable to Section 504 of SMCRA which requires operators to obtain a permit if the state program is disapproved. In this event, the commenter continues, the Secretary should be prepared to implement a federal program in Colorado as quickly as possible, since the State's law allegedly legalizes "wildcat" operations because it supersedes the State's 1976 Act with its permit requirements, but does not fully replace them. The Secretary notes that the interim regulatory program will remain in effect in each state until a proposed state program is finally approved or disapproved pursuant to 30 CFR 732. If approved, the state program will replace the interim program; if disapproved, the Secretary will implement a federal program in the state pursuant to 30 CFR 736. In no event will the standards of SMCRA be supplanted by a less stringent regulatory scheme.

b. The Department of Energy contends that the language which Colorado added to its counterpart (SR 2.04.6(1)(a)) to 30 CFR 779.14(a) has added confusion. This federal rule calls for a geological description down to and including the first aquifer below the lowest coal seam to be mined to be included in the permit application. Colorado also requires a description of other coal seams which may exist below the lowest coal seam to be mined. The Secretary finds this additional information requirement to be more stringent than the federal requirement and that this information will be useful in assessing conformance with the coal recovery performance standard of SR 4.01.1.

c. The Department of Energy (DOE) notes that 30 CFR 783.25(e) requires that the location and extent of known active, inactive, or abandoned *underground* mines be included on the maps and plans for an underground mining permit application (emphasis added) but that Colorado requires that the location and extent of existing or previously *surface* mined areas. DOE contends that this does not have the same meaning as the federal language. The State has included the provision of 30 CFR 783.25(e) in SR 2.10.3(1)(k) and has also included an additional provision for permit applications for underground mines to include the location and extent of existing or previously surface mined areas. The Secretary finds this additional information requirement for underground mines to be acceptable.

d. The Fish and Wildlife Service comments that Colorado fails to provide the parameters to determine what changes in a permit revision, renewal, or transfer shall constitute a "significant departure," as is required by 30 CFR 788.12(a)(1). In its submission of June 11, 1980, Colorado has responded to this concern by more clearly delineating the differences between a "minor revision," a "technical revision," and a "permit revision." Definitions for each of these terms are included in SR 1.04. The State also provides examples in its submission of June 11, 1980, as to what constitutes a "significant alteration" in the plan and thus what results in a permit revision versus a minor or technical revision. For example, the State explains that applications to increase coal production or for redesign of a haul road drainage system would fall into the technical revision category. Further, relocation of an administrative office trailer or installation of a road surface drainage culvert would be categorized as a minor revision. The State has also provided specific examples of revisions acted upon by the Division over the last year. The Secretary finds that the definitions and examples provided by the State as to what changes in a plan constitute a minor or technical revision sufficiently delineate what constitutes a "significant departure" which would require a permit revision.

e. The Public Lands Institute comments that because underground operators were required to file applications but not necessarily to obtain permits under Colorado's 1976 reclamation law (Section 34-33-101, CRS 1973, as amended), Colorado has provided a loophole in terms of requiring re-application 2 months after State program approval. SR 2.01.2 requires that "[n]ot later than two months following the date of approval of the Colorado regulatory program by the Secretary, all operators who are conducting and intend to conduct surface coal mining operations eight months after such approval shall file an application for a permit with the Division for such operations." The Colorado rule (SR 2.01.3) goes on to require that operations conducted eight months after the effective date of the program must be permitted (except if an application has been filed and the Division has not rendered a decision with respect to the application and the operation is in compliance with Section 502 of SMCRA). The Secretary finds the Colorado procedure described above to be consistent with Section 502(d) of SMCRA.

5. "Unsuitability" Comments:

a. The National Park Service (NPS) requests that Colorado notify the NPS Regional Director, Rocky Mountain Region, before any decision is made to approve or deny exploration or mining and reclamation permits in areas where mining may have the potential to affect the resources of park units in the State. In addition, the NPS requests that it have the opportunity to be involved in setting bond amounts in such mining areas within Colorado, and that the agency should be allowed to participate in inspections in cases where NPS units may be affected, especially when these

inspections are in response to a petition, notice of violation, or for release of performance bond.

NPS also contends that it should be given an opportunity to directly participate in developing criteria for designating lands as unsuitable for surface coal mining near NPS units within Colorado. These criteria, according to NPS, should be related to all resources of the NPS units, and to the indirect effects which may occur on fragile lands. NPS contends that the establishment of buffer zones around NPS lands must not be left solely to other agencies with interests potentially at variance with NPS policy, especially when the scenic and environmental integrity of the park lands may be involved.

The State has incorporated (SR 7.06.4(4)) the federal regulatory provisions that require the circulation of copies of a complete petition and request of relevant information from interested agencies as required in 30 CFR 764.15(b)(1). In addition, the requirement that the mine plan or permit for an operation not be issued unless jointly approved by all affected agencies (30 CFR 761.12(f)(2)) is contained in the Colorado regulations at SR 2.07.6(2)(e). Colorado regulations further reflect the federal requirements for providing for notice and solicitation of comments on proposed permit applications, including bonding amounts, decisions on bond release and notices of violations (SR 2.07.3, SR 3.03.2, and SR 5.04.4).

Colorado is committed to consultation with concerned agencies, as demonstrated in its program narrative in response to 30 CFR 731.14(g)(9). (*See* Volume 7, February 29, 1980 Program Submission.)

The Secretary has instructed the Park Service not to seek criteria in state programs which would establish "buffer zones" adjacent to National parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated that lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to the Park Service assures that that agency's approach to State unsuitability criteria will be compatible with the Secretary's policy on federal unsuitability criteria.

(b) The Public Lands Institute expresses the opinion that Colorado's counterpart to 30 CFR 764.17(b)(2) regarding notice of a designation hearing does not make it absolutely clear that such notice must be postmarked not less than 30 days before the scheduled date of the hearing. SR 7.06.6(4) specifies that the Board shall give notice of the hearing by certified mail not less than "one month" before the scheduled date of the hearing. The Secretary finds that the one month requirement of SR 7.06.6(4) is equivalent to the 30-day requirement in 30 CFR 764.17(b)(2).

c. In its comments, the Public Lands Institute asserts that Colorado's definition of "fragile lands" in its analogue (SR 1.04.49) to 30 CFR 762.5 is more restrictive than the federal definition. PLI points out that the State's language reads ". . . may easily suffer damage or destruction," while the federal language reads "could be damaged or destroyed." However, the Secretary finds that "may easily" is equivalent to "could," and "suffer damage or destruction" is equivalent to "be damaged or destroyed."

d. The Public Lands Institute points out that Colorado's provision allowing questioning of speakers by the State Board, the Division, and the audience in a designation hearing could easily result in cross-examination taking place, contrary to 30 CFR 764.17(a). SR 7.06.6(3) clearly states that the designation hearing must be legislative and fact-finding in nature, "with no cross-examination or sworn testimony," and goes on to state that the hearing is informal with "an opportunity for representatives of the Board, the Division, and the audience to ask questions of speakers." This language makes it clear that no cross-examination would be allowed, and the regulation is therefore consistent with 30 CFR 764.17.

e. The Public Lands Institute notes that Colorado, in its analogue (SR 7.06.4(4)) to 30 CFR 764.15(b)(1), has reduced by nine days the time period the public has for the submission of information relevant to a petition. This concern is addressed in Finding 4(j)(ii) above.

f. The Public Lands Institute contends that Colorado's statute, Section 34–32–126, seriously curtails citizens' rights in the petition process for the designation of lands as unsuitable for surface coal mining by imposing three additional and, according to the commenter, unacceptable burdens on the citizen above the requirements of Section 522 of SMCRA and 30 CFR 764:

A. requiring the citizen to make a good faith effort to identify the landowners of record, the size of the area and the township and range;

B. requiring the citizen to intervene no later than 15 days before the public hearing (federal regulation 30 CFR 764.15(c) mandates 3 days); and

C. shortcutting the citizen's preparation times before the hearing by up to 30 days.

The Secretary considered these comments in Findings 4(j) (ii), (iii), and (iv).

g. The Public Lands Institute also points out that Colorado's "unsuitability" regulations lack the definitions of "public road," "surface coal operations which exist on the date of enactment," and "community or institutional buildings" as provided for in 30 CFR 761.5. The inclusion of these definitions is critical to the successful implementation of the unsuitability procedures, the commenter contends. The definition of "public road" in 30 CFR 761.5 has been suspended (44 FR 67942, November 27, 1979) and, therefore, is not required in the Colorado program. The State submitted a definition of "community or institutional building" in Attachment E (June 11, 1980, page 6, #19) which is identical to that in the Secretary's regulations. The State substitutes the phrase "surface coal mining operations which were in existence on August 3, 1977," for "surface coal mining operations which exist on the date of enactment." This phrase has the same effect as the federal definition.

h. The Public Lands Institute notes that Colorado's definition of "historic lands" in its analogue to 30 CFR 762.5, SR 1.04(59), excludes "paleontologic sites." The commenter contends that this is only acceptable if such sites are explicitly included in another definition. PLI also questions Colorado's omission of lands eligible for listing in a State or National Register of Historic Places.

Paleontological resources are plant and animal fossils left from prehistoric times. The State has deleted paleontological sites from the definition of "historic lands" because such sites are or would be prehistoric (Attachment E, June 11, 1980, page 9). However, the Secretary finds that such sites or resources can be considered "scientific resources" under the federal and State definitions of "fragile lands." The State has further stated in Attachment E (June 11, 1980, page 9) that these resources "would be viewed more in the context of a resource of scientific value." The Secretary finds, based on Colorado's

statement that it interprets "scientific resources" to include paleontological resources, that the State's provision meets the requirements of the Act and 30 CFR 762.5.

The State's recent addition to this same definition of "historic lands" concerning sites listed on or eligible for listing on a State or National Register of Historic Places (Attachment E, June 11, 1980, page 9) has not changed this part of the definition. More specifically, the State has added clarification to the definition with the insertion of "after a survey" after the words "listed on or eligible for listing on." (A survey would be needed to make a determination of eligibility for listing on the register.) Therefore, the Secretary has found this change acceptable.

i. The Heritage Conservation and Recreation Service expresses concern that because OSM has suspended the portions of 30 CFR 761.11(c) and 30 CFR 761.12(f)(1) dealing with prohibiting mining on sites eligible for listing on the National Register, numerous currently unidentified historic, archaeological and other cultural resources in Colorado which may be eligible for the National Register could be lost or destroyed because of surface mining permits issued by the State pursuant to OSM's regulations.

The changes the State has made to its rules (SR 2.04.4, SR 2.05.6(4), SR 2.10.3(1)(g) and (h), and SR 2.07.6(2)(e)) meet the federal requirements as they now appear after the suspensions of November 27, 1979 (44 FR 67942). The Secretary is not empowered to require the States to enact rules more stringent than the federal provisions. The present federal rules allow adverse effects to sites eligible for listing on the National Register of Historic Places when the sites are located on *non-federal* lands.

j. The Public Lands Institute expresses concern that Colorado's program lacks an acceptable counterpart to 30 CFR 764.21, providing a time limit for when the State's data inventory will be available and established. Without a firm time commitment in the regulations, the commenter concludes, the public has no assurance that a system will be established. However, the federal requirement to develop a data base and inventory system to evaluate reclamation, 30 CFR 764.21, does not specify time limits in the establishment of such a data base. The Secretary is not empowered to impose requirements on the States which do not appear in the federal Act or rules.

k. The Public Lands Institute indicates that Colorado's analogue (SR 7.06.4(2)) to 30 CFR 764.15(a) (4) and (5), regarding the processing and notification requirements of a petition, does not contain the required references to the record of previous designation proceedings and the categories of information needed to make the petition complete. If a petition is returned to a petitioner because it is incomplete or frivolous or because it does not contain new allegations of facts for an area previously and unsuccessfully proposed for designation, the reasons for making any of these determinations must be stated in writing to the petitioner.

The State has included this requirement of stating reasons for returning a petition in SR 7.06.4(3)(a). In stating reasons why a petition has been determined to be incomplete or frivolous, the information needed to make the petition complete would inherently be stated. In addition, if a petition on a previously petitioned area is returned, the reason for a determination of no new allegation of facts would inherently refer to a previous record of designation proceedings. Therefore, the Secretary finds the State's analogue to 30 CFR 764.15(a) (4) and (5) acceptable.

l. The Public Lands Institute questions the requirement Colorado added in its analogue, SR 7.07(2), to 30 CFR 764.19, regarding the procedures for a decision to include integration as closely as possible with "present and future land use planning, leasing, and regulation processes at the federal, state, and local levels." PLI contends that there is no basis in the federal Act or regulations for such an addition. 30 CFR 762.12 states that a state regulatory authority may establish additional criteria for determining whether lands should be designated as unsuitable for surface coal mining operations. The State of Colorado's inclusion of SR 7.07.(2) is consistent with the federal regulations.

m. The Environmental Policy Institute and Public Lands Institute comment that the provisions of SR 7.06.4 (2) and (3) are unclear in that if the Board overturns in 30 days a finding of incompleteness as determined by the Division, the public will lose 30 days in which to comment because the hearing date is based on time from receipt of a complete petition. In response, SR 7.06.4(1) contains the provisions for determination of completeness. This rule is consistent with 30 CFR 764.15(a)(1). SR 7.06.4 (2) and (3) do not deal with the Board's review of the Division's finding of completeness but with the Division's determination with respect to the extent of the coal resource and whether the petition is frivolous or that no new factual allegations are contained in the petition. These State rules simply place a time frame on the required determinations of 30 CFR 764.15(a) (2), (3) and (4). Therefore, the State's provisions are found to be consistent with 30 CFR Chapter VII and do not limit citizen involvement since the completeness determination is not reviewed by the Board.

6. Citizen Involvement Comments:

a. Colorado Westmoreland, Inc. comments that citizens should not be permitted to file complaints concerning violations of the surface coal mining and reclamation statutes and regulations, and further, that citizens should not be permitted to accompany inspectors on mine premises as provided for in SR 5.02.5. The commenter contends that members of the public are probably unqualified to render accurate judgments and would occupy an unreasonably large amount of a mine operator's time and that State and federal inspections are adequate to insure compliance.

The Secretary considers public participation to be a cornerstone of the Surface Mining Control and Reclamation Act of 1977 (particularly as provided for in Section 521) and that the specific provisions questioned by the commenter are provided for in the federal Act and rules (30 CFR 542.12) and required in a state program.

b. The Sierra Club comments that all aspects of SMCRA and the Secretary's regulations involving public participation should be reflected as nearly as possible in Colorado's counterpart. With the exceptions noted herein, the Colorado provisions on public participation are consistent with SMCRA and 30 CFR Chapter VII. In particular, see Finding 4(k) above.

7. "Fully enacted" (30 CFR 732.11(d)) Comments:

a. The Public Lands Institute, the Environmental Policy Institute, and the Friends of the Earth assert that Colorado's regulations were not fully enacted by the 104th day after submission as required by 30 CFR 732.11(d), that the public has not had the opportunity to comment on final regulations, that Colorado's program must be disapproved under the requirement of 30 CFR 732.11(d), and that the public must be given a complete set of Colorado's enacted regulations to review. The Secretary believes that Colorado's regulations were fully enacted as required by 30 CFR 732.11(d). See discussion of this issue at Finding 1(g).

8. Administration and Coordination Comments:

a. The Public Lands Institute, Environmental Policy Institute and the Friends of the Earth note that Colorado proposes to continue to use the Mined Land Reclamation Board as part of the regulatory authority under CRS 34-32-105 and CRS 34-33-103(4). However, the commenters assert that the State does not explain in the submission what the time requirements and demands will be on the Board in order to carry out its duties under the proposed program, although 30 CFR 731 requires this information since this Board is part of the administration of the program. The designated regulatory authority under the Colorado program is the Department of Natural Resources, of which the Mined Land Reclamation Board is a part. The Board is essentially the rule-making and adjudicatory body in the regulatory authority (Volume 7, pp. 7-3 to 7-5). The time requirements and demands on the Board's staff, the Division, are set out in the program submission. The Division's staffing is sufficient to administer the program. The Secretary does not agree that a separate breakdown for the Board itself is required.

b. In order to avoid confusing the general public and the State regarding the relationship between the Secretary's program under the Mineral Leasing Act and the program under the Surface Mining Control and Reclamation Act, the Geological Survey recommends that Colorado be informed of the respective responsibilities of the Interior agencies for coal management in the Bureau of Land Management/Geological Survey/Office of Surface Mining Memorandum of Understanding (October, 1979). The Geological Survey also expresses concern that the Colorado program makes no reference to procedures for processing exploration applications which include federal lands, and recommends that the State add language indicating that exploration applications for federal lands must be submitted and approved pursuant to procedures identified in the BLM/GS/OSM Memorandum of Understanding.

The Secretary is approving the Colorado program as it applies to the State's regulation of surface coal mining operations on non-Indian and non-federal lands. Thus, it is appropriate to address the points made by the U.S. Geological Survey when a cooperative agreement is developed.

c. EPA and the Department of Energy express the opinion that the informal arrangements between the Division of Mined Land Reclamation and the Colorado Geological Survey, Division of Water Resources & Wildlife, and the Colorado State Historical Society should be formalized by a written cooperative agreement. EPA contends that the lack of such an agreement may not allow timely and complete processing of the administrative duties of the regulatory authority.

The regulatory authority will be the Colorado Department of Natural Resources (DNR). The Colorado Geological Survey and Divisions of Water Resources and Wildlife, with the Mined Land Reclamation Division, are divisions within the DNR. Since this is the case, the Secretary does not believe that formal agreements are necessary. The State has explained (July 25, 1980 submission, page 8) that these agencies automatically receive mine permit applications and are asked for comments. With respect to the State Historical Preservation Office, a memorandum of understanding has been proposed by the State (June 11, 1980, submission) to assure appropriate reviews of permit applications.

d. The Fish and Wildlife Service comments that further clarification of procedures for consultation and coordination with state and federal agencies having responsibilities for fish and wildlife management (as required by 30 CFR 731.14(g)(10)) would be helpful to program implementation. The Fish and Wildlife Service also contends that clarification and expansion of the provisions to assure that the State's surface coal mining and reclamation operations are in compliance with the applicable requirements of the Endangered Species Act of 1973 and the Fish and Wildlife Coordination Act is needed. The Colorado program provides for review of each permit application by the Colorado Division of Wildlife (DOW), an agency of the Colorado Department of Natural Resources, the Regulatory Authority. Comments from DOW are considered by the Division in its recommended decision on permit action. With respect to compliance with the Endangered Species Act of 1973, the Secretary finds that SR 2.07.6(2)(o) will provide adequate protection for endangered or threatened species and their critical habitats. SR 2.07.6(2)(o) includes protection of species and habitats under the State Nongame, Endangered or Threatened Species Conservation Act in addition to species and habitats under the Endangered Species Act of 1973 protected by 30 CFR 786.19(o).

e. The Environmental Protection Agency notes that, in response to 30 CFR 731.14(e), the Colorado Division of Mined Land Reclamation (MLRD), in conjunction with the Colorado Mined Reclamation Board (MLRB) has been identified as the State's designated authority, but that there is no description of the MLRB or its organizational structure. EPA also notes that the organizational structure of the Colorado Department of Health, which has duties in the implementation of the State's program, is not described either. Volume 7 (Part E) of Colorado's program submission discusses in a general manner the role of the MLRD, the MLRB, and other agencies of the Department of Natural Resources and the State of Colorado. The role of the Division is further specified in the statute and rules.

Very briefly, the Division is the principal decision-making body with the Board serving an appeals type function and also having the responsibility for rulemaking and designating lands unsuitable for mining. With respect to the organization of the Colorado Department of Health (DOH), Volume 7 (pages 7-7 to 7-10) contains a proposed Memorandum of Understanding between the Colorado MLRD and Colorado DOH (Air Pollution Control Division and Water Quality Control Division). The Secretary finds that further organizational descriptions of these Divisions are not necessary.

f. The Public Lands Institute, Environmental Policy Institute, and the Friends of the Earth point out that portions of Colorado's program appear to rely on other State agencies for carrying out the equivalent provisions of SMCRA, but that these agencies do not have the capacities to implement these functions. The Colorado State program identifies other agencies of the Department of Natural Resources (DNR), the Department of Health, and the State Historic Preservation Officer (SHPO) as reviewers of permit applications. In the case of DNR, these agencies are already reviewing permit applications. Proposed Memoranda of Understanding (MOU) have been developed with the Department of Health and the SHPO. Such MOUs infer that staff will be made available from these agencies to effectively carry out the requirments of the State program. The State may elect in the future to develop cooperative funding arrangements with the other agencies to assure that these functions are properly carried out.

9. Comments on Permanent Surface Mining Regulation Litigation

a. The Colorado Mining Association asks that the Secretary disapprove those portions of Colorado's program containing provisions remanded or suspended by Judge Flannery of the U.S.

District Court of the District of Columbia. See B.3., General Background on State Program Approval Process—Other State Program Elements, above, for response.

10. Conflict of Interest Comments

a. The Environmental Policy Institute and the Public Lands Institute contend that the Board established by Colorado's surface coal mining and reclamation act should be subject to the conflict of interest provision of SMCRA and the State statute, and that four members of the seven member Board seem to have a strong industry orientation. The commenters express the belief that because of the "mixed board," Colorado violates citizens' rights to a fair and impartial hearing guaranteed them by the Administrative Procedures Act and the due process clause of the Constitution and that the Board does not comport with Section 517(g) of SMCRA or with the Secretary's regulations (30 CFR 705). The Secretary has interpreted his rules to permit members of multi-interest boards established by statute to have interests in coal companies other than a company, if any, involved in the particular proceeding before the board. At this time state programs can also allow members of such boards to have these interests in coal companies. However, the Secretary has proposed to amend his rules on this subject. See 44 FR 52098–52101, September 6, 1979. If the Secretary changes the rules, or his interpretation of the present rules, states will be required to amend their programs as necessary to make them consistent with the new requirements.

b. Colorado Westmoreland, Inc. expresses support for the current makeup of the Colorado Mined Land Reclamation Board. The commenter states that industry must have participation to lend technical expertise and to point out the economic and social factors lending to the continued welfare of the State and country, and that a Board made up of members of environmental public interest groups would be biased uncontrollably in the opposite direction. As discussed above, the Secretary believed that the Colorado Mined Land Reclamation Board composition comports with the present definition of employee in 30 CFR 705.5 and does not violate the conflict of employee interest provisions of SMCRA or the Secretary's relations.

11. General Comments:

a. The Sierra Club expresses concern with the manner in which Colorado dealt with five comments by OSM on the State's program concerning:

A. The failure of the State to provide the hearing decision notification as required by SMCRA 514(c);

B. The range of circumstances under which the State can order the cessation of underground mining which poses an imminent danger, as required by Section 516(c) of SMCRA;

C. The failure of the State to provide that the hearing on bond release be held in the State Capital or mining locality, at the option of the objector, as required by Sections 519(d), (e), and (f) of SMCRA;

D. The failure of the State to define the intervention rights of both citizens and the regulatory authority in on-going civil actions, as required by both Sections 520(b) and 520(c)(2) of SMCRA; and

E. The lack of procedural detail in the State's law for a show cause hearing, and the requirement that a permit be suspended or revoked upon failure to show cause (Section 521 of SMCRA).

In addition, as a general concern, the commenter indicates that there would be a greater sense of confidence if these problems were dealt with through statutory, rather than regulatory changes, as proposed by Colorado in its June 11, 1980 submission, in that a regulatory change could be challenged more readily in court. Most of the questions raised concern procedural details for which the Colorado Mined Land Reclamation Board has adequate authority to promulgate regulations under the general provisions of CRS 34–33–104 and 34–33–108. If the regulations adopted by the Board are overturned by a court, such action would require amendment of the program pursuant to 30 CFR 732.17.

With regard to the specific points raised, the State's proposed amendment to SR 2.07.4(3)(b) should satisfy the first concern. See Finding 4(d)(xi). The second concern is discussed at length in Finding 4(i)(v). The third concern is resolved by changes to SR 3.03.2(6)(a), which now contains the language requested by the commenter. Regarding the fourth concern, intervention in citizen suits, the Secretary discussed these issues in Findings 4(h)(iv) and (v) above.

With regard to the fifth concern, the permittee is required to immediately cease operations specified by the Board under SR 5.03.3(4). Necessary procedural detail is required by CRS 34–33–124(4), SR 5.03.3, SR 5.03.4 and SR 5.03.5. The Secretary finds that these State provisions are consistent with SMCRA and 30 CFR Chapter VII.

b. The Sierra Club, Rocky Mountain Chapter, recommends that the Secretary not approve Colorado's program until the State legislature has enacted, at a minimum, proposed amendments CRS 34–33–103(14) (definition of "operator"), CRS 34–33–109(7)(f) (timing for permit renewals), CRS 34–33–123(4) (issuance of notices of violation and cessation orders), and CRS 34–33–126(1)(a) (reclamation criteria for designation of lands unsuitable). The Secretary has made these proposed statutory changes conditions of his approval of the program. The Secretary finds that these changes are of such a size and nature as to render no part of the program incomplete. See the section on the Secretary's Decision.

c. The Public Lands and Environmental Policy Institutes urge that the Secretary not permit Colorado to cure deficiencies in its program by the improper use of Attorney General opinions, regulation changes, and letters from State officials to OSM employees. Such cures, they argue, might create new problems, such as regulations which invite lawsuits because of the lack of supporting sections in the State law, and a confusing, contradictory, and piecemeal State program which prevents citizens from understanding it so they can protect their interests.

With regard to Attorney General opinions, the Secretary relies on the Attorney General as an expert on State law in Colorado. These opinions have not been used to cure deficiencies, but only to resolve ambiguities.

Regulation changes are appropriate where they are supported by the State law and have not been relied upon where such support is lacking. Under 30 CFR 732.15, the Secretary is to consider "information contained in the program submission" as part of the basis for his decision on state programs; there is no requirement that all aspects of the federal statute must be covered by direct state *statutory* authority, as long as they are adequately covered in the program. Specific comments criticizing the use of regulations in particular instances have been considered in the specific situation involved.

Policy statements are also part of the state program and are binding promises as to how the program will be administered. The Secretary's approval of this program is based upon the state's policies as expressed in these statements, and any failure by the state to abide by these promises would be a violation of its program, just as a violation of its statute or regulations would be.

The Secretary does not agree that this State program is piecemeal. This document reflects the Attorney General opinions and policy statements relied upon in approving Colorado's program.

12. Staffing Comments

a. With respect to staffing information as required by 30 CFR 731.14(i), the Environmental Protection Agency expresses concern that no mention of job functions, duties, or time frames is included by Colorado in its discussion of proposed staff additions, and that the State does not adequately describe the personnel to be involved in inspections. In its submission of June 11, 1980, the State has further elaborated on the make-up of the staffing of the Colorado Mined Land Reclamation Division. The State notes that inspections will generally be conducted by reclamation specialists with support as needed from staff in particular disciplines. The Secretary finds this explanation to be satisfactory.

b. Another concern of the Public Lands Institute, the Environmental Policy Institute, the Sierra Club, and the Friends of the Earth, is that Colorado has not demonstrated, either through past performance or through flow charts or other appropriate documents included in the submission, that it is capable of carrying out the inspection and enforcement provisions of SMCRA. The commenter contends that Colorado's calculations used to arrive at the projected need for 10.4 inspection and enforcement employees appears to be based on unrealistic assumptions and insufficient information concerning inspection, travel, and administrative time. Colorado Westmoreland, Inc., on the other hand, expresses support for the quality of work being done by the limited staff of the Colorado Mined Land Division, and asks OSM to look beyond just the number of inspections conducted, and look at the quality of the services provided. OSM has performed an assessment of the staffing level required to effectively carry out the Colorado State program with respect to inspection and enforcement and permitting activities. This assessment was based on time estimates developed from OSM experience in inspecting surface and underground mines in Colorado, taking enforcement actions, inspection of exploration operations and inspections based on citizen complaints and permitting activities under the Permanent Regulatory Program. This assessment resulted in a staffing demand of 6 full time equivalents (FTE) for inspection and enforcement activities and 14 FTE for permitting activities. The Secretary has found that Colorado can effectively carry out the requirements of the State program. See Finding 4(s).

F. The Secretary's Decision

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the states in becoming the primary regulators under the Act. To enable the states to achieve that primacy, the Secretary has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several state organizations, such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups OSM has frequently met with state regulatory authority personnel to discuss informally how the Act should be administered, with paricular reference to unique circumstances in individual states. Often these meetings have been a way for OSM and the states to test new ideas and for OSM to explain positions of the federal requirements and how the states might meet them. Alternative state regulatory options, the "state window" concept, for example, were discussed at several meetings of the Interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the states to develop their programs; to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to states to assist in the preparation of their permanent program submissions. OSM has also met with individual states to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the state program approval process to assist the states in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each state program to identify needed changes and to allow them to be made without penalty to the state. The Secretary adopted a special policy to insure that communication between him and the states remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a state after the close of the public comment period on its program and has been a vital part of the program review process (see 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a state program. Under the Secretary's regulations, conditional approval gives full primacy to a state even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 USC 201(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a state program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a state months earlier than might otherwise be anticipated. While this may not be significant in states that already have comprehensive surface mining regulatory programs, in many states that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional

regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of definciencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through attorney general's opinions, revised regulations, policy statements, changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist states in achieving compliance with SMCRA, not to excuse them from compliance.

Conditional Approval

As indicated under Secretary's Findings, there are minor deficiencies in the Colorado program which the Secretary requires be corrected. In all other respects, the Colorado program meets the criteria for approval. The deficiencies identified in prior findings are summarized below.

1. A regulation which provides the design criteria for large structures, in accord with Finding 4(d)(v). Colorado's large structure criteria differs only slightly from those in 30 CFR Chapter VII and the Secretary believes that few structures would be considered differently under the two schemes. Structures that Colorado would not consider to be "large" would be considered "large" under the existing MSHA rules (30 CFR 77.216) and, therefore, would have to comply with the majority of requirements in 30 CFR Chapter VII.

2. A regulation that requires the permittee to demonstrate to the satisfaction of the regulatory authority that rills and gullies deeper than 9 inches would not be excessive and would be consistent with the approved postmining land use, in accord with Finding 4(b)(iii). OSM has accepted the concept that rills and gullies deeper than 9 inches if consistent with postmining land use and natural erosion are consistent with 30 CFR Chapter VII. Given OSM's acceptance of allowing rills and gullies greater than 9 inches, the omission by Colorado of the criteria must be considered minor. Further, no completed grading is expected before the State promulgates a new regulation to correct this deficiency.

3. A regulation which provides for the approval of the Director of OSM of any alternative technical guidance documents for measuring success or revegetation, in accord with Finding 4(c)(ii). Since the approval of any revegetated areas under the Colorado State program will not occur for several years, the need for these technical guidelines is not anticipated in the near future.

4. A regulation which provides for the approval of the Director of OSM of specific revegetation success standards in small acreage, in accord with Finding 4(c)(iii). Again, since the approval of any revegetated areas under the Colorado State program will not occur for several years, the need for these standards is not anticipated in the near future.

5. A regulation which includes consideration of sinuosity in the evaluation of characteristics of an alluvial valley floor, in accord with Finding 4(c)(x). This omission is considered to be minor in that the State rules include all characteristics for regulating the flow of water in the evaluation of essential hydrologic functions of a designated alluvial valley floor except "sinuosity." Moreover, the State has indicated that this omission was an oversight and that it is the policy of the State to include this consideration in alluvial valley floor assessments.

6. A regulation which modifies the design standards for excess spoil fills and the placement of materials related to mountaintop removal and steep slope mining operations, in accord with Finding 4(b)(v). The State's rules which inappropriately provide the flexibility in the design of excess spoil fills and fills associated with mountaintop removal and steep slope operations represent a minor problem until the State's rules are revised for the following reasons:

(a) OSM is not aware of any mountaintop removal operations in Colorado or for that matter of any coal areas which could be classified as mountaintop removal situations;

(b) Steep slope mining operations are limited almost entirely to underground operations which generally have limited amounts of excess material;

(c) Approximately 40% of all mines in Colorado are federal mines and would therefore have to conform with the design requirements of 30 CFR Chapter VII;

(d) With respect to excess spoil fills in Colorado at existing mines, OSM is only aware of one mine (the Colowyo Mine—a federal mine) which has excess spoil (a valley fill); therefore, it can safely be said that excess spoil disposal is a limited activity in the State.

7. A regulation which excludes the waiver to the limitation on casting flyrock beyond the property line of a permittee, in accord with Finding 4(c)(xiv). The State's definition of "surface coal mining operations" includes areas affected by blasting. Consequently, disturbed areas including adjacent areas would be within the permit area and covered by all the State's permit requirements for protecting the public (i.e. boundary markers, blasting warning signs, blasting publication schedules, etc.). Also, mining in Colorado generally takes place in remote areas, and therefore, flyrock on another's property would not likely present a safety hazard.

8. A regulation which contains a general reference to the requirements of the Mine Safety and Health Administration, in accord with Finding 4(d)(iv). This omission is considered minor because the operator must still comply with the requirements of MSHA. The need for this reference is solely to alert operators to these requirements.

9. A regulation which includes consideration of the vegetation on adjacent areas in the determination of the revegetation success on prime farmlands, in accord with Finding 4(d)(vi). Use of the term "immediate vicinity" with respect to revegetation success of prime farmland areas is believed to be minor since prime farmland areas are very limited in the coal mining areas of Colorado. The issue is also considered to be minor since all that is really needed is clarification of the term to include "adjacent area" which is defined in the rules.

10. A regulation which modifies that definition of "willful violation" to include violations of SMCRA and 30 CFR Chapter VII, in accord with Finding 4(d)(vii). Given the newness of the SMCRA program, it is unlikely that an operator's actions in other States would constitute "willful violations * * * of such nature, duration, and with such irreparable damage to the environment as to indicate an intent not to comply" with the program. Violations of the State's Act regulations and permit

conditions are covered in the present definition of "willful violation" included in the State's regulations. Also, it is likely any permit decisions will be made prior to promulgation of a new regulation. If a permit application is received on the date this program becomes effective, there is a minimum period of 75 days before a permit could be issued, not including an informal conference or hearing. The administrative process leading to a formal decision on the permit application could take the maximum allowable time of 313 days from the effective date of the program.

11. A regulation which requires as a permit approval criterion that an applicant submits proof that all reclamation fees required by 30 CFR Chapter VII, Subchapter R, have been paid, in accord with Finding 4(d)(viii). It is unlikely that any permits will be issued before a new regulation is promulgated to correct this deficiency. In the interim, the Secretary has authority under Sections 402 (d) and (e) of SMCRA to enforce the reclamation fee requirement. Further, the history of coal mining operations in Colorado indicates that problems with operators in AML fee collection have been minor.

12. A regulation that provides for right of entry to authorized representatives of the Secretary, in accord with Finding 4(d)(ix). Right of entry for inspections is authorized by Section 517(a) of SMCRA for the purposes of evaluating the administration of an approved state program or to develop or enforce any federal program. Moreover, it is unlikely that permits will be issued prior to the fulfillment of this condition.

13. A regulation that provides for notice of a hearing on a permit application decision to be given to all interested parties, in accord with Finding 4(d)(x). This issue is considered minor since the State rules closely parallel the notice requirements of the federal rules. However, this condition is needed because the State law requires that such notice only be given to those requesting a hearing. The revision in the State rule is needed to provide notice of a hearing to all interested parties.

14. A statute and regulation which modify the definition of the term "operator" to clearly include persons engaged in underground mining in accord with Finding 4(d)(xiii). This condition is required to clarify that the term "operator" applies to persons involved in both surface and underground mining. The State has indicated in its side by side, that it interprets the present statutory definition to include underground mines, and, thus, can be expected to give this interpretation until the change has been made.

15. A statute and regulation which modifies the definition of the term "surface coal mining operations" to appropriately include the phrase "or other processing or preparation, loading of coal for interstate commerce at or near the minesite," in accord with Finding 4(d)(xiv). As indicated in the finding, the State regards this as a typographical error. It rules clearly interpret the term in a manner consistent with the federal definition. Given the State's interpretation, the discrepancy is minor.

16. A statute and regulation modified so that the holder of a valid permit may not continue mining beyond the expiration date if the final administration decision is not to renew the permit, in accord with Finding 4(d)(xv). Since no permits issued under the Colorado State Program will be proposed for renewal for several years, the provision is not needed in the near future.

17. A statute and corresponding regulation to require consideration of an applicant's violation of any rule or regulation of the United States, Colorado, or any other state, in accord with Finding 4(d)(xvi). The State's present regulations cover all violations of U.S. laws and regulations (including OSM's and EPA's) and Colorado laws and regulations. This should be adequate to enforce the program until a legislative change is made. Colorado has provided information on the record of operators in the State to other State regulatory authorities.

18. A statute and corresponding regulation which provide for inspections to be made on "an irregular basis," in accord with Finding 4(f)(i). The State interprets "normal business hours" to include any time a mine regularly operates, whether or not open, in addition to the State's normal business hours. Given this interpretation all mining operations will almost certainly be inspected on an irregular basis. In addition, the Secretary can always inspect pursuant to his authority in Section 517(a). A citizen or the State could, thus, request a federal inspection which could be carried out at any time.

19. A regulation that states that a search warrant is not required to conduct an inspection, in accord with Finding 4(f)(iii). The State Attorney General's opinion indicates that a search warrant would not be required under present legal interpretations. This should be sufficient until such time as this policy is made explicit by State rule. In addition, any warrant requirement would not apply to the Secretary's representatives. Therefore, citizens could request a federal inspection.

20. A regulation that provides for the Administrator to furnish the complainant with a written statement of whether or not adequate and complete or periodic inspections are being made plus any appropriate remedial action, in accord with Finding 4(f)(v). Under SR 5.02.5(4)(a) and (b), the Division must provide a written response to any citizen who initiates or requests an inspection. This requirement should provide information in a general manner to a citizen until the rule change is made.

21. A regulation to remove the provision waiving the requirement for informal conferences on bond release to be held in the locality of the mine site, in accord with Finding 4(g)(iv). If any person expresses an interest in the subject matter of an informal conference, then such a conference cannot be waived without that person's consent. This provision should provide adequate protection for public participation until this condition is met. Also, it is highly unlikely that any bond will be released before promulgation of the regulatory change.

22. A regulation that specifies that the time period for requesting a hearing on a bond release decision shall begin when the Division's proposed decision is mailed to the permittee and other interested parties, in accord with Finding 4(g)(vi). This problem is minor because it is highly unlikely that any bonds will be released before a regulation is promulgated to correct this deficiency.

23. A regulation that clearly extends the liability of a bond, including separate bond increments or indemnity agreements applicable to a single operation to the entire permit area, in accord with Finding 4(g)(viii). The State, as a matter of policy, will not accept bonds that provide other than liability extending to all lands disturbed. The State's policy should provide adequate protection until a rule change is promulgated.

24. A regulation which requires the Division to review each outstanding performance bond at the time permit renewals are processed in accord with Finding 4(g)(ix). It is highly unlikely that permit renewals, and, hence, review of the bond amount will be required before the State meets this condition.

25. A regulation which modifies the percentages for bond releases, in accord with Finding 4(g)(xi). Requests for bond release are unlikely before the State promulgates a regulation to meet this condition.

26. A regulation to provide that no acreage shall be released from the permit area until the bond liability applicable to the permit area is fully released, in accord with Finding 4(g)(xi). It is unlikely that permit holders will request release of acreage from the permit area before the State promulgates a revised rule.

27. A regulation which specifies that in no case shall the total bond amount applicable to a permit area be less than $10,000 in accord with Finding 4(g)(xii). CRS 34-33-113 provides that "in no case shall the bond for the entire area under one permit be less than $10,000." This ensures that the initial amount will be at least $10,000. The condition is designed to ensure that bond coverage never drops below $10,000 after bond release. It is highly unlikely that any amount of bond will be released prior to promulgation of the regulation.

28. Regulations related to bonding which: (a) Provide qualifications for determining whether or not selective husbandry practices should be allowed in accord with Finding 4(g)(xiii)(B). This condition involves the bonding liability period. Approval of bonds is unlikely before new regulations are promulgated. The permit approval process requires at least 75 days, and may require as long as 313 days. For operators who wait to file permit applications for two months, a decision on the application will not be made until at least 135 days after approval of the State's program.

(b) Provide for bond forfeiture, form of bond, bonding for subsidence, in accord with Finding 4(g)(xiii)(G). Approval of bonds is unlikely before new regulations are promulgated. The permit approval process requires at least 75 days, and may require as long as 313 days.

(c) Provide for issuance of a cessation order to operators who have not replaced a surety bond within 90 days after incapacity of the surety, in accord with Finding 4(g)(xiii)(H). Approval of bonds is unlikely before new regulations are promulgated. The permit approval process requires at least 75 days, and may require as long as 313 days.

29. A regulation that requires that the amount of bond retained shall always be sufficient for the Division to complete reclamation, in accord with Finding 4(g)(xv). There is little probability that any bond will be released prior to fulfillment of this condition. In addition, the State does provide that sufficient bond be retained to complete reclamation; it simply does not provide that the amount must be sufficient for the Division to complete the reclamation.

30. A regulation that modifies the bond forfeiture criteria, in accord with Finding 4(g)(xvi). Conditions for bond forfeiture are unlikely to occur before enactment of new regulations. In addition, suspension or revocation of the permit should occur upon violation of the terms and conditions of the bond or upon failure to comply with a compliance schedule. Therefore, although the regulation appears to require two separate conditions for forfeiture, in fact, the conditions are logically related and should follow one another.

31. A statute which requires a showing that a violation or order would immediately affect a legal interest of the plaintiff as a condition precedent to commencement of a citizens suit without 60 days prior notice, in accord with Finding 4(h)(v). As discussed in the finding, it is likely that a citizen suit plaintiff would need to show irreparable harm to get temporary relief. Under SMCRA, the plaintiff could get into court but could not get temporary relief without showing irreparable damage; under State law, he would need to show irreparable damage to get into court and to get relief. Thus, the practical effect would be the same under both SMCRA and State law.

The Secretary considers it to be highly unlikely that, prior to enactment of statutory provision curing this deficiency, a case will arise where this difference has a major impact on a citizen's right to temporary relief. In addition, a citizen always has the right to go to Federal court.

32. A regulation which includes the requirement that the person forward to the Division the amount of difference in civil penalties within 15 days after an order is mailed following a Board review of a proposed penalty if the review resulted in an increased penalty, in accord with Finding 4(h)(viii). This condition involves a relatively minor procedural point that specifies when payment of an increased penalty must be paid. Since penalties assessed must be paid and the civil and criminal sanctions and enforcement authority are the same under the State Act as under the federal, this omission is minor.

33. A statute which allows the Division or Board, if not a party, to intervene as a matter of right in citizen suits, in accord with Finding 4(h)(ix). Under Colorado Rules of Civil Procedure, the regulatory authority has the right to intervene if it has an immediate interest in the citizen suit. This would likely be the case under any citizen suit. Even if not clearly the case, it seems unlikely that a court would deny a State's agency's request to intervene if it asserted an interest or could provide important expertise.

34. A statute and corresponding regulation to require that each notice of violation (NOV) or cessation order (CO) shall be served on an operator or his designated agent in person or by certified mail, in accord with Finding 4(i)(iii). This issue arose over an ambiguity concerning the effect of State language in reference to serving NOVs and COs within 24 hours of issuance. The State has made it clear that it will issue enforcement actions in the field.

35. A statute and corresponding regulations to correct the time frame for civil penalty assessment in accord with Finding 4(i)(vi). As noted in the Finding, the condition is necessary in order to rectify time frame inconsistencies within the State program. In the interim, the Secretary is confident the State will be able to meet all the requirements of its penalty assessment system.

36. A statute and corresponding regulations to allow for any person with an interest which is, or may be, adversely affected, to seek temporary relief from the Board, in accord with Finding 4(i)(vii). In the majority of cases the person appealing an NOV or CO is the operator, and it is the operator who requests temporary relief. Rarely do citizens appeal an NOV or CO, and even more rarely do they request temporary relief.

37. A regulation which amends the criteria for determining the existance of a pattern of violations to remove the criteria based on fault, in accord with Finding 4(i)(viii). An improper criterion has been added for determination of the existence of a pattern of violations based on the degree of fault. Since the determination is discretionary and the regulatory authority is merely considering certain circumstances, there is no practical effect on the program in considering an additional factor for a short period of time. The mandatory determination of a pattern of violations is not affected.

38. A statute and corresponding regulation that delete the present requirement for a good faith effort by petitioner(s) to identify surface and mineral owners, in accord with Finding 4(j)(iii). The policy pronouncement of the State indicating that only an effort is required should suffice until the statute and regulations are changed. It is unlikely that any petitions would be rejected before the changes are made.

39. A regulation which provides for the award of attorney's fees in administrative proceedings, in accord with Finding 4(k). There is only a slight probability that there will be actions prior to revision of the regulations.

40. A regulation amending the definition of the term "permittee" to

include a person required to hold a permit, in accord with Finding 4(d)(xviii). There has been no recent occurrence of a person mining without a permit in Colorado and most enforcement provisions are already tied to an "operator," a term defined broadly enough to encompass a person mining without a permit.

41. A regulation which specifies minimum top widths for embankments less than ten feet in height, in accord with Finding 4(b)(iv). The embankments must still be designed by a qualified registered professional engineer and most embankments under ten feet in height are only used for temporary impoundments.

42. A program provision which includes provisions for adequate protection of state employees, in accord with Finding 4(o). State employees are afforded protection now by other laws; only the penalties are different.

43. A statute which removes the priority of right exception to the restriction on mining under any building or other improvement, in accord with Finding 4(i)(v). There is little likelihood that an operation would claim a priority of right to create a dangerous situation near buildings or other improvements before the statute can be amended.

44. A regulation which provides for notice to all interested persons of a hearing on show cause orders, and a hearing to review enforcement actions, in accord with Finding 4(i)(i). It will be quite some time before an operator can establish a pattern of violations under the Colorado program which would result in a show cause order. In addition, Colorado will publish notice in a newsletter of general circulation.

45. Program provisions which clarify State regulations to require that inspection reports be adequate to enforce the requirements and carry out the purposes of the State program, in accord with Finding 4(f)(vii). It is unlikely that the Board would approve inspection forms that were inadequate to enforce the requirements of the program.

Given the nature of these deficiencies and their magnitude in relation to all the other provisions of the Colorado program, the Secretary of the Interior has concluded they are minor deficiencies. No system within the program is incomplete because of the deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i), because:

1. The deficiencies are of such a size and nature as to render no part of the Colorado program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. Colorado has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Colorado has agreed, by letter dated November 12, 1980 to correct the regulation deficiencies by June 1, 1981 and the statutory deficiencies by December 1, 1981.

Accordingly, the Secretary is conditionally approving the Colorado program. This approval shall terminate if regulations correcting the deficiencies are not enacted by June 1, 1981, or if state legislation correcting the statutory deficiences is not enacted by December 1, 1981.

This conditional approval is effective December 15, 1980. Beginning on that date, the Colorado Department of Natural Resources shall be deemed the regulatory authority in Colorado and all surface coal mining and reclamation operations on non-federal and non-Indian lands and all cod exploration on non-federal and non-Indian lands in Colorado shall be subject to the permanent regulatory program.

On non-federal and non-Indian lands in Colorado the permanent regulatory program consists of the state program as approved by the Secretary.

On federal lands, the permanent regulatory program consists of the federal rules made applicable under 30 CFR Chapter VII, Subchapter D—Parts 740–745. In addition, in accordance with Section 523(a) of the SMCRA, 30 USC 1273(a), the federal lands program in Colorado shall include the requirements of the approved Colorado permanent regulatory program. Colorado and the Department of the Interior will have the opportunity to enter into a cooperative agreement to include the requirements of the approved Colorado permanent regulatory program.

The Secretary's approval of the Colorado program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Colorado may submit a state reclamation plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement need be prepared on this conditional approval.

The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this conditional approval.

Dated: December 9, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior for Energy and Minerals.

A new Part, 30 CFR Part 906, is adopted to read as follows:

PART 906—COLORADO

Sec.
906.1 Scope.
906.10 State Regulatory Program Approval.
906.11 Conditions of State Regulatory Program Approval.

Authority: Section 503, Pub. L. 95–87; 30 U.S.C. 1253.

§ 906.1 Scope.

This part contains all rules applicable only within Colorado that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 906.10 State regulatory program approval.

The Colorado State Program, as submitted on February 29, 1980, and amended and clarified on June 11, 1980, is conditionally approved, effective December 15, 1980. Beginning on that date, the Colorado Department of Natural Resources shall be deemed the regulatory authority in Colorado for all surface coal mining and reclamation operations and for all exploration operations on non-federal and non-Indian lands. Copies of the approved program together with copies of the letter of the Colorado Department of Natural Resources agreeing to the conditions in 30 CFR 906.11, are available at:

(a) Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 80203.

(b) Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5421.

(c) Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202) 343–4728.

§ 906.11 Conditions of State regulatory program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify the present state rules to incorporate the large structure criteria of 30 CFR 780.25(f)/784.16(f); 30 CFR 816.46(q)/817.46(q); 30 CFR 816.46(t)/817.46(t); 30 CFR 816.49(a)(5)/817.49(a)(5); and 30 CFR 816.49(f)/817.49(f), or otherwise amends its program to accomplish the same result.

(b) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify the existing SR 4.14.6 to require that when rilling and gullying deeper than 9 inches occur in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted in accordance with 4.15, unless the permittee demonstrates to the satisfaction of the Division that such rilling and gullying is not excessive and is consistent with the approved post-mining land use, or otherwise amends its program to accomplish the same result.

(c) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify the existing SR 4.15.7(2)(d)(ii) to incorporate the requirement of 30 CFR 816.116(b) and 817.116(b) to obtain the approval of the Director of the Office of Surface Mining in the selection of alternative technical guidance documents for revegetation success, or otherwise amends its program to accomplish the same result.

(d) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify the existing SR 4.15.7(2)(d)(vi) to provide that revegetation success standards on small mines shall be approved by the Director of the Office of Surface Mining, or otherwise amends its program to accomplish the same result.

(e) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 2.06.8(4)(c)(iii)(A) to include the term "sinuosity" in the characteristics to be considered in the evaluation of an alluvial valley floor, or otherwise amends its program to accomplish the same result.

(f) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which delete SR 4.09.1(3), SR 4.26.2(5), and SR 4.27.3(8) which relate to alternative methods for excess spoil fills and the placement of materials related to mountaintop removal and steep slope mining operations, or otherwise amends its program to accomplish the same result.

(g) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 4.08.4(8) to exclude the waiver to the limitation on casting fly rock beyond the property line of a permittee, or otherwise amends its program to accomplish the same result.

(h) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which require plans for sedimentation ponds, coal processing waste dams and embankments to comply with the requirements of the Mine Safety and Health Administration, or otherwise amends its program to accomplish the same result.

(i) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 2.06.6(2)(h) to include "adjacent area" (i.e., deleting "immediate vicinity") in the consideration of prime farmlands and revegetation success, or otherwise amends its program to accomplish the same result.

(j) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify the definition of "wilfull violation" in SR 1.04(145) to include violations of SMCRA and 30 CFR Chapter VII, or otherwise amends its program to accomplish the same result.

(k) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 2.07.6(2)(h) to require as a permit condition that an applicant submit proof that all reclamation fees required by 30 CFR Chapter VII, Subchapter R have been paid, or otherwise amends its program to accomplish the same result.

(l) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which contain a provision consistent with 30 CFR 786.27(b) which requires that each permit issued by Colorado insure that the permittee shall allow right of entry to authorized representatives of the Secretary, or otherwise amends its program to accomplish the same result.

(m) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 2.07.4(3)(b) to allow for notice of a formal hearing on a permit application decision be given to all interested parties, or otherwise amends its program to accomplish the same result.

(n) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify the definition of the term "operator" in CRS 34-33-103(14) and SR 1.04(80) to mean any person engaged in surface coal mining and reclamation operations who removes or intends to remove more than two hundred and fifty tons of coal from the earth within twelve consecutive calendar months in any one location, or otherwise amends its program to accomplish the same result.

(o) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify the definition of "surface coal mining operations" in CRS 34-33-103(26) and SR 1.04(127) to appropriately include the phrase "or other processing or preparation, loading of coal for interstate commerce at or near the mine site," or otherwise amends its program to accomplish the same result.

(p) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CRS 34-33-109(7)(f) and SR 2.08.5 to require that the holder of a valid permit may continue surface coal mining operations under said permit, subject to section 34-33-123, beyond the expiration date until a final administrative decision on renewal is rendered if a renewal

application is received by the division at least one year prior to the expiration date of the permit, or otherwise amends its program to accomplish the same result.

(q) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute containing provisions which modify CRS 34–33–114(3) to require consideration in the application process of an applicant's violation of any applicable rule or regulation of the United States, Colorado or any other State, or otherwise amends its program to accomplish the same result.

(r) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CRS 34–33–122(4)(b) and SR 5.02.2(3) to provide for inspections on an "irregular basis," or otherwise amends its program to accomplish the same result.

(s) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 5.02.3(2) to implement the requirement of 30 CFR 840.12(a), with respect to the fact that a search warrant is not required to conduct an inspection (except that Colorado may provide for its use with respect to entry into a building), or otherwise amends its program to achieve the same result.

(t) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 5.02.6(2) to require the Administrator to "furnish the complainant with a written statement of the reasons for such determinations and actions, if any, taken to remedy the noncompliance," or otherwise amends its program to achieve the same result.

(u) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 2.07.3(6)(b)(i) relating to informal conferences to delete the phrase "unless this requirement is waived by all the parties interested in the conference," or otherwise amends its program to achieve the same result.

(v) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.03.2(6)(a), which relates to filing a request for a hearing on a bond release decision to specify that issuance of the Division's proposed decision be dated from the time the written notification to the permittee and other interested parties required in SR 3.03.2(5) is mailed, or otherwise amends its program to accomplish the same result.

(w) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.02.1(4) and SR 3.04.2(3), which apply to bond liability, to delete the phrase "unless otherwise provided in the bond" and to provide an exception to providing liability under any bond to all lands disturbed when (a) two or more bonds apply in combination to the permit area although a particular bond may apply to less than all lands disturbed or to lands disturbed prior to a date specified in the bond, and (b) the Division or Board determines that, in combination, the liability under such bonds extends to all lands disturbed, or otherwise amends its program to accomplish the same result.

(x) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.02.2(4) to require the Division to review each outstanding performance bond at the time permit renewals are processed under SR 2.08.3, or otherwise amends its program to accomplish the same result.

(y) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.03.1(2) to be consistent with the percentages for bond release provided for in 30 CFR 807.12(a), or otherwise amends its program to accomplish the same result.

(z) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.03.1(4) to provide that no acreage shall be released from the permit area until the bond liability applicable to the permit area has been fully released under paragraph SR 3.03.1(2)(c), or otherwise amends its program to accomplish the same result.

(aa) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.03.1(3)(d) to specify that in no case shall the total bond amount applicable to a permit area be less than $10,000, or otherwise amends its program to accomplish the same result.

(bb) Various state rules were adopted based on OSM's proposed bonding regulations, which require changes in order to conform to the now promulgated bonding regulations. Accordingly, the approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify:

(1) SR 3.02.3(2) to provide qualifications for determining whether or not selective husbandry practices should be allowed, consistent with those in 30 CFR 805.13(b), as amended, or otherwise amends its program to accomplish the same result.

(2) SR 3.06 to provide for bond forfeiture, form of the bond, bonding for subsidence, and other provisions consistent with 30 CFR 801, or otherwise amends its program to accomplish the same result.

(3) SR 3.02.4(2)(d)(vi)(c) and 3.02.4(2)(b)(v)(c) to remove language concerning amending the permit area in lieu of issuance of a cessation order for unbonded areas, consistent with 30 CFR 806.12(g)(7)(iii) and 30 CFR 806.12(e)(6)(iii), or otherwise amends its program to accomplish the same result.

(cc) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.03.1(3)(e) to provide that the amount of bond retained be sufficient for the Division to complete the reclamation, or otherwise amends its program to accomplish the same result.

(dd) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 3.04.1(1) to be consistent with the bond forfeiture criteria of 30 CFR 808.13(a), or otherwise amends its program to accomplish the same result.

(ee) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute containing provisions which modify CRS 34–33–135(2) (a) and (b) to be consistent with Section 520(b)(2) of SMCRA which requires a showing that a violation or order would "immediately affect a legal interest of the plaintiff" as a condition precedent to commencement of a citizen suit without 60 days prior notice, or otherwise

amends its program to accomplish the same result.

(ff) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 5.04.3(5) to include a requirement that if the Board review results in an order increasing the penalty, the person to whom the notice was issued shall forward the amount of the difference to the Division within 15 days after the order is mailed to such person, or otherwise amends its program to accomplish the same result.

(gg) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute containing provisions which modify CRS 34-33-135(3)(b) to be consistent with Section 520(a) of SMCRA to allow the Division or Board, if not a party, to intervene as a matter of right in citizen suits, or otherwise amends its program to accomplish the same result.

(hh) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CRS 34-33-123(4) and SR 5.03.4 to require that each notice of violation or cessation order shall be served on the operator or his designated agent in person or by certified mail, return receipt requested, to the mine or the designation mine agent (deleting the existing requirement of service no later than 24 hours after issuance), or otherwise amends its program to accomplish the same result.

(ii) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CRS 34-33-123(8)(d) to specify that the notice or order shall be served on the operator or his designated agent no later than one hundred and twenty days (rather than sixty days as now provided for in the statute) after the notice or order describing the violation was originally issued, or otherwise amends its program to accomplish the same result.

(jj) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CFR 34-33-124(3), which relates to requests for temporary relief prior to decisions by the Board to specify that pending completion of investigation and hearing, any person with an interest which is, or may be, adversely affected (rather than the "operator" as now provided for in the statute) may file with the Board a written request that the Board grant temporary relief from any notice of order, or otherwise amends its program to accomplish the same result.

(kk) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify CR 5.03.3(2)(a) to delete paragraph (iii) which includes an additional criterion for determining the existence of a pattern of violations based on the degree of fault versus negligence, or otherwise amends its program to accomplish the same result.

(ll) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CRS 34-33-126(2) and SR 7.06.2 to delete the requirement for a good faith effort by petitioner(s) to identify surface and mineral owners, or otherwise amends its program to accomplish the same result.

(mm) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 5.03.6, which relates to awarding of attorney's fees, to be consistent with 43 CFR Part 4.1290-4.1296, or otherwise amends its program to accomplish the same result.

(nn) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute which includes provisions for protection of state employees equivalent to the protection afforded federal employees by Section 704 of SMCRA, or otherwise amends its program to acomplish the same results.

(oo) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute containing provisions which amends CRS 34-48-102 by deleting the priority of right exception to the restriction on mining under any building or other improvements without securing the owner against damages, or otherwise amends its program to accomplish the same result.

(pp) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify the definition of "permittee" in SR 1.04(90) to include a person required to have a permit, or otherwise amends its program to accomplish the same result.

(qq) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions which modify SR 4.05.6(8) to specify minimum top widths for embankments less than ten feet in height consistent with the formula in 30 CFR 8.6.46(1) and 817.46(1), or otherwise amends its program to accomplish the same results.

(rr) The approval found in § 906.10 will terminate on December 1, 1981, unless Colorado submits to the Secretary by that date copies of a fully enacted statute and implemented regulations containing provisions which modify CRS 34-33-124 to provide for notice to all interested persons of hearings on show cause orders and hearings to review citations issued for violations or otherwise amends its program to accomplish the same results.

(ss) The approval found in § 906.10 will terminate on June 1, 1981, unless Colorado submits to the Secretary by that date program provisions which clarify SR 5.02.2(4) to be consistent with 30 CFR 840.11(d)(3) to require that inspection reports be adequate to enforce the requirements of and carry out the terms and purposes of the State program, or otherwise amends its program to accomplish the same results.

[FR Doc. 80-38708 Filed 12-12-80; 8:45 am]
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30 CFR Part 934

Conditional Approval of the Permanent Program Submission From the State of North Dakota Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: On February 29, 1980, the State of North Dakota submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and the capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the North Dakota program meets the minimum requirements of SMCRA and the permanent program regulations, except for minor deficiencies discussed below under "Supplementary Information." Accordingly, the Secretary of the Interior has conditionally approved the North Dakota program.

A new Part 934 is being added to Subchapter T of 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective December 15, 1980.

This conditional approval will terminate as specified in 30 CFR 934.11, unless the deficiencies identified below have been corrected in accord with 30 CFR 934.11; adopted below.

ADDRESSES: Copies of the North Dakota program and the administrative record on the North Dakota program, including the letter from the North Dakota Public Service Commission agreeing to correct the deficiencies which resulted in the conditional approval, are available for public inspection and copying during business hours at:

North Dakota Public Service Commission, Reclamation Division, State Capitol Building, Bismarck, ND 58505; Telephone: (701) 224-2400.

Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, CO 80202; Telephone: (303) 837-5421.

Office of Surface Mining Room 153, Interior South Building, 1951 Constitution Ave. NW., Washington, DC 20240; Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Ave. NW., Washington, DC 20240; Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the Findings underlying the Secretary's decision. It is divided into six major parts:

A. General Background on the Permanent Program.

B. General Background on the State Program Approval Process.

C. General Background on the North Dakota Program Submission.

D. Secretary's Findings.

E. Disposition of Public Comments.

F. Secretary's Decision.

Part A sets forth the Statutory and regulatory framework of the environmental protection regulatory scheme under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Part B sets forth the general statutory and regulatory scheme applicable to all states which wish to obtain primary jurisdiction to implement the permanent program within their borders.

Part C summarizes the steps undertaken by North Dakota and officials of the Department of the Interior, beginning with North Dakota's initial program submission and its program amendments and leading to the decision being announced today.

Part D contains the findings the Secretary has made with respect to each of the thirty criteria for evaluation of a state program found in SMCRA and the Secretary's regulations. Part D contains the reasons for each finding. For each finding, only the significant differences between federal laws and rules and the North Dakota program are discussed.

Relevant public comments are analyzed in Part E, and the provisions of North Dakota's program, as revised, are evaluated.

Part F identifies and explains the Secretary's decision.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501-503 of SMCRA, 30 U.S.C. 1251-1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands which received state permits on or after that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710-725, 42 FR 62639 et seq.

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal rules for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state program must include to be eligible for approval, are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56064); Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15312-15463 (March 13, 1979). Errata notices were published at 44 FR 15485 (March 14, 1979), 44 FR 49673-49687 (August 24, 1979), 44 FR 53507-53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980), and 45 FR 47424 (July 15, 1980). Amendments to the regulations have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), 44 FR 75302-75303 (December 19, 1979), 44 FR 77440-77447 (December 31, 1979), 45 FR 2626-2629 (January 11, 1980), 45 FR 25998-26001 (April 16, 1980), 45 FR 33926-33927 (May 20, 1980), 45 FR 37818 (June 5, 1980), 45 FR 39446-39447 (June 10, 1980), 45 FR 52306-52324 (August 6, 1980), and 45 FR 76932-76935 (November 20, 1980). Portions of these rules have been suspended, pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447-77454 (December 31, 1979), 45 FR 6913 (January 30, 1980) and 45 FR 51547-51550 (August 4, 1980).

B. General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal rules governing state program submissions are found at 30 CFR Parts 730-732. After review of the submission by the Office of Surface Mining Reclamation and Enforcement (OSM) and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program, approve it conditioned upon minor deficiencies' being corrected in accordance with a specified timetable set by the Secretary, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions of the program to correct the items which needed change to meet the requirements of SMCRA and the applicable federal regulations. If this revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

Different criteria apply to various elements of a state program for the purpose of determining whether they can be approved by the Department. There are three categories of potential

program elements, each with its own standard of review.

1. *"State window" proposals*—Pursuant to 30 CFR 731.13, an alternative proposed by a state to a provision of the Secretary's regulations must be in accordance with SMCRA and consistent with the Secretary's regulations. Under 30 CFR 730.5, "in accordance with" SMCRA means that the state alternative meets the minimum requirements and includes all applicable provisions of SMCRA, while "consistent with" the Secretary's regulations means that the state proposal is no less stringent than and meets the applicable provisions of 30 Chapter VII.

The state window provision may not be used to vary the requirements of SMCRA. The Secretary will approve a state window item that achieves the same or greater degree of environmental protection and procedural safeguards as the federal regulation. In addition, the state must demonstrate that the alternative provision is necessary because local requirements or local environmental conditions are such that either the use of the federal regulations would not allow the state to accomplish the intended result or the alternative will accomplish the result in a more efficient or effective manner.

2. *Regulations for Inspection and Enforcement*—As required by Section 518 of SMCRA, the civil and criminal penalty provisions of a state program must be no less stringent than the requirements of Section 518 and must be consistent with the federal regulations in 30 CFR Part 845 (see Item 1 above for meaning of "consistent with"). However, as discussed below, a recent court decision by the District Court for the District of Columbia, *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, May 16, 1980, p. 56), has held that states cannot be required to establish a point system like that in Part 845, and the Secretary cannot require that state systems result in penalties as high as those under OSM's point system. Under Section 521 of SMCRA, the sanctions in a state program must also be no less stringent than those in Section 521 and must be consistent with 30 CFR Part 808, Sections 843.11, 843.12, 843.19, and Subchapter G (Permit Systems). State regulations which establish the procedural requirements related to civil and criminal penalties and sanctions must be the same as or similar to the procedures in Sections 518 and 521 of SMCRA and must be consistent with 30 CFR Parts 808, 843, 845, and Subchapter G.

3. *Other State Program Elements*—If a state provision is neither a state window alternative nor a procedure or sanction related to inspection and enforcement, then the standard to be applied in evaluating each element is whether the state provision is consistent with the corresponding provision of the federal regulations and in accordance with the relevant section of SMCRA, as set forth in 30 CFR 732.15(b) for each of the 16 state program requirements. Under Section 505 of SMCRA and 30 CFR 730.11, state provisions which provide more stringent land use and environmental controls are not to be considered to be inconsistent with the federal requirements.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732. As a result of the litigation in the U.S. District Court for the District of Columbia discussed below, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. Section 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in Section 732.13 (45 FR 33927, May 20, 1980).

The North Dakota program was submitted to OSM on February 29, 1980. The 104th day after February 29 was June 12, 1980. North Dakota submitted adopted regulations to OSM on June 12, 1980, and therefore met the 104th day deadline.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA, 30 USC 1253, and 30 CFR 732.15. With respect to the North Dakota program, the Secretary has used as criteria the federal rules as corrected, amended, and suspended in the Federal Register notices cited above under "General Background on the Permanent Program," and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, February 26, May 16, and August 15, 1980). That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

There are three recent decisions from the District Court that affect the decision-making process. Because of the complex litigation, the court issued its decision in two "rounds." The Round I opinion, dated February 26, 1980, rejected several generic attacks on the permanent program regulations, but resulted in suspension or remand of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, rejected additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations.

The court in its Round II opinion also ordered the Secretary to "affirmatively disapprove, under Section 503 [of SMCRA], those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in three circumstances described in paragraph 1 below.

Therefore, the Secretary is applying the following standard to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred before the enactment of SMCRA or after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. In addition, the Secretary need not affirmatively disapprove provisions based upon suspended or remanded federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions.

The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended or remanded regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on provisions other than those that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, conditionally approved, or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as a result of the Round I and Round II litigation was published in the Federal Register on July 7, 1980 (45 FR 45604). A notice of the availablity of a proposed list of North Dakota provisions, incorporating the suspended or remanded federal regulations, was published at 45 FR 46823 (July 11, 1980).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to North Dakota will be found in 30 CFR Part 934.

C. General Background on the North Dakota Program Submission

On February 29, 1980, OSM received a proposed regulatory program from the State of North Dakota. The program was submitted by the North Dakota Public Service Commission (PSC), the agency which will be the regulatory authority under the North Dakota permanent program. Notice of receipt of the submission initiating the program review was published in the March 7, 1980, Federal Register (45 FR 14881–14883) and in newspapers of general circulation within the State. The announcement noted information for public participation in the initial phase of the review process relating to the Regional Director's determination of whether the submission was complete.

On April 10, 1980, the Regional Director held a public review meeting on the program and its completeness in Bismarck, North Dakota. The public comment period on completeness began February 29, 1980, and closed April 21, 1980.

On April 29, 1980, the Regional Director published notice in the Federal Register announcing that he had determined the program to be complete (45 FR 28366–28367). The notice specified that the submission included all elements required by 30 CFR 731.14(c).

On June 12, 1980, 104 days after the original submission of February 29, 1980, PSC submitted amendments to the North Dakota program which contained:

a. A detailed response to the May 21, 1980, letter from OSM concerning the preliminary federal review of the State program;

b. Revised regulations; and

c. A new section-by-section comparison of the revised regulations.

On June 18, 1980, the Regional Director published notice in the Federal Register (45 FR 41162–44164) and in newspapers of general circulation within the State that the revisions to the North Dakota permanent program submission were available for public review and comment. The notice set forth procedures for the public hearing and comment period on the substance of the North Dakota program.

On July 11, 1980, the Office of Surface Mining published a notice in the Federal Register (45 FR 46821) which invited public comment on the Secretary's tentative determination identifying provisions in the North Dakota program which incorporated suspended or remanded rules.

On July 22, 1980, the Regional Director held a public hearing on the North Dakota submission in Bismarck, North Dakota. The public comment period on the North Dakota permanent regulatory program ended on July 25, 1980.

On July 30, 1980, the Regional Director submitted to the Director of OSM his recommendation that the North Dakota program be conditionally approved, together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On September 16, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the North Dakota program.

On August 20, 1980, the Office of Surface Mining published in the Federal Register a notice of the availability of the comments on the North Dakota program submitted by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed program (45 FR 55477).

On September 9, 1980, the State of North Dakota requested that certain provisions of the North Dakota Century Code and North Dakota Administrative Code based on suspended or remanded federal regulations be approved. This request was made to comply with the District Court Memorandum Opinion dated May 16, 1980.

On September 17, 1980, the Director of OSM recommended to the Secretary that the North Dakota program be conditionally approved.

On September 17, 1980, the Secretary decided to conditionally approve North Dakota's program if the State would agree to meet the conditions. On November 17, 1980, the State agreed to do so.

D. Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that North Dakota has, subject to the exceptions in findings 4(c), 4(d), 4(e), 4(g), 4(j), 4(k), 4(l), and 4(m) below, the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The North Dakota Century Code (NDCC) and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in North Dakota in accordance with SMCRA, except that the Secretary finds, based on the representations made by North Dakota as discussed below, that the requirements related to the following practices or conditions are inapplicable to the North Dakota program to the following degree:

(i) *Underground Mining.*—The North Dakota program does not contain provisions to regulate underground coal mining or concurrent surface-underground mining operations. There are no active or proposed underground coal mines in the State (February 29, 1980, State program submission, p. 188).

The last underground coal mine ceased operation prior to 1966 (February 29, 1980, State program submission, p. 190). North Dakota has presented evidence, in the original submission (p. 118–191) and the June 12, 1980, submission (Part I and Part I, Addendum A of Volume I) that underground coal mining is economically and technologically infeasible for the following reasons:

Coal Conservation.—As much as 80 percent of the coal in place can be recovered by use of surface coal mining methods, while less than 50 percent can be recovered by use of underground coal mining in North Dakota.

Economics.—In 1970 the national average productivity for underground coal mines was 13.76 tons per person shift, while the average productivity for North Dakota surface mines was 76.49 tons per person shift. The economic disadvantage of underground mining in North Dakota is compounded by the relatively low value of the lignite produced. In 1970, North Dakota lignite sold for an average of $1.95 per ton as compared to a national average of $6.26 per ton of coal that is largely of higher rank.

Safety.—Multifatality accidents are more unlikely and are much easier to prevent in surface mines.

Overburden Conditions.—North Dakota lignites are generally overlain by soft rocks and unconsolidated materials. This type of overburden is contributory to higher productivity, lower cost surface mining and at the same time results in lower production, higher costs, reduced coal recovery and unsafe working conditions in underground mining.

The North Dakota State geologist has reported in a June 5, 1980, letter (Part I, Appendix A of the June 12, 1980 submission) to OSM that underground coal mining is obsolete and no longer practiced in North Dakota and that the possibility of utilization of such methods is essentially nil.

PSC maintains, in a May 13, 1980, letter (Part I of the June 12, 1980 submission) to OSM that the long lead time necessary to open an underground coal mine would provide ample time during which the State could adopt statutes and regulations and obtain the Secretary's approval if underground coal mining were to become economically and technologically feasible. Because of its array of regulatory responsibilities in transportation and utility matters, PSC is in a unique position to learn in a timely manner of the possibility of new mine development. PSC represents in the May 13, 1980, letter to OSM that it would promulgate regulations, seek legislative changes, and seek the Secretary's approval before allowing underground coal mining in North Dakota.

(ii) *Steep Slope Mining.*—The North Dakota program does not contain provisions to regulate steep slope (contour) mining. PSC and the North Dakota Geological survey have presented evidence (Page 187 of the February 29, 1980, submission and Part I and Part I, Addendum I of the June 12, 1980, submission) that the known economically minable coal reserves in North Dakato are found in flat or gently rolling terrain with only an occasional steep slope exceeding 20 degrees. Section 510(d) of the Act contains an exception to steep slope requirements for areas of flat or gently rolling terrain with only an occasional steep slope. In the event that minable coal reserves are discovered in North Dakato in the future in steep slope areas, PSC represents in the May 13, 1980, letter to OSM that it will adopt and seek Secretarial approval of appropriate regulations for surface mining on steep slopes.

(iii) *In Situ Coal Processing.*—The North Dakota program does not contain regulations to govern in situ coal processing. There are no present or known proposed in situ coal processing operations in North Dakota (Page 193 of the February 29, 1980, State program submission). NDCC 38–14.1–10 makes it unlawful to engage in surface coal mining operations without first obtaining a permit from PSC. By definition in NDCC 38–14.1–02, surface coal mining includes in situ processing. PSC has represented in the May 13, 1980, letter to the OSM that appropriate permitting and performance standard regulations for in situ processing will be adopted and submitted to OSM for approval before any permits for in situ processing are approved in North Dakota.

(iv) *Acid-Forming Materials and Acid Mine Drainage.*—The North Dakota State program regulations and laws omit references to acid, acid-forming materials, and acid mine drainage. In addition, North Dakota has omitted certain testing requirements for iron, manganese, and alkalinity where the requirements were directly related to acidity. Citations for the omitted references and requirements are listed in Findings 4(e)(i) and 4(d)(i) below. As discussed below, North Dakota has presented evidence (Page 185 of the February 29, 1980, State program submission and Part I and Part I, Appendix A of Volume I of the June 12, 1980, submission) to show that conditions which lead to acid mine drainage problems are virtually nonexistent in the North Dakota coal mining areas.

Acid mine drainage usually comes form (1) oxidation of sulfur from coal remaining in the rooms and pillars of an underground mine, (2) industrial wastes from coal processing plants which contain sulfide minerals such as pyrite and marcasite and (3) percolation of water through spoils high in iron sulfides and low in carbonate materials.

There are no underground mines or coal processing plants in North Dakota. Moreover, in each of the most common cases the acid formation is in the presence of sulfur and sulfides. North Dakota lignite exhibits a sulfur content of 0.2% to 1.4%, as compared to sulfur contents of up to 8% in eastern coal mining areas where acid mine drainage is common. About 1,200 analyses of overburden from 5 mine sites in North Dakota showed that only 6% of the samples tested revealed saturation paste pH values below 7. Ground water studies by the North Dakota Geological Survey and others in the coal producing region have consistently shown a pH level of 7 or higher. North Dakota attributes the pH level to the presence of carbonate material in the overburden. Water discharge samples from North Dakota mine sites have shown a pH range of 7.5 to 9.0. Here again, the high pH levels are attributed to buffering solutions formed by reaction between carbon dioxide in waters percolating through overburden and the carbonate minerals in the overburden.

While the North Dakota program does not specifically refer to acid or acid-forming materials or acid mine drainage, the State represents in the May 13, 1980, letter to OSM that its requirements for chemical analysis of materials (North Dakota Administrative Code (NDAC) 69–05.2–15–02 and NDAC 69–05.2–19–02), water monitoring and preservation of the hydrologic function (NDAC 69–05.2–16), and handling of toxic materials (NDAC 69–05.2–19) are such that should acid conditions be encountered, they would be recognized and controlled as toxic forming materials. Toxic forming materials are defined (NDAC 69–05.2–01–02) in the North Dakota program to include any materials likely to form chemical or physical conditions in soil or water that are detrimental to biota and uses of water. North Dakota requires chemical and physical analysis of overburden, coal, the stratum immediately below the coal, and of coal waste materials. The required tests would reveal potential acid conditions. The North Dakota program reiterates, as set out in the Findings below, the federal requirements to conduct all activities to

minimize disturbance to the hydrologic balance, selectively to place and seal toxic forming materials, to avoid drainage from toxic forming spoils, to backfill and minimize adverse effects on ground water, and to keep toxic forming materials from drainage ways. Chemical analysis of surface and ground water is required, including pH. The State program requires burying toxic forming materials under at least 4 feet of non-toxic materials or at least with a thickness of non-toxic materials equal to that originally on the undisturbed pre-mining surface. Treatment of toxic materials is required if less than 4 feet of non-toxic cover materials are used. Thus, while acid forming conditions are not known to exist in the coal mining regions, any acid forming conditions which might be encountered would be recognized and addressed in the context of these protective measures in the North Dakota program.

(v) *Auger Mining.*—The North Dakota program does not contain authority to regulate auger mining. Surface mining of lignite in flat or gently rolling terrain in North Dakota is not conducive to auger mining. PSC reports in the May 13, 1980, letter to the Director of OSM, that auger mining is not economically or technologically feasible at the present time in North Dakota. There are no present or proposed auger mining operations in North Dakota.

PSC has committed itself in the May 13, 1980, letter to the Director of OSM to seek to pass appropriate legislation and adopt appropriate regulations for control of auger mining operations in the event auger mining methods become economically and technologically feasible. Because of its regulatory responsibilities in coal mining, transportation, and power industries, PSC is in a unique position to learn in a timely manner of the possibility of new mining developments. In turn, this early notice would allow the timely introduction of appropriate legislation.

(vi) *Mountaintop Removal.*—The North Dakota State program omits regulations to govern mining by mountaintop removal methods. The State has presented evidence in the May 13, 1980, letter to the Director of OSM, to show that the topography and geology of the North Dakota coal regions are such that mountaintop removal mining cannot be practiced. The topography of the coal regions is flat to gently rolling with only occasional steep slopes. No mountains are present. There are coal bearing hills and ridges in the coal regions of the State. However, the State maintains that these areas are not mined by mountaintop removal methods. The hill and ridge areas are not such dominant features in the mine areas that special mining techniques would apply to them; rather, they are mined as an integral part of the area strip mining method operations normally practiced in North Dakota and are subject to approximate original contour restoration along with other reclamation performance standards of the North Dakota program.

(vii) *Commercial Forests.*—Federal regulation 30 CFR 816.117(b) establishes revegetation performance standards for areas where commercial forestry is the proposed post mining land use. North Dakota has omitted this requirement from its program based on a June 9, 1980, report (Part I, B of Addendum Volume I of the June 12, 1980, submission) from the State Forester to the PSC that there are no commercial forests in North Dakota which are underlain by recoverable coal reserves. The known recoverable coal reserves are in the western half of the State. The only commercial forest lands in the arid western half of North Dakota are in the Missouri River bottom lands between the Garrison Dam and Bismarck, and according to the State Forester there is no economically recoverable coal in these bottom lands. Based on this representation, omission of revegetation standards for commercial forest lands is not inconsistent with SMCRA or the federal regulations.

(b) The North Dakota Century Code provides sanctions for violations of North Dakota laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions; forfeiture of bonds; suspensions, revocations, and withholding of permits; and the issuance of cease-and-desist orders by the PSC or its inspectors.

(c) PSC has sufficient administrative and technical personnel and sufficient funds to enable North Dakota to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA.

(d) North Dakota law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within North Dakota.

(e) North Dakota has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272.

(f) North Dakota has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and State permit processes applicable to the proposed operations.

(g) North Dakota has fully enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the exceptions discussed below in Findings 4(c), 4(d), 4(e), 4(g), 4(j), 4(k), 4(l) and 4(m).

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1235(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed North Dakota program.

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the North Dakota program which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended, 33 USC 1151–1175, and the Clean Air Act, 42 U.S.C. 7401 *et seq.*

(c) Held a public review meeting in Bismarck, North Dakota, on April 10, 1980, to discuss the North Dakota program submission and its completeness and held a public hearing in Bismarck, North Dakota, on July 22, 1980, on the substance of the North Dakota program submission.

(d) Obtained a biological opinion from the U.S. Fish and Wildlife Service that the approval of the State program is not likely to jeopardize the continued existence of species listed as threatened or endangered under the Endangered Species Act, 16 U.S.C. 1531 *et seq., in North Dakota.*

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds that the State of North Dakota has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the North Dakota program submission, including the section-by-section comparison of the North Dakota law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that:

(a) The North Dakota program provides for North Dakota to carry out the provisions and meet the purpose of SMCRA and 30 CFR Chapter VII.

(b) North Dakota proposed, pursuant to 30 CFR 731.13, an alternate approach to the requirements of 30 CFR 845. North Dakota proposed an alternative penalty system to provide for civil penalties equally as stringent as those required by the federal point system. However, the court held in *In re: Permanent Surface Mining Regulation Litigation,* Round I, February 26, 1980, p. 14–15, that the Act does not require equal stringency with the point system. Thus, the proposed alternative penalty system is consistent with SMCRA. No further analysis of the alternative approach is required.

(c) PSC has the authority under North Dakota laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII Subchapter K, and the North Dakota program includes provisions to do so. The North Dakota laws and regulations on performance standards are consistent with SMCRA and 30 CFR Chapter VII, Subchapter K, except for the provisions discussed in 4(c)(viii), (ix), (x), and (xvii) below. Permanent program performance standards for underground mining activities and special performance standards for (1) concurrent surface and underground mining, (2) auger mining, (3) mountaintop removal, (4) operation on steep slopes, and (5) in situ processing are not included in the North Dakota laws or regulations because these types of mining have been determined as described in Finding 1(a) above to be inapplicable for geological, economical, or technological reasons in North Dakota. Approval is based on the following findings or conditions of approval by the Secretary or representations made by North Dakota concerning the North Dakota law and regulations:

(i) The following federal performance standards in the statute or regulations call, in part, for consideration of or action directed toward acid conditions or related problems: Sections 515(b)(3) and 515(b)(5) of the Act and 30 CFR 815.15, 816.13, 816.15–816.22, 816.41, 816.42, 816.50, 816.91, 816.103, 816.104, 816.152, and 816.154. North Dakota's parallel regulations and laws omit reference to acid conditions. Acid conditions and related problems encountered in the implementation of the North Dakota progam will be addressed as set forth above in Finding 1(a).

(ii) The federal statute requires in Section 515(b)(7) that specifications for soil removal, storage, replacement, and reconstruction be established by the Secretary of Agriculture for prime farmland. The North Dakota law (NDCC 38–14.1–24(6)) does not refer to specifications of the Secretary of Agriculture. North Dakota points out, under Item 13, Part II Addendum Volume I, June 12, 1980, that the State regulations, NDAC 69–05.2–26, for handling prime farmland soils are consistent with the federal regulations, 30 CFR Part 823, and that the federal regulations reflect the specifications of the Secretary of Agriculture, since the federal regulations were developed with consultation and approval of the Secretary of Agriculture. Finally, if the federal regulations are revised in the future to reflect changes in specifications of the Secretary of Agriculture, the State will be required by 30 CFR 732.17 to revise its corresponding regulations. By this line of reasoning the State's provisions are consistent with the federal provisions.

(iii) Section 515(b)(16) of the federal Act requires that reclamation proceed as contemporaneously as practicable with the surface coal mining operations. Neither the federal Act nor regulations sets a maximum time by which reclamation through initial planting shall be completed after mining takes place. The North Dakota statute, NDCC 38–14.1–24(14), reiterates this requirement, but adds that all reclamation through initial planting shall be completed no later than three years after mining, except as otherwise prescribed by PSC. North Dakota has explained, under Item 14, Part II, Addendum Volume I of the June 12, 1980, submission, that the State legislature desired to set a maximum time to complete reclamation and that three years will not always be taken from completion of mining until initial planting. North Dakota also points out that federal regulation 30 CFR 816.101 and State regulation NDAC 69–05.2–21–01 require the same timing for backfilling and grading and that federal regulation 30 CFR 816.113 and North Dakota regulation NDAC 69–05.2–22–04 require the same timing for planting following respreading of topsoil. The State's provisions for contemporaneous reclamation are thus consistent with the federal provisions.

(iv) Section 515(b)(22) of the federal Act and 30 CFR 816.71(i) require the use of rock toe buttresses where the toe of an excess spoil pile rests on a down slope. Rock toe buttresses are not required by the North Dakota program. The State has explained, under Item 15, Part II, Addendum Volume I of June 12, 1980, that the topography in the North Dakota coal regions is generally flat or gently rolling, with only occasional slopes greater than 20 percent. Slopes of greater than 36 percent unless otherwise required by the regulatory authority are the only areas where the federal regulation 30 CFR 816.71(i) requires rock toe buttresses. North Dakota further represents under Item 15 that slopes steeper than 36 percent will not be used for excess spoil disposal because of the requirement to dispose of excess spoil on the most moderate available slope (NDCC 38.1–24(19)(e)), which will always be flatter than 36 percent. Spoil disposal sites will be identified and approved on contour maps in the mine permit application, assuring use of flatter areas only. Based on these representations by the State, there is no need for rock toe buttress requirements in the North Dakota program.

(v) Section 701(20) of the federal Act defines the term "prime farmlands" as having the same meaning previously prescribed by the Secretary of Agriculture based on certain characteristics and conditions. The North Dakota statute (NDCC 38–14.1–02(22)) does not reference the Secretary of Agriculture in the definition of prime farmlands. However, State regulation NDAC 69–05.2–08–09 provides that a representative of the Secretary of Agriculture, the State Conservationist of the Soil Conservation Service, shall make the determination whether prime farmlands exist within proposed permit areas. The State Conservationist will make the determination using guidelines and meaning prescribed by the Secretary of Agriculture. The Secretary finds that the state provisions for defining prime farmlands are consistent with the federal provisions.

(vi) Federal regulation 30 CFR 816.71(f) requires that excess spoil be placed in horizontal lifts. The State act and regulations do not specifically require horizontal lifts. North Dakota State law NDCC 38–14.1–24(19)(a) requires that excess spoil be transported and placed in a controlled manner in a position for concurrent compaction. North Dakota represents, under Item 105(a), Part II, Addendum Volume I of June 12, 1980, that this provision implies placement of spoil in horizontal lifts. Based on this representation, the State's provision for spoil placement in horizontal lifts is consistent with the federal provisions.

(vii) Federal regulation 30 CFR 816.97(d)(2) requires operators to fence roadways, where specified by the regulatory authority, to guide locally important wildlife to roadway underpasses. The North Dakota program does not require fencing. The State maintains, under Item 108(b) of Part II, Addendum Volume I of the June 12, 1980, submission, that the purpose of

such fencing is to guide animals such as elk which on a seasonal basis predictably move from one point to another in the States of Colorado, Wyoming, and Montana. North Dakota claims to have nothing on a comparable scale. Further, the North Dakota Game and Fish Department reviews each mining permit application in North Dakota and would recognize any unanticipated need for wildlife fencing along roadways. PSC represents, under Item 108b, that it has authority to require fencing as a permit approval condition under its general authority to protect wildlife resources under State regulation NDAC 69-05.2-13-08 if the State Game and Fish Department should identify a need for fencing, and that specific authority to require fencing is not necessary. Based on these representations, and on the regulation as of the date of submission of the State program, February 29, 1980, the Secretary finds that the North Dakota program provision for fencing roadways to protect wildlife is consistent with the federal provision.

The Secretary notes that federal regulation 30 CFR 816.97(d)(2) was revised on June 5, 1980 (45 FR 37818). North Dakota will be given an opportunity to revise its regulation to make it consistent with the June 5, 1980, revision of the federal regulations.

(viii) Federal regulation 30 CFR 816.65(i) requires that the maximum peak particle velocity, at certain structures, caused by blasting shall not exceed 1 inch per second. Federal regulation 30 CFR 816.65(1) (i) and (ii) provides a formula for calculating the maximum weight of explosives which can be detonated at a point a specific distance from structures within a specific time frame, and provides a table of values calculated by using the formula. The federal regulations use a peak particle velocity of 1 inch per second, and the formula $W=(D/60)^2$. The federal table of values is based on use of the formula $W=(D/60)^2$. The regulation provides that blasting done using the formula will be deemed to comply with the maximum peak particle velocity requirement in 30 CFR 816.65(i).

The State regulations NDAC 69-05.2-17-05 and 06 contain requirements similar to those required by 30 CFR 816.65(1)(i) and (ii). However, the State requirements are based on a different maximum peak particle velocity, maximum explosive weight formula and resulting tables. The State uses a peak particle velocity of 2 inches per second and its formula is $W=(D/50)^2$. The State table of values is based on use of the formula $W=(D/50)^2$.

The result of the use of the different maximum peak particle velocity and the different formula is that operators are allowed to use larger amounts of explosives with a resulting increase in the magnitude of shock waves which reach structures in the vicinity of the mine. The Secretary finds that the North Dakota provisions for blasting are not consistent with the federal provisions. Approval of the North Dakota program is conditioned upon revision of NDAC 69-05.2-17-05 and -06 to provide a maximum peak particle velocity of 1 inch per second, the use of the formula $W=(D/60)^2$ and revision of the table of values calculated from the formula to replace use of the revised formula.

(ix) Federal regulation 30 CFR 816.97(b) requires reports to the regulatory authority concerning the presence of critical habitat of federally-listed threatened and endangered species, the presence of state-listed threatened and endangered animals and plants, and the presence of eagles. The North Dakota corresponding regulation NDAC 69-05.2-13-08(2) requires that the operator report the presence of critical habitat of federally-listed threatened and endangered species and eagles, but not the presence of animals and plants listed as threatened or endangered. Approval of the North Dakota program is conditioned upon adoption of provisions for reporting the presence of threatened and endangered animals and plants in a manner consistent with the federal provisions.

(x) Federal regulation 30 CFR 823.15(c) (i) and (iii) requires that measurement of success of revegetation of cropland and prime farmland be based on three years of crop production data. North Dakota regulation NDAC 69-05.2-22-07(3)(b) requires that measurement of success of revegetation of cropland and prime farmlands be based on crop production data from two consecutive growing seasons. The Secretary finds that the North Dakota provision is less stringent than the federal provision. The district court in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79-1144 (D.D.C. May 16, 1980, p. 4-5), struck down 30 CFR 785.17(b)(8), which required that revegetation success for prime farmlands depends on meeting a high management level standard. It did not strike down 30 CFR 823.15(c) (i) and (iii), the three-year data requirement. Approval of the State program is conditioned on revision of the State program to allow for measurement of prime farmlands revegetation success on the basis of three years production data as provided in 30 CFR 823.15(c) (i) and (iii).

(xi) Federal regulation 30 CFR 816.55(b) requires a demonstration that water discharged into underground mines will be discharged as a controlled flow which meets effluent standards, except for certain stated exemptions. It further provides that any resulting discharge from the underground mine must meet discharge standards, and that discharges into and out of underground mines must be done in a manner which minimizes disturbance to the hydrologic balance and meets approval of the Mine Health and Safety Administration (MSHA). The corresponding North Dakota regulation, NDAC 69-05.2-16-18, provides standards for water discharged into underground mines, but does not require the discharge to be in a controlled flow, does not provide for exemptions to the effluent standards, and does not require MSHA approval. North Dakota does require demonstration that the resulting discharge from the underground mine meets discharge standards and that the operation be conducted so as to minimize disturbance to the hydrologic balance.

The Secretary finds that North Dakota's omission of the requirement for discharging into a mine in a controlled flow does not render its regulations less stringent than the federal provision because all discharges into the mine must meet effluent standards. Attainment of effluent standards can be assured only be controlled flow of the discharge into the mine. Thus, the requirement to meet effluent standards includes by implication a requirement that flow into the underground mine be controlled. Further, the need for MSHA approval would only apply to active underground mines, none of which exist or is anticipated in North Dakota, as explained in Finding 1(a)(1) above. The North Dakota provisions for discharging water into underground mines are consistent with the federal provisions.

(xii) Federal regulation 30 CFR 816.103(a) requires, in part that toxic forming material be covered with a minimum of four feet of the best available non-toxic and non-combustible material. North Dakota regulation NDAC 69-05.2-21-03 is similar, but does not specify that the cover material be the best available and allows for less than four feet of non-toxic cover material under limited conditions.

The Secretary finds that the absence of the "best available" language from the State's regulation does not render it less stringent than the federal provision. The State regulation requires that the availability and suitability of cover

material be determined by PSC based on permittee data. The Secretary believes selection of cover material by PSC will assure selection of the best available material. Furthermore, criteria for soil materials considered best for top-dressing the area to be reclaimed (NDAC 69-05.2-08-10(1)(a)) and for the the remaining soil material and suitable plant growth material (NDC 69-05.2-08-10(1)(b)) are significantly more stringent than established by the federal definition of topsoil in 30 CFR 701.5. The State exemption to the requirement for four feet of cover applies only to lands where there was less than four feet of non-toxic materials in the pre-mining conditions. The exemption does not apply to covering of waste materials, but only to covering of overburden materials. The State requires use of all available non-toxic material where there is less than four feet. The effect is to return the land to pre-mining conditions to the maximum extent possible. Such a practice should facilitate re-establishment of vegetation and of water quality conditions that existed prior to mining. The North Dakota regulation further requires that overburden materials must be treated to neutralize toxicity in order to prevent water pollution and to minimize adverse effects on plant growth and land uses, if less than four feet of non-toxic material is available.

The Secretary finds that the State regulations for covering toxic forming materials are as stringent as the federal provisions.

(xiii) Federal regulation 30 CFR 816.57 requires establishment of a buffer zone for all perennial streams and streams with a biological community. The corresponding North Dakota regulation, NDAC 69-05.2-16-20, requires a buffer zone for all perennial and intermittent streams. The Secretary has established the biological community criteria primarily to determine which intermittent streams should be protected (44 FR 15177, March 13, 1979). The more constant intermittent stream will usually have a biological community, but as a stream becomes increasingly intermittent it is less likely to have biotic community. North Dakota represents under Item 104, Part II, Addendum Volume I of the June 12, 1980, submission that it revised its regulations to assure that applicants furnish enough data to provide accurate stream classification and that since the State requires buffer zones for all intermittent streams, the North Dakota requirement for buffer zones is more stringent than the federal requirement. The Secretary agrees and finds the North Dakota provision more stringent.

(xiv) Five specific items are listed in federal regulation 30 CFR 816.49(h) which must be included in the certification reports for dams and embankments. The corresponding North Dakota regulations, NDAC 69-05.2-16-09(17), (18) and (20), require a certification report, but do not specify its contents. North Dakota represents under Item 103(c), Part II, Addendum Volume I of the June 12, 1980, submission that a certification report on large dams will meet the MSHA minimum reporting criteria in 30 CFR 77.216, since the MSHA requirements are incorporated by reference in NDAC 69-05.2-16-09(17). NDAC 69-05.2-16-09(20) requires examination, reports and modifications in accordance with 30 CFR 77.216-3 for large and small dams. The MSHA report requirements parallel those in 30 CFR 816.49(h). The Secretary finds that the North Dakota provisions are consistent with the federal provisions.

(xv) Federal regulation 30 CFR 816.114 sets mulching requirements under the federal program. Subsection (c) states that annual grasses and grains must be later replaced by perennial species approved for the post mining land use. The State requirement NDCC 69-05.2-22-05(3) omits "perennial" from its regulation. However, the state requires in NDCC 69-05.2-22-01 that vegetative cover in disturbed areas shall be of the same seasonal variety native to the area or species that will support the approved post mining land use. Thus, North Dakota's revegetation standards include planting of perennial species. Furthermore, the state regulations require that if the post mining land use is cropland, the vegetative cover shall be of equal or superior utility as the naturally occurring vegetation. Therefore, North Dakota's law is as stringent as the federal requirement.

(xvi) Federal regulation 30 CFR 779.19 provides that the regulatory authority may require that the permit application include a map and description of existing vegetative types to be used to establish the required reference areas.

The State's provision, NDAC 69-05.2-08-08, sets similar requirements with the exception that for permit applications for mines which will cover less than one hundred acres PSC may grant exemptions to data and map requirements. The Secretary notes that the federal requirement for reference areas is optional; thus, the State provision for establishing reference areas is consistent with the federal provision.

(xvii) Federal regulation 30 CFR 816.116 sets the federal requirements for measuring the success of revegetation. Section 816.116(a) and (b)(1) provides that the measurement techniques shall be approved by the regulatory authority after consultation with the relevant state and federal agencies. It provides that comparison of ground cover and productivity may be made through the use of reference areas or other U.S. Department of Agriculture (USDA) or U.S. Department of Interior (USDI) guidelines approved by the Director of OSM for comparisons of ground cover and productivity of vegetation. The State provision NDAC 69-05.2-22-07(1) establishes that PSC has the authority to approve other standards published by USDA after "consultation" with the Director of OSM. Thus, the State has the authority to approve standards of success under this provision that are less stringent than the existing reference area standards without the Director's approval as long as it consults with the Director. This is less stringent than the federal requirement. This portion of the State program is approved conditioned upon revision of the program to provide for the necessary approval of the Director of OSM.

(xviii) Federal regulations 30 CFR 816.65(f) prohibits blasting within 1,000 feet of any building used as a dwelling, school, church, hospital or nursing facility, unless lesser distances are approved by the regulatory authority under specific criteria. The corresponding State regulation, NDAC 69-05.2-17-05, prohibits *mining* within 500 feet of any occupied dwelling or within 300 feet of any public building, school, church, community or institutional building except where lesser distances are approved by the Commission under specific criteria. The Secretary notes that Section 522(e)(5) of SMCRA and North Dakota law NDCC 38-14.1-07(5) prohibit mining activities of any kind, which would include blasting, within 300 feet of any occupied dwelling, unless waived by the owner, and within 300 feet of the other structures named above. These statutory limits set the floor for the state and federal approvals of blasting closer than the distances from buildings set in the regulations. The minimum distances in the State regulations are less than those in the federal regulation. The district court in *In re: Permanent Surface Mining Regulation Litigation* Round II, May 16, 1980, p. 26, has remanded the federal regulation, 30 CFR 816.65(f), on the ground that the regulation improperly limits the distances from buildings within which blasting can be

done. In accord with the guidelines for remanded regulations in Section B of this notice, the State requested on September 9, 1980, that regulation NDAC 69-05.2-17-05(6)(a) be approved.

(d) PSC has authority under North Dakota laws and regulations and the North Dakota program includes provisions to implement, administer, and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G, except for the provisions discussed in paragraph 4(d)(iii) and (viii), below. Requirements for permits for (1) underground mining, (2) mountaintop removal mining, (3) steep slope mining, (4) variances from approximate original contour restoration requirements for steep slope mining, (5) delay in contemporaneous reclamation in combined surface and underground mining operations, (6) auger mining, and (7) in situ processing activities, are not included in the North Dakota regulations or law because these types of mining have been determined, as described in Finding 1(a) above, to be inapplicable for geological, economical or technological reasons in North Dakota. Approval is based on the following findings or conditions of approval by the Secretary or representations made by North Dakota concerning the North Dakota law and regulations:

(i) Section 507(b)(15) of the Act, 30 CFR 779.14, 779.16, 780.21 and 795.16 require consideration or action directed toward acid conditions or related problems. Acid conditions and related problems encountered in the implementation of North Dakota program will be addressed as described in Finding 1(a) above.

(ii) Section 508(a)(2) of SMCRA requires that a reclamation plan include a statement of the land's average pre-mining yield of wood products obtained under high levels of management. North Dakota laws and regulations do not require information on wood products. As discussed in Finding 1(a)(vii) above, the State has submitted evidence and the Secretary has found that there are no commercial forests in the recoverable coal areas of North Dakota. Therefore, it is unnecessary to consider wood products in the North Dakota State program and the federal requirement is inapplicable.

(iii) Federal rule 30 CFR 786.17(c) requires denial of a permit to an applicant who owns or controls a surface coal mining operation currently in violation of any law, rule, or regulation of the United States or any State law, rule, or regulation enacted pursuant to a federal law, rule, or regulation pertaining to air or water environmental protection, or of any provision of SMCRA, unless the applicant submits proof that the violation is being corrected or appealed. Section 510(c) of SMCRA and 30 CFR 786.19(i) prohibit issuance of a permit to applicants or operators who control or who have controlled operations with a demonstrated pattern of violations of the Act. The federal requirements are not limited to consideration of violations occurring in any single State.

State regulations NDAC 69-05.2-10-03(1) prohibits issuance of a permit to an applicant who has an outstanding violation and is consistent with 30 CFR 786.17(c) except that it allows consideration of only those violations which occurred in North Dakota. It is, therefore, less stringent than the federal requirement. Similarly, State statute NDCC 38-14.1-33(3) prohibits issuance of permits to applicants who have demonstrated a pattern of violations and is consistent with 30 CFR 786.19(i) except that it allows consideration only of patterns of violations of North Dakota law.

North Dakota represents, under Item 8, Part II, Addendum Volume I of the June 12, 1980, submission, that de facto nonissuance of permits can be accomplished by setting high bond rates based on the record of an operator's history of violations in other States as well as in North Dakota. The Secretary finds that North Dakota's provisions for prohibiting permit issuance on the basis of outstanding violations and patterns of violations are less stringent than federal provisions, because the State does not require the reporting of out-of-state violations of all provisions of SMCRA as provided in 30 CFR 778.14(c), and the State does not prohibit the issuance of permits on the basis of outstanding out-of-state violations and out-of-state patterns or violations, as provided in 30 CFR 786.17(e) and 30 CFR 786.19(i). Approval of the North Dakota program is conditioned upon revision of the State program to require consideration of out-of-state violations in a manner consistent with 30 CFR 786.17(e) and 30 CFR 786.19(i).

(iv) The term "permittee" is defined in 30 CFR 701.5 to include a person holding or required by the Federal Act or regulations to hold a permit to conduct surface coal mining. Under the federal definition a person who conducted surface coal mining operations without a permit would be considered a permittee, would be required to comply with all applicable provisions of the Act and regulations, and would be subject to the federal sanctions. North Dakota defines a permittee as a person or operator holding a permit. However, the State defines "operator" as anyone engaged in or controlling a surface coal mining operation, and throughout the State Act and regulations, North Dakota substitutes the words "operator or permittee" where the Federal Act uses either "permittee" or "operator." North Dakota regulation, NDAC 69-05.2-01-01, makes all provisions of the State regulations applicable to any person who conducts surface coal mining operations and to any operation. North Dakota statute NDCC 38-14.1-10 makes it illegal to conduct surface coal mining operations without a permit and makes operations subject to the State Act. The Secretary finds the the State's definition of "permittee" is consistent with the federal definition. Omission of "persons required to hold a permit" from the State definition does not exempt such persons from the standards or sanctions of the program should those persons conduct surface coal mining operations without a permit.

(v) Section 711 of the Federal Act allows variances from the reclamation performance standards to encourage advances in mining and reclamation practices or to allow a specified land use. Variances must be on an experimental basis only, must be approved by the Secretary, must be as environmentally protective as the promulgated performance standard, must be limited in size and number to that needed to determine effectiveness and economic feasibility, and must not reduce the protection afforded the public health and safety below that provided by the promulgated performance standard.

North Dakota has promulgated a regulation, NDAC 69-05.1-27-02, closely parallel to the requirements of the Federal Act. However, the corresponding North Dakota statutory provision, NDCC 38-14.1-03(23), does not contain all the protective provisions. It allows the State to provide by regulation for variances as long as the permittee demonstrates that the variance provides equal or greater protection to the environment and to the public health and safety and will achieve reclamation consistent with the purposes of the State Act. The statutory authority for variances in North Dakota is not limited to practices approved by the Secretary, to specific land uses, to experimental practices only, to limited sized practices, to limited numbers of practices or to practices whose goal is to advance mining and reclamation.

The Secretary finds that although the statute itself could grant PSC more authority than the Secretary could approve, the provision is approvable for

the following reason: NDCC 38-14.1-03(23), by its grant of authority to PSC "to provide by regulation" for experimental practices, can become operative only through regulations adopted by the PSC. PSC has adopted a regulation, NDAC 69-05.2-27-02, to implement NDCC 38-14.1-03(23), and it is as stringent as the corresponding federal regulation, 30 CFR 785.13. It includes the necessary limitations which were not specified in, but are not prohibited by, the North Dakota statute. Any revision of the implementing regulation, NDAC 69-05.2-27-02, must be approved by the Secretary as a program revision under 30 CFR 732.17. Thus, the Secretary finds that the North Dakota provisions for experimental practices are consistent with the federal provisions.

(vi) 30 CFR 778.13(e) requires that each permit application contain the names and addresses of owners of all subsurface areas contiguous to the proposed permit area. North Dakota regulation NDAC 69-05.2-06-01(1) requires the same information for the owners of coal only up to a distance of ¼ mile from the proposed permit area. The North Dakota statute, NDCC 38-14.1-14, gives PSC authority to require, by regulation, the information for owners of all subsurface rights which would include oil and gas, uranium and other mineral rights in addition to coal. PSC has not adopted such regulations, but the State has represented, under Item 70, Part II, Addendum Volume I of the June 12, 1980, submission, that all of the ownership information specified in NDCC 38-14.1-14(1) is required of permit applicants, despite lack of a specific regulatory requirement for some of the statutory provisions. Based on this representation by the State, the State provision for information on owners of adjacent subsurface areas is consistent with the federal provisions.

(vii) Federal regulation 30 CFR 779.22(a)(2)(ii) requires that vegetative productivity obtained under high levels of management of lands be determined by yield data or by estimates of yield for similar sites based on current data from the U.S. Department of Agriculture, state agricultural universities, or appropriate state natural resource or agricultural agencies. The North Dakota law, NDCC 38-14.1-14, and regulations, NDAC 69-05.2-08-08, specify only that the proper yield data must be obtained and do not specify use of estimated yields or the source of estimates. North Dakota has represented, under Item 74, Part II, Addendum Volume I of the June 12, 1980, submission, that the only source of estimated productivities under high levels of management are the U.S Department of Agriculture Soil Conservation Service and, possibly in a few cases, North Dakota State University. The State represents that it will receive both actual yields obtained onsite and estimated yields under high levels of management. Based on this representation, the State provisions for obtaining vegetative yield data are consistent with the federal provisions.

(viii) North Dakota has a provision for approval of research plots, NDAC 69-05.2-27-01, for which there is no federal counterpart. Wording of the provision is such that it does not allow any exemptions from PSC rules. It would seem to allow for delay in reclamation, upon PSC approval, for research purposes.

North Dakota has made the following representations, under Item 78(c), Part II, Addendum Volume I of the June 12, 1980, submission pertaining to NDAC 69-05.2-27-01. The provision allows governmental agencies, or other authorized organizations such as research or educational organizations, to establish and study experimental or evaluation plots. Mine operators do not qualify to conduct research under the provision. Any work done under this provision must comply with the reclamation performance standards and upon completion of projects the land must be reclaimed to the approved post-mining land use for the remainder of the mine permit area. The operator is responsible for final reclamation of the research plots even though operators are not allowed to do the research work. The operator's bond will remain in effect to cover final reclamation unless the operator obtains a written assurance from the research agency or organization that it will be responsible for final reclamation.

Federal regulation 30 CFR 785.13 concerns permitting experimental and research projects. The preamble to 30 CFR 785.13, 44 FR 15080 (March 13, 1979), discusses and rejects the option of separate provisions for permitting research work where there would be no variances from performance standards, such as North Dakota proposes. Further, there is no provision in the federal regulations to transfer the operator's bond responsibility, as North Dakota proposes. However, in response to a petition for rulemaking, the Department has published a notice, 45 FR 41168 (June 18, 1980), seeking public comment on a proposal to promulgate regulations which could allow research and bonding practices as proposed by North Dakota regulation NDAC 69-05.2-27-01.

The Secretary finds that the North Dakota regulation NDAC 69-05.2-27-01 is inconsistent with federal provisions for permitting and bonding of research projects. However, the Department is actively seeking review of the petition to change the regulations to allow for approval of practices such as those which NDAC 69-05.2-27-01 would allow. As a consequence, the Secretary finds that North Dakota regulation NDAC 69-05.2-27-01 must be set aside under the authority of Section 505(b) of SMCRA pending completion of the federal petition and rulemaking process.

(ix) Federal regulation 30 CFR 786.11(c) requires that written notice of permit applications be sent to, among others, federal agencies with an interest in, jurisdiction over or permitting or licensing authority over the proposed operation. North Dakota statute, NDCC 38-14.1-21(2), requires that PSC's approval of permits shall include the advice and technical assistance of State agencies and other agencies experienced in reclamation of surface mined lands. North Dakota regulation NDAC 69-05.2-05-06(2) directs PSC to coordinate the review and issuance of permits with the appropriate federal agencies who administer applicable natural resource and environmental protection acts.

North Dakota represents, under Item 83, Part II, Addendum Volume I of the June 12, 1980, submission, that by giving written notice (NDCC 38-14.1-21) and copies of permit applications to the state reclamation advisory committee it is in effect giving notice to federal authorities with responsibilities over fish and wildlife and over historic preservation, because federal authorities with these responsibilities have cooperative arrangements with their state reclamation advisory committee counterparts. The State further represents that federal agencies that desire to receive written notification need only request that their names be placed on PSC's mailing list and notification will be sent for every permit application that is received. In response, OSM has requested that North Dakota add the appropriate office of the following federal agencies to the mailing list and the State has agreed to do so: U.S. Geological Survey, U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Heritage Conservation and Recreation Service, U.S. National Park Service, U.S. Environmental Protection Agency, U.S. Soil Conservation Service, and the U.S. Mine Health and Safety Administration. With that agreement the Secretary finds that the state provisions for giving federal authorities notice of permit

applications are consistent with the federal provisions.

(x) Federal regulation 30 CFR 786.14 (b)(4) allows a conference officer to accept oral or written statements or any other relevant information from any party to the informal conference on permit issuance. The North Dakota program does not contain this specific provision. North Dakota represents in Item 86, Part II, Addendum Volume I of the June 12, 1980, submission that conferences will be conducted by a hearing officer under North Dakota statute NDCC 28-32-06. This officer can accept any evidence "of probative value" from any person during the course of an informal conference. The hearing officer may waive the usual common law or statutory rules of evidence if such waiver is necessary to ascertain the substantial rights of all parties to the proceeding, but only evidence of probative value shall be accepted. The Secretary finds that the requirement that information must be "probative" is no more restrictive than the requirement that the information must be "relevant" under the federal regulation. The Secretary finds that the State provisions for accepting statements or other information at informal conferences are consistent with the federal provisions.

(xi) The North Dakota program has a provision, NDAC 69-05.2-10-06, which would allow the State to approve extraction of federal coal and related surface coal mining operations on federal coal lands, so long as the approved action does not significantly and adversely affect the federal mineral estate. The approved action would have to be on lands with privately owned surface in support of operations on adjacent non-federal lands, and the State would consult with, but not obtain the approval of, the appropriate Regional Director of OSM. Section 503(a) of SMCRA clearly allows state program jurisdiction to extend only to non-federal lands. Further, federal regulations at 30 CFR, Chapter VII, Subchapter C, under which the North Dakota program was submitted for approval, apply by the title of the subchapter and by the statement of scope in 30 CFR 730.1 only to non-federal and non-Indian lands. The Secretary's conditional approval of the North Dakota State program in Section F of this notice is clearly applicable to only non-federal and non-Indian lands. The provision in NDAC 69-05.2-10-06 will be considered in a state-federal cooperative agreement, authorized by Section 523(c) of the Act and by 30 CFR 745, concerning federal lands coal activities in North Dakota, after implementation of the permanent program in the State.

(xii) Federal regulation 30 CFR 786.25(b) allows an extension of time for commencement of mining operations upon approval of a written statement showing that litigation or other certain conditions caused the delay. The regulation requires public notice of the approved extension of time. The North Dakota law and regulations do not specifically require the written statement of cause or public notice of approval. North Dakota statute NDCC 38-14.1-12 (3)(a) requires a "showing" that the extension is necessary because of litigation or for other certain reasons. North Dakota represents, under Item 93, Part II, Addendum Volume I of the June 12, 1980, submission, that the showing must be in writing. North Dakota further represents that any request for extension of time will be handled as a significant permit revision under NDAC 69-05.2-11-02(1)(f) and will thus be subject to public notice. Based on these representations, the North Dakota provisions for extension of time to commence operations are consistent with the federal provisions.

(xiii) Federal regulation 30 CFR 795.14(f)(2) requires that an applicant for small operator assistance submit documents which show that a legal right of entry has been obtained for OSM personnel to inspect the lands to be mined and adjacent lands. The North Dakota program has a similar requirement, NDAC 69-05.2-29-04(c), which extends only to State employees and laboratory personnel. North Dakota maintains, in Item 95, Part II, Addendum Volume I of the June 12, 1980, submission, that OSM's legal right of entry is governed by 30 CFR 795.14(f)(2) and in addition can be made a part of any federal contract involving small operator assistance. The Secretary agrees with North Dakota. The Department of the Interior will condition any Small Operator Assistance Program grants with a provision to assure site access for Department personnel.

(xiv) Federal regulation 30 CFR 701.5 defines "permit area" to include all areas which are or will be affected by surface coal mining and reclamation operations. The State defines "permit area" in NDCC 38-14.1-02(16) as the area of land approved by the PSC for surface coal mining operations which shall be readily identifiable by appropriate markers on the site. The North Dakota definition does not specify that permit areas include all areas which are or will be affected by surface coal mining operations. The State represents in Item Number 38 of Part II, Addendum Volume I of the June 12, 1980, submission that the term "permit area" as used in the North Dakota program does include all areas which are or will be affected by surface coal mining reclamation operations, because of the meanings of words within the definition of permit area and because of regulatory limitations on operations. The definition of "permit area" includes the term "surface coal mining operation," which is defined in NDCC 38-14.1-02(33) to include activities affecting the surface of lands in connection with a surface coal mine. Further, NDCC 38-14.1-25 prohibits the location of any part of the surface coal mining and reclamation operation outside the permit area. Based on the North Dakota representation, the definition of permit area in the North Dakota program is consistent with the federal definition.

(xv) Section 514 (c) and (d) of SMCRA and 30 CFR 787.11 (a) and (b) provide for temporary relief from permit decisions for the permit applicant, permittee, or person with an interest which is or may be adversely affected. The North Dakota program includes no specific provision for relief from decisions on permit actions. However, the North Dakota statute, NDCC 38-14.1-20(3), provides that the State must allow a thirty day period between permit approval and permit issuance. NDAC 69-05.2-10-05(4) requires publication of notice of approval and of the right to initiate a formal hearing on the decision during the thirty day period prior to issuance. NDAC 69-05.2-10-05(4) further provides that the permit shall not be issued until there is a decision after a formal hearing, if a hearing is held. The Secretary finds that the North Dakota program provisions for relief from decisions on permits are consistent with the federal provisions. (See also Finding 4(j)(ix)).

(xvi) Federal regulation 30 CFR 770.12 requires the regulatory authority to coordinate the surface mine permitting or approval process with any other permitting process pertaining to the operation, including processes under the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, and Executive Order 11593. North Dakota has a corresponding provision at NDAC 69-05.2-05.06. The North Dakota regulation in subparagraph (1) provides for coordination through State agencies which implement programs based on federal laws. North Dakota represented in Item 66, Part II, Addendum Volume I

of the June 12, 1980, submission, that (1) necessary reponsibilities under the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act are coordinated through the State Health Department; (2) necessary responsibilities under the National Historic Preservation Act and Executive Order 11593 are coordinated through the State Historical Society; and (3) necessary responsibilities under the Endangered Species Act and the Fish and Wildlife Coordination Act are coordinated through the State Game and Fish Department. The U.S. Environmental Protection Agency, the Heritage Conservation and Recreation Service and the U.S. Fish and Wildlife Service are the federal agencies which have responsibility for implementing these federal laws. Each of these agencies will receive notice of all permit applications filed in North Dakota. In addition, subsection (2) of NDAC 69-05.2-05-06(2) requires that the State coordinate permitting with any other state or federal agency which administers applicable natural resource or environmental protection acts, and North Dakota statute NDCC 38-14.1-21(2) requires that the PSC's approval of permits shall include the advice and technical assistance of State agencies and other agencies experienced in reclamation. The Secretary finds that North Dakota's provisions for coordinating permitting with other involved agencies are consistent with the federal requirements.

(xvii) Federal regulation 30 CFR 700.5 defines surface coal mining operations to include "* * * cleaning, concentrating or other processing or preparation, loading of coal for interstate commerce at or near the minesite * * *." North Dakota's statutory definition of surface coal mining operations, NDCC 38-14.1-02(33), contains the same wording except that the State has added the word "and" between the words "preparation" and "loading." The Department has interpreted the federal Act as setting no territorial limitation on its jurisdiction over other facilities identified in the statutory definition preceding "loading of coal" (44 FR 14915, March 13, 1979). By including the word "and" before "loading of coal" the definition may be interpreted to exclude cleaning, concentrating or other processing or preparation facilities which are not located at the minesite. They would be included under the federal definition. The State program includes the interpretation on page K-172, Addendum Volume III, June 12, 1980 submission, where it states that "North Dakota provisions require all coal processing and support facilities to be permitted whether or not they are located near the minesite." The Secretary finds that the State has interpreted the State definition to be consistent with the federal definition.

(e) North Dakota State law NDCC 38-12.1 provides PSC with the authority to regulate coal exploration, where more than 250 tons of coal is removed, consistent with 30 CFR 776 and 815 and to prohibit exploration, where more than 250 tons of coal is removed, that does not comply with 30 CFR 776 and 815, and the North Dakota State program includes provisions to do so.

North Dakota law NDCC 38-12.1 provides the North Dakota Industrial Commission with the authority to regulate coal exploration where less than 250 tons of coal is removed and there is no substantial disturbance, consistent with 30 CFR 776, and to prohibit such exploration which does not comply with 30 CFR 776, and the North Dakota program includes provision to do so except as discussed in Paragraphs (4)(e) (i) and (ii) below.

North Dakota regulation NDAC 43-02-01-20 defines "substantially disturb" to have the same meaning as the term in federal regulation 30 CFR 701.5.

North Dakota has submitted evidence in a June 5, 1980, letter to the Director of OSM (Part II, Appendix A, Addendum Volume I, June 12, 1980) to show that due to the topography and geology of the North Dakota coal regions and the nature of coal exploration in North Dakota, no "substantial disturbance" has occurred from coal exploration by drilling methods in North Dakota. North Dakota represents in the June 5, 1980, letter from the North Dakota Geological Survey to OSM that most of the coal resources in the State have been tested and drilled and that the potential for "substantial disturbance" from drilling operations in the future is minimal, if not nil.

The North Dakota Industrial Commission requires a permit for all coal exploration operations which will remove less than 250 tons of coal pursuant to NDCC 38-12.1-05 unless exploration will be within a mine permit area or within an operating mine, or where a drill hole is required by a State agency.

An exploration permit applicant must describe activities in such detail that the State Geologist can determine whether a substantial disturbance of the land surface will occur. If the exploration results in substantial disturbance, the applicant must comply with State reclamation performance standards in NDAC 43-02-01-20 which are consistent with the federal exploration performance standards in 30 CFR 815.15. In addition, NDCC 34-12.1-04(5) requires that substantially disturbed lands be reclaimed in accord with the surface coal mining performance standards in NDCC 38-14.1-24, which standards are consistent with the federal performance standards in 30 CFR 816.

North Dakota has general authority to inspect and enforce on exploration operations that produce less than 250 tons where there is substantial disturbance. Inspection authority is in NDAC 43-02-01-17 and enforcement authority is in NDAC 43-02-01-05. The authority granted by these State regulations is considerably less in scope, depth, and detail than the inspection and enforcement authority which the federal regulations, 30 CFR 840, 842, 843, and 845, would require for similar exploration operations.

The North Dakota Industrial Commission, through its employee, the State Geologist, in the June 5, 1980, letter from the North Dakota Geological Survey to the Office of Surface Mining, has represented that in the event that substantial disturbance will occur for a particular coal exploration operation where less than 250 tons of coal is removed, the State Geologist will attach conditions to the permit to assure compliance with the provisions contained in federal regulations at 30 CFR 840. The State further represents that the procedural provisions for inspection, enforcement, penalties, sanctions, and public participation in 30 CFR Parts 842, 843, and 845 and in 43 CFR Part 4 will be made applicable by specific preissuance permit condition, to any exploration operation which substantially disturbs the land surface. Based on these representations by the State, North Dakota's provisions to regulate coal exploration, where less than 250 tons of coal will be removed and where there is substantial disturbance to the surface, are consistent with the federal provisions in 30 CFR 776 and 815.

(i) The federal definition of "coal exploration" in 30 CFR 701.5 covers operations for determining the quality and quantity of overburden and for the gathering of environmental data prior to mining under requirements of the federal regulations. The North Dakota definition at NDCC 38-12.1-03 excludes the determination of quality and quantity of overburden and gathering of environmental data. North Dakota regulation NDAC 43-02-01-20(3) requires that a person who conducts coal exploration shall, to the extent practicable, measure environmental

characteristics to support future permit applications. There is no provision in North Dakota law or regulations which would make the State program applicable to exploration operations which consisted entirely of gathering of overburden data or environmental data before beginning surface coal mining operations. Approval of the North Dakota program is conditioned upon revision of the State program to assure that operations for the gathering of overburden data and environmental data before beginning surface coal mining are covered.

(ii) The North Dakota program has a provision, NDAC 43-02-01-06, which requires a person who conducts exploration on federal lands to comply with all requirements of the North Dakota exploration program except for permit fees. Section 503(a) of SMCRA clearly allows state program jurisdiction to extend only to non-federal lands. Further, federal regulations at 30 CFR Chapter VII, Subchapter C, under which the State program was submitted for approval, apply by the title of the subchapter and by the statement of scope in 30 CFR 730.1 only to non-federal and non-Indian land. The Secretary's conditional approval of the North Dakota State program in Section F of this notice is clearly applicable to only non-federal and non-Indian lands, as required by SMCRA and the regulations. The provision in NDAC 43-02-01-06 will be considered as a part of a state-federal cooperative agreement concerning federal land coal activities in North Dakota, after approval of the permanent program.

(iii) Federal regulation 30 CFR 700.5 defines a "person with an interest which is or may be adversely affected" to include a person affected by exploration as well as a person affected by mining operations. North Dakota's corresponding definition, NDAC 69-05.2-01-02(78), does not include those affected by exploration. North Dakota notes in Item 22, Part II, Addendum Volume I of the June 12, 1980, submission that rights of persons affected by exploration are protected by several provisions of North Dakota law. Under NDCC 28-32-05 (Supp. 1979) a person can file a complaint with the Industrial Commission for relief based on a violation of exploration law or regulation. Under NDCC 28-32-04, any person substantially interested in the effect of a regulation or rule can petition for amendment or reconsideration of the regulation. Under NDCC 54-17-16 a person affected by exploration can request investigation of alleged violations which may lead to the Industrial Commission's issuing a show cause order to the alleged violator. North Dakota represents that persons who may be affected by exploration are assured protection of their rights notwithstanding the absence of a statutory or regulatory definition of a person with an interest which is or may be adversely affected by exploration. Based on this representation by North Dakota, the Secretary finds the North Dakota definition consistent with the federal definition.

(iv) Federal regulation 30 CFR 762.14 requires that exploration operations on lands designated unsuitable for surface coal mining must be approved under 30 CFR Part 776 to assure that exploration does not interfere with any value for which the lands were designated unsuitable for surface coal mining. North Dakota statute NDCC 38-12.1 and regulations NDAC 43-02-01 require that all exploration be approved under North Dakota regulations, which are consistent with 30 CFR Part 776. Therefore, North Dakota's provision for approval of exploration on lands designated unsuitable for coal mining is consistent with the federal provisions.

(f) North Dakota regulation NDAC 69-05.2-03 requires persons extracting coal incidental to government financed construction to maintain information on site consistent with 30 CFR 707.

(g) PSC has authority under North Dakota statute NDCC 38-14.1-27 and regulation NDAC 69-05.2-28 to enter, inspect, and monitor all coal exploration where more than 250 tons of coal will be removed and all surface coal mining and exploration operations on non-Indian and non-federal land within North Dakota, except as discussed in Finding 4(g)(iv) below. The North Dakota Industrial Commission has authority under North Dakota statute NDCC 38-12.1-04(4) and regulation NDAC 43-02-01-17 to enter, inspect, and monitor all coal exploration where less than 250 tons of coal is removed on non-Indian and non-federal land within North Dakota, as represented by the State and discussed in Finding 4(e) above Approval of the North Dakota program is based on the following findings or conditions of approval by the Secretary or representations by the State.

(i) North Dakota has a regulation, NDAC 69-02-02-05, which allows persons with "substantial interests" to intervene in matters before the PSC. Federal regulation 43 CFR 4.1110 allows "any person" to intervene in federal matters.

North Dakota represents in Item 118, Part II, Addendum Volume I, June 12, 1980, that in order for any person to intervene the person need only show that he comes within the definition of "person having an interest which is or may be adversely affected." North Dakota has defined such persons in NDAC 69-05.2-01-02(78) to include: (a) any person who uses any resource of economic, recreational, esthetic, or environmental value that may be adversely affected by surface coal mining and reclamation operations or any related action of the Commission; (b) any person whose property is or may be adversely affected by surface coal mining and reclamation operations or any related action of the Commission; and (3) any federal, state or local government agency. Based on this definition, North Dakota's provision allowing interested persons to intervene is consistent with the federal provision. North Dakota further represents that all such persons may intervene under various provisions contained in the North Dakota reclamation regulations, NDCC 69-05.2, without demonstrating a substantial interest. Despite this assurance by North Dakota, regulation NDAC 69-02-02-05 on its face, requires a contrary interpretation. Accordingly, the North Dakota program is conditioned on the revision of the regulation to delete the requirement that a person seeking to intervene demonstrate a substantial interest.

(ii) With respect to the provisions for production of records and entry upon land for inspection found in the federal administrative review procedures, 43 CFR 4.1140, North Dakota represents in Item 118, Part II, Addendum Volume I, June 12, 1980, that production of records is available through the provisions of NDAC 69-02-05-03 and that entry upon land for inspection is available in Rule 34 of the North Dakota Rules of Civil Procedure, which is essentially the same as Rule 34 of the Federal Rules of Civil Procedure. Rule 34 of the Federal Rules of Civil Procedure is essentially the same as 43 CFR 4.1140 concerning entry upon lands. Based upon these representations, the North Dakota provisions for production of records and entry upon land for inspection are consistent with the federal provisions.

(iii) With respect to the provision for requests for admissions found in 43 CFR 4.1141, North Dakota represents, in Item 118, Part II, Addendum Volume I, June 12, 1980, that requests for admissions are available under Rule 36 of the North Dakota Rules of Civil Procedure. North Dakota further represents in Item 118 that the Rule 36 of the North Dakota Rules of Civil Procedure is substantially the same as Rule 36 of the Federal Rules of Civil Procedure. Rule 36 in turn is substantially the same as 43 CFR 4.1141.

Based upon these representations, the North Dakota provisions for requests for admissions are consistent with the federal provisions.

(iv) With respect to the provision for award of costs and attorney fees under 43 CFR 4.1290 through 4.1296, the federal regulations provide for costs to be paid by citizens to permittees only in cases where the citizen initiated or participated in review proceedings for the purpose of harrassing or embarrassing the permittee. North Dakota has given the Commission broad authority to award costs and expenses, including attorney fees, against any party as it deems appropriate under NDCC 38-14.1-36(1), without special regard for citizens. This provision is not consistent with the provisions of 43 CFR 4.1290-4.1296, which are the minimum acceptable criteria to insure citizen participation, as explained in the preamble to the federal rules, 43 FR 15297 (March 13, 1979). Thus, approval of the North Dakota Program is conditioned upon North Dakota's providing for the award of costs and expenses consistent with 43 CFR 4.1290 through 4.1296.

(h) PSC has authority under the North Dakota law and the North Dakota program to implement, administer, and enforce a system of performance bonds and liability insurance or other equivalent guarantees consistent with 30 CFR Chapter VII, Subchapter J. The performance bond and liability insurance provisions of Sections 507(f), 509, 510 and 519 of SMCRA and 30 CFR Chapter VII Subchapter J, have been included in NDCC 38-14.1-14, 16, and 17 and NDAC 69-05.2-12. Portions of the federal bonding regulations were proposed for amendment on January 24, 1980 (45 FR 6028-6042), and final regulations were published on August 6, 1980 (45 FR 52306-52324). North Dakota has incorporated none of the changes in its regulations. The program bonding provisions can be approved if they are consistent with the federal rules as they existed when the North Dakota program was submitted on February 29, 1980. Consequently, North Dakota will be required to adopt the August 6, 1980, changes in bonding regulations and will be allowed sufficient time to accomplish the changes as program admendments under 30 CFR 732.17.

(i) Federal regulation 30 CFR 805.13(b) requires in semiarid areas such as North Dakota a period of bond liability for revegetation of ten years beginning with the last year of augmented seeding. North Dakota regulation NDAC 69-05.2-12-09(2) allows the State to approve a lesser period of liability where an approved post-mining land use of developed water resources or residential or industrial commercial use does not require revegetation.

North Dakota has provided a detailed discussion of this regulation under Item 96, Part II, Addendum Volume I of the June 12, 1980, submission. North Dakota cites two sections of the federal Act as authority for the lesser period of liability. Section 519(c)(2) of the Act provides that when determining the amount of bond to be released after successful revegetation has been established, the regulatory authority shall retain the amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period of operator responsibility in Section 515 of reestablishing vegetation. North Dakota interprets this section to mean that for areas where the approved land use, such as developed water areas and residential, recreational, or industrial and commercial areas, does not require revegetation, there is no need for retaining the bond for purposes of reestablishing revegetation because there will not be a need to reestablish permanent vegetation for these land uses. In addition, North Dakota points out that Section 515(b)(20) of the Act requires a permittee to assume responsibility for successful revegetation for a period of ten full years. North Dakota interprets this to mean the ten year responsibility requirement only applies where there is a revegetation standard to be met.

North Dakota represents that ample protection will be assured by compliance with all the requirements of the North Dakota law NDCC 38-14.1 and regulations NDAC 69-05.2, other than the extended responsibility period, prior to final release under NDAC 69-05.2-12-09(2). Another North Dakota regulation, NDAC 69-05.2-22-07, requires that an operator either implement the special land use which does not require revegetation within two years of final grading or revegetate lands to the premining land use standards or to revegetation standards for another approved land use.

North Dakota further represents that when the State approves a post-mining land use, the approval is limited to a portion of the permit area. Therefore, if the State approves one of the land uses to which the bond liability responsibility period variance applies, this approval will be limited to only the area actually to be developed to the appropriate land use. All other areas in the permit area must be reclaimed to the reclamation standards which apply to that land use, whether it is rangeland, hayland, cropland, or another approved land use. This approval process by the State will therefore prevent large areas from being granted variances from the ten year responsibility period. Based on these representations, the Secretary finds the North Dakota provisions for periods of liability of revegetation bonds to be consistent with the Federal provisions.

(ii) Federal regulation 30 CFR 806.12(e)(6)(iii) as promulgated March 13, 1979 provided that upon incapacity of a surety by reason of bankruptcy, insolvency or suspension or revocation of its license, the permittee shall be in violation of 30 CFR 800.11(b) and shall discontinue operations until a new performance bond is approved. The corresponding North Dakota regulation, NDAC 69-05.2-12-03(5)(c), provides a 30 day period after the Commission notifies the permittee of incapacity of the surety in which the permittee must obtain substitute surety. The operation may continue during this period. The North Dakota statute NDCC 38-14.1-16(7) gives PSC the right to suspend the permit if the permittee fails to provide substitute surety within the 30 day period following notification by the Commission that the surety's license has been suspended. North Dakota further represents in Item 97, Part II, Addendum Volume I of the June 12, 1980, submission, that Commission action under statute NDCC 38-14.1-16(7) is mandatory in that "permittee must provide substitute surety within 30 days or the Commission must suspend the permit."

The Secretary notes that North Dakota's proposal to allow 30 days in which an operator must acquire a new bond is consistent with the August 6, 1980, revision of the Federal regulation 30 CFR 806.12(e)(6)(iii). This new provision allows a compliance period of up to 90 days in which an operator could replace bond coverage if it is lost through bank or surety incapacity. Because of recent changes in the Federal regulations, and based on the above representations by the State, the Secretary finds that the North Dakota provisions for action upon incapacity of surety are no less stringent than the Federal provisions.

(i) PSC has the authority under North Dakota law NDCC 38-14.1-32 and NDCC 38-12.1-08 and the North Dakota program to provide civil and criminal sanctions for violation of the North Dakota law, regulations, conditions of permits, and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA.

Approval of the North Dakota regulatory program is based on the following representations made by North Dakota concerning its provision for civil and criminal sanctions for violations of the North Dakota law, regulations, and permit conditions and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA.

(i) The Secretary has determined in Finding 4(e) above that the civil and criminal sanctions, including civil and criminal penalties, applicable to North Dakota exploration operations where there is substantial disturbance to the surface, but production of less than 250 tons of coal, are as stringent as those under the federal regulations and the Federal Act. Exploration operations in North Dakota which remove more than 250 tons of coal must have a surface coal mining permit and are subject to the North Dakota surface coal mining law and regulations.

(ii) Section 518(c) of the Federal Act and 30 CFR 845.17(c) require the Department to inform the operator of the amount of the penalty assessed within 30 days of issuance of a cessation order or a notice of violation. North Dakota regulation NDAC 69-05.2-28-14 requires the Commission to inform the operator or permittee of the proposed amount of civil penalty within 30 days of issuance of a cessation order or a notice of violation if the operator or permittee requests a formal hearing on the violation. Thus, the operator or permittee's right to due process is protected since he or she has an opportunity for a hearing. The State will notify the operator of the amount of the penalty after the close of the 30-day period. Under NDCC 38-14.1-30(1), if the operator fails to request the hearing he or she forfeits a right to administrative review. The Secretary finds that the North Dakota provision for notifying operators of penalty amounts is as stringent as the Federal provision.

(j) PSC has authority under North Dakota statute NDCC 38-14.1-28 and NDCC 38-12.1-08 and regulations to issue, modify, terminate, and enforce notices of violation, cessation orders, and show cause orders in accordance with Section 521 of SMCRA and 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements, except for the provision discussed in Finding 4j(ix) below. Approval of the North Dakota regulatory program is based on the following findings or conditions of approval by the Secretary and representations by North Dakota concerning issuing, modifying, terminating, and enforcing notices of violations, cessation orders, and show cause orders.

(i) Section 517(e) of SMCRA requires that each inspector, upon detection of a violation, shall "forthwith" inform the operator in writing. The North Dakota statute, NDCC 38.14-1-27(2), is similar to the federal Act except that the word "forthwith" is omitted. North Dakota, under Item 16, Part II, Addendum Volume I of the June 12, 1980, submission maintains that omission of the word "forthwith" does not mean a notice of violation or a cessation order will not be promptly issued. North Dakota states, in the June 12, 1980, submission, that inspectors have authority in NDCC 38-14.1-28(1) to issue notices and orders in the field. In addition, the North Dakota statute, NDCC 38-14.1-28(2), provides that all such notices and orders must be "promptly" served on operators and permittees. North Dakota represents, in the June 12, 1980, submission, that a state inspector will normally issue a notice of violation in the field without contacting his or her supervisor and will normally issue a cessation order in the field after contacting his supervisor by phone. North Dakota represents that this procedure is not unlike that followed by OSM insofar as cessation orders are concerned. The State also represents that the word "promptly" in North Dakota statute has the same effect that the word "forthwith" has in the federal statute.

The Secretary has considered several aspects of the North Dakota regulatory program and the North Dakota coal mining industry in his evaluation of the enforcement program of the State. North Dakota has a very small coal industry. There are usually about 15 coal mines operating in the State. They are easily accessible on good roads, located within a three and one-half hour drive of PSC offices in Bismarck and are inspected by PSC twice a month from April to November, the period of maximum construction, topsoil salvage, and reclamation activity. The mines are inspected at least once a month during the winter months when activity is more limited and consists mostly of overburden and coal removal and some rough spoil grading. Most of the North Dakota mines have telephones on site, and those which do not are within a few miles by good road of a phone, unlike eastern conditions where an inspector may be 40 minutes or more away from a phone due to distance and poor access.

Based on technical, legal, and policy review by the Department, the Secretary has determined that state inspectors have and will in fact exercise the powers to take enforcement actions at the mine site and bases his approval of this provision on this determination.

The Secretary finds that the field enforcement program submitted by the State is approvable as an acceptable method of consultation and supervision appropriate in the particular factual circumstances in North Dakota. The Secretary finds that the North Dakota provisions for field issuance of notices of violations and cessation orders are consistent with Section 517(e) of SMCRA.

(ii) Section 517(f) of SMCRA and 30 CFR 842.16(a) require that copies of all records, reports, inspection materials, or other information obtained under Title V or SMCRA, except confidential information, be made available locally. The corresponding State requirements found in NDCC 38-14.1-27(5) and NDAC 69-05.2-28-11 pertain to records, reports, inspection materials, or information required under the inspections and monitoring sections (not all Title V analogues) of the North Dakota law and regulations. NDAC 69-05.2-10-01(3) requires that a permit applicant file a copy of the permit application and any changes in the application in the Office of the County Auditor. North Dakota has submitted its Open Records Law, NDCC 44-04-18 which requires that all records of governmental agencies or commissions be public records, open and accessible, unless specifically prohibited by law. North Dakota has represented, under item 17, Part II, Addendum Volume I of the June 12, 1980, submission, that all records will be filed locally. Based on the authority in North Dakota laws and regulations and on the above representations, the Secretary finds that the State provisions for making information available locally are consistent with the federal provisions.

(iii) Federal regulation 30 CFR 843.13(e) provides that the permittee shall complete reclamation within a specified time if the permit is revoked. North Dakota regulation NDAC 69-05.2-12-19 provides that if PSC revokes a permit, PSC may require the permittee to complete reclamation within a specified time or declare the bond forfeited. The State regulation is more flexible than the federal regulation in that it allows PSC the option of immediately requiring bond forfeiture, while under federal regulation 30 CFR 808.13(a)(3) the permittee must be given the opportunity to accept liability for completion of reclamation work prior to any federal action to forfeit the bond. Under the regulation, NDAC 69-05.2-12-19, the State must take one action or the other.

It may select the course of action, but it must require reclamation within a specified time or it must require that the bond be forfeited. The Secretary finds that the North Dakota provision for requiring reclamation upon permit revocation is as stringent as the federal provision.

(iv) Section 525(b) of SMCRA and federal regulation 30 CFR 4.1180 require a decision within 30 days of the filing of a request for review of an order or notice which requires cessation of mining operations, except where the Secretary or the courts have previously granted relief. North Dakota statute NDCC 38-14.1-30(3)(g)(1) provides for a written decision within 30 days after a hearing. NDCC 38-14.1-30(3)(a) provides that hearings may be held as late as 30 days after a request for hearing; thus, North Dakota allows a 60 day delay after the request before a decision is issued. The Secretary finds that the North Dakota requirement for issuing a decision is as stringent as the federal requirement.

(v) The Secretary has determined in Finding 4(e) above that the provisions for issuance, modification, termination, and enforcement of notices of violation, cessation orders and show cause orders applicable to North Dakota exploration operations where there is substantial disturbance to the surface, but removal of less than 250 tons of coal, are consistent with the federal regulations and the Federal Act. Exploration operations in North Dakota which remove more than 250 tons of coal are subject to the North Dakota surface coal mining law and regulations.

(vi) Federal regulation 30 CFR 843.13(a) provides that the Director of OSM shall issue a show cause order where the permittee has demonstrated a pattern of violations which are either willful or unwarranted. It defines a willful violation as an act or omission which violates the Act, Chapter VII of the regulations, or the applicable program, committed by a person who intends the result which actually occurs. North Dakota has a similar definition at NDAC 69-05-02-01-02(130), except that only violations of North Dakota laws and regulations are to be considered. However, all in-state violations of the federal provisions, whether the notices are issued by OSM or by the State, will also be violations of North Dakota laws and regulations since the North Dakota provisions are equivalent to the federal provisions (except during the period before the conditions of this program are met). As to out-of-state violations, the State will properly consider patterns of violations from other states as discussed under Finding 4(d)(iii). The State definition of willful violation is as stringent as the federal definition.

(vii) Section 525(a)(1) of SMCRA allows any person with an interest which is or may be adversely affected by the modification, termination or vacation of a cessation order or notice of violation to apply for review of the order or notice within 30 days of its modification, termination, or violation. The corresponding State provision, NDCC 38-14.1-30, allows any person with an interest which is or may be adversely affected by an order requiring the modification, termination, or vacation of an cessation order or notice of violation to request formal review within 30 days after he or she is notified of the ruling by the Commission. The Secretary finds that the State requirement is consistent with the federal requirement.

(viii) Section 521(a)(3) of SMCRA requires the Secretary or his authorized representative immediately to order cessation of operations when a violation has not been abated within the time period allowed. The corresponding State requirement in NDCC 38.14.1-28(1)(b) requires cessation of operations if the operator or permittee does not comply with the remedial measures that were established by the State in the notice of violation within the time period allowed. Under the North Dakota law, a person could complete the remedial measures and have the notice of violation terminated even though the condition or the violation was not abated. North Dakota has explained, at Item 43(c) of Part II, Addendum Volume I of the June 12, 1980, submission, that a notice of violation can be modified by the PSC or inspector to require more stringent and extensive remedial measures if those first recommended should fail to abate the violation, provided that abatement must occur within 90 days (NDCC 38-14.1-28(1)(b)(1)). North Dakota further maintains that the difference in terminology between the federal Act and the North Dakota reclamation law is insignificant since the effect is the same. Based on these representations by the State, the Secretary finds that the North Dakota provisions for issuance of cessation orders for failure to abate violations are consistent with the federal provisions.

(ix) The federal statute Section 525(c) and federal regulation 43 CFR 4.1261 provide temporary relief for a permittee issued a notice of violation or a cessation order and for any person with an interest which is or may be adversely affected by the notice or order or modification of the notice or order. The North Dakota provisions for temporary relief in NDCC 38-14.1-30(4) apply only to permittees who have been issued a notice of violation or a cessation order. There is no provision in the North Dakota program for temporary relief for persons with an interest which is or may be adversely affected by the issuance or modification of notices of violation or cessation orders. The North Dakota program's provisions for temporary relief from decisions on enforcement matters are not consistent with the federal provisions. Approval of the North Dakota program is conditioned upon revision of the State program to provide for temporary relief from decisions on notices of violation and cessation orders in a manner consistent with Section 525 of SMCRA and 43 CFR 4.1261.

(k) PSC has the authority under North Dakota statute NDCC 38-14.1-04 through -09 and North Dakota regulation NDAC 69-05.1-04 and the North Dakota program contain provisions to designate areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F, except for the provisions discussed in paragraph 4(k)(iii), below. Approval of this program is based on the following conditions or findings by the Secretary and representations made by the State of North Dakota concerning North Dakota laws and regulations.

(i) Federal regulation 30 CFR 764.15(a)(7) provides that petitions to designate an area unsuitable for surface coal mining operations may be filed up until the close of any informal conference held on a mining permit application. North Dakota statute NDCC 38-14.1-09(3) provides that the petition must be filed no later than 30 days after the last date of publication of the newspaper advertisement concerning the permit application. The North Dakota requirements can result in a shorter period of time for filing petitions where an informal conference is held.

North Dakota maintains under Item 6, Part II, Addendum Volume I of the June 12, 1980, submission that the public is given better notice under the State's system since the advertisement concerning the permit application in North Dakota must, as required by NDCC 38-14.1-18(a), include specific notice that petitions must be filed in 30 days. There is no equivalent federal requirement.

Further, North Dakota statute NDCC 38-14.1-06 requires a "complete" petition before further action can be taken on the petition. The petition originally filed within the 30 day period provided by NDCC 38-14.1-09(3) must be reviewed by the PSC to determine

whether the petition is complete. The Commission has 30 days to review the petition and to notify the petitioner. If a petition is incomplete, the petitioner then has 30 additional days to submit a complete petition. North Dakota regulation NDAC 69-05.2-04-04(5) provides that the permit application review period will be suspended during the 30-day resubmission period. North Dakota represents, in Item 6, that the net result is that, although the State laws and regulations do not refer to the close of the informal conference as the time within which a petitioner must submit a complete petition, a similar amount of time is provided by allowing a petitioner to file an incomplete petition initially and then to supplement it later. Therefore, based on representations by the State, North Dakota's provisions are consistent with the Federal provisions for allowing a sufficiently long period of time to file petitions within the permit approval process.

(ii) Section 522(a) of SMCRA prohibits mining in certain areas, with an exception for those surface coal mining operations which existed on the date of enactment, August 3, 1977, and 30 CFR Section 761.11 prohibits mining in certain areas, with an exception for those operations which existed on the date of enactment. Federal regulation 30 CFR 761.5 defines "surface coal mining operations which exist on the date of enactment" as all such operations which were being conducted on August 3, 1977. North Dakota statute NDCC 38-14.1-07 and regulation NDAC 69-05.2-01-02(115) have similar provisions, except that the date on which such operations must have existed is the date of enactment of the North Dakota law, July 1, 1979. However, surface coal mining operations could exist on July 1, 1979, in such areas only if they had also existed prior to August 3, 1977; otherwise, the federal law under Section 522(e) would have forbidden them. North Dakota maintains under Item 53, Part II, Addendum Volume I of the June 12, 1980, submission, that since the federal law has prohibited mining in specified areas since August 3, 1977, the State would have been unable to issue a permit or to allow mining to be conducted. To do so would have been inconsistent with federal law. Thus, any mine which would qualify for North Dakota's exception would also qualify for the federal exception.

The Secretary agrees that the August 3, 1977, date is not necessary and that the State program provisions are consistent with the federal provisions for defining surface coal mining operations which exist on the date of enactment.

(iii) Section 522(e) of SMCRA prohibits, subject to valid existing rights, mining in certain areas. Federal regulation 30 CFR 761.5 defines valid existing rights. One of the requirements is that the operator had all necessary permits by August 3, 1977. North Dakota statute NDCC 38-14.1-07(i) and regulation NDAC 69-05.2-01-02 (126) have similar provisions, except that the date for establishment of rights is July 1, 1979, the date of enactment of the North Dakota law. North Dakota maintains, under Item 54, Part II, Addendum Volume I of the June 12, 1980, submission, that the difference in dates is meaningless. The State represents that regardless of the date used by the State, the controlling date is August 3, 1977, since a right to mine in a designated area must have been acquired by that date. The State further represents that a right that was not in existence on August 3, 1977, could not have come into existence and still be considered valid during the period August 3, 1977, through July 1, 1979, because the only law in effect during that time was the federal law.

In *In re: Permanent Surface Mining Regulations Litigation*, Civil Action No. 79-1144 (D.D.C. Feb. 26, 1980, p. 20), the court held that a good faith effort to obtain all permits meets the "all permits" requirement. Because of this, some people who may have in good faith applied for but not received permits in the period between August 3, 1977 and July 1, 1979 might qualify for valid existing rights under the state provision who would not qualify under the federal provision. For this reason, North Dakota's valid existing rights provision is less stringent than the federal provision unless North Dakota demonstrates that there are in fact no operations in North Dakota which qualify under the state provision and would not qualify under the federal provision. Accordingly, the North Dakota program is conditioned the revision of dates for establishment of valid existing rights found in NDCC 38-14.1-07(i) and NDAC 69-05.2-01-02(126) to correspond with the federal date or the showing mentioned above.

(iv) Under the process in federal regulation 30 CFR 764.17 for designation of lands unsuitable for mining, the hearing shall be legislative and fact-finding in nature, without cross-examination of witnesses. North Dakota regulation NDAC 69-05.2-04-05(1) makes a similar provision for a hearing, but there is no reference to the nature of the hearing or prohibition of cross-examination of witnesses. However, the State Administrative Agencies Practice Act, NDCC 28-32-06, provides that all administrative hearings must be adjudicatory in nature, but that the hearings may be as informal as circumstances require. North Dakota represents in Item 64, Part II, Addendum Volume I of the June 12, 1980, submission that hearing testimony may be taken without oath or affirmation and still be considered by the regulatory authority. Further, North Dakota has represented that formal cross-examination of witnesses is not appropriate in such proceedings nor required by North Dakota law, but that some questioning limited to clarification of expansion upon the witness' testimony, subject to agreement of the witness to such questioning, is allowed. This is acceptable in the federal rule, as explained in its preamble, 44 FR 15003-4 (March 13, 1979). Based upon these representations, the Secretary finds that the North Dakota provisions for the hearing in the process for designation of lands unsuitable for coal mining are consistent with the federal provisions.

(v) Federal regulation 30 CFR 764.13(b) lists information requirements for a petition to designate lands unsuitable for mining. The regulation states that the listed items are the only information that a petitioner must submit. North Dakota regulation NDAC 69-05.2-04-03(2) lists the same items and indicates that these items must be included in the petition. The State provision does not explictly state that no information beyond the five listed items can be required. At the same time, there is no provision in the regulation to allow the PSC to request more than the listed items. Thus, the provision is not open-ended. It does not grant the PSC discretion to require any additional items of information which could become a burden on a petitioner. Any future change in these requirements would require a program amendment under 30 CFR 732.17 and approval of the Department of the Interior. The Secretary finds that the North Dakota requirements for requiring certain information in a petition to designate lands unsuitable for mining are consistent with the Federal provisions.

(vi) Federal regulation 30 CFR 761.12(f) requires the regulatory agency to obtain joint approval of the federal, state or local officials with jurisdiction or responsibility over a public park or place on the National Register of Historic Places when the mining may adversely affect the site. North Dakota law NDCC 38-14.1-07(3) provides for the joint approval of all mining "within 300

feet" of any public owned park or any places included in the National Register of Historic Sites. The 300 foot test is not equivalent to the "may affect" test. However, North Dakota regulation NDAC 69-05.2-10-03(4) provides for joint approval when mining "may adversely affect" parks and historical sites. This is consistent with the federal rule and is authorized by North Dakota's statutory provision NDCC 38-14.1-03(ii), which grants PSC broad rulemaking authority to meet the requirements of SMCRA. The Secretary finds that the State provision is consistent with the federal provision.

(vii) Federal regulation 30 CFR 760.4(e) requires that the regulatory authority integrate decisions to designate lands unsuitable for surface coal mining operations with present and future land use planning and regulatory processes at the federal, state and local levels. The corresponding State requirement, NDCC 38-14.1-04(5), requires integration with land use planning and regulatory processes at the State and local levels, but omits integration at the federal level. Under NDAC 69-05.2-04-05(2)(a), North Dakota requires a thirty day notice of public hearing to local, State, and federal agencies. North Dakota law, NDAC 69-05.2-04-06(1)(b), further provides that information supplied by governmental agencies shall be used by the Commission in reaching decisions on designation of lands unsuitable for mining. The Secretary finds that North Dakota's omission of integration at the federal level is not a critical omission since federal agencies are assured of involvement in Commission decisions through public hearing and comment provisions. The North Dakota statute, NDCC 38-14.1-04(5), is therefore consistent with the federal provisions.

(l) PSC has authority under North Dakota laws NDCC 28-32-02 and 38-14.1 and the North Dakota program contains provisions for public participation in the development and revision of North Dakota regulations. North Dakota also has authority to provide public participation in the permit issuance process and in the enforcement of laws and regulations, except for the provisions discussed in Finding 4(d) above. Approval of the North Dakota program is based on the following findings or conditions of approval by the Secretary and representations by North Dakota concerning North Dakota laws and regulations.

(i) Federal regulations 30 CFR 786.17(a)(1) and 30 CFR 786.23(a)(2) require the regulatory authority to consider information developed through public participation prior to making decisions on permit applications. North Dakota does not have corresponding provisions which specifically require that the PSC consider information developed through public participation prior to making decisions on permit applications. However, the North Dakota program provides, through NDCC 38-14.1-18(3), (5) and (6), for public notice and public review at several points in the permit approval process as required in federal regulations 30 CFR 786.11 and 30 CFR 786.12. North Dakota law NDCC 38-14.1-21(3) provides that the applications shall not be approved unless the Commission finds in writing on the basis of information in the application and "from information otherwise available" that certain conditions are met. North Dakota maintains in Item 48, Part II, Addendum Volume I of the June 12, 1980, submission that under this provision, if questions are raised by public comment insofar as any of the permit approval criteria in NDCC 38-14.1-21(3) is concerned, the permit applicant must affirmatively demonstrate compliance with all State laws and regulations and that reclamation can be accomplished. Further, North Dakota represents in Item 48 of the June 12, 1980, submission, that the Commission will consider all public comment in the permit review process without specifically providing, by regulation, that these comments will be considered. Based on these representations by North Dakota, the State provisions for public participation in the permit approval process are consistent with the federal provisions.

(ii) Federal regulation 30 CFR 700.12 provides for petitions to initiate rulemaking. Subsection (d) requires the Director of OSM to issue a written decision granting or denying the petition within 90 days of receipt of the petition. If the petition is granted, the Director must initiate rulemaking; if the petition is denied, the Director must notify the petitioner setting forth the reason for denial. North Dakota Administrative Agencies Practice Act requires in 28-32-13 a written decision granting or denying the petition within 30 days, or as soon thereafter as possible. The decision must state the findings and conclusions of the State and a copy of the decision must be sent to the petitioner. North Dakota regulation NDAC 69-05.2-01-03 requires the State to initiate rulemaking if the petition is granted. The Secretary finds that the State provisions for rulemaking are consistent with the federal provisions.

(iii) SMCRA Section 501(a)(A) requires a 30-day public comment period during which interested persons may submit written comments following publication in the **Federal Register** of proposed regulations. The corresponding State requirement, NDAC 69-05.2-01-03, does not require publication of the proposed rules, but requires publication of a notice of a hearing on rulemaking and of an opportunity to submit written comments and to appear at the hearing. Since the State does not have a register analogous to the **Federal Register**, it need not publish the proposed rules. The State comment period runs for 20 days and the Secretary finds that the North Dakota requirements for public notice limit public participation more than the federal statute by providing a shorter comment period. Approval of the North Dakota State program is conditioned upon revision of the State program to provide that the notice of the rulemaking shall provide for a minimum thirty day comment period.

(m) PSC has authority under North Dakota law NDCC 38-14.1-38 and regulation NDAC 69-05.2-02 and the North Dakota program includes provisions to monitor, review, and enforce the prohibition against possession of an indirect or direct financial interest in coal mining operations by employees of the PSC consistent with Section 517(g) of SMCRA and 30 CFR Part 705, except for the provisions discussed in paragraphs 4(m) (i) and (ii) below. By terms of a cooperative agreement (Appendix F.3. of the February 29, 1980, submission) between the PSC and the North Dakota Geological Survey, Applicable employees of the Geological Survey who regulate coal exploration will be subject to the conflict of interest requirements of 30 CFR Part 705.

(i) Section 517(g) of SMCRA provides for penalties and imprisonment for certain violations of conflict of interest requirements by employees who perform any duty under the Act. The corresponding State statute, NDCC 38-14-.1-38, makes criminal penalties apply to any employee who performs "decision-making" functions or duties. This narrows the scope of the conflict of interest provision, because many employees who perform duties would not meet the "decisionmaking" test. The Secretary finds that the State provisions for conflict of interest are not consistent with the federal provisions. Approval of the North Dakota program is conditioned upon adoption of a statutory provision for criminal penalties equivalent to those of the federal provisions.

(ii) Federal regulation 30 CFR 705.5 includes in the definition of "employees" consultants who perform any function or duty under the Act if they perform decision-making functions for the State regulatory authority under the authority of State law or regulations. The effect of the definition is to make certain consultants subject to the conflict of interest requirements of 30 CFR 705. The North Dakota definition of "employee," NDAC 69-05.2-01-02(34), specifically excludes consultants. The Secretary finds that the North Dakota requirements for conflict of interest are less stringent than federal requirements. Approval of the North Dakota program is conditioned on revision of the State definition of employee at NDAC 69-05.2-01-02(34) to assure that consultants who perform decision-making functions are covered by conflict of interest rules.

(n) PSC has authority under North Dakota laws NDCC 38-14.1-28-13 and NDCC 38-14.1-03 to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. North Dakota has no regulations on the training, examination, and certification of persons engaged in blasting. However, 30 CFR 732.15(b)(12) does not require a state to implement regulations governing certification and training until six months after federal regulations have been promulgated.

(o) PSC has the authority under North Dakota statute NDCC 38-14.1-37 and regulation NDAC 69-05.2-29 and the North Dakota program contains provisions for small operator assistance consistent with the federal provisions of 30 CFR 795.

(p) PSC has authority under North Dakota law NDCC 38-14.1-26 and NDCC 38-14.1-32(4) and the North Dakota program contains provisions to protect employees of PSC in accordance with protection afforded federal employees under Section 704 of SMCRA.

(q) North Dakota has the authority under North Dakota law NDCC 38-14.1-30 and regulation NDAC 69-05.2-28 and the North Dakota program contains provisions for administrative and judicial review of State program actions in accordance with Section 525 of SMCRA and 30 CFR Chapter VII, Subchapter L, except for the provisions in Finding 4(j)(ix) above.

(r) PSC has the authority under North Dakota law NDCC 38-14.1-42 and NDCC 44-04-18(1) and the North Dakota program contains provisions to cooperate and coordinate with and provide documents and other information to OSM under the provisions of 30 CFR Chapter VII.

(s) The following laws and regulations of North Dakota affecting its regulatory program, with the exceptions discussed below and in the preceding findings, do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII: The North Dakota Reclamation of Surface Mined Land Act and the regulations adopted thereunder; The North Dakota Surface Owner Protection Act; The North Dakota Exploration Data Act and the regulations adopted thereunder; The North Dakota Air Pollution Control Act; The North Dakota Solid Waste Management and Land Protection Act; The North Dakota Administrative Agencies Practices Act; Section 43-36-01 of Chapter 43-36 of the North Dakota Century Code as it concerns Professional Soil Classifiers; Section 44-04-18 of Chapter 44-04 of The North Dakota Century Code as it concerns Duties of Officers; and The North Dakota Control, Prevention and Abatement of Pollution of Surface Waters Act.

(t) PSC and other North Dakota agencies having a role in the program have sufficient legal, technical, and adminstrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable State and federal laws as discussed in the preceding findings.

E. Disposition of Public Comments

The comments received on the North Dakota program during the public comment period further described under "General Background on the North Dakota Program Submission" raised several issues. The Secretary considered these comments in evaluating North Dakota's program, as indicated below.

1. The Mine Safety and Health Administration (MSHA) expresses concern with North Dakota's regulation NDAC 69-05.2-16.09, which states that sedimentation ponds shall not be removed until the disturbed area has been restored and vegetation requirements met. MSHA contends that the Mine Safety and Health Act requires an abandonment plan to be approved prior to removal. The North Dakota requirement closely parallels the corresponding OSM regulation, 30 CFR 816.46(u), which does not refer to MSHA approval. Neither the State nor the federal regulation interferes with the MSHA requirement for an approved abandonment plan. The Secretary is not empowered to impose upon the States requirements beyond those contained in his regulations.

2. North Dakota regulation NDAC 69-05.2-16-09(18), which is analogous to 30 CFR 816.49(h), provides that the State's requirements for certification reports for dams and embankments will be established in PSC's guidelines. MSHA expresses the concern that this could be in conflict with MSHA regulation 30 CFR Part 77.216-2(a)(17). North Dakota has amended its regulation, MDCC 69-05.2-16-09 (17) and (20), to require that certification reports for all dams be made in accordance with 30 CFR 77.216. See Finding 4(c)(xiv).

3. MSHA notes that North Dakota omits all regulations on steep slope and underground mining. It points out that these activities have occurred in the past in North Dakota, and problems could arise if such mining should occur again. The Secretary has determined in Findings 1(a) and 4(c) that it is unlikely that mining will take place on steep slopes or by underground mining methods in the near future and that North Dakota will make proper provision to regulate steep slope mining and underground mining if a need should arise.

4. The U.S. Fish and Wildlife Service (FWS) contends that North Dakota does not adequately describe, in the narrative required by 30 CFR 731.14(g)(10), the State's system for consulting with federal fish and wildlife agencies. North Dakota has provided a more detailed description, at items No. 41, 66, and 75 of Part II of the State's June 12, 1980, submission, of the process for consulting with fish and wildlife agencies. This submission points out that the definition of a "person having an interest which may be adversely affected," NDAC 69-05.2-01-02, has been revised to include federal agencies. Such persons are afforded opportunity under NDCC 38-14.1-18(5) to comment on permit applications and to participate in other parts of the program. Further, North Dakota represents that it officially notifies the Fish and Wildlife Service of permit application submittals. FWS has direct involvement in the program through an agreement with the State Fish and Game Department as explained in the February 29, 1980 submission (page 76) and in Item 66, Part II, Addendum Volume I of the June 12, 1980, submission. The Secretary finds that the FWS has sufficient opportunity to participate in the North Dakota program. See Findings 4(d) (ix) and (xvi).

5. FWS objects that North Dakota's narrative description of the system for designating lands unsuitable for mining, as required by 30 CFR 731.14(g)(11), does not address the right of a Federal agency

to petition in a situation where federal responsibilities are involved. North Dakota regulation NDAC 69-05.2-04-03 allows "any person who has an interest which is or may be adversely affected" the right to file a petition. The State has amended its definition, NDAC 69-05.2-01-02, of a person who has an interest which is or may be adversely affected to include federal agencies.

6. FWS and other commenters argue that North Dakota's narrative description of its system for public participation, as required by 30 CFR 731.14(g)(14), appears to be comprehensive, but in practice is not achieving its goal of reaching the interested public. The Secretary finds that the North Dakota provisions for public participation, except as discussed in Finding 4(1)(ii), are consistent with the federal provisions. He is not empowered to impose upon states requirements beyond those contained in his regulations. The Department will monitor under 30 CFR Part 733 State implementation of the public participation as well as other provisions of approved permanent programs.

7. FWS argues that there is a legal responsibility for North Dakota to comply with the Endangered Species Act and the Fish and Wildlife Coordination Act and recommends along with the Department of Energy that the State amend NDAC 69-05.2-05-06, its analogue to 30 CFR 770.12(c) (permit Applications-Coordination with requirements Under Other Laws), so that these federal laws are referenced in this regulation. The Secretary finds that North Dakota program provides for involvement of State and federal fish and wildlife officials to a degree that assures consistency with federal laws pertaining to fish and wildlife. Further, since the State has specifically committed itself in the narrative portions of the program (Item 66, Part II, Addendum Volume I of the June 12, 1980 submission) to coordinate with State and federal officials responsible for implementation of the Endangered Species Act, the Fish and Wildlife Coordination Act, and other federal Acts, it is not necessary to specifically refer to these Acts in the State regulations. See findings 4(d)(ix) and (xvi).

8. FWS urges that North Dakota be required to adopt the fish and wildlife resource data base requirements which were contained in the State's original version of regulation NDAC 69-05.2-07-09 as submitted on February 29, 1980. The latest changes proposed by North Dakota, according to FWS, do not provide for agency coordination or a standardized data base, which is a prerequisite to the preparation of a fish and wildlife plan. North Dakota has revised regulation NDAC 69-05.2-08-15 to provide for the gathering of wildlife data for the permit area in accord with a plan drawn up in consultation with the Commission and the State Game and Fish Department. The plan must be approved by the Commission. The Secretary is not empowered to impose fish and wildlife plan requirements upon the State because 30 CFR 780.16, the federal requirement for a fish and wildlife plan, was struck down by the court in *In re: Permanent Surface Minning Regulation Litigation* (D.D.C., Civil Action No. 79-1144, February 26, 1980, p. 38-39). North Dakota requested on September 9, 1980, that NDAC 69-05.2-08-15, 69-05.2-07-08, and 69-05.2-09-17 be approved as a part of the State program as provided by the District Court Memorandum Opinion dated May 16, 1980.

9. FWS also urges that North Dakota be required to adopt the fish and wildlife plan requirements of permit applications as contained in the State's original submission to OSM on February 29, 1980, as its analogue to 30 CFR 780.16. The latest changes provided by North Dakota, according to FWS, do not meet the degree of detail needed for protection of fish and wildlife. This issue is compounded, the comment concludes, since the pre-mining wildlife inventory data base has been weakened by the State. North Dakota has further revised its regulation, NDAC 69-05.2-09-17, to require a fish and wildlife management plan where impacts could be reasonably expected to occur. The Secretary believes that the North Dakota provision is consistent with the federal provision in the context of the limitations created by the court decision referred to in Comment 9 above.

10. A third situation in which the FWS objects to changes North Dakota made in its regulations subsequent to the State's February 29, 1980, submission has to do with North Dakota's regulation, NDAC 69-05.2-13-08, which is analogous to 30 CFR 816.97, the federal rule which requires that the best technology available be used to protect fish, wildlife, and related environmental values. An April 2 amendment deleted this requirement from the State's rule, making it unacceptable to FWS. It was deleted from the regulation to eliminate from the regulations requirements which were duplicated requirements of the statute. The Secretary finds that the requirement for use of best technology available remains in the North Dakota law at NDCC 38-14.1-24(21) and will be fully in effect in the North Dakota program.

11. An additional concern of the FWS is that North Dakota's provisions for review of permit applications found in NDAC 69-05.2-10 do not adequately address the requirements for consultation and coordination with FWS on the adequacy of fish and wildlife plans as provided in 30 CFR 786.17(a)(2), "Review of Permit Applications."

A related concern is that North Dakota's regulation NDAC 69-05.2-10-01 and -02 and statute NDCC 38-14.1-18(5) and (6), analogues to 30 CFR 786.11(c), 786.13(a), and 786.14(a), lack the required provisions for the written notification of federal fish and wildlife agencies on permit applications and the right of such agencies to file written objections or request informal conferences. A third related concern is that the North Dakota regulations have omitted altogether the requirements of 30 CFR 786.29, which provides for a process for consideration of recommendations of state and federal fish and wildlife agencies on permit applications. As a result, FWS contends, coordination is inadequate.

The requirement for consultation on the fish and wildlife plan, although not directly struck down by the court in *In re: Permanent Surface Mining Regulation Litigation,* (Civil Action No. 79-1144, February 16, 1980) is in effect nullified by the fact that the court struck down the requirement that such a plan exist.

North Dakota has represented under Item 75, Part II, Addendum Volume I, June 12, 1980, that the FWS, as well as any other federal agency which so requests, will be officially notified of each permit application. In addition, North Dakota revised the definition, NDAC 69-05.2-01-02(78), of "persons with an interest which is or may be adversely affected" to include federal agencies. This revision provides an avenue for the FWS and other federal agencies to comment on permit applications, to file written objections, and to request informal conferences.

Finally, North Dakota has represented that the PSC does consider all comments it receives in the permitting process. The process and authorities for consideration of comments are explained in detail in Item 48, Part II, Volume I of the State's June 12, 1980 submission.

12. In light of the April 2, 1980, and later amendments, FWS is concerned that a conflict may develop between requirements of the State program as amended and those of the State/Federal cooperative agreement for federal lands. The State program, FWS contends,

would be less stringent than the cooperative agreement, which could cause significant problems when processing permits containing both federal and private or State lands. The Secretary agrees that there may be differences between federal and non-federal lands permitting requirements. These differences, if any, will be handled under cooperative agreements.

13. The Bismarck U.S. Department of Agriculture (USDA) Land Use Committee suggests that language be added to NDAC 69-05.2-23, North Dakota's analogue to 30 CFR 816.133, requiring restoration of woody areas to pre-mining conditions at the high value which existed prior to mining. The North Dakota land use regulation, NDAC 69-05.2-23, is consistent with the federal regulation, which does not contain the suggested language. The Secretary is not empowered to impose upon the states requirements beyond those contained in his regulations.

14. USDA also asks that North Dakota's analogue to 30 CFR 816.41(a) and (b), NDAC 69-05.2-16-01, be amended to require that the pre-mining landscape configuration of the prime farmland soil areas be restored in the post-mining landscape configuration. Federal regulation 30 CFR 816.101(b) requires restoration of prime farmlands to the approximate original contour in a manner that minimizes effects on ground water, minimizes off-site effects and supports approved land uses. Regulation NDAC 69-05.2-16-01(2) requires that drainage channel locations be minimally changed so the post-mining land use is not adversely affected. NDCC 38-14.1-24(2) requires that land be returned to a condition capable of supporting uses it was capable of supporting prior to mining or to higher uses. NDCC 38-14.1-24(6) requires the reestablishment of prime farmlands. The Secretary believes that North Dakota has authority consistent with the authority in the federal regulations to restore lands as the commenter desires and that further authority is not required.

15. The Bureau of Land Management (BLM) notes that in North Dakota's analogue to 30 CFR Part 779.19, NDAC 69-05.2-08, the State requires no specific detailed information on vegetation for fish and wildlife, and that in North Dakota's analogue to 30 CFR 779.20, NDAC 69-05.2-07-09, fish and wildlife information in extended plans covering less than 200 acres is exempted unless specifically required. BLM believes that as such the State's regulations may not be adequate for protection of wildlife resources.

The Secretary notes that North Dakota regulation NDAC 69-05.2-08-15 requires an inventory of fish and wildlife resources. Further, the exemption for plans covering 200 acres or less has been eliminated from the regulations. The Secretary believes these regulations are consistent with the federal regulations in the context of the limitations created by the court decision referred to in Comment 9. North Dakota has adequate regulations for protection of fish and wildlife and their habitat, except as determined in Finding 4(c)(ix).

16. In order to avoid confusing the general public or the State regarding the relation of the Secretary's program under the Mineral Leasing Act to the program under SMCRA, the U.S. Geological Survey (GS) recommends that North Dakota be informed of the respective responsibilities of the agencies for interim coal management in the BLM/OSM Memorandum of Understanding. In response to GS's concern, North Dakota has been sent a copy of the Memorandum of Understanding.

17. GS also expresses concern that the North Dakota program makes no reference to procedures for processing exploration applications which include federal lands, and recommends that the State add language indicating that exploration applications for federal lands are submitted and approved pursuant to procedures identified in the BLM/GS/OSM Memorandum of Understanding. North Dakota requires a permit for federal lands exploration under regulation NDAC 43-02-01-06, but recognizes in the regulation the need for compliance with federal regulations and the supremacy of federal regulations. The Secretary is empowered by Section 503(a) of SMCRA to approve the State program only for non-federal lands. Approval of the North Dakota program clearly states in Section F of this document that it applies only to non-federal lands. It is expected that there will be a permanent program cooperative agreement, under 30 CFR 745 between North Dakota and the Department of the Interior to clarify processes and coordination for activities on federal coal lands.

18. The National Park Service (NPS) requests that North Dakota notify the NPS Regional director, Rocky Mountain Region, before any decision is made to approve or deny exploration or mining and reclamation permits in areas where mining may have the potential to affect the resources of park units in the state. In addition, NPS requests that it have the opportunity to be involved in setting bond amounts in such mining areas, and that it be allowed to participate in inspections in cases where NPS units may be affected, especially when these inspections are in response to a petition, notification of violation, or for release of performance bond.

In response to this and other comments, North Dakota has revised State regulation NDAC 69-05.2-10-03(5) to require written agreement from federal agencies prior to approval of a permit for mining or for exploration that removes more than 250 tons of coal that may adversely affect parks or other places under federal agencies' jurisdiction. The federal agency agreement could include a provision on bond amount. North Dakota sends official notification of permit applications to any federal agency which requests notice. A copy of NPS's comments has been sent to the State along with a request that NPS be notified of all permit applications. There is no provision in the North Dakota program nor in the federal regulations for federal agencies to participate in inspections other than through the citizen complaint provisions in NDAC 69-05.2-28-01. The Secretary finds that the State provisions for involvement of NPS in the program are consistent with the federal requirements.

19. NPS contends that it should be given an opportunity to directly participate in developing criteria for designating lands as unsuitable for surface coal mining near NPS units. These criteria, according to NPS, should be related to all resources of the NPS units, and to the indirect effects which may occur on fragile lands. NPS contends that the establishment of buffer zones around NPS lands must not be left solely to other agencies with interests potentially at variance with NPS policy, especially when the scenic and environmental integrity of the park lands may be involved.

NPS involvement is required under North Dakota regulation NDAC 69-05.2-10-03(5), which provides that North Dakota may not approve mining which may adversely affect park lands unless there is written agreement from the agency with jurisdiction over the park. North Dakota law, NDCC 38-14.1-07(3), requires joint approval with NPS for mining within 300 feet of a national park site. Further opportunity for NPS to establish criteria for mining near NPS lands is not required under the Secretary's regulation, 30 CFR 762.

The Secretary has instructed the Park Service not to seek criteria in state programs which would establish "buffer zones" adjacent to National parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the

Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for Federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)-(t)). This instruction to the Park Service assures that that agency's approach to state unsuitability criteria will be compatible with the Secretary's policy on federal unsuitability criteria.

20. The Army Corps of Engineers expresses an objection to the fact that North Dakota in its analogue to 30 CFR 816.71 allows professional geologists to design and inspect fills. The federal regulations allow only professional engineers to provide these services.

In response to this comment, North Dakota regulation NDAC 69-5.2-18-01(10) has been revised to allow inspection only by a registered professional engineer. North Dakota law NDCC 38-14.1-19(g) requires fill design certification by a registered professional engineer.

21. The Dakota Resource Council (DRC) and the Consumer and Utility Law Project (CULP) express concern regarding the manner in which the North Dakota program was developed. Specifically, DRC contends that there was little opportunity for citizen participation in the development of the State's program. The Department of the Interior has provided each opportunity for public participation which the federal regulations allow in the development of the North Dakota program. The Secretary finds in Finding 4(1) above that the North Dakota program contains provisions for public participation consistent with the federal provisions. In the course of monitoring and funding approved state programs, the Department will evaluate states' citizen participation functions. The provisions for public participation in the North Dakota State program development are described on page 89 of the State's February 29, 1980 program submission. Those provisions allow adequate opportunity for public participation.

22. Another concern of both DRC and CULP is that the State's statute does not contain the requirement of 30 CFR 778.13(d) that a permit applicant list all current or previous mining permits held since 1970 by the applicant in the United States. North Dakota has revised its regulation NDAC 69-05.2-06-02 to require reporting of current or previous or pending mining permits held by an applicant since 1970 in any state.

23. DRC expresses concern regarding the State's amendments to the program proposed at its rulemaking hearing on April 2 and 3, 1980. The amendments, which are based on the decision of the U.S. District Court for the District of Columbia, *In re: Permanent Surface Mining Litigation,* Civil Action No. 79-1144 (D.D.C. February 26, 1980) are premature, according to DRC, in that the ruling is still subject to appeal. The proposed amendments, DRC concludes, have substantially weakened the sections designed to protect prime farmlands and alluvial valley floors. The Department of the Interior has reviewed the effects of the court decision on the proposed North Dakota program under guidelines described in Section B above.

24. One commenter alleges that the PSC never attempted to present to the State legislature a strong legislative program, and that, in fact, the PSC saw its role as an adversary to OSM, and saw as its goal the passage of the weakest possible legislation that would meet the Secretary's approval. This commenter also expresses the belief that unless the PSC is absolutely forced to enforce a reclamation program, it is not going to be enforced, and recommends close oversight by the Secretary. The commenter also argues that the law firm with which PSC contracted to draft the legislation has legal and financial interests in coal and mineral rights, and should not have been contracted with to do that task.

The Secretary has reviewed the North Dakota program under criteria in the federal regulations and found it to be consistent with SMCRA and the federal regulations except as set out in this notice. OSM will conduct a program of assistance and oversight of the North Dakota program under 30 CFR 733, similar to the program it conducts in other states.

The Department of the Interior requirements in 30 CFR 705 concerning financial or legal interest of consultants apply only to consultants who perform decision-making functions. The consultants involved in the North Dakota program development did not perform decision-making duties.

The State's subjective good faith is irrelevant in the State program approval process as explained in the preamble to the rule containing the criteria for approval or disapproval of state programs, 44 FR 14961 (March 13, 1970). The Secretary is allowed to disapprove a program only where it does not meet the requirements of SMCRA and the federal rules.

25. The Department of Energy (DOE) also notes that the North Dakota submission does not contain the three to five year projections of coal production which are optional items of information under the requirements of 30 CFR 731.14(h)(8). The State cannot be required to provide optional information described in this Section.

26. MSHA expresses concern that State regulation NDAC 69-05.2-18-01(10) allows PSC to waive excess spoil fill construction inspections where PSC determines the inspection is not necessary. The federal regulation, 30 CFR 816.71(j) requires inspections at specified times during construction. MSHA states that North Dakota's waiver provision is "in direct conflict" with MSHA requirements. The Secretary agrees, and does not expect PSC to exercise its discretion to grant such a waiver, which would clearly violate federal law.

27. DOE comments that North Dakota's submission should contain performance standards for underground mining in the event that underground mining activities are resumed in the State. DOE also expresses the belief that North Dakota's submission should include mountaintop removal provisions, stating that these performance standards may be applicable in "hilly" terrain. The Secretary has determined in Findings 1(a) and 4(c) that the North Dakota program need not be modified at this time to include performance standards for underground and mountaintop removal mining methods, due to local economic, geologic, and other environmental reasons.

28. The League of Women Voters of North Dakota (LWVDN), DRC and another commenter raises several points about North Dakota's rulemaking process in NDAC 69-05.2-01-03. The LWVND suggest that the Open Record Law of North Dakota be included in the reclamation law to assure citizen rights of access to information. The Secretary considers the Open Records Law, which was included in the program submission (Appendix C, March 3, 1980 submission) to be enforceable as part of North Dakota's program. (See Finding 4(j)(ii)).

The LWVND and another commenter suggest that the Commssion respond within a certain length of time to accept or deny a petition for rulemaking. The Secretary agrees that a timely response to petitions is required, and in Finding 4(1)(ii) of this notice has found that the State provisions require a timely decision and response to petitions for rulemaking.

LWVND suggests that the published notice of proposed rulemaking contain a summary of the proposed regulation changes, and, along with DRC and the other commenter, that the State should allow 30 days, instead of 20, for comment after publication. The Secretary agrees that the State's public notice requirements in the rulemaking process are not consistent with the federal requirements and has conditioned approval as described in Finding 4(1)(iii) above to correct the inconsistency.

Finally, LWVND suggested that the notice of proposed rulemaking be published in areas outside the vicinity of the mining area. However, the North Dakota regulations, NDAC 69-05.2-01-03(4), provide notice of public hearings to be published in the newspapers of each county in which surface coal mining occurs and in newspapers in the general vicinity of such counties. The Secretary finds that the State's provisions provide ample exposure for public participation and are consistent with the goals of the Act.

29. Another commenter notes that the North Dakota program does not include a requirement for certain findings in writing in the mine permit approval. The findings are (1) that the permit is complete and accurate, (2) that the applicant has demonstrated that reclamation can be accomplished, (3) that the cumulative hydrologic impact has been assessed and the operation is designed to prevent damage to the hydrologic balance outside the permit area and (4) that the land is not in an area designated unsuitable for mining. While there is no requirement for written findings on these matters in the North Dakota regulations, the Secretary has found that there is in the North Dakota statute, NDCC 38-14.1-21(3), a requirement for such written findings and that the requirements of NDCC 38-14.1-21 are consistent with the federal requirements under 30 CFR 786.19.

30. One commenter notes that the State program requires, under NDAC 69-05.2-09-12(1)(a), only a discussion of the control of the surface and ground water drainage into and out of the permit area, whereas the federal program, 30 CFR 780.21(b), requires a plan for the control of surface and ground water drainage. The Secretary finds that North Dakota statute NDCC 38-14.1-14(2)(i) requires a detailed description of the measures to be taken to assure protection of the quality and quantity of surface and ground water.

Further, North Dakota regulation NDAC 69-05.2-09-09 specifically requires a surface water management plan. Thus, the State provisions for planning of water control are consistent with the federal provisions.

31. One commenter argues that the "Small Operation Exemption" in NDAC 69-05.2-01-01(2) exceeds State statutory authority by requiring a surface mining permit for all operators who produce more than 250 tons of coal even though they may disturb less than two acres and is more stringent than the corresponding exemption in the federal permanent program. Under Section 505 of SMCRA and 30 CFR 730.11, State provisions which are more stringent than the federal provisions are not construed as inconsistent with the federal provisions. Accordingly, the Secretary has no objection to the North Dakota small operator exemption.

32. DRC points out that the State program does not have a regulatory counterpart to the federal requirement on availability of records to the public, 30 CFR 700.14. DRC and another commenter point out that another State requirement, NDCC 38-14.1-27(5), concerning local availability of public information, seems to be weaker than the corresponding federal requirement in 30 CFR 842.16(a). The Secretary has determined under Finding (4)(j)(ii), that the North Dakota provisions for making information available locally are consistent with the federal provisions.

33. DRC expresses concern that the North Dakota requirement for contents of a petition to designate an area unsuitable for mining are not clearly established. The North Dakota requirement, NDAC 69-05.2-04-03, lists five items that the petition must include, while the federal requirement, 30 CFR 764.13(b), lists the same five items but states that those items make up the only information a petitioner need provide. The Secretary has found in Finding 4(k)(v) that the State provision is consistent with the federal provision.

34. DRC expresses concern that there is no definition of the word "frivolous" used in North Dakota regulation NDAC 69-05.2-04-04(3), which allows PSC to reject frivolous petitions to designate lands unsuitable for mining. However, 30 CFR 764.15 also uses the term frivolous without defining it. The Secretary has no authority to require a definition or to require criteria for determining if a petition is frivolous.

35. DRC and another commenter express concern that the hearing in the process for designation of lands unsuitable for mining NDAC 69-05.2-04-05, is adjudicatory instead of legislative as in the federal process. They believe that the hearing should be legislative as in federal requirement 30 CFR 764.17(a) to encourage and promote citizen participation in the designation process. They believe that the adjudicatory type of hearing in North Dakota regulation NDAC 69-05.2-04-05 can be intimidating to witnesses. The State provisions for hearings in the designation of lands unsuitable for mining process are consistent with the federal provisions, as discussed in Finding 4(k)(iv).

36. DRC expresses concern that North Dakota regulation NDAC 69-05.2-12-03(5) and North Dakota statute NDCC 38-14.1-16(7) would allow an operator to continue mining without a bond, while the federal regulation, 30 CFR 806.12(e), would require cessation of surface mining operations. The Secretary determined in Finding 4(h)(ii), that due to the August 6, 1980 revision of federal regulation NDAC 69-05.2-12-03(5)(c) to extend the time to obtain a new bond to 90 days, the North Dakota provision is consistent with the federal provisions.

37. DRC argues that citizens should be granted temporary relief from permit approvals under the provisions of North Dakota statute NDCC 38-14.1-30(4). DRC points out that such relief is allowed under Sections 514 (c) and (d) of the SMCRA. The Secretary has determined in Finding 4(d)(xv) above that the State progam provides for relief from permit decisions consistent with the federal provisions.

38. One commenter expresses concern that the North Dakota provision for notice of hearing in the process for designation of lands unsuitable for mining is less stringent than the federal provision. North Dakota statute 38-14.1-06(3) provides for notice to be published, while federal requirement 30 CFR 874.17(1), requires an advertisement. There is no definition or explanation of the word "advertisement". There is no indication that the advertisement in the federal requirement is any different from a notice published under the North Dakota program.

39. FWS does not believe that the State whole-heartedly supports wetlands preservation. The Secretary finds that the State's provisions for protection of wetlands (NDCA 69-05.2-13-08(4)(e)) are almost identical to and are fully consistent with the federal provisions under 30 CFR 816.97(d)(5). The Secretary is not empowered to impose upon the States requirements beyond those found in OSM regulations.

40. FWS is concerned that North Dakota does not require a permittee to report the presence of threatened and endangered species in the permit area. The Secretary has required, as a condition of approval under Finding 4(c)(ix), that North Dakota adopt a requirement for permittees to report the presence of threatened and endangered species.

41. The U.S. Environmental Protection Agency (EPA) expresses concern that the State has inadequate regulations in NDAC 69-05.2-24 for control of dust from roads and drilling operations as required under federal regulations 30 CFR 816.95(b). The court remanded federal regulation 30 CFR 816.95(b) in *In re: Permanent Surface Mining Regulation Litigation* (May 16, 1980, p. 27-29). The State program need not include the dust control measures as explained in the guidelines for remanded regulations in Section B of this notice.

42. One commenter argues that North Dakota's definition of "employee" in NDAC 69-05.2-01-02(34) is less stringent than the federal definition in 30 CFR 705.5. The commenter is concerned that the State definition excludes consultants while the federal definition includes consultants who perform any function or duty under the Act if they perform decision making functions for the State regulatory authority under state laws or regulations. As discussed in Finding 4(m)(ii) above, approval is conditioned upon adoption of a provision to define consultants as employees for purposes consistent with the federal definition in 30 CFR 705.5.

43. One commenter is concerned that North Dakota regulation NDAC 69-05.2-10-13(1) does not clearly state that operators currently in violation of SMCRA or any law, rule or regulation of the United States pertaining to air or water pollution shall not be issued a permit until proof is submitted that such violation has been or is being corrected. As discussed in Finding 4(d)(iii), North Dakota's procedures for considering out-of-State violations in permitting processes are inconsistent with federal requirements, and approval of the State program is conditioned on revision to make the program consistent.

44. One commenter is concerned that North Dakota law and regulations prohibit permit issuance where there is a pattern of violations only when these violations are in North Dakota. The commenter believes that the State should consider all violations whether or not they occurred within the State of North Dakota. The Secretary agrees and has conditioned the approval of the North Dakota program as described in Finding 4(d)(iii).

45. Two commenters express concern that the North Dakota program, NDAC 69-05.2-22-07(3)(b), appears to measure success of revegetation of prine farmlands and cropland on the basis of measurements of production of the approved standard for the last two consecutive growing seasons, whereas the federal requirement, 30 CFR 823.15(c), is based on three consecutive years. The commenter suggests that the State measure of success should be based on three years of production. The State program approval is conditioned, under Finding 4(c)(x), on revision of the regulation to provide for the three year basis.

46. Two commenters express concern that the definition of "prime farmlands" in the North Dakota program, NDCC 38-14.1-02(22), is vague. North Dakota's definition requires that lands must be large enough in size to constitute a viable economic unit in order to be classified as prime farm lands. The State goes on to define a "viable economic unit" as being a tract of land identified by the State Conservationist of the Soil Conservation Service. The commenter's concern is that there are no stated limits on the size of a tract and that since there is no size limit, the regulatory authority has too much discretion in prime farmland determinations. The Secretary finds that the size of the tract depends upon the cooperative soil survey, which is performed independently of the regulatory authority, or upon the important farmland inventory map referred to in NDAC 69-05.2-08-09(3). The regulatory authority has no input in the soil survey or the inventory and therefore has no discretion in setting the size of a tract. The North Dakota process is consistent with the federal requirement in 30 CFR 783.27.

47. FWS expresses concern that North Dakota has no provision for reporting to OSM its written finding that mining activities would not affect the continued existence of threatened or endangered species or result in adverse modification of their critical habitats. The Secretary notes that the revised North Dakota regulations provide at NDAC 69-05.2-10-05(4) that the State must furnish OSM a copy of all Commission findings, decisions, or orders on a permit application.

48. FWS expresses concern that adverse impacts on endangered species may occur from mining activities carried out under exemptions or variances granted by the Commission where there is no coordination with fish and wildlife authorities. As discussed in Finding 4(d)(v), the Secretary finds that the North Dakota provisions are consistent with the federal requirements.

49. EPA expresses concern about the length of time allowed to report permit violations related to surface waters to the regulatory authority. Federal regulation 30 CFR 816.52(b)(1)(iii) requires that permittees report such permit violations "immediately." The State requires in NDAC 69-05.2-16-05(1)(d) that the permittee notify PSC within five days. EPA questions whether or not five days constitutes an immediate report.

The Secretary notes that the reporting requirement referred to is within a paragraph concerning quarterly water monitoring reports. The paragraph which precedes this paragraph, 30 CFR 816.52(b)(1)(ii), contains a requirement that where monitoring reveals a violation of the permit condition the violation must be reported "within five days." The Secretary concludes that the term "immediately" as used in 816.52(b)(1)(iii) is designed to make it clear that although the provision deals with quarterly reports, permittees may not wait until the quarter is up to report violations, and that "immediately" in this context has the same meaning as "within 5 days," which was used in the preceding paragraph in connection with an identical action. (See 44 FR 15174 (March 13, 1979)). Therefore, North Dakota's use of "within 5 days" is acceptable.

50. EPA points out that the State regulation NDAC 69-05.2-16-18 concerning water discharges has no requirement that water be discharged into underground mines "as a controlled flow," as required by federal regulation 30 CFR 816.55(b). The Secretary has determined in Finding 4(c)(xi) that the North Dakota regulation for discharge into underground mines is as stringent as the federal provision.

51. EPA expresses concern that the North Dakota provision, NDAC 69-05.2-21-03, for covering toxic forming materials does not specifically require use of the best available nontoxic cover materials and that the State allows use of less than four feet of non-toxic cover material in certain cases. As discussed in Finding 4(c)(xii), the Secretary has found that the North Dakota requirement is as stringent as the federal requirement in 30 CFR 816.103(a).

52. The Heritage Conservation and Recreation Service Expresses concern that because OSM has suspended portions of 30 CFR 761.11(c) and 30 CFR 761.12(f)(1), numerous currently unidentified historic, archaeological, and other cultural resources in North Dakota which may be eligible for the National Register could be lost or destroyed because of surface mining permits issued by the state pursuant to OSM regulations. As discussed in B above, the Secretary must disapprove State regulations which are similar to suspended or remanded federal regulations. On September 9, 1980, North Dakota requested that state program provisions NDCC 38-14.107 and NDAC 69-05.2-04-01 be approved.

53. North American Coal Corporation (NACC) expresses concern that companies which were recently issued a new mining permit must, under NDAC 69-05.2-05-05, again meet all the procedural requirements for permitting even though the recently approved permit application may allegedly have been designed and submitted under 30 CFR Chapter VII requirements and approved by both the State and OSM under 30 CFR Chapter VII or equivalent State standards. NACC is particularly concerned about having to refile new bonds and pay new permit application fees. However, NACC is mistaken in its statement that companies which have recently obtained permits on federal land have met the full panoply of requirements under 30 CFR Chapter VII.

During the last year, some surface coal mining operations in federal lands have been reviewed by OSM under 30 CFR 211 and the performance standards of the permanent program on federal lands (30 CFR 740 *et seq.*) even though the effective date for operator compliance with the latter regulation was postponed. *See* 44 FR 77440-47, December 31, 1979. As noted in several public notices published over the last few months, this procedure does not relieve the operator of the obligation to file a new permit application not later than two months after the effective date of approval of the state program. *See,* for example, 45 FR 10909-10, February 19, 1980 (Big Sky Mine); 45 FR 12366, February 25, 1980 (Energy No. 1 and No. 2 Mines); 45 FR 37307-08, June 2, 1980 (Skyline Mine).

The regulation setting forth this obligation appears at 30 CFR 701.11(b) and 741.11 (44 FR 77446, December 31, 1979). Upon receipt of the complete application required under 30 CFR 741.11(a), OSM will review the application pursuant to all requirements of 30 CFR Chapter VII, Subchapter D (and pursuant to the cooperative agreement, if any). OSM expects that its review of these mine plans can be primarily limited to the requirements of the applicable state program, regulation changes, if any, mine plan revisions, and matters raised by public comment. The Secretary finds that the North Dakota regulations that address permit fees and bonding in the permitting process are consistent with the federal regulations, 30 CFR 771.25 and 30 CFR 800.11, and no further changes are necessary. The Secretary is not empowered to impose conditions on states beyond those in his regulations.

54. NACC expresses concern that North Dakota bonding regulation, NDAC 69-05.2-12-01, requires a legal description of bond increments throughout the permit area. NACC suggests eliminating the requirement for giving a legal description of an area that it believes is likely to change and cannot be definitely determined until further in the future. It is concerned with having to redevelop the legal descriptions at considerable expense. The federal regulation, 30 CFR 800.11(b), does not require a legal description. The provision for a legal description is more stringent than the federal requirement and as such must be accepted by the Secretary under Section 505 of SMCRA and 30 CFR 730.11.

55. NACC expresses concern that the reporting requirements for water quality under NDAC 69-05.2-16-05 might result in duplicate reports for National Pollutant Discharge Elimination System and PSC. The regulation calls for a report within 28 days of the end of the quarter or within 90 days following sample collection, whichever is earlier. The Secretary notes that the North Dakota wording closely follows the wording in the federal regulation, 30 CFR 816.52. The preamble to the federal rule, 44 FR 15172 (March 13, 1979), explains that the regulations were designed to avoid duplicative reporting. Thus, the federal requirement for reporting within 90 days of sample collection must be read to mean within 90 days of the end of the sample collection period, which is the quarter. The Secretary has no authority to seek a change in the North Dakota regulation, since it is equivalent to the federal regulation.

56. The Environmental Policy Institute (EPI) expresses concern that the North Dakota cut-off date for establishment of valid existing rights is July 1, 1979, while the federal date is August 3, 1977. EPI is further concerned that the State recognizes a "good faith" attempt to have obtained a permit to be equivalent of having obtained a permit for purposes of establishing valid existing rights. In Finding 4(k)(iii) the Secretary has found that the use of the July 1, 1979 date is inconsistent with the federal requirements and has conditioned approval of the North Dakota program on the revision of dates for establishment of valid existing rights. The "good faith" standard is acceptable because the court in *In re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79-1144 (D.D.C. February 26, 1980), held that the requirement of 30 CFR 761.5(a)(2)(i) that the operator had all necessary permits by the cut-off date was too strict. The court agreed with industry arguments that where dilatoriness of a government agency has prevented an operator from obtaining all the required permits, he or she should not be treated as failing to meet the "all permits" requirement. The Secretary expects that North Dakota's provision will be interpreted consistent with the court's holding. When the Secretary amends or issues an interpretive rule on 30 CFR 761.5(a)(2)(i) to implement the court's holding North Dakota will have an opportunity to amend its provision, if necessary, under the program amendment procedures of 30 CFR 732.17.

57. EPI expresses concern that there is no explanation of who is the "proper authority" from whom PSC must obtain approval prior to allowing operations within 100 feet of a public road or allowing the road to be moved under NDCC 38-14.1-07. EPI is also concerned that PSC make a finding concerning the road location. The Secretary notes that North Dakota regulation NDAC 69-05.2-04-01(4) explains that the "proper authority" is the authority with jurisdiction over the public road and that the PSC must make a written finding on effects of the proposed mining. The Secretary also notes that North Dakota is required to make a written decision on any hearings in accordance with NDCC 38-14.1-28.

58. EPI comments that under 30 CFR 761.12, prior approval of a permit for mining within a specified distance of a home requires that there must be a written waiver by the owner. The North Dakota regulations require this written waiver under NDAC 69-05.2-04-01(5).

59. EPI believes that there are wooded lands in the coal areas of North Dakota and that timber management and silviculture should be added to the list in NDAC 69-05.2-01-02(106) of significant values which are incompatible with coal mining. EPI presents no evidence to support its statements on wooded lands. The Secretary disagrees with EPI's suggestion, and has found in Findings 1(a)(vii) and 4(c) above that there are no commercial forests in the areas of known surface minable coal reserves.

60. EPI believes that the definition of surface coal mining operations which exist "on the date of enactment" should mean those which existed on August 3, 1977, not on July 1, 1979, as in the State regulation. The Secretary disagrees, as discussed in Findings 4(k)(ii) and (iii) above.

61. EPI feels that the State definition of "public road," NDAC 69-05.2-01-02, must be changed because it applies only to those roads "acquired by prescription" while the federal definition, 30 CFR 761.5, does not address ownership. The Secretary disagrees. The North Dakota definition

does not apply only to roads acquired by prescription; it *includes* roads acquired by prescription. North Dakota includes all public ways "for purposes of vehicular travel" regardless of how or even whether they may have been acquired for use as a public road. This is equivalent to the federal definition which includes "any thoroughfare open to the public for the passage of vehicles." The federal definition would also include all roads acquired by prescription.

62. EPI notes that federal regulation 30 CFR 761.12(b)(2) requires the regulatory agency to seek a "determination or clarification" of the location of protected places or sites in relation to proposed mining operations, if the locations are not clearly known. The regulatory authority must seek the "determination or clarification" from the agency responsible for the protected place or site, and must inform the agency that it must respond within 30 days of the request. North Dakota's corresponding requirements, NDCC 38-14.1-21(2) and 38-14.1-03(21), state that the Commission will consider advice from others in Commission approvals. The North Dakota program, NDAC 69-05.2-10-01(2), provides for review of each application by an advisory group which includes persons with responsibilities in and knowledge of protected places and sites. The Secretary finds that the North Dakota program provisions in NDAC 69-05.2-04 through 08, for information and data to be furnished, and the above cited provisions for coordination with other agencies, make the inclusion of the omitted detail unnecessary.

63. EPI is concerned that the public hearing concerning mining near a road might be combined with a public hearing concerning permit approval. EPI believes a separate hearing on a road would provide far greater public participation because it is treated as a distinct issue. The federal regulation, 30 CFR 761.12(d) provides for the hearing, but is silent as to whether it must be conducted as a separate hearing or can be combined with another hearing. The corresponding State requirement, NDAC 69-05.2-04-01(4) is also silent on the question of combining hearings. The Secretary finds that the North Dakota provisions for road hearings are consistent with the federal provisions.

64. A representative of CULP maintains that intervention is available only in very limited instances in the North Dakota program because of limitations in North Dakota regulation NDAC 69-02-02-05. The Secretary agrees with the commenter and has conditioned approval of North Dakota's program to insure that its intervention rights are consistent with and as broad as the Federal provisions in 43 CFR 4. 1110. See Finding 4(g)(i).

65. CULP also maintains that discovery rights under Rule 34 of the North Dakota Rules of Civil Procedure are not applicable in administrative proceedings. North Dakota has stated, in Item 118, Part II, Addendum Volume I, June 12, 1980, that its Rules of Civil Procedure governing discovery are applicable to administrative proceedings and are substantially identical to Rule 34 of the Federal Rules of Civil Procedure. The Secretary finds under Finding 4(g)(ii) that these representations are accurate, and accordingly that North Dakota provides discovery rights as broad as those provided for under the federal regulation, 43 CFR 4.1140.

66. CULP is also concerned that the authority for total agency discretion in awarding costs and expenses under NDCC 38-14.1-36(1), as well as the lack of delineation of permissible expenses, is inconsistent with the federal requirement in 43 CFR 4.1290-1296. The Secretary, under Finding 4(g)(iv), has conditioned approval of regulations regarding the award of costs and expenses, in accordance with the federal provisions found in 43 CFR 4.1290 through 4.1296.

67. EPI is concerned that NDAC 69-05.2-04-01(5)(a) seems to allow for a waiver for mining near a home to be obtained under conditions different than under the federal regulations 30 CFR 761.12(e). The Secretary notes that the State has adopted wording almost identical to the federal regulation wording concerning waivers and that this establishes the basis for determining the validity of a waiver. The State further specifies under 69-05.2-04-01(5)(a) (1) and (2) that a previously obtained valid waiver is acceptable and that a valid waiver may remain in effect against subsequent purchasers.

In the permanent program litigation, *In re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79-1144 (D.D.C. February 26, 1980), OSM agreed to amend its regulation to provide that a valid waiver obtained before SMCRA remains valid and that valid waivers are effective against subsequent knowing purchasers. The State's provision already does this. North Dakota will have an opportunity to amend its program under 30 CFR 732.17 if necessary to meet the requirements of the federal rule when its amendment becomes final.

68. North Dakota has no specific requirement to send permit applications to federal, state or local agencies when proposed operations may adversely affect protected places under the responsibility of the agencies. EPI expresses concern that the State regulations are not consistent with federal provision 30 CFR 761.12(f)(1). The State does send permit application materials to the agencies when the proposed mine is within 300 feet of the protected place (69-05.2-04-01(6)), and does require approval of the agency where the protected place may be affected by mining operations (69-05.2-10-03(4)). The Secretary finds that North Dakota's provisions are consistent with federal regulations for notifying and providing applications to the proper agencies.

69. EPI believes that the State should refer to SMCRA and the federal regulations (30 CFR 762.11) as well as the State law (NDCC 38-14.1-05) as criteria in the process of designating lands unsuitable for mining. The Secretary disagrees. In approving the North Dakota program, the Secretary finds the State's criteria acceptable for use in the designation process since they meet federal requirements; reference to the federal requirements would add nothing to the state's criteria.

70. EPI expresses concern that the State's criteria for discretionary designation of lands unsuitable for mining under NDCC 38-14.1-05(2) are too limiting. It notes that the State statute in (2) (b), (c) and (d) uses "and" in a number of places where 30 CFR 762.11(b), which implements Section 522(a)(3) of SMCRA, uses "or." However, in all but one of the instances Section 522(a)(3) of SMCRA uses "and." The State's statute is identical to the federal statute except that SMCRA 522(a)(3)(d) states that an area may be designated where mining will affect natural hazard lands in which mining could "endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology." EPI comments that under the State statute, it appears that the area would have to be flood-prone and unstable. However, the Secretary does not interpret North Dakota's statute to provide that land does not qualify as natural hazard land without also being flood-prone and unstable. Rather, the State statute, like the federal statute, makes it clear that flood-prone areas and unstable areas are examples of natural hazard lands. Furthermore, it is clear from the phrase "area subject to frequent flooding and areas of unstable geology" in North Dakota's statute that an area need not be both flood-prone

and unstable; otherwise the second "areas" would not be there.

71. EPI expresses concern that the State definition in 69.05.2-01-02 of "substantial legal and financial commitments in a surface coal mining operation" is not consistent with the federal definition (30 CFR 762.5). The State has adopted the federal regulation verbatim except that it has omitted the example of a substantial legal and financial commitment which is included in the federal regulation. The example clarifies that the purchase of coal in place or the right to mine coal does not constitute a substantial and legal commitment. The Secretary finds the State's omission of the example is acceptable since an example does not change the meaning of the definition.

72. Under NDCC 38-14.1-09, North Dakota has exempted certain lands from the processes of designation of lands unsuitable for mining. EPI is concerned that the effective date for the exemption for ongoing mines should be the effective date of SMCRA and not the effective date of the North Dakota Act. The Secretary has found, under Finding 4(k)(ii) above, that the date in the North Dakota Law does not grant rights or exemptions different from those in the federal Act.

73. EPI is concerned that exploration on lands designated unsuitable for mining should be approved by the agency with designation authority. The State program under NDAC 69-05.2-04-02 calls for approval by the North Dakota Geological Survey. The Secretary has no authority to require approval by a particular agency, but only to assure as stated under 30 CFR Part 815 that proper approval procedures and criteria are in place. The Secretary finds that the State proposal is acceptable.

74. EPI expresses concern that North Dakota may not under NDAC 69-05.2-04(7) allow a petitioner for designating lands unsuitable for mining all the rights provided by the Federal regulation 30 CFR 764.15(a)(7) during the permitting process. EPI is especially concerned about time limitations on filing a petition. The Secretary has found under Finding 4(k)(i) that the State provisions for filing petitions within specified time limits are consistent with the federal provisions.

75. The State regulation NDAC 69-05.2-04-04(11) provides for petitions and related information to be available for public review at the PSC office in Bismarck during normal business hours and at the proper County Auditor Office. They also provide for copies at a reasonable cost from the PSC. EPI is concerned that the regulation does not additionally specify that the information is available during business hours at the County and is available for copying at a reasonable cost at the County. The federal regulation 30 CFR 764.15(d) provides that the information shall be available for copying at a reasonable cost during normal business hours "at a central location of the county or multi-county area" as well as at the main office of the regulatory authority. The Secretary believes that the North Dakota proposal provides public availability consistent with the federal program, considering the small size of towns in the coal areas and the concentration of persons with an interest in coal mining in the Bismarck area.

76. Federal regulation 30 CFR 764.17 provides for a notice of a hearing in the process for designation of lands unsuitable for mining. Under the federal regulation there must be a certified mail copy sent to certain parties, and the certified mail copy must be postmarked at least 30 days before the date of the hearing. North Dakota has a similar procedure under NDAC 69-05.2-04-05, but does not specify that the certified mail notice must be postmarked 30 days prior to the hearing, although the State does require a 30-day notice. EPI suggests that the postmark requirement be included in the State regulation. The Secretary finds that the State's requirement of a 30-day notice meets the federal requirement.

77. EPI believes there should be a date by which the State's data base and inventory system should be established for use in the process for designation of lands unsuitable for mining. The Secretary notes that there is no date in the federal regulation (30 CFR 764.21) and accordingly finds that none is required in the State regulation.

78. The Public Lands Institute (PLI) conducted a preliminary study of surface coal mining inspection and enforcement activities by the State of North Dakota since late 1978. PLI found that North Dakota conducted frequent inspections, discovered an average of over 20 violations at each mine and followed up on inspections. The PLI has not determined if the State did the required number of inspections of each type—partial and complete. It reported that of 127 violations observed, only 7 notices of violations were issued and it was not known whether or not the violations were issued in the field. PLI reports that its preliminary study results indicated that North Dakota has failed to fully enforce the Act, the cooperative agreement, and other authorities. However, history of performance in inspection and enforcement is not a criteria for determining whether a state program should be approved. The criteria the Secretary is to consider are listed at 30 CFR 732.15. The Secretary will evaluate the State's activities under the permanent program in his oversight role under Section 504(a)(3) and (b) and 30 CFR Part 733.

79. EPI and PLI express concern that certain permit applicant reporting requirements in Section 507(b)(3) and (4) of SMCRA such as listing all previous and current out-of-state permits and violations, are not in the State statute even though they are covered by State regulations under NDCC 38-14.1-14(1)(f) and (e)(3). The Secretary notes that the Attorney General of North Dakota has reviewed and attested to the legality of the regulations. In addition, NDCC 38-14.1-03(10) grants broad authority to PSC to issue permits in accordance with SMCRA and NDCC 38-14.1-03(11), a general grant of rulemaking authority, allows PSC to promulgate "such regulations as may be necessary" to carry out the purposes of SMCRA. Therefore the Secretary finds that no statutory change is necessary.

80. The EPI and the PLI express concern that the State statute does not require a permit application to include the staffing and termination dates of each phase of the mining operation and the number of acres affected as required in Section 507(b)(8) of SMCRA. The Secretary notes that the exact wording about which EPI and PLI are concerned is included in North Dakota regulation NDAC 69-05.2-09-01(2) and is equivalent to the language in the federal Act.

81. The EPI and the PLI express concern that the State allows permit bonding in one-year increments under NDCA 69-05.2-12-01(4) while the federal act (Section 509(a)) requires bonding for the "initial permit term," which the commenters believe to be five years. The Secretary disagrees. Federal regulation 30 CFR 800.11(b)(2) allows for incremental bonding on a yearly basis, and the Secretary determined upon adoption of this regulation that incremental bonding was consistent with the federal Act.

82. The EPI and the PLI are concerned that there is no clear statement in the regulations that no permit is to be issued if there is a pattern of violations. There is a clear statement of this requirement in NDCC 38-14.1-21(5), but EPI and PLI believe that this is not adequate. The Secretary disagrees. The Secretary finds that state programs can function properly without expressing all statutory requirements in regulations and will approve state programs which are

designed to operate in part directly from statutory authority without expression of that authority in regulations. Under 30 CFR 732.15, the Secretary is to evaluate state programs based upon all the information in the record, including both the state statutes and regulations. There is no requirement that statutory material be repeated in regulations.

83. The Federal Act requires under Section 521(d) a finding that a permittee can restore prime farmlands to their original or a higher productivity. However, operations permitted prior to August 3, 1977, are exempted from having to make this showing upon revision or renewal of permits. North Dakota has a parallel statutory provision (NDCC 38-14.1-19(2)), but the cutoff date is July 1, 1979. The EPI and the PLI expressed concern that the North Dakota date should be changed to August 3, 1977. The Secretary finds that the use of the later date is consistent with the Act. North Dakota implemented an interim program which included prime farmland provisions of the Act. Therefore, no grandfather rights could have been acquired since August 3, 1977. Similar questions of cutoff dates are discussed in more detail under Findings 4(k)(ii) and 4(k)(iii) above.

84. EPI and PLI are concerned that the North Dakota statute NDCC 38-14.1-30(4) allows only a permittee to seek temporary relief and that such relief is only from a notice of violation (NOV) or a cessation order (CO). Federal statute Section 514(c) and (d) of SMCRA and Federal regulation 30 CFR 787.11(a) and (b) allow any person who has an interest which is or may be adversely affected to request temporary relief from decisions on permits, NOVs, or COs. However, North Dakota statute NDCC 38-14.1-20(3) provides a 30-day time period between permit approval and issuance. During this time period a publication of notice of approval and right to initiate a formal hearing on the decision is provided under NDAC 69-05.2-10-05(4). Furthermore, NDAC 69-05.2-10-05(4) provides that the permit shall not be issued until a decision has been issued after a formal hearing, if a hearing is held. The Secretary has determined, under Finding 4(d)(xv), that the State program provisions for relief from decisions on permits are consistent with the federal provisions. Nevertheless, the Secretary has found under Finding 4(j)(ix) that the State has no provision for any person other than a permittee to request temporary relief from notices of violation or cessation orders. Therefore, North Dakota's program provisions for temporary relief are not consistent with the federal provisions and program approval is conditioned accordingly.

85. The Heritage Conservation and Recreation Service (HCRS) commented that numerous currently unidentified historic, archaeological, and other cultural resources that may be eligible for the National Register could be destroyed or lost unless steps in the permitting process are taken to adequately insure the identification of such resources. The Secretary believes that the Programmatic Memorandum of Agreement between OSM and the Advisory Council on Historic Preservation (See 45 FR 41988, June 23, 1980) will allow the State Historic Preservation Officer (SHPO) to have an integral part in insuring identification of historic lands for each permit application. The Secretary also notes that 30 CFR 761.11(c) and 761.12(f)(1), relating to lands unsuitable for mines, have been suspended to the extent that surface coal mining operations are prohibited on lands that would affect places merely "eligible" for listing on the National Register of Historic Places. Therefore, the Secretary must disapprove any portion of North Dakota's proposed program containing such language, under the guidelines in Section B above. While the Secretary cannot require that remanded and suspended regulations be included in a state program, North Dakota requested on September 9, 1980, that NDCC 38-14.1-07 and NDCC 69-05.2-04-01 be approved.

86. EPI and PLI express concern that the State law Section 28-32-12 provides for transcripts of administrative hearings only upon payment of a uniform charge. EPI and PLI believe that imposing a transcription fee is an undue burden on a citizen's right to participate in administrative or judicial appeals. The Secretary finds that the payment requirement is reasonable and not inconsistent with Section 514(e) of SMCRA, which only requires that a transcript or verbatim record be "made available." In addition, the State approval is conditioned on the incorporation of provisions in 43 CFR 4.1294 for award of costs to aid citizen participation.

87. EPI and PLI express concern that the State does not specifically refer to a soil survey as a determining factor in measuring success of prime farmland revegetation. The Secretary notes that North Dakota requires a soil survey on prime farmlands (NDCC 38-14.1-24(5)). The information gained from the survey would be available for use in recovering, stockpiling, and restoring topsoil and, to the extent possible, in ensuring revegetation success on prime farmlands. North Dakota has also proposed under NDAC 69-05.2-26-01(2) to measure prime farmland revegetation success by comparison of actual production against a standard. The Secretary finds the North Dakota requirements consistent with the federal requirements.

88. EPI and PLI express concern that federal agencies might not be allowed to file written objections to bond release as provided for in federal regulation 30 CFR 807.11(c). The North Dakota Law, NDCC 38-14.1-17(2), allows any person who has a valid legal interest that is or may be adversely affected to file written objections. The Secretary notes that North Dakota has revised its definition under NDAC 69-05.2-01-02(78) of "person having an interest which is or may be adversely affected" to include any federal agency.

89. EPI and PLI express concern that North Dakota had no provision consistent with the federal requirements under 30 CFR 761.12(f)(1) for joint approval of mining operations which may adversely affect parks and certain historic places except where mining would be within 300 feet of the park or place. The Secretary notes that North Dakota has revised the Sate regulation, NDAC 69-05.2-10-03(5), to require the written agreement of the federal, State, or local governmental agency with jurisdiction over a park or place prior to approval of mining which may adversely affect the park or place. See Finding 4(k)(vi).

90. PLI and EPI urge that the Secretary not permit North Dakota to cure deficiencies in its program by the improper use of Attorney General opinions, regulation changes, or letters from state officials to OSM employees. Such cures, it was argued, create new problems, such as regulations which invite lawsuits because of the lack of supporting sections in the State law and a confusing, contradictory, and piecemeal State program which prevents citizens from understanding it so they can protect their interests.

With regard to Attorney General opinions, the Secretary relies on the Attorney General as an expert on State law in North Dakota. These opinions have not been used to cure deficiences, but only to resolve ambiguities.

Regulation changes are appropriate where they are supported by the state law and have not been relied upon where such support is lacking. Under 30 CFR 732.15, the Secretary is to consider "information contained in the program submission" as part of the basis for his decision on state programs; there is no requirement that all aspects of the

federal statute must be covered by direct state *statutory* authority, as long as they are adequately covered in the program. Specific comments criticizing the use of regulations in particular instances have been considered in the specific situation involved.

Policy statements are also part of the state program and are binding promises as to how the program will be administered. The Secretary's approval of this program is based upon the state's policies as expressed in these statements, and any failure by the state to abide by these promises would be a violation of its program, just as a violation of its statute or regulations would be.

The Secretary does not agree that this state program is piecemeal. This document reflects the Attorney General opinions and policy statements relied upon in approving North Dakota's program, and can be relied upon by the public as a source of information about the use of such material.

91. The Bismarck U.S. Department of Agriculture (USDA) Land Use Committee expresses concern that North Dakota regulation NDAC 69-05.2-16-04(c)(1) grants an exemption from the use of sediment ponds where "small" areas are involved. USDA Land Use Committee believes this exemption is not necessary. The wording of the exemption in the State provision is the same as the wording of the federal provision in 30 CFR 816.42. The Secretary is not empowered to require a change in a provision which is the same as a provision in his regulations.

92. The Bismarck USDA Land Use Committee feels that the State regulations should not be a carbon copy of the federal regulations and that the State regulations should be more stringent where needed. The Secretary is not empowered to require a State's regulations to be more stringent than the federal regulations.

93. The Bismarck USDA Land Use Committee recommends that the term "shallow groundwater" in NDAC 69-05.2-16-06 be defined. The term "shallow groundwater" is used in the corresponding federal regulation 30 CFR 816.43 and is not defined in the federal program. The Secretary is not empowered to require the State to add this definition, which does not appear in his own regulations.

94. One commenter expresses concern that decisions of the U.S. District Court in *In re: Permanent Surface Mining Regulation Litigation,* Civ. Action No. 79-1144 (D.D.C., February 26 and May 16, 1980) have substantially weakened sections designed to protect prime farmlands and alluvial valley floors. The commenter believes that states should not change their regulations based on the decision because the decision is subject to appeal. The court decision, in part (Mem. Op., May 16, 1980, p. 49), directed the Secretary to disapprove parts of state programs which relate to federal regulations suspended or remanded by the decision. However, on August 15, 1980, the court stayed this portion of its opinion. The effect of the stay is to allow the Secretary to approve stae program provisions equivalent to remanded or suspended regulations, where the state so requests. The Secretary has complied with the decision using the guidelines in Section B, above.

95. The Department of Energy (DOE) believes the North Dakota program should specifically address the anticipated costs for reviewing the permit applications in response to 30 CFR 731.14(g)(2). This regulation requires narrative descriptions, flow charts, or other appropriate documents on the proposed system for assessing fees for permit applications. There is no requirement to specificially address the anticipated costs for reviewing permit applications. The Secretary is not empowered to require information from the States unless his regulations require submission of the information.

96. EPA believes the State should clarify the definitions of ephemeral, intermittent and perennial streams in NDAC 69-05.2-01-02, so as to insure that the State provisions relating to streams are as stringent as the federal provisions. The State definitions of ephemeral and perennial stream are the same as the federal definitions in 30 CFR 701.5 except that the State definition of perennial stream excludes the statement that "The term [perennial stream] does not include *intermittent stream* or *ephemeral stream.*" The statement is included in the federal definition for clarity and does not relate to EPA's concern about the stringency of State provisions relating to streams.

The State's definition of intermittent stream differs from the federal definition in 30 CFR 701.5. The State defines "intermittent stream" as a stream or part of a stream that flows continuously for at least one month of the calendar year as a result of ground water discharge or surface runoff. To be classified as intermittent under the federal definition a stream need only flow for some part of the year and obtain its flow from both surface runoff and ground water discharge. The requirement for flow some part of the year as opposed to one month's flow could result in more streams being classed as intermittent instead of ephemeral under the federal definition. On the other hand, the flow as a result of ground water *or* surface water as opposed to flow as a result of ground water and surface water could result in more streams being classed as intermittent under the State definitions. The Secretary finds that while the State and federal definitions differ, use of the State definition will not have an adverse effect on the protection of streams.

97. EPA believes the State should require an air quality monitoring program for surface coal mining operations that produce less than one million tons annually. Regulation 30 CFR 780.15(b)(1) provides that the regulatory authority may require an air quality monitoring program to evaluate the fugitive dust control practices of (b)(2), which requires a plan for fugitive dust control practices "as required under 30 CFR 816.95." However, the court has remanded 30 CFR 816.95 in *In re: Permanent Surface Coal Mining Regulation Litigation* (Civ. Action No. 79-1144 D.D.C., May 16, 1980, p. 27-29). Thus, there is no plan to be monitored. The State program need not contain provisions for dust control as explained in the guidelines for remanded regulations in Section B, above.

98. EPA believes State regulations NDAC 69-05.2-09-09 may not adequately cover all aspects of federal regulation 30 CFR 780.25 concerning geologic information to assess the hydrologic impact of the reclamation plan. EPA cites no specific deficiency in the regulation. The Secretary finds no deficiency in NDAC 69-05.2-09-09 and finds it to be consistent with the federal provision in 30 CFR 780.25.

99. EPA believes that North Dakota should make provision for reclamation of underground coal mining operations, or should specifically prohibit underground coal mining. The Secretary finds, as discussed in Findings 1(a)(i) and 4(c), that the State has adequately addressed underground coal mining.

100. EPA expresses concern that State regulation NDAC 69-05.2-16-04(1)(g) does not require compliance with federal law as well as State law on discharge of water. The corresponding federal regulation, 30 CFR 816.42(a)(7), requires compliance with federal laws relating to discharge of water. North Dakota has explained in Item No. 66, Part II, Addendum Volume I of the June 12, 1980 State program submission how the water quality requirements of federal law are implemented in North Dakota. The State Health Department (SHD) has an approved water quality management plan under the Clean Water Act, 33 U.S.C. 1251 *et seq.* SHD is

a member of the Reclamation Advisory Committee and is involved in review of all surface coal mining permits. Finally, SHD and PSC have a cooperative agreement, Appendix F of the February 29, 1980 State program submission, to provide for coordinated enforcement of water quality requirements. The Secretary finds that the State provisions for assuring water quality are consistent with the federal provisions, and that it is not necessary to include a specific statement that discharges will comply with federal laws.

101. EPA expresses concern that the State should either prohibit or develop specific regulations for in situ processing. The Secretary has found, under Findings 1(a)(iii) and 4(c) that the federal regulations on in situ processing are inapplicable to the North Dakota program.

102. EPA points out that the North Dakota regulations do not define "complete inspection" and do not require inspectors to collect evidence of violations as required by federal regulations 30 CFR 840.11 (a) and (b). North Dakota has added a definition of "complete inspection" at NDAC 69-05.2-01-02(21), and has by this definition and by the definition of "partial inspection" in NDAC 69-05.2-01-02(72) required the collection of evidence of violations during all inspections.

103. EPA points out that North Dakota omitted an analogue to federal regulation 30 CFR 842.14 pertaining to the review of the adequacy and completeness of inspections. North Dakota has added a new regulation, NDAC 69-05.2-28-02, which allows for such review.

104. EPI is concerned that NDCC 38-14.1-14(3) provides liability insurance coverage to any person except employees covered by workmen's compensation, while section 507(f) of SMCRA calls for a permit applicant to show that he has a liability insurance policy to cover any person damaged as a result of coal mining and reclamation operations. The Secretary notes that both Section 507(f) of the Act and federal regulation 30 CFR 806.14 extend the insurance coverage only to persons "entitled to compensation under applicable provisions of State law." North Dakota statute NDCC 65-01 provides that employees are entitled to compensation only under the provision of NDCC 65-01.

105. EPI and another commenter are concerned that while the State has regulatory language in NDAC 69-05.2-06-02(3) that requires an applicant to list a schedule of all notices pertaining to violations of applicable United States or State laws, the fact that State law NDCC 38-14.1-14(1)(g) requires a schedule only for notices issued in the State makes the regulatory requirement both confusing and vulnerable to legal challenge. The North Dakota Attorney General has certified the legality and validity of the North Dakota regulations in Part III, Addendum Volume I of the June 12, 1980 State program submission. The Secretary notes that the State has broad powers under NDCC 38-14.1-10, -11, and -20 to adopt regulations which carry out the purposes of SMCRA.

106. EPI is concerned that by omitting the word "federal" from State counterpart NDCC 38-14.1-04(5), to 522(a)(5) of SMCRA, which calls for designation decisions to be integrated with present and future land-use planning and regulation at the federal, State and local levels, designation decisions might have adverse affects on federal land uses. The State program has provisions for assuring federal agency involvement in land use planning and regulatory processes under NDAC 69-05.2-04-05(2)(a) which requires a thirty day notice of public hearing to federal agencies, and NDAC 69-05.2-04-06(1)(b), which requires consideration by the Commission of information supplied by governmental agencies in reaching designation decisions. The Secretary finds that the State provisions for coordination with federal agencies in decisions to designate lands unsuitable for mining are consistent with the federal provisions.

107. EPI believes the State definition of approximate original contour (AOC), NDCC 38-14.1-02(2), is less stringent than the federal definition in 30 CFR 701.5 in that it omits language stating that AOC applies to terracing and access roads; that AOC restoration must complement the drainage pattern of the surrounding terrain; and that all highwalls, spoil piles and coal refuse piles are to be eliminated. The Secretary finds that the State's definition of approximate original contour is consistent with the federal definition for the following reasons. North Dakota statute NDCC 38-14.1-24(3) requires that all lands, which would include terracing and access roads, be backfilled and graded to develop a landscape that will provide drainage that will complement the surrounding terrain, with all highwalls and spoil piles eliminated. Further, State regulation NDCC 69-05.2-19-02 provides for disposal of coal waste only in mined-out pit areas, so that there can be no coal refuse piles in the final landscape.

F. Secretary's Decision

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the States in becoming the primary regulators under the Act. To enable the States to achieve that primacy, the Secretary has undertaken many activities, of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations, such as the InterState Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western InterState Energy Board. Through these groups OSM has frequently met with State regulatory authority personnel to discuss informally how the Act should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM to explain portions of the federal requirements and how the States might meet them. Alternative State regulatory options, the "State window" concept, for example, were discussed at several meetings of the InterState Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the states to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to states to assist in the preparation of their permanent program submissions. OSM has also met with individual states to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the state program approval process to assist the states in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each state program to identify needed changes and to allow them to be made without penalty to the state. The Secretary adopted a special policy to insure that communication between him and the states remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a state after the close of the public comment period on its program and has been a vital part of the program review process (*see* 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a state program.

Under the Secretary's regulations, conditional approval gives full primacy to a state even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 201(c), 503(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a state program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a state months earlier than might otherwise be anticipated. While this may not be significant in states that already have comprehensive surface mining regulatory programs, in many states that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiquities through attorney general's opinions, revised regulations, policy statements, and changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist the states not to excuse them from achieving compliance with SMCRA.

Conditional Approval

As indicated under "Secretary's Findings," there are minor deficiencies in the North Dakota program which the Secretary requires be corrected. In all other respects, the North Dakota program meets the criteria for approval. The deficiencies identified in prior findings and the reasons why they are considered minor are summarized below.

1. A regulation which provides for the use of a standard and a formula to limit the amount of explosives used in blasting, in accord with Finding 4(c)(viii). The State reports that overburden is not blasted in North Dakota. Blasting is only used for coal. The small number of mines coupled with blasting practices in North Dakota greatly reduces the possibility of environmental harm from blasting.

2. A regulation which requires reporting the presence of threatened and endangered species in mine permit areas, in accord with Finding 4(c)(ix). Within two months after program approval, each operator must submit a new permit application. The State requires, as part of an application, a description of the fish and wildlife species in the area. This would include threatened and endangered species. This permit information along with the present state of knowledge of threatened and endangered species in North Dakota should provide sufficient control over adverse effects prior to adoption of revised regulations.

3. A regulation which provides for measurement of success of prime farmland revegetation based on three years production data in accord with Finding 4(c)(x). No data base periods will have run the presently required two years before the State adopts the three year requirement.

4. A regulation which provides for the approval of the Director of OSM for any change in guidelines for measuring success of revegetation, in accord with Finding 4(c)(xvii). No changes in the guidelines included in the North Dakota program are anticipated in the near future.

5. A regulation to prohibit issuance of a permit to any person with an outstanding violation or a pattern of violations outside of North Dakota, in accord with Finding 4(d)(iii). There has been no operator in North Dakota found to have had a pattern of violations. There are less than 20 mines in North Dakota at the present time. The number of mining operations in the State is fairly constant, so that there is little chance that there will be permit applications from unknown sources who may have patterns of violations or outstanding violations in another state, prior to adoption of the requested prohibition.

6. A regulation which extends coverage of the State's exploration program to environmental data-gathering operations whenever such operations create substantial disturbances, in accord with Finding 4(e)(i). Environmental data-gathering operations most often precede the opening of new mines, and are frequently carried out in conjunction with coal drilling operations. The small number of existing mines and the anticipated slow growth in the number of mines almost assures that this type of operation will not occur prior to adoption of revised regulations.

7. An amendment to State regulations to delete the requirement that a person seeking to intervene in matters before the regulatory authority demonstrate a substantial interest, in accord with Finding 4(g)(i). There is little likelihood that any person would be denied an opportunity to intervene in a proceeding

before the regulatory authority prior to the adoption of revised regulations.

8. A regulation which provides special consideration to citizens in the award of costs in administrative processes, in accord with the Finding in 4(g)(iv). There are no on-going legal actions against the PSC. There is only a slight possibility that there will be actions prior to revision of the regulations.

9. A regulation which allows persons with an interest which is or may be adversely affected to seek temporary relief from decisions on notices of violation, and cessation orders, in accord with Finding 4(j)(ix). There are only a small number of mines in North Dakota. There will be a corresponding small number of violations prior to the time this provision is adopted. Based on knowledge of the compliance status of mines in North Dakota and of the potential for major environmental or enforcement problems, it is highly unlikely that occasion to use this provision will arise prior to adoption of revised regulations.

10. A regulation which requires a 30 day comment period on proposed rules, in accord with Finding 4(1)(iii). It seems highly unlikely that it would be necessary to adopt new regulations prior to the time this provision could be modified, in light of the present process of program and regulation revision.

11. A statutory amendment to provide civil and criminal penalties against all employees who perform duties under the State Act in violation of conflict of interest provisions, in accord with Finding 4(m)(i). All North Dakota regulatory authority employees must file a statement of financial interests and are subject to the restrictions on financial interests. The State's recognition of the need to adopt the provision for criminal sanctions will put employers and supervisors on notice sufficiently to avoid work assignments or hirings which would conflict with the intent of the prepared provisions.

12. A regulation which would require consultants who make decisions for the regulatory authority to be subject to the State's conflict of interest regulations, in accord with Finding 4(m)(ii). Based on the fact that little contract work will be done, effects from delaying adoption of this provision will be limited or absent.

13. A statutory amendment and regulation revision to provide that the date for establishment of valid existing rights reflect the date of enactment of SMCRA, in accord with Finding 4(k)(iii). Based on the history of surface mining in the State and the small number of operators within the State it is highly unlikely that operators were denied permits during the period August 3, 1979 to July 1, 1979 and could demonstrate that good faith efforts were made to obtain permits. Effects from delaying adoption of the August 3, 1979 date will be limited or absent.

Half of the deficiencies are administrative in nature and half are operator performance requirements. Most are of such a nature that they do not apply to activities or situations which will be in progress prior to the State's adoption of revisions. The only significant exception to this might be the deficiency in the blasting regulation. However, mine operators do not blast overburden in North Dakota. They blast the coal only. This practice greatly reduces the potential for impact due to the less stringent State requirement for blasting. No blasting impact is expected.

Given the nature of these deficiencies and their magnitude in relation to all the other provisions of the North Dakota program, the Secretary of the Interior has concluded they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i), because:

1. The deficiencies are of such a size and nature as to render no part of the North Dakota program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII, and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. North Dakota has initiated and is actively proceeding with steps to correct the deficiencies; and

3. North Dakota has agreed, by letter dated November 17, 1980, to correct the regulation deficiencies by July 1, 1981, and the statutory deficiencies by July 1, 1981. Accordingly, the Secretary is conditionally approving the North Dakota program. This approval shall terminate if regulations correcting the deficiencies are not enacted by July 1, 1981, or if state legislation correcting the statutory deficiencies is not enacted by July 1, 1981. This conditional approval is effective December 15, 1980. Beginning on that date, PSC shall be deemed the regulatory authority in North Dakota for all surface coal mining and reclamation operations and for all exploration operations where more than 250 tons of coal are removed on non-federal and non-Indian lands. Beginning on December 15, 1980, the North Dakota Geological Survey shall be deemed the regulatory authority in North Dakota for all exploration operations where less than 250 tons of coal are removed on non-federal and non-Indian lands.

On non-federal and non-Indian lands in North Dakota, the permanent regulatory program consists of the State program as approved by the Seretary.

On federal lands, the permanent regulatory program consists of the federal rules made applicable under 30 CFR Chapter VII, Subchapter D, Parts 740–745. In addition, in accordance with Section 523(a) of the SMCRA, 30 USC 1273(a), the federal lands program in North Dakota shall include the requirements of the approved North Dakota permanent regulatory program. The approved state/federal cooperative agreement contained in 30 CFR Part 211 will terminate within 120 days of this approval of the North Dakota regulatory program. North Dakota and the Department of the Interior will have the opportunity to enter a revised cooperative agreement to include the requirements of the approved North Dakota permanent regulatory program.

The Secretary's approval of the North Dakota program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV of SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, North Dakota may submit a state reclamation plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d) no environmental impact statement need be prepared on this conditional approval.

The Secretary has determined that this document is not a significant rule under E.O 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this conditional approval.

Dated: December 9, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior for Energy and Minerals.

A new Part, 30 CFR Part 934, Subchapter T is adopted to read as follows:

PART 934—NORTH DAKOTA

Sec.
934.1 Scope.
934.10 State regulatory program approval.
934.11 Conditions of State regulatory program approval.
934.12 State program provisions disapproved.
934.13 State program provisions set aside.

Authority: Section 503. P.L. 95-87; 30 U.S.C. 1253.

§ 934.1 Scope.

This Part contains all rules applicable only within North Dakota that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 934.10 State program approval.

The North Dakota State Program, as submitted on February 29, 1980, and amended and clarified on June 12, 1980 and September 9, 1980, is conditionally approved, effective December 15, 1980. Beginning on that date, PSC shall be deemed the regulatory authority in North Dakota for all surface coal mining and reclamation operations and for all exploration operations where more than 250 tons of coal are removed on non-federal and non-Indian lands and the North Dakota Geological Survey shall be deemed the regulatory authority in North Dakota for all exploration operations where less than 250 tons of coal are removed on non-federal and non-Indian lands. Only surface mining and reclamation operations on non-federal and non-Indian lands shall be subject to the provisions of the North Dakota permanent regulatory program. Copies of the approved program, together with copies of the letter of the Public Service Commission agreeing to the conditions in 30 CFR 934.11, are available at:

(a) North Dakota Public Service Commission, Reclamation Division, State Capitol Building, Bismarck, ND 58505, Telephone: (701) 224-2400.

(b) Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, CO 80202, Telephone: (303) 837-5421.

(c) Office of Surface Mining, Interior South Building, Room 153, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202) 343-4728.

§ 934.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations containing provisions to NDAC 69-05.2-17-05 and 06 for the use of a standard and a formula to limit the amount of explosives used in blasting in a same and similar manner as under under 30 CFR 816.65(1)(i) and (ii), or otherwise amends its program to accomplish the same result;

(b) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations containing provisions to NDAC 69-05.2-13-08(2) which are the same or similar to those in 30 CFR 816.97(b) relating to the reporting of the presence of threatened and endangered species in mine permit areas, or otherwise amends its program to accomplish the same result;

(c) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations containing provisions to NDAC 69-05.2-22-07(3)(b) requiring measurement of success of prime farmlands based on three years production data in accordance with 30 CFR 823.15(c)(i) and (iii), or otherwise amends it program to accomplish the same result.

(d) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations containing provisions to NDAC 69-05.2-22-07(1) requiring the approval of the Director of OSM for any changes in guidelines for measuring success of revegetation in a same or similar manner as under 30 CFR 816.11(a) and (b)(i) or otherwise amends its program to accomplish the same result.

(e) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations amending NDAC 69-05.2-10-03(i) to prohibit issuance of permits to any person with an outstanding violation or a pattern of violations outside of North Dakota in a same or similar manner as Section 510(c) of SMCRA, and 30 CFR 786.17, and 30 CFR 786.19(i) or otherwise amends its program to accomplish the same results.

(f) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations extending coverage of North Dakota's exploration program as define in NDCC 38-12.1-03, to include environmental data gathering operations wherever such operations create substantial disturbances as specified under the federal definition of coal exploration in 30 CFR 701.5, or otherwise amends its program to accomplish the same result.

(g) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations revising the definition in NDAC 69-02-02-5 to delete the requirement that a person seeking to intervene in administrative procedures demonstrate a substantial interest in a manner consistent with 43 CFR 4.110, or otherwise amends its program to accomplish the same result.

(h) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by the date copies of fully enacted regulations narrowing North Dakota's authority under NDCC 38-14.1-36(1) to award costs and expenses, including attorney fees, against any party as it deems appropriate, so that this provision provides special consideration for award of costs to citizens in administrative proceedings in a same or similar manner as 43 CFR Part 4.1290-1296, or otherwise amends its program to accomplish the same result;

(i) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations extending temporary relief under NDCC 38-14.1-30(4) to include persons with an interest which is or may be adversely affected from decisions on notices of violation and cessation orders, in a same or similar manner as Section 525(c) and 43 CFR 4.1261, or otherwise amends its program to accomplish the same result.

(j) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations to revise NDAC 69-05.2-01-03 to provide a 30-day comment period after publication in accordance with Section 501(a)(A) of SMCRA, or otherwise amends its program to accomplish the same result.

(k) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted statutes expanding the scope found in NDCC 38-14.1-38 to contain provisions which are the same or similar to those in Section 517(g) of SMCRA providing civil and criminal penalties against all employees who perform duties under the State Act in violation of conflict of interest provisions, or otherwise amends its program to accomplish the same result.

(l) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date, copies of fully enacted regulations revising the State definition of employee under NDAC 60-05.2-01-02(34) to include consultants.

who make decisions for the regulatory authority so that they be subject to State conflict of interest regulations consistent with 30 CFR 705, or otherwise amends its program to accomplish the same result.

(m) The approval found in § 934.10 of this part will terminate on July 1, 1981, unless North Dakota submits to the Secretary by that date copies of fully enacted statutes and regulations revising the date for establisment of valid existing rights under NDCC 38-14.1-07(i) and NDAC 69-05.2-01-02(126) to be consistent with SMCRA Section 522(e) and 30 CFR 761.5, or otherwise amends its program to accomplish the same result.

§ 934.12 State program provisions disapproved.

The following provisions of the North Dakota permanent regulatory program submission are hereby disapproved to the extent indicated in compliance with the February 26, 1980, May 16, 1980, and August 15, 1980, opinions and orders of the U.S. District Court for the District of Columbia (*In re: Permanent Surface Mining Regulation Litigation* (Civ. Action No. 79-1144)).

(a) NDAC 69-05.2-25-01 is disapproved to the extent that it does not allow negligible farmland interruption and undeveloped range lands as exclusions to the hydrology requirements.

(b) NDAC 69-05.2-16.04(2), relating to effluent standard exemptions during periods of precipitation, is disapproved pending promulgation by the Secretary of new regulations.

(c) NDAC 69-05.2-26-01(2) is disapproved to the extent that it requires an operator on prime farmland to actually return the land to crop production.

(d) NDAC 69-05.2-23-01 is disapproved to the extent that it does not allow restoration of the land to a condition capable of supporting prior-to-mining use or higher use at the operator's option.

§ 934.13 State program provisions set aside.

North Dakota regulation NDAC 69-05.2-27-01 is inconsistent with federal provisions for permitting and bonding of research projects and is set aside under the provisions of Section 505(b) of the Surface Mining Control and Reclamation Act of 1977.

[FR Doc. 80-38662 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 79-152]

Design and Equipment Standards for Tank Vessels Transferring Outer Continental Shelf Oil

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations require tank vessels engaged in the transfer of cargo oil in bulk from an offshore oil exploitation or production facility on the Outer Continental Shelf (OCS) of the United States to have segregated ballast tanks, dedicated clean ballast tanks, or special ballast arrangements. These regulations implement subsection 7(M) of Section 5 of the Port and Tanker Safety Act of 1978. The regulations eliminate the mixing of ballast water and oil thus reducing operational pollution that could occur if there is a substantial increase in vessel traffic transferring Outer Continental Shelf oil ashore.

EFFECTIVE DATE: These regulations become effective on January 1, 1981.

ADDRESSES: Copies of the Environmental Assessment and the Regulatory Evaluation may be obtained by writing to Commandant (G-CMC/TP24) (CGD 79-152), Room 2418, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, D.C. 20593 and are available at the same address between the hours of 7:00 a.m. and 5:00 p.m. Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Richard S. Tweedie, Merchant Marine Technical Division (G-MMT-1/TP13), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593 (202-426-4431).

SUPPLEMENTARY INFORMATION: On May 1, 1980, the Coast Guard published a notice of proposed rulemaking in the Federal Register for these regulations (45 FR 29087). Interested persons were invited to submit comments on the proposals. The comment period on the proposed regulations closed on June 17, 1980. Seven comments were received.

The Notice of Proposed Rulemaking contains a detailed explanation and discussion of the regulations and their applicability which is not reproduced in this document.

Drafting Information

The principal persond involved in drafting these regulations are: Lieutenant Commander Richard S. Tweedie, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

Discussion of Comments

Seven commenters responded to the Notice of Proposed Rulemaking. Four of the commenters' responses expressed support for the regulatory action.

One commenter suggested that if the ballast was brackish or fresh water its discharge could effect marine ichthyoplankton. The commenter suspected that the effect would be small. Considering the fact that only 5 percent of the oil being produced on the OCS is being brought ashore by vessel and, presently, all of that is transported by barges which only occasionally ballast, the Coast Guard does not consider the ballast water to be a problem. It is felt that the effect would be negligible even if a large amount of deballasting of brackish or fresh water did occur since a vessel's ballast is pumped overboard over a relatively long period of time and the mixing action of the waves, wind, and currents would prevent any significant change in the salinity of the sea water in the vicinity of the deballasting site.

One commenter asked if a vessel could be considered to have a special ballast arrangement if it always carries sufficient cargo to meet the draft and trim requirements. Such an operation could be considered a special ballast arrangement provided the requirements of § 157.10b (c) and (d) are complied with.

One commenter suggested that the proposed modification to § 157.37(b) was redundant with § 157.37(a) for vessels engaged in short duration voyages and was unduly restrictive for vessels engaged in long voyages. The commenter suggested that vessels engaged in this trade be allowed to discharge oily mixtures into the sea provided the standards of § 157.37(a) were met. The commenter suggested deleting the proposed changes to § 157.35 and § 157.37(b). The Coast Guard agrees that the proposed revision to § 157.37(b) would have been overly restrictive for vessels engaged in long voyages and that the requirements of § 157.37(a) are adequate to prevent discharge of oily mixtures that are not properly decanted as a result of a short voyage. The proposed revision of § 157.37(b) is withdrawn. The proposed change to § 157.35 has been retained. This change is necessary to define conditions under which the cargo tanks may be ballasted and to establish acceptable methods to dispose of the resulting oil-water mixtures.

Section 5(7)(M) of the Port and Tanker Safety Act of 1978 (PTSA) requires that vessels engaged in the transfer of crude oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States must, not later than June 1, 1980, be equipped with segregated ballast tanks or operate with dedicated clean ballast tanks or special ballast arrangements. This date is reflected in § 157.10b. Vessels engaged in this trade will be required to comply with the construction standards mandated by the PTSA; however, to facilitate the process of submitting plans and developing documents required by these rules, the procedural requirements in the rules now specify a compliance date of June 1, 1981. As explained in the Notice of Proposed Rulemaking, these rules are unlikely to affect the 19 vessels that can presently engage in this trade since these barges rarely ballast.

Environmental Impact

The regulatory action will not have a significant environmental impact. There would be no short term impact since there would be almost no vessels affected by this regulatory action at the time of implementation. The future impact would be proportional to the size of the trade that did develop; however, it is believed by the Coast Guard that the primary means of transferring OCS oil ashore will continue to be pipelines.

The regulations are directed at reducing operational oil pollution from tank vessels that could occur if a substantial vessel trade developed to transfer OCS oil ashore. Operational oil pollution from tank vessels occurs from deballasting, tank cleaning, and sludge removal prior to shipyard entry. CBT, SBT and the special ballast arrangements would nearly eliminate oil pollution generated during the deballasting operation. When SBT is used, the ballast pumping, piping, and tanks are isolated from all oil systems. Ballast in a CBT system is carried in tanks dedicated to ballast; however, the ballast water can be transferred to and from the ballast tanks with the cargo pumping and piping system. The success of a CBT system would depend upon the vessel's adherence to a detailed operating procedure. For this reason, an approved operating manual would be required for each vessel with a CBT system. Being tailored for each vessel, these manuals would be expected to enhance performance of these operations as well as provide specific information for crew members. Special ballast arrangements would be approved only if they prevent the mixing of ballast water with cargo oil.

This rule is non-significant and has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). An Environmental Assessment and a Regulatory Evaluation have been prepared and included in the public docket. They may be obtained as indicated in "ADDRESSES". A Finding of No Significant Environmental Impact has been issued.

In consideration of the foregoing, the amendments to Part 157 of Title 33, Code of Federal Regulations proposed in the May 1, 1980 Federal Register are hereby adopted with the changes described above and set forth below. Part 157 of Title 33, Code of Federal Regulations is amended as follows:

1. By amending § 157.08 by revising paragraph (g) and by adding paragraph (h) to read as follows:

§ 157.08 Applicability of Subpart B.

* * * * *

(g) Sections 157.09(b)(3), 157.10(c)(3), 157.10a(d)(3), and 157.10b(b)(3) do not apply to tank barges.

(h) Section 157.10b does not apply to tank barges if they do not carry ballast while they are engaged in trade involving the transfer of crude oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States.

2. By adding § 157.10b to read as follows:

§ 157.10b Segregated ballast tanks, dedicated clean ballast tanks, and special ballast arrangements for tank vessels transporting Outer Continental Shelf oil.

(a) Each tank vessel that is engaged in the transfer of crude oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States on or after June 1, 1980 must, if segregrated ballast tanks or dedicated clean ballast tanks are not required under § 157.09, § 157.10 or § 157.10a, have one of the following:

(1) Segregated ballast tanks with a total capacity to meet the draft and trim requirements in paragraph (b) of this section.

(2) Dedicated clean ballast tanks having a total capacity to meet the draft and trim requirements in paragraph (b) of this section and meeting the design and equipment requirements under Subpart E of this part.

(3) Special ballast arrangements acceptable to the Coast Guard.

(b) In any ballast condition during any part of a voyage, including that of lightweight with either segregated ballast in segregated ballast tanks or clean ballast in dedicated clean ballast tanks, each vessel under paragraph (a)(1) or (a)(2) of this section must have the capability of meeting each of the following:

(1) The molded draft amidship (dm), in meters, without taking into account vessel deformation, must not be less than "dm" in the following mathematical relationship:

$dm = 2.00 + 0.020L$ for vessels of 150 meters or more in length

$dm = 1.25 + 0.025L$ for vessels less than 150 meters in length

(2) The drafts, in meters, at the forward and after perpendiculars must correspond to those determined by the draft amidship under paragraph (b)(1) of this section, in association with a trim, in meters, by the stern (t) of no more than "t" in the following mathematical relationship:

$t = 0.015L$ for vessels of 150 meters or more in length

$t = 1.5 + 0.005L$ for vessels less than 150 meters in length

(3) The minimum draft at the after perpendicular is that which is necessary to obtain full immersion of the propeller.

(c) Special ballast arrangements are accepted under the procedures in paragraph (d) of this section if—

(1) The vessel is dedicated to one specific route;

(2) Each offshore transfer facility on the route is less than 50 miles from shore;

(3) The duration of the ballast voyage is less than 10 hours;

(4) They prevent the mixing of ballast water and oil; and

(5) They provide suitable draft and trim to allow for the safe navigation of the vessel on the intended route.

(d) The owner or operator of a vessel that meets paragraph (c) of this section must apply for acceptance of the special ballast arrangement, in writing, to the Officer in Charge, Marine Inspection, of the zone in which the vessel operates. The application must contain—

(1) The specific route on which the vessel would operate;

(2) The type of ballast to be carried;

(3) The location of the ballast on the vessel;

(4) Calculations of draft and trim for maximum ballast conditions; and

(5) The associated operating requirements or limitations necessary to ensure safe navigation of the vessel.

Note.—Operating requirements or limitations necessary to ensure safe navigation of the vessel could include (but are not limited to) weather conditions under which the vessel would not operate and weather conditions under which cargo would be carried in certain cargo tanks on the ballast voyage.

(e) The Coast Guard will inform each applicant for special ballast arrangements under paragraph (d) of this section whether or not the arrangements are accepted. If they are not accepted, the reasons why they are not accepted will be stated.

(f) Each tank vessel under this section may be designed to carry ballast water in cargo tanks, as allowed under § 157.35.

3. By revising the introductory text in § 157.11(d) to read as follows:

§ 157.11 Pumping, piping and discharge arrangements.

* * * * *

(d) Each tank vessel under §§ 157.09, 157.10a, or 157.10b that carries crude oil must have—

* * * * *

4. By revising § 157.15(b)(1) to read as follows:

§ 157.15 Slop tanks in tank vessels.

* * * * *

(b) * * *

(1) Segregated ballast tanks that meet the requirements in §§ 157.09, 157.10, 157.10a, or 157.10b; or

* * * * *

5. By revising the introductory text in § 157.24(c) to read as follows:

§ 157.24 Submission of calculations, plans, and specifications.

* * * * *

(c) Calculations to substantiate compliance with the segregated ballast capacity and distribution requirements in §§ 157.09, 157.10, 157.10a, or 157.10b or a letter from the government of the vessel's flag state certifying that the vessel complies with the segregated ballast capacity and distribution requirements in—

(1) Sections 157.09, 157.10, 157.10a, or 157.10b; or

* * * * *

6. By revising the introductory text in § 157.35 to read as follows:

§ 157.35 Ballast added to cargo tanks.

The master of a tank vessel that meets §§ 157.09, 157.10, 157.10a(a)(1), 157.10a(b), 157.10a(c), or 157.10b(a) shall ensure that ballast water is carried in a cargo tank only if—

* * * * *

7. By revising the introductory text of § 157.200(a) to read as follows:

§ 157.200 Plans for U.S. tank vessels: Submission.

(a) Before June 1, 1981, the owner or operator of each U.S. tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) must submit to the Coast Guard plans that include—

* * * * *

8. By revising the introductory text of § 157.202 to read as follows:

§ 157.202 Plans and documents for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel under §§ 150.10a(b), 157.10a(c)(2), or 157.10b(a)(2) desires the letter from the Coast Guard under 157.204 accepting the plans submitted under this paragraph, the owner or operator must submit to the Commandant (G–MMT), U.S. Coast Guard, Washington, D.C. 20593,—

* * * * *

9. By revising § 157.206 to read as follows:

§ 157.206 Dedicated Clean Ballast tanks Operations Manual for U.S. tank vessels: Submission.

Before June 1, 1981, the owner or operator of a U.S. tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) must submit two copies of a *Dedicated Clean Ballast Tanks Operations Manual* that meets § 157.224 to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or to the appropriate Coast Guard field technical office listed in § 157.200(b).

10. By revising § 157.208 to read as follows:

§ 157.208 Dedicated Clean Ballast Tanks Operations Manual for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel under §§ 157.10a(b), 157.10(c)(2), or 157.10b(a)(2) desires a Coast Guard approved *Dedicated Clean Ballast Tanks Operations Manual* under § 157.210, the owner or operator must submit two copies of a manual that meets § 157.224 to the Commandant (G–MMT), U.S. Coast Guard, Washington, D.C. 20593.

11. By revising the introductory text of § 157.214 to read as follows:

§ 157.214 Required documents: U.S. tank vessels.

On and after June 1, 1981, the owner, operator, and matter of a U.S. tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board—

* * * * *

12. By revising the introductory text of § 157.216 to read as follows:

§ 157.216 Required documents: Foreign tank vessels.

On and after June 1, 1981, the owner, operator, and master of a foreign tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

* * * * *

13. By revising § 157.220(a) to read as follows:

§ 157.220 Dedicated clean ballast tanks: Standards.

(a) Cargo tanks that are designated as dedicated clean ballast tanks must allow the tank vessel to meet the draft and trim requirements under §§ 157.10a(d) and 157.10b(b).

* * * * *

14. By revising the introductory text of § 157.225 to read as follows:

§ 157.225 Dedicated clean ballast tanks operations: General.

The master of a tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) shall ensure that—

* * * * *

15. By revising § 157.226 to read as follows:

§ 157.226 Dedicated Clean Ballast Tanks Operations Manual: Procedures to be followed.

The master of a foreign tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) that has a *Dedicated Clean Ballast Tanks Operations Manual* approved under § 157.210 and is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States and the master of a U.S. tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a) shall ensure that the procedures listed in the *Dedicated Clean Ballast Tanks Operations Manual* are followed.

16. By revising § 157.228 to read as follows:

§ 157.228 Isolating valves: Closed during a voyage.

(a) The master of each U.S. tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) shall ensure that the valves under § 157.222(d) remain closed during each voyage.

(b) The master of each foreign tank vessel under §§ 157.10a(b), 157.10a(c)(2), or 157.10b(a)(2) shall ensure that the valves under § 157.222(d) remain closed when the vessel is on a voyage in the navigable waters of the United States.

(Sec. 5, Port and Tanker Safety Act of 1978, 92 Stat. 1480 (46 USC 391a); 49 CFR 1.46(n)(4))

Dated: December 8, 1980.

Clyde T. Lusk, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 80-38827 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CCGD13-80-10]

Safety Zone—Columbia River Mile 63 to 75, Longview, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This notice cancels the Safety Zone which was established (subsequent to the eruption of Mt. St. Helens on May 18, 1980) in the Columbia River on May 22, 1980 (CCGD13-80-04), amended June 19, 1980 (CCGD13-80-05), amended July 29, 1980 (CCGD13-80-07) and amended September 12, 1980 (CCGD13-80-08). Cancellation of the Safety Zone at this time is warranted by the conditions which now exist in the Columbia River between miles 63 and 75.

EFFECTIVE DATE: This amendment is effective at 1200 PDT on October 22, 1980.

ADDRESSES: Comments should be mailed to: USCG Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

FOR FURTHER INFORMATION CONTACT: Lt. David V. Edling, Chief, Vessel Management Branch, Telephone number (503) 221-6329, FTS 423-6329, Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

SUPPLEMENTARY INFORMATION: This cancellation is issued without publication of a notice of proposed rule making and is effective less than 30 days from the date of publication. This procedure is followed because public procedures on this cancellation are impractical due to the nature of the situation and there is not sufficient time to allow for public comment. Although this cancellation is published as a final rule, public comment is nevertheless desirable to ensure that the requirements concerning this cancellation are workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the address stated above. Comments should include their names and addresses, identify the docket number for this cancellation (CCGD13-80-10), and give their reasons for the comments. Based upon comments received, this cancellation may be revised.

Drafting Information

The person involved in the drafting of this document was Lt. David V. Edling, Chief, Vessel Management Branch, Marine Safety Office, Portland, Oregon.

§ 165.1303 [Removed]

In consideration of the above, Part 165 of Title 33, Code of Federal Regulations, § 165.1303 is cancelled.

(92 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4)

Dated: October 22, 1980.

G. K. Greiner, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, USCG Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

[FR Doc. 80-38828 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1701-3]

Massachusetts State; Approval and Promulgation of Implementation Plans; Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Massachusetts State Implementation (SIP) which allows a Procter and Gamble plant in Quincy to increase its sulfur in fuel content from 1% to 2.2%. The Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted the revision to EPA on November 27, 1979. On July 14, 1980 (45 FR 47166) EPA published its proposed approval of this revision. No letters of comment were received.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, J. F. K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

ADDRESSES: Copies of the Massachusetts document which is incorporated by reference are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; Office of the Federal Register, 1110 L Street, N.W., Room 8401, Washington, DC and the Massachusetts Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: The Procter and Gamble facility in Quincy, Massachusetts is rated at 124 million Btu per hour maximum design capacity and is located in the Metropolitan Boston Air Pollution Control District (the Met-Boston District), outside of the "Boston core" area. The purpose of this revision is to add Procter and Gamble to the list of sources outside the Boston core area which are currently allowed to burn fuel having a sulfur content of 1.21 pounds per million Btu heat release potential (approximately 2.2% sulfur content residual oil by weight).

Technical support for the proposed revision included an evaluation of compliance with National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments for sulfur dioxide (SO_2) using EPA approved modeling techniques and an assessment of existing ambient levels of SO_2 using available monitoring data. NAAQS are maximum allowable ambient air pollutant concentrations which are set to protect public health and welfare; PSD increments are allowable incremental increases in ambient pollutant concentrations which are set to limit the degradation of air quality over baseline levels. In amendments to its PSD regulations published on August 7, 1980 (45 FR 52676), EPA defines the baseline as the date on which a source subject to the PSD regulations filed a permit application to construct or modify in an area designated attainment or unclassifiable under Section 107(d)(1) of the Clean Air Act. The baseline date has thus been set for the entire State of Massachusetts which is the Section 107 designated attainment area. The date is August 4, 1978, the filing date of the application of the Massachusetts Municipal Wholesale Electric Company.

The technical review showed that NAAQS would not be violated and the entire available PSD increment would not be consumed. Procter and Gamble is located in a Class II PSD area in which no PSD permits have been issued and no previous SIP revisions have consumed increment and, therefore, EPA considers the amount of SO_2 which may be added to the ambient air to be limited to increments of 20 $\mu g/m^3$ based on an annual averaging time; 91 $\mu g/m^3$ based on a 24-hour averaging time and 512 $\mu g/$

m^3 based on a 3-hour averaging time. The increment predicted to be consumed by Procter and Gamble on an annual, 24-hour and 3-hour averaging time is 2 $\mu g/m^3$, 17 $\mu g/m^3$ and 51 $\mu g/m^3$, respectively. Therefore, EPA is approving the Massachusetts Department's request to allow the Procter and Gamble facility to burn 2.2% sulfur fuel oil.

The EPA finds good cause for making this revision effective immediately for the following reasons:

1. The implementation plan is already in effect under State Law and the EPA approval imposes no additional regulatory burdens.

2. The immediate use of less expensive, higher sulfur fuel will greatly ease economic burdens.

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

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.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

(Secs. 110(a)(2)A-K and 301 of the Clean Air Act as amended 42 U.S.C. 7410, 7601)

Dated: December 9, 1980.

Douglas M. Costle,

Administrator.

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

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

Subpart W—Massachusetts

1. Section 52.1120, paragraph (c) is amended by adding subparagraph (32) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(32) A revision to Regulation 7.05(1) "Sulfur Content of Fuels and Control Thereof" for the Metropolitan Boston APCD submitted on November 27, 1979 by the Commissioner of the Department of Environmental Quality Engineering.

§ 52.1126 [Amended]

2. Section 52.1126, paragraph (f) is amended by adding the following approved source:

* * * * *

(f) * * *

Procter and Gamble Company, Quincy.

[FR Doc. 38834 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-6-FRL 1685-8]

Conditional Approval of Texas State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice takes final action on the revision schedules that were proposed by EPA in the March 25, 1980 Federal Register. These schedules were proposed in connection with the modification of the Texas State Implementation Plan (SIP) for nonattainment areas. EPA is approving these revision schedules. Conditional approval of the plan still remains in effect.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On April 13, 1979, the Governor of Texas submitted revisions to the Texas SIP. EPA evaluated the State's submission and proposed conditional approval on August 1, 1979, provided that the State correct certain inadequacies, on specified schedules (44 FR 45204). In the Federal Register of March 25, 1980, EPA conditionally approved the Texas plan for nonattainment areas. Concurrent with the conditional approval of the Texas SIP, EPA published a notice of proposed rulemaking which addressed the schedules by which the State had committed to correct the deficiencies. (see 45 FR 19277) EPA solicited comments on the schedules. The 30-day period allowed for public comments on these proposed revision schedules ended on April 24, 1980. No comments were received. The deficiencies discussed in the March 25, 1980 Federal Register and the time schedule in which the State must correct them are:

1. Regulation V, Control of Air Pollution from Volatile Organic Compounds—The State must revise portions of this regulation, and submit the revised regulation by August 1, 1980.

2. TSP Control Strategy and Regulation I—The State must submit complete control strategies and revisions to Regulation I for San Benito, Brownsville, Corpus Christi 1, Corpus Christi 2, Dallas 1, Dallas 3, and El Paso 4 by August 1, 1980. In the interim, they must meet the following schedule: March 3, 1980—Draft SIP developed: May 5, 1980—Public hearing completed; August 1, 1980—Adopt revised Regulation I, and submit to EPA.

3. Regulation VI, Control of Air Pollution by Permit for New Construction or Modification—The State must revise portions of the regulation and submit the revised regulation by August 1, 1980.

In the March 25, 1980 Federal Register (at 45 FR 19235), EPA cited a necessary revision to Subchapters 131.01.001 (29) and (30) of the general rules. The State agreed to revise the definitions of "major source" and "major modification" to be equivalent to EPA definitions. The date proposed in the notice of March 25, 1980 for this submission must be revised to May 7, 1980, as a result of the ruling of the U.S. Court of Appeals for the District of Columbia Circuit in the case of *Alabama Power Company et al.* v. *Douglas M. Costle.*

On August 7, 1980, EPA promulgated new regulatory changes affecting new source review in nonattainment areas, including restrictions on major source growth (40 CFR 52.24) and requirements under EPA's Emission Offset Interpretative Ruling (40 CFR Part 51, Appendix S) and Section 173 of the Clean Air Act (40 CFR 51.18 (j)). Accordingly, the State must revise the related definitions contained in State Regulation VI within nine months of the promulgation date of the New Source Review regulations.

This notice of final rulemaking is issued under authority of Section 110 and 172 of the Clean Air Act, as amended.

Dated: December 9, 1980.

Douglas M. Costle,

Administrator.

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

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

Subpart SS—Texas

1. In § 52.2275, paragraphs (a)(3) and (4)(ii) are amended to include the submittal date August 1, 1980. These paragraphs now read as follows:

§ 52.2275 Control strategy and regulations: Ozone.

(a) * * *

(3) Revise Subchapter 13.08.59.101 in such a manner as to be consistent with the RACT requirements for this source category, and extend the application of this subchapter to include all nonattainment areas in which the use of cutback asphalt constitutes 100 tons per year or more of volatile organic compounds on a countywide basis, and submit the revision to EPA by August 1, 1980.

(4) * * *

(ii) Revise these subchapters so as to require Control System B for facilities in Harris County, with emissions greater than or equal to the specified exemption, and in all other ozone nonattainment areas, for facilities which have degreasing operations emitting in excess of 100 tons per year, and submit these revisions to EPA by August 1, 1980.

* * * * *

2. In § 52.2276, paragraph (a) is amended to read as follows:

§ 52.2276 Control strategy and regulations: Particulate matter.

(a) Part D Conditional Approval. The Texas plan for total suspended particulate (TSP) for the nonattainment areas of San Benito, Brownsville, Corpus Christi 1, Corpus Christi 2, Dallas 1, Dallas 3 and El Paso 4 is conditionally approved until the State satisfactorily completes the following items:

(1) Draft SIP revision supplement submitted to EPA by March 3, 1980.

(2) Public hearing completed by May 5, 1980.

(3) Adopt revised Regulation I as it pertains to control of nontraditional sources, if necessary, and submit to EPA by August 1, 1980.

3. In § 52.2299, paragraphs (a) (1) and (2) are amended to include the submittal dates of August 1, 1980 and May 7, 1981. These paragraphs read as follows:

§ 52.2299 Review of new sources and modifications.

(a) * * *

(1) Revise Subchapter 131.08.00.003 (a)(13) to provide for the application of offsets in all nonattainment areas, designated as such after March 3, 1978 by August 1, 1980.

(2) Revise the definitions of "major source" and "major modification" to be equivalent to EPA's definition by May 7, 1981.

[FR Doc. 80-38649 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 422 and 432

[WH-FRL 1701-1]

Effluent Guidelines and Standards: Phosphate Manufacturing Point Source; Meat Products Point Source Category; Revocation of Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is formally revoking portions of the final effluent limitations guidelines at 40 CFR Part 422 for the Phosphate Manufacturing Point Source Category, and 40 CFR Part 432 for the Meat Products Point Source Category. This revocation is prompted by the action of appellate courts in remanding the regulations to EPA.

DATES: The revocations for the Phosphate Manufacturing Point Source Category are effective as of April 28, 1976. The revocations for the Meat Products Point Source Category are effective as of November 24, 1975. (These dates correspond to the court decisions requiring today's revocations.)

FOR FURTHER INFORMATION CONTACT: For Phosphate Manufacturing Point Source Category: Mr. Elwood E. Martin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 426-2582.

For Meat Products Point Source Category: Daniel Lent, Effluent Guidelines Division, (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 426-2707.

SUPPLEMENTARY INFORMATION:

Part 422: Phosphate Manufacturing Point Source Category

On February 20, 1974 (39 FR 6582), EPA promulgated "best practicable technology" (BPT) and "best available technology" (BAT) effluent guidelines and new source performance standards under the Clean Water Act, 33 U.S.C. 1251 *et seq.*, for several subcategories of the Phosphate Manufacturing Point Source Category, 40 CFR Part 422. In *Hooker Chemicals and Plastics Corp. et al.* v. *Train* 537 F. 2d 620 (2d Cir. 1976) the Court of Appeals for the Second Circuit invalidated certain portions of these regulations. The court remanded the flouride and total phosphorus BPT limitations in § 422.12; the no discharge BAT limitation of § 422.13; the phosphorus pentasulfide BPT limitation in § 422.22; the phosphorus oxychloride, phosphorus pentasulfide and phosphorus trichloride BAT limitations in § 422.23; the BPT limitation in § 422.32; the BAT limitations in § 422.33; and the § 401.11(q) definition of process waste water as it is utilized in §§ 422.11, 422.21 and 422.31. The new source performance standards in §§ 422.15, 422.25 and 422.35 were also remanded in a companion case at 537 F. 2d 639 (2d Cir. 1976). As a result of the numerous remands by the Second Circuit Court of Appeals, the above effluent limitations for the Phosphorous Production, Phosphorus Consuming, and Phosphate Subcategories are revoked by EPA. In addition, the following limitations are revoked because they are based on the remanded definition of process waste water: § 422.12; § 422.22; and § 422.23.

Part 432: Meat Products Point Source Category

On February 28, 1974, EPA promulgated effluent limitations for the Meat Products Point Source Category, 40 CFR Part 432, 39 FR 7894. In *American Meat Institute* v. *EPA*, 526 F. 2d 442 (7th Cir. 1975), the Seventh Circuit reviewed the effluent limitations and remanded selected portions of those regulations. The BAT regulations remanded by the court were withdrawn as part of the Agency regulations to establish best conventional pollutant control technology limitations, 44 FR 50732, August 29, 1979. The court also remanded the BPT limitation for TSS in the Complex Slaughterhouse Subcategory, § 432.22. EPA is accordingly revoking that limitation.

In consideration of the foregoing, 40 CFR Parts 422 and 432 are amended as set forth below:

PART 422—PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

40 CFR Part 422 is amended as follows:

Subpart A—Phosphorus Production Subcategory

§ 422.11 [Reserved]

1. Section 422.11 is revoked, and shall be designated as "[Reserved]".

§ 422.12 [Reserved]

2. Section 422.12 is revoked, and shall be designated as "[Reserved]".

§ 422.13 [Reserved]

3. Section 422.13 is revoked, and shall be designated as "[Reserved]".

§ 422.15 [Reserved]

4. Section 422.15 is revoked, and shall be designated as "[Reserved]".

Subpart B—Phosphorous Consuming Subcategory

§ 422.21 [Reserved]

5. Section 422.21 is revoked, and shall be designated as "[Reserved]".

§ 422.22 [Reserved]

6. Section 422.22 is revoked, and shall be designated as "[Reserved]".

§ 422.23 [Reserved]

7. Section 422.23 is revoked, and shall be designated as "[Reserved]".

§ 422.25 [Reserved]

8. Section 422.25 is revoked, and shall be designated as "[Reserved]".

Subpart C—Phosphate Subcategory

§ 422.31 [Reserved]

9. Section 422.31 is revoked, and shall be designated as "[Reserved]".

§ 422.32 [Reserved]

10. Section 422.32 is revoked, and shall be designated as "[Reserved]".

§ 422.33 [Reserved]

11. Section 422.33 is revoked, and shall be designated as "[Reserved]".

§ 422.35 [Reserved]

12. Section 422.35 is revoked, and shall be designated as "[Reserved]".

PART 432—MEAT PRODUCTS POINT SOURCE CATEGORY

40 CFR Part 432 Subpart B is amended as follows:

Subpart B—Complex Slaughterhouse Subcategory

§ 432.22 [Amended]

13. Paragraph (a), is amended by deleting the following from the tables therein:

TSS	0.50	0.25

14. Paragraph (b), is amended by deleting the following from the tables therein:

TSS	0.08	0.04

15. Paragraph (c), is amended by deleting the following from the tables therein:

TSS	0.08	0.04

16. Paragraph (d), is amended by deleting the following from the tables therein:

TSS	0.12	0.06

17. Paragraph (e), is amended by deleting the following from the tables therein:

TSS	0.04	0.02

(Clean Water Act 33 USC 1311, 1314, 1316, 1317)

Dated: December 9, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-38861 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-29-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

Medicaid Program; Deeming of Income Between Spouses

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

ACTION: Final rule.

SUMMARY: These regulations revise current Medicaid rules for determining financial eligibility and the level of Medicaid payments for institutional care for aged, blind, and disabled individuals, when one spouse is institutionalized and the other spouse is not. The change will affect those States that, as permitted by statute, use more restrictive eligibility criteria than those applied nationally under the Supplemental Security Income (SSI) program. It will also apply in Puerto Rico, Guam, and the Virgin Islands.

These amendments revise the regulations permitting these jurisdictions, in situations where one spouse is institutionalized, to consider a portion of the income of one spouse as available to the other spouse, whether or not the income is actually contributed. Thus, a State is able to reduce in advance its Medicaid payment to an institution for the care of the spouse. This practice is known as "deeming" of income. The change will allow the affected jurisdictions to use SSI criteria for determining the availability of income, to use criteria more liberal than SSI, or not to "deem" income at all in these cases.

Publication of regulations on deeming is required by an order of the United States District Court, as amended by the Court of Appeals for the District of Columbia. That order vacated the existing regulations governing deeming of income in these jurisdictions. The Court of Appeals reasoned that, in adopting those regulations, the Secretary did no sufficiently take into account "relevant factors" bearing on the appropriateness of deeming. The Court ordered the Secretary to issue new regulations after considering all relevant factors.

These regulations replace current HCFA instructions, in effect since May 30, 1979 for these jurisdictions, that prohibit any deeming between spouses when one is institutionalized.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis McNown (301) 594-8221.

SUPPLEMENTARY INFORMATION:

Background

Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A) authorizes Medicaid eligibility for all SSI beneficiaries. However, section 1902(f) of the Act (42 U.S.C. 1396a(f)) gives the States an option to cover those eligible under its Medicaid plan in effect on January 1, 1972.

Secion 1902(a)(17)(B) of the Act requires that, in determining eligibility for and the extent of medical assistance provided under the plan, States take into account only such income as is determined (under standards prescribed by the Secretary) to be "available" to the Medicaid applicant or beneficiary. Under Medicaid plans in effect in January 1972, some States "deemed" a certain amount of the income of a financially responsible relative (spouse or parent) as available to a Medicaid applicant or beneficiary, without having proof of actual contribution of that money by the relative. In the case of institutionalized applicants or beneficiaries, this was often done by subtracting, from the income of the relative living in the community, a specific "protected" amount that was

considered necessary for his or her living expenses, and considering the remaining amount available to the institutionalized individual. The State then reduced its payment based on that individual's available income.

Under the SSI program, the statute requires that, if both an individual and his or her spouse apply or are eligible for SSI and cease to live together, their income and resources must be considered to be mutually available, for purposes of determining eligibility, for the first six months after the month they cease to live together (see 42 U.S.C. 1381a, 1382(a), and 1382c(b)). If only one spouse applies or is eligible for SSI, the SSI program must deem the income and resources of the other spouse only until the end of the month they cease to live together (42 U.S.C. 1382c(f)). For the eligible couple, their total income and resources are measured against the SSI standard for a couple; for couples where only one spouse applies or is eligible the amount deemed is determined according to a set forumla.

States that elect to provide Medicaid to all SSI beneficiaries must use SSI standards on amount and duration for Medicaid eligibility. However, States that elected, under section 1902(f), to use their 1972 Medicaid eligibility criteria could, under our old regulations, continue to deem as they did under their January 1, 1972 Medicaid plan. This meant that both the amount and duration of deeming could be more extensive than SSI practice, if authorized under the 1972 plan. For example, States could continue to deem for indefinite periods of time. Under these new rules, 1902(f) States will no longer be permitted to use any deeming criteria more extensive than SSI practices but may be more liberal if they wish. (See Final Rules and Relevant Factors, below.)

Court Orders

On December 8, 1978, the United States District Court for the District of Columbia, in *Gray Panthers* v. *Secretary, Department of Health, Education, and Welfare, et al.*, Civil Action No. 78-0661, ordered the Secretary to rescind regulations at 42 CFR 435.734, 436.602, 436.711, and 436.821, and to propose and publish regulations to "require all relevant jurisdictions to cease deeming of income for any length of time between institutionalized spouses." This order was amended by the Court on January 3, 1979, to specify that it applied only to Guam, Puerto Rico, the Virgin Islands, and States that have elected to exercise their option under section 1902(f) of the Act to impose different requirements for Medicaid eligibility than for receipt of SSI.

The Secretary appealed the *Gray Panthers* decision to the Court of Appeals. In implementing the District Court order, we directed the affected States and jurisdictions to cease deeming of income covered by the order and informed them that we were revising the relevant regulations. On November 21, 1979 we issued a Notice of Proposed Rulemaking (NPRM) to implement the *Gray Panthers* order. After considering comments received, we prepared a final rule to implement the District Court's order. However, on July 29, 1980, the United States Court of Appeals for the District of Columbia Circuit issued its decision in the *Gray Panthers* case "agree[ing] with the result reached by the District Court but not for its assigned reasons". The Court of Appeals concluded that "the Secretary has failed to consider all the relevant factors in determining whether 'deeming' is proper in this context". The Court remanded the case to the District Court which, on October 8, 1980, remanded the matter to the Secretary, for consideration consistent with the Court of Appeals' order that the relevant factors be considered in issuance of regulations governing deeming. The District Court ordered publication of an NPRM by October 28 reflecting the Court of Appeals decision, and a final rule by December 11, 1980. We are issuing these final rules to implement these two orders.

The District Court's December 1978 order in *Gray Panthers* applied only to the deeming of income between institutionalized and non-institutionalized spouses in 1902(f) States, and not to the deeming of resources. Therefore, since the Court of Appeals order affirmed the District Court's order, this final regulation is limited to that aspect of the deeming regulations which was invalidated by the District Court; that is, the deeming of income between spouses when one is institutionalized.

We issued a Notice of Proposed Rulemaking (NPRM) on October 30, 1980 (45 FR 71821) to implement the Court of Appeal's decision. We proposed that the time periods for deeming between an institutionalized spouse and the spouse living in the community be the same in the section 1902(f) States as in the States that provide Medicaid to all SSI beneficiaries. The comment period for the NPRM ended on December 1. Comments are discussed in the Comment section, below.

The Solicitor General, acting on behalf of the Department of Health and Human Services, filed a petition for *certiorari* in the *Gray Panthers* case on November 10, 1980. The Department intends to continue to pursue Supreme Court review in *Gray Panthers* and in the three related cases where petitions for *certiorari* are now pending: *Herweg* v. *Ray*, No. 80-60; *Harris* v. *Norman*, No. 80-498; and *Stanton* v. *Brown*, No. 79-1690. Each of these cases (and the *Allen* case, discussed below) is irreconcilable to some degree with each of the others, impeding our ability to apply deeming policy on a nationwide basis. In the *Allen* case (*Allen* v. *Califano*, Civil Action No. 78-0212 (D. Utah) appeal pending, No. 79-2167 (10th Cir.)), the District Court ordered the Department to promulgate regulations prohibiting deeming in section 1902(f) States when one spouse (or a child) is institutionalized. The Department is legally able to issue the regulations published today because the 10th Circuit has stayed all further proceedings in the *Allen* case on the Government's representation that *certiorari* has been sought in *Gray Panthers*.

Should the Supreme Court grant review in *Gray Panthers*, it may be necessary to revise these regulations after the Supreme Court's decision on the merits. These regulations are based on the Court of Appeals' decision in *Gray Panthers*. That decision rejected the Department's legal analysis of the statute and ordered the Department to promulgate new deeming regulations specifying the circumstances under which and the extent to which deeming between spouses would be permitted, based solely on the Department's analysis of the factors it considered relevant.

Final Rule and Relevant Factors

Final Rule

These regulations apply to determinations of Medicaid eligibility in section 1902(f) States* and Guam, Puerto Rico and the Virgin Islands. They concern only the way in which income is deemed available when a couple is separated because of the institutionalization of one spouse. They do not apply when spouses are living together, or when separation is due to a reason other than institutionalization. (In those cases, the current rules continue to apply.)

In arriving at this final rule, the Secretary has balanced the relevant factors discussed below (which, in

*Region I: Connecticut, New Hampshire; Region II: New York; Region III: Virginia; Region IV: Mississippi, North Carolina; Region V: Illinois, Indiana, Minnesota, Ohio; Region VI: Oklahoma; Region VII: Missouri, Nebraska; Region VIII: North Dakota, Utah; Region IX: Hawaii; and Region X: none.

several cases, represent competing concerns), and, as a result, has decided to limit deeming between institutionalized and noninstitutionalized spouses. Under this rule, States are permitted to use either the SSI deeming criteria, or more liberal criteria, in considering the availability of income of one spouse to another, when one is institutionalized. No State may use deeming criteria that are more extensive than those currently used in the SSI program. However, States may elect to use more liberal criteria, which would include the option not to deem at all.

Relevant Factors

In adopting this final rule, we considered the factors suggested by the Court of Appeals in the *Gray Panthers* case, additional factors we believe important, and comments from the public. The factors suggested by the Court of Appeals are:

(1) The expectation that spouses should support each other;

(2) The Court's perception that the statute provides for differing determinations of availability of income to be made under certain differing circumstances;

(3) The deterrence of fraud and abuse;

(4) The extent to which the assumption that spouses who maintain a common household will share income and expenses and constitute a single economic unit is undermined by the separation of the spouses by institutionalization;

(5) The impact of deeming on the family under these circumstances;

(6) Whether the spouses were living apart before their separation by institutionalization; and

(7) If they were living apart before institutionalization, whether support payments were being made on a regular basis from one spouse to another.

The additional factors we considered are:

(1) The extent to which deeming is consistent with the best interests of program beneficiaries;

(2) The Federal-State nature of the Medicaid program;

(3) The extent to which the regulations would be simple to administer; and

(4) The fiscal effects of the regulations on Medicaid program budgets.

Discussion

We have considered the relationships among these factors and their significance with respect to deeming policies in the following manner.

Best interests of beneficiaries and nature of program

Under title XIX of the Act, Medicaid is structured as a jointly funded, jointly administered Federal-State program. However, there are certain basic Federal requirements that States must meet. Beyond these minimum requirements, States generally are allowed flexibility and many options in the administration of their programs dealing with, for example, the groups of recipients to be served, the types of medical care to be provided, and the administrative policies to be followed. This flexibility is reflected in section 1901 of the Act, which describes the purpose of title XIX as "enabling each State, as far as practicable under the conditions in such State" to furnish medical assistance.

The Secretary believes that one primary minimum requirement relevant to determining the extent of permissible deeming between spouses in 1902(f) States when one spouse is institutionalized is to adopt policies that are in the best interest of program beneficiaries.

In this context, these regulations reflect our belief that, within certain constraints appropriate to ensure that these interests are protected and that take into account other factors relevant to deeming policy, States are in the best position to determine for themselves, on the basis of such considerations as State laws, needs of residents, budgetary constraints and ease of administration, the most appropriate approach to various parts of their program. In reviewing the Court order, State practices, and the statutory provisions, the Secretary has decided to establish the SSI criteria now used by 34 States as the most restrictive set of deeming criteria that a State may choose to impose. This reflects a concern about the best interests of the beneficiaries and assures greater equity among program beneficiaries by establishing an outer limit of deeming standards. SSI's limits are considered appropriate because they include annual cost-of-living adjustments and reflect Congressional views as to equity for the individuals involved. In her decision to permit States to use either the SSI deeming criteria or more liberal criteria, the Secretary has enabled States to be more generous than SSI criteria, thus permitting a degree of flexibility for States that is consistent with the overall philosophy of the Medicaid program.

Spousal support

Both deeming of income and State relative responsibility laws further the general expectation that spouses should support each other. Under these final regulations, these States can use either or both methods. They may decide to deem because they find deeming administratively simpler than pursuing spousal support through the courts; or they may prefer deeming because it is done on the "front end" (i.e., when eligibility is being determined), rather than "after the fact".

However, we believe that deeming has several adverse impacts on beneficiaries. The institutionalized spouse may lose medicaid eligibility if the deemed amount is large enough to bring his or her income level over the State's standards. If the deemed amount is not actually contributed but the State's payments to the facility nevertheless are reduced by that amount, the individual may be asked to leave the institution. With respect to the spouse in the community, the use of deeming may also be unfair. This occurs principally because, in section 1902(f) States, the amounts that are protected for the noninstitutitionalized spouse's maintenance may be set at 1972 levels. Those levels may be insufficient in light of the current cost of living. This may force the noninstitutionalized spouse either to refuse to pay the "deemed" amount (possibly resulting in the institutionalized spouse being required to leave the facility), or to try to live at levels that are inadequate for subsistence.

Moreover, when income is "deemed," the spouse has less of an incentive actually to contribute the amount than if relative responsibility laws are used, because deeming has an adverse effect on the institutionalized individual, whereas relative responsibility laws affect the spouse in the community by requiring him or her to make support payments. These potentially severe impacts lead us to conclude that deeming should be limited in both duration and amount. These limitations will not affect a State's authority to pursue spousal support through its relative responsibility laws.

Single economic unit; deterrence of fraud

We also believe that, although there is a general expectation that spouses should support one another, their ability to do so is substantially undermined when one spouse is institutionalized. The expectation for support is based, in part, on the assumption that spouses maintain a common household, will share income and expenses, and therefore constitute a single economic unit. However, that assumption is undercut when a spouse is

institutionalized. In deciding what constituted a period of institutionalization long enough to overcome the assumption that the spouses are a household unit, we looked at the rules used in the SSI program and whether those rules were suitable for Medicaid.

We believe that, in cases where only one spouse is eligible, the couple should no longer be viewed as maintaining a common household beginning with the month following the month of institutionalization. Such a rule is relatively simple for a State to administer. However, we believe that a longer period is appropriate when both spouses are eligible, because there exists a greater potential for fraud or abuse in these cases. This comes about in the following way. When both spouses are eligible for SSI and one becomes institutionalized, the economic result could be an SSI cash benefit to the spouse remaining at home that would be greater than one-half the combined benefit previously paid to the couple. In addition, the spouse at home would not have to use any of the benefit for the support of the other spouse. This could constitute an incentive to separate, when institutionalization is a medical option, but not such a medical necessity as to be unavoidable.

These one-and six-month time-frames are only the outer limits of how long a State may deem—under these final rules, if a State believes that the potential for fraud is minimal or, for any other reason, wishes to cease deeming before the end of the month of institutionalization (or before six full months in cases where both spouses are eligible), it may do so.

Separation before institutionalization and support payments

As discussed above, we believe that the ability of spouses to support one another is lessened when they are separated. For that reason, we have constructed the rule to take into account the factor of separation before institutionalization by applying the one- and six-month time periods in the following way. A State may not deem income if eligible spouses have been living apart more than six full months before institutionalization, or after the month of separation if only one spouse is eligible. Should eligible spouses be separated less than six full months, the length of the separation would be applied to the six-month computation. In cases where spouses are living apart and one is making support payments on a regular basis, this payment would always be considered in eligibility determinations since it is "in-hand" (i.e., actually contributed).

Impact on families

We believe that if deeming income between an institutionalized or noninstitutionalized spouse is not restricted in duration or amount, it may have an adverse impact on the family. Unlimited deeming may cause a spouse to seek a divorce because of the inability or unwillingness of one spouse to contribute the deemed amount to the other, or it may reduce the amount of income available to support children remaining at home. By limiting the duration of the deeming and the amount, these adverse impacts are less likely. In particular, with respect to maintenance allowances for children remaining in the home, we believe that the SSI amounts ($119 for each child, regardless of the number of children), are probably higher than were provided under most State plans in 1972. Previously, a section 1902(f) State could choose to use a maintenance amount as low as the one used under its 1972 plan. Also, SSI allows the same maintenance amount for each child; in contrast, some section 1902(f) States have used lower amounts for additional children beyond a specified number.

Differing circumstances

The policy reflected in the final regulations takes into account that, as far as practicable, differing determinations of available income should be made when circumstances differ. It provides that, when one spouse is institutionalized, different rules are to be used in determining whether States may consider as available income deemed from the other spouse. In addition, as discussed above, it provides for recognition of several categories of institutionalized spouses (i.e., situations where both spouses are eligible, situations where the only one spouse is eligible, and situations where the spouses were living apart before one was institutionalized) in considering whether income is available.

Adminstrative simplicity

The final regulations advance the statutory goal of simplicity of administration and efficient operation of the Medicaid program. The factors involved in the determination are simple ones which are readily ascertainable. For States following SSI criteria, the calculation of the amount to be considered can be established by a formula and as set of pre-determined calculations without the complexity of entering into individualized case-by-case "needs" determinations. For one group of couples, deeming would cease at the end of the month in which the separation began. Deeming for the full month, even if separation occurs during the month, avoids the difficulty of distinguishing and prorating joint (preseparation) income and expenses from individual (postseparation) ones. With respect to the second group of couples, the factor of whether an eligible couple is involved (and thus an additional six-month period applies) is readily determinable. We believe that SSI States have had little difficulty in this respect. Finally, the regulations leave States free to decide for themselves whether to deem at all or, if they deem, to do so (within the SSI limits) in the manner they find most appropriate and cost beneficial with respect to their own administrative policies and procedures.

Fiscal implications for States

The final regulations also take into account the fiscal implications of the change for the State Medicaid programs. They permit the affected jurisdictions a wide range of possibilities for developing deeming policy suitable to their particular financial situations, up to the SSI limits. They do not totally prohibit a State from deeming, which could create a financial problem to the extent that a State has been relying on this practice to reduce some of its expenditures. And they allow States to determine whether deeming is an avenue they wish to pursue in carrying out their fiscal program responsibilities or whether other means of controlling expenditures are more practical and appropriate in their circumstances.

Public Comments

We received eight comments from client advocacy groups, one from a State agency and one comment from a long-term care facility. The comments and our responses are as follows:

1. *Comment:* We received three comments requesting that the regulations prohibit the deeming of resources as well as income between institutionalized individuals and their noninstitutionalized spouses. Commenters argued that we do not need a court order to prohibit deeming of resources between the institutionalized individual and noninstitutionalized spouse.

Response: This final regulation implements the Appeals Court order in *Gay Panthers* v. *Administrator*, that dealt only with the deeming of income between institutionalized individuals and their noninstitutionalized spouses. Therefore, we are not addressing the

issue of deeming of resources in this regulation.

2. *Comment:* All of the advocacy groups indicated that deeming of income between spouses is inappropriate for any period of time because these commenters interpret the Court of Appeals' decision as prohibiting any type of deeming when spouses are separated by institutionalization. One commenter suggested that since the Court of Appeals' decision, in his view, clearly prohibited deeming when spouses are separated by institutionalization, the discretion given to the Secretary by the court to develop general principles of deeming should affect situations other than those situations involving couples who are separated by institutionalization. Therefore, in his view, the proposed regulations failed to address those situations.

Response: We disagree with the commenters' interpretation of the Court of Appeals' decision. The only issue before the Court was whether deeming is appropriate in section 1902(f) States for spouses separated by institutionalization. Because the Court of Appeals ordered that we consider the factors relevant to deeming in this limited context, it authorized us to approve deeming if our consideration of the factors led to this result. We have concluded, through balancing these factors, that limited deeming is appropriate in this context.

3. *Comment:* One commenter requested that the regulations recognize individualized factual determinations of the availability of income.

Response: States will have an option to use individualized factual determinations or SSI criteria. We do not believe it is necessary or desirable to read the Court order as prohibiting any forms of deeming, especially deeming that has been developed in the SSI program under the Congressional authority in section 1614(b) and 1614(f) of the Social Security Act and which already controls Medicaid eligibility determinations in 34 States.

4. *Comment:* One commenter indicated that the proposed regulations violated the court mandate in *Allen* v. *Califano.* In the *Allen* case, the Secretary is required, with respect to the section 1902(f) States and the territories, to cease the deeming of income between spouses when one of the spouses is institutionalized.

Response: We recognize the conflict between the present regulations and the *Allen* court order. However, these regulations respond to the court of Appeals directive that we examine certain relevant factors and issue rules as a result of that analysis. The Court did not dictate the result which was to be reached through that analysis. Because our review did not produce the same result as that reached by the Court in *Allen*, the present conflict arises. As noted above, the 10th Circuit has stayed further proceedings in *Allen.*

5. *Comment:* Another commenter suggested that the proposed regulations create a disruption of the family in that two separate households must be maintained through the contributions of one spouse when the other spouse is institutionalized.

Response: We agree that there is a potential for disruption of the family in this situation. Therefore, in these final regulations, we have tried to minimize the potential for adverse impact by placing outer limits on the duration and amount of deeming permitted.

6. *Comment:* One commenter requested that our regulations address both spousal deeming and deeming of income between parents and an institutionalized child.

Response: This final regulation implements the Appeals Court order in *Gray Panthers* v. *Administrator,* that dealt only with the deeming of income between institutionalized individuals and their noninstitutionalized spouses. We are preparing a proposed regulation on that part of the *Allen* order dealing with parents and institutionalized children, which we will publish for public comment.

7. *Comment:* Another commenter indicated that the proposed rule removed the incentive for the spouse in the community to seek employment or financial improvement, as this income would only be transferred toward the cost of care of the institutionalized spouse.

Response: The final regulations require that those jurisdictions that choose to follow SSI criteria must use SSI eligibility requirements for both the duration and amount of the deeming income. We believe that the applicable SSI earned income disregards, together with the durational limits on deeming, provide adequate incentives for the community-based spouse to seek employment or financial improvement. The SSI criteria are the most restrictive criteria that a section 1902(f) State may use when deeming income. These jurisdictions may provide a more liberal thershold to protect the family income.

8. *Comment:* One commenter claimed that presuming income and resources to be available from a noninstitutionalized spouse to an institutionalized individual may be descrimination against the handicapped, who are disproportionate users of institutionalized services.

Response: These regulations implement the court order in the *Gray Panthers* case, which concerns interspousal deeming of income when one spouse is institutionalized. The Secretary is specifically mandated by the Court order to revise regulations regarding institutionalized individuals. Beyond that, however, we do not believe the regulations as revised are discriminatory as stated in the comment. They not only allow States to eliminate deeming altogether with respect to these individuals, but they also place an outer limit on the deeming that my be imposed. This is in contrast to previous regulations that permitted more restrictive practices.

9. *Comment:* Another commenter indicated that the proposed regulations failed to address the issue of the amount of income of the institutionalized individual to be "protected" for the maintenance of his or her noninstitutionalized spouse.

Response: Our current regulations, at 42 CFR 435.733, speak to this issue. In determining Medicaid payment for an eligible institutionalized individual, States must deduct from the individual's income an amount that will be "protected" for the maintenance needs of the noninstitutionalized spouse and family. This requirement is not affected by the new provisions on deeming and thus no change in the regulations is necessary.

42 CFR Chapter IV, Subchapter C, is amended as set forth below:

PART 435—ELIGIBILITY IN THE STATE AND DISTRICT OF COLUMBIA

A. Part 435 is amended as follows:

1. Section 435.121 is amended by revising paragraph (b)(1) as follows:

§ 435.121 Individuals in States using more restrictive requirements for Medicaid than the SSI requirements.

* * * * *

(b) If an agency uses more restrictive requirements under this section—

(1) Each requirement may be no more restrictive than that in effect under the State's Medicaid plan on January 1, 1972, and except for the requirement in § 435.734 concerning financial responsibility of spouses, no more liberal than that applied under SSI or an optional State supplement program that meets the conditions of § 435.230; and

* * * * *

2. Section 435.602 is revised to read as follows:

§ 435.602 Limitation on the financial responsibility of relatives.

(a) Except for a spouse of an individual or a parent for a child who is

under age 21 or blind or disabled, the agency must not—

(1) Consider income and resources of any relative available to an individual; nor

(2) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

(b) The income and resources of spouses and parents must be considered in determining financial eligibility as provided for the categorically needy in Subpart H and the medically needy in Subpart I of this part.

3. Section 435.734 is revised to read as follows:

§ 435.734 Financial responsibility of spouses and parents

(a) Except as provided in paragraph (b) of this section, in determining Medicaid eligibility of an aged, blind, or disabled individual under requirements more restrictive than those used under SSI, the agency must consider the income and resources of spouses and parents as available to the individual in the manner specified in §§ 435.723 and 435.724 or in a more extensive manner, but not more extensive than the requirements in effect under the Medicaid plan on January 1, 1972.

(b) When either an individual or his or her spouse is institutionalized, the agency may consider the income of an individual as available to a spouse as set forth in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) The agency may use the SSI criteria for determining the amount and duration of availability of income (see § 435.723);

(2) The agency may use criteria more liberal than those SSI criteria; or

(3) The agency may consider only income actually contributed when the spouses have ceased to live together.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

B. Part 436 is amended as set forth below:

1. Section 436.602 is revised to read as follows:

§ 436.602 Limitation on the financial responsibility of relatives.

(a) Except for a spouse of an individual or a parent for a child who is under 21 or blind or disabled, the agency must not—

(1) Consider income and resources of any relative available to an individual; nor

(2) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

(b) The income and resources of spouses and parents must be considered in determining financial eligibility as provided for the categorically needy in subpart H and the medically needy in subpart I.

2. Section 436.711 is revised to read as follows:

§ 436.711 Determination of financial eligibility.

In determining eligibility of individuals specified in subparts B and C of this part who are not recipients of cash assistance, the agency must apply the financial eligibility requirements of the State plan for OAA, AFDC, AB, APTD, or AABD that would be used if the individual were applying for cash assistance. This includes requirements on financial responsibility of spouses and parents, except that (a) In determining eligibility of families and children, the agency must consider parental income and resources as available to a child who is living with the parents until he becomes 21, even if State law confers adult status below age 21; and

(b) When either an individual or his or her aged, blind, or disabled spouse is institutionalized, the agency may consider the income of an individual as available to an aged, blind, or disabled spouse as set forth in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) The agency may use the SSI criteria for determining the amount and duration of availability of income (see § 435.723);

(2) The agency may use criteria more liberal than those SSI criteria; of

(3) The agency may consider only income actually contributed when the spouses have ceased to live together.

3. Section 436.821 is revised to read as follows:

§ 436.821 Financial responsibility of spouses and parents.

In determining eligibility of medically needy individuals, the agency must use the rules for determining whether the income of a spouse or parent is available to the individual that would be used if he were applying for OAA, AFDC, AB, APTD or AABD. However (a) For families and children, the agency must consider parental income and resources available to a child who is living with the parent until he becomes 21, even if State law confers adult status below age 21; and

(b) When either an individual or his or her aged, blind, or disabled spouse is institutionalized, the agency may consider the income of an individual as available to an aged, blind, or disabled spouse under the procedure set forth in either paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) The agency may use the SSI criteria for determining the amount and duration of availability of income (see § 435.723);

(2) The agency may use criteria more liberal than those SSI criteria; or

(3) The agency may consider only income actually contributed when the spouses have ceased to live together.

(Section 1102 of the Social Security Act (42 U.S.C. 1302))

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

Dated: December 8, 1980.

Earl M. Collier,

Acting Administrator, Health Care Financing Administration.

Approved: December 10, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-38845 Filed 12-11-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5952]

National Flood Insurance Program; List of Communities Eligible for the Sale of Insurance; Connecticut, et al.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Connecticut	Litchfield County	Watertown, town of	090058	741217 emerg., 801105 reg	740531
Florida	Polk County	Fort Meade, city of	120264	750613 emerg., 801105 reg	740110
Florida	Polk County	Lake Hamilton, town of	120414	760323 emerg., 801105 reg	770204
Illinois	Cook County	Flossmoor, village of	170091	721215 emerg., 801105 reg	730406
Illinois	Lake County	Highland Park, city of	170367	730405 emerg., 801105 reg	731020
Kentucky	Nelson County	New Haven, city of	210180	750808 emerg., 801105 reg	740123
Kentucky	Nelson County	Nelson County[1]	210177	750721 emerg., 801105 reg	741010
Louisiana	Lafayette Parish	Carencro, town of	220103	770510 emerg., 801105 reg	760326
Louisiana	Acadia Parish	Church Point, town of	220002	750623 emerg., 801105 reg	731110
Massachusetts	Middlesex County	Billerica, town of	250183	720818 emerg., 801105 reg	740920
Massachusetts	Essex County	Middleton, town of	250094	760219 emerg., 801105 reg	741206
Minnesota	McLeod County	Hutchinson, city of	270264	740402 emerg., 801105 reg	740329
Missouri	Cape Girardeau County	Cape Girardeau, city of	290458	740514 emerg., 801105 reg	740503
North Carolina	Alamance County	Mebane, town of	370390	750926 emerg., 801105 reg	0
North Carolina	Robeson County	Lumberton, city of	370203	750305 emerg., 801105 reg	740628
North Carolina	Alamance County	Haw River, town of	370003	750825 emerg., 801105 reg	750718
New Hampshire	Rockingham County	Londonderry, town of	330134	760122 emerg., 801105 reg	740809
New York	Monroe County	Henrietta, town of	360419	730323 emerg., 801105 reg	740116
New York	St. Lawrence County	Ogdensburg, city of	360707	750611 emerg., 801105 reg	740726
New York	St. Lawrence County	Massena, village of	360705	750113 emerg., 801105 reg	740308
Ohio	Warren County	Franklin, city of	390556	730907 emerg., 801105 reg	731110
Ohio	Washington County	Lower Salem, village of	390570	750224 emerg., 801105 reg	740830
Pennsylvania	Chester County	Phoenixville, borough of	420287	740801 emerg., 801105 reg	740116
Pennsylvania	Allegheny County	South Park, township of	421165	740426 emerg., 001105 reg	740628
Pennsylvania	Clinton County	Noyes, township of	420331	730727 emerg., 801105 reg	740920
Pennsylvania	Montgomery County	Royersford, borough of	421904	740807 emerg., 801105 reg	741108
Pennsylvania	Berks County	Maxatawny, township of	421381	751203 emerg., 801105 reg	741122
Rhode Island	Washington County	Richmond, town of	440031	750707 emerg., 801105 reg	740531
South Carolina	Richland County	Forest Acres, city of	450174	740719 emerg., 801105 reg	740607
Tennessee	Smith County	South Carthage, town of	470183	750811 emerg., 801105 reg	740823
Texas	Harris County	Hunter's Creek Village, city of	480298	731127 emerg., 801105 reg	740510
Texas	Caldwell County	Lockhart, city of	480095	750508 emerg., 801105 reg	761112
Virginia	Henry County	Henry County[1]	510078	731018 emerg., 801105 reg	741122
Washington	Pierce County	Fife, city of	530140	750521 emerg., 801105 reg	740524
Washington	Clallam County	Clallam County[1]	530021	731127 emerg., 801105 reg	750124
West Virginia	Summers County	Summers County[1]	540186	750319 emerg., 801105 reg	750103

Total is: 36.

[1] Unincorporated areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38563 Filed 12-12-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5951]

National Flood Insurance Program; List of Communities Eligible for the Sale of Insurance; Florida, et al.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities

listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Florida	Polk	Fort Meade, city of	120264A	Nov. 5, 1980, suspension withdrawn	Jan. 16, 1974 and Jan. 30, 1976.
Illinois	Cook	Flossmoor, village of	170031C	do	Apr. 6, 1973 and Apr. 28, 1978.
Do	Lake	Highland Park, city of	170367A	do	Oct. 26, 1973 and Jan. 16, 1976.
Louisiana	Lafayette	Carencro, town of	220103	do	Mar. 26, 1976.
Massachusetts	Middlesex	Billerica, town of	250183A	do	Sept. 20, 1974 and Dec. 24, 1976.
Missouri	Cape Girardeau	Cape Girardeau, city of	290458A	do	May 3, 1974 and Oct. 17, 1975.
New York	Monroe	Henrietta, town of	360419B	do	Jan. 16, 1974, June 3, 1977, and Apr. 23, 1976.
Do	St. Lawrence	Ogdensburg, city of	360707A	do	July 26, 1974 and Apr. 16, 1976.
North Carolina	Alamance	Haw River, town of	370003	do	July 18, 1975.
Do	do	Mebane, town of	370390	do	
Ohio	Warren	Franklin, city of	390556A	do	Nov. 16, 1973 and Aug. 8, 1975.
Do	Washington	Lower Salem, village of	390570A	do	Aug. 30, 1974.
Pennsylvania	Berks	Maxatawny, township of	421381	do	Nov. 22, 1974.
Rhode Island	Washington	Richmond, town of	440031A	do	May 31, 1974 and Dec. 10, 1976.
South Carolina	Richland	Forest Acres, city of	450174A	do	June 7, 1974 and Sept. 26, 1975.
Tennessee	Smith	South Carthage, town of	470183B	do	Aug. 23, 1974 and Aug. 18, 1978.
Virginia	Henry	Unincorporated areas	510078	do	Nov. 22, 1974.
Washington	Clallam	Unincorporated areas	530021	do	Jan. 24, 1975 and Apr. 4, 1978.
Texas	Parmer	Friona, city of	480523A	Nov. 5, 1980, emergency	Apr. 12, 1974.
Kansas	Dickinson	Enterprise, city of	200492	Nov. 10, 1980, emergency	Apr. 23, 1976.
New Hampshire	Cheshire	Roxbury, town of	330172	do	Feb. 14, 1975.
Texas	Polk	Goodrich, city of	481070	Nov. 12, 1980, emergency	Nov. 19, 1976.
Do	Montgomery	Magnolia, city of	481261A	do	May 17, 1977.
Do	Denton	Argyle, city of	480775	Nov. 13, 1980, emergency	Aug. 29, 1975.
Do	Colorado	Weimar, city of	481121A	do	Apr. 29, 1977.
North Dakota	Richland	Center, township of	380648—New	Nov. 14, 1980, emergency	

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38564 Filed 12-12-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 5950]

National Flood Insurance Program; Suspension of Community Eligibility; California, et al.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872; Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Califorina	Alameda	Pleasanton, city of	060012B	May 7, 1971, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	June 28, 1974 Oct. 29, 1976	Dec. 16,1980.
Do	Yolo	Unincorporated areas	060423B	Mar. 16, 1973, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Oct. 18, 1977	Do.
Colorado	Summit	do	080290B	Nov. 26, 1976, emergency, Dec. 16, 1980, regular, Dec. 16, 1980 suspended.	Sept. 13, 1977	Do.
Connecticut	Harford	Hartland, town of	090146B	Jan. 14, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	June 28, 1974 Dec. 10, 1976	Do.
Florida	Polk	Bartow, City of	120263B	Jun. 14, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Jan. 23, 1974 Sept. 12, 1975	Do.
Illinois	Cook	Glencoe, village of	170095B	Apr. 10, 1973, emergency, Dec. 16,1980, regular, Dec. 16,1980, suspended.	Nov. 2, 1973 Aug. 6, 1976	Do.
Do	Lake	Gurnee, village of	170365B	Aug. 9, 1974, emergency, Dec. 16,1980, regular, Dec. 16, 1980, suspended.	May 24, 1974 May 14, 1976	Do.
Do	Cook	River Grove, village of	170152B	Apr. 1, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Feb. 1, 1974 June 4, 1976	Do.
Do	do	Riverside, village of	170153B	July 19, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Feb. 1, 1974 Apr. 9, 1976	Do.
Iowa	Pottawattamie	Avoca, city of	190233B	May 20, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Jan. 23, 1974 Jan. 9, 1976	Do.
Do	Tama	Chelsea, city of	190261B	July 15, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Aug. 16, 1974 Jan. 2, 1976	Do.
Kansas	Shawnee	Willard, city of	200337B	Aug. 25, 1975, emergency, Oct. 15, 1980, regular, Dec. 16, 1980, suspended.	June 18, 1976	Do.
Louisiana	Terrebonne	Unincorporated areas	225206B	July 17, 1970, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	July 1, 1974 Nov. 19, 1976	Do.
Maine	Kennebec	Readfield, town of	230245B	Oct. 24, 1975, emergency, Dec.16, 1980, regular, Dec. 16, 1980, suspended.	Feb. 1, 1975 Sept. 3, 1976	Do
Mississippi	Simpson	D'Lo, town of	280157B	June 2, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	June 7, 1974 July 23, 1976	Do.
Do	Madison	Madison, town of	280229B	Oct. 17, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Dec. 13, 1974 Dec. 12, 1975	Do.
New Jersey	Bergen	East Rutherford, borough of	340028B	June 24, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Apr. 12, 1974 Aug. 13, 1976	Do.
Do	Somerset	Rocky Hill, borough of	340443B	July 15, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	June 28, 1974 Apr. 16, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Pennsylvania	Lancaster	Akron, borough of	422461A	Dec. 31, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Jan 31, 1975 Apr. 16, 1976	Do.
Do	Lackawanna	Carbondale, city of	420526B	July 27, 1973, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Dec. 28, 1973 Apr. 30, 1976	Do.
Do	Lancaster	Clay, township of	421764B	Apr. 29, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	May 3, 1974 May 21, 1976	Do.
Do	do	Earl, township of	421767B	Jan. 13, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Sept. 20, 1974 July 16, 1976	Do.
Do	do	East Lampter, township of	421771B	Sept. 6, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Sept. 6, 1974 Sept. 3, 1976	Do.
Do	do	Eden, township of	421772B	July 7, 1980, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Aug. 30, 1974 May 7, 1976	Do.
Do	Northumberland	Shamokin, city of	420741B	April 5, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	May 10, 1974 May 28, 1976	Do.
Do	Lebanon	South Annville, township of	420580B	May 11, 1973, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Nov. 19, 1973 Dec. 24, 1976	Do.
Do	Berks	Windsor, township of	421125BN	Apr. 17, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Jan. 23, 1974 June 4, 1976	Do.
Rhode Island	Providence	Cumberland, town of	440016A	July 15, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Jan. 3, 1975	Do.
South Carolina	Anderson	Anderson, city of	450014B	Nov. 2, 1973, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	May 14, 1974 Dec. 13, 1974	Do.
Do	Orangeburg	Unincorporated areas	450160B	Nov. 26, 1976, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	May 5, 1978	Do.
South Dakota	Fall River	Edgemont, city of	460026B	Mar. 6, 1980, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Aug. 2, 1974 Jan. 16, 1976	Do.
Texas	Titus	Mt. Pleasant, city of	480621B	July 30, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Feb. 1, 1974 May 14, 1976	Do.
Virginia	Albermarle	Unincorporated areas	510006B	May 9, 1973, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Aug. 25, 1978	Do.
Wisconsin	Dane	Marshall, village of	550084B	July 15, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Dec. 17, 1973 May 28, 1976	Do.
Do	do	Rockdale, village of	550030B	Aug. 15, 1975, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Dec. 7, 1973 Apr. 23, 1976	Do.
Do	Ozaukee	Saukville, village of	550317B	Apr. 18, 1974, emergency, Dec. 16, 1980, regular, Dec. 16, 1980, suspended.	Jan. 16, 1974 June 4, 1976	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38561 Filed 12-12-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5953]

National Flood Insurance Program; Communities With Minimal Flood Hazard Areas; Maine, et al.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community name	Date of conversion to regular program
Maine	Cumberland	Town of Pownal	Dec. 2, 1980.
Missouri	St. Louis	City of Northwoods	Dec. 2, 1980.
New York	St. Lawrence	Village of Morristown	Dec. 2, 1980.
Pennsylvania	Luzerne	Borough of Harveys Lake	Dec. 2, 1980.
Pennsylvania	Luzerne	Borough of Laflin	Dec. 2, 1980.
Pennsylvania	Luzerne	Township of Lehman	Dec. 2, 1980.
Pennsylvania	Luzerne	Township of Newport	Dec. 2, 1980.
Pennsylvania	Luzerne	Township of Wilkes-Barre	Dec. 2, 1980.
Illinois	Lake	City of North Chicago	Dec. 5, 1980.
Pennsylvania	Luzerne	Borough of Penn Lake Park	Dec. 5, 1980.
Utah	Utah	City of Mapleton	Dec. 16, 1980.
Alabama	Jefferson	City of Pleasant Grove	Dec. 19, 1980.
Maryland	Dorchester	Town of Secretary	Dec. 19, 1980.
Ohio	Stark	Village of Beach City	Dec. 19, 1980.
Pennsylvania	Allegheny	Borough of Crafton	Dec. 19, 1980.
Pennsylvania	York	Borough of Dover	Dec. 19, 1980.
Pennsylvania	Allegheny	Township of Frazer	Dec. 19, 1980.
Pennsylvania	Mercer	Township of Jackson	Dec. 19, 1980.
Florida	Sumter	City of Wildwood	Dec. 26, 1980.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Federal Insurance Administrator)

Issued: November 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38562 Filed 12-12-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-09; Notice 9]

Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 213, *Child Restraint Systems*, to allow the use of thinner padding materials in some child restraints. The agency proposed the amendment in response to a petition for rulemaking filed by General Motors Corporation.

DATES: The amendment is effective on December 15, 1980.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours: 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: On December 13, 1979, NHTSA issued Standard No. 213, *Child Restraint Systems* (44 FR 72131). The standard established new performance requirements for child restraints, including requirements for the padding used in child restraint systems recommended for use by children under 20 pounds (i.e., infant carriers).

The padding requirements provide that surfaces of the infant carrier that can be contacted by the test dummy's head during dynamic testing must be padded with a material that meets certain thickness and static compression-deflection requirements. The standard requires that the padding must have a 25 percent compression-deflection resistance of not less than 0.5 and not more than 10 pounds per square inch (psi). Material with a resistance of between 3 and 10 psi must have a thickness of ½ inch. If the material has a resistance of less than 3 psi, it must have a thickness of at least ¾ inch.

In response to a petition for rulemaking filed by General Motors Corporation (GM), the agency proposed on October 17, 1980 (45 FR 68694) to modify the padding requirements to allow the use of thinner padding. GM's petition said that the compression-deflection resistance of padding is sensitive to the rate at which deflection occurs during the test procedure. As the deflection rate increases during testing, so does the measured resistance of the material. GM said that the padding used in the head impact area of its child seat has a maximum compression-deflection resistance of 3 psi. However, several different deflection rates are permitted by the American Society for Testing and Materials test procedures incorporated into Standard No. 213. GM reported that the measured 25 percent compression-deflection value of the padding it uses can be as low as 1.8 psi.

To accommodate variations attributable to the use of the different deflection rates permitted in the testing, the agency proposed to allow the use of padding with a compression-deflection resistance of 1.8 psi or more to have a minimum thickness of ½ inch.

The notice denied GM's petition to permit the use of padding with a compression-deflection resistance of 0.2 psi and a thickness of ⅜ or ¾ inch.

GM, the only party that commented on the proposal, supported the proposed revision.

GM requested the agency to reconsider its decision to prohibit the use of padding with a compression-deflection resistance of 0.2 psi. GM argued that the field performance of its child restraints shows that current padding material is effective in reducing deaths and injuries.

As explained in the October notice, the agency agrees that child restraints,

such as GM's infant carrier, which have an energy absorbing shell can provide effective protection with padding having a compression-deflection resistance of 0.2 psi. Many infant carriers, however, use rigid plastic shells rather than energy absorbing shells. Manufacturers of the rigid plastic shells currently use padding with a compression-deflection resistance of 0.5 psi. The agency does not want to degrade that level of performance and therefore GM's request is again denied.

Costs

The agency has assessed the economic and other impacts of the proposed change to the padding requirements and determined that they are not significant within the meaning of Executive Order 12221 and the Department of Transportation's policies and procedures for implementing that order. Based on that assessment, the agency concludes further that the economic and other consequences of this proposal are so minimal that additional regulatory evaluation is not warranted. When Standard No. 213 was published in the Federal Register on December 12, 1979, the agency placed in the docket for that rulemaking a regulatory evaluation assessing the effect of the padding requirements set by the standard. The effect of that rule adopted today is to permit the use of some padding materials in a thickness of ½ inch rather than ¾ inch. Such a change will slightly reduce manufacturer padding costs.

The agency finds, for good cause shown, that an immediate effective date for this amendment is in the public interest since it relieves a restriction in the standard that goes into effect on January 1, 1981.

The principal authors of this notice are Vladislav Radovich, Office of Vehicle Safety Standards, and Stephen Oesch, Office of Chief Counsel.

For the reasons set out in the preamble, Part 571 of Chapter V of Title 49, Code of Federal Regulations, is amended as set forth below.

§ 571.213 [Amended]

1. 49 CFR Part 571 is amended by revising paragraph S5.2.3.2(b) of § 571.213 to read as follows:

* * * * *

(b) A thickness of not less than ½ inch for materials having a 25 percent compression-deflection resistance of not less than 1.8 and not more than 10 pounds per square inch when tested in accordance with S6.3. Materials having a 25 percent compression-deflection resistance of less than 1.8 pounds per square inch shall have a thickness of not less than ¾ inch.

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 8, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80-38050 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 572

[Docket 78-09, Notice 8]

Anthropomorphic Test Dummies; Final Rule and Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Response to petitions for reconsideration, final rule and correction.

SUMMARY: This notice amends Subpart C of Part 572, *Anthropomorphic Test Dummies,* to specify the use of a triaxial accelerometer in the test dummy representing a 3-year-old child. The use of a triaxial accelerometer will eliminate calibration problems associated with single axis accelerometers. The notice also denies petitions filed by Ford Motor Company and General Motors Corporation seeking reconsideration of the agency's June 26, 1980 notice responding to a prior General Motors Corporation petition for reconsideration. Finally, the notice corrects a typographical error in the agency's June 26, 1980 final rule.

DATE: The amendents are effective on December 15, 1980.

ADDRESS: Petition for reconsideration should refer to the docket number and be submitted to : Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202-426-2264).

SUPPLEMENTARY INFORMATION: This notice amends Subpart C of Part 572, *Anthropomorphic Test Dummies,* to change several of the requirements for the test dummy representing a 3-year-old child. The test dummy is used in testing child restraint systems in accordance with Federal Motor Vehicle Safety Standard No. 213, *Child Restraint Systems.*

The notice amends Subpart C of Part 572 to specify the use of triaxial accelerometers, instead of single axis accelerometers, in the head and chest of the test dummy. In addition the notice increases the upper limit for permissible resultant acceleration in the head calibration test from 115 g's to 118 g's. The agency published a notice proposing these changes in the Federal Register for June 26, 1980 (45 FR 43355). Only two parties, Ford Motor Company (Ford) and General Motors Corporation (GM), submitted comments on the proposal. The final rule is based on the data submitted in those comments, data obtained in the agency's testing and data obtained from other pertinent documents. Significant comments submitted to the docket are addressed below.

This notice also denies petitions filed by Ford and GM seeking reconsideration of the agency's June 26, 1980 notice (45 FR 43352) that granted in part and denied in part a prior GM petition for reconsideration.

Finally, this notice corrects a typographical error in an amendment made in the agency's June 26, 1980 notice (45 FR 43352) responding to a prior GM petition for reconsideration.

Resonances

Ford and GM both agree with the agency that the test dummy representing a 3-year-old child is an objective test device for measuring the amount of head and knee excursion that occurs in child restraint system testing using the test dummy. The fundamental disagreement stated in the Ford and GM comments and petitions for reconsideration is whether the test dummy is an objective test device for measuring accelerations in the dummy's head and chest during child restraint testing. GM argues that the test dummy is not an objective device because of the presence of resonances in the head and chest of the test dummy. Ford says that the test dummy "may be a suitable measuring device, when there is no head impact (such as in a shoulder harness type of child restraint)" during child restraint testing. It, however, argues that if there is a head impact in the child restraint testing, then the test dummy's head will resonate.

Ford and GM both argue that the resonances can reinforce or attenuate the measurement of impact forces on the test dummy. Thus, if the test dummy does resonate, the acceleration measured in the test dummy may not represent the actual forces experienced by the test dummy.

Ford argues that the source of the resonance is an oscillation of the urethane skull of the test dummy. Ford included with its petition and comments

on the June 26, 1980 proposal the results of several tests in which it struck the head of the test dummy with a rubber mallet. Ford said that regardless of the direction of the impact, the head resonated with a fequency of approximately 200 Hertz (Hz) when it was struck.

The agency has reviewed the Ford and other test data and concluded that the test dummy is an objective test device that can be used for measuring accelerations. As explained below, the agency's conclusion is based on an analysis of the structure of the test dummy's head and chest and the relationship between that structure and the impact response of the test dummy.

Many physical structures, such as the test dummy's head, have a natural or resonating frequency at which they will vibrate when they are driven by a force of the same frequency. When resonance occurs, small variations in the applied force can produce large variations in the measured acceleration, thus preventing accurate measurement of the acceleration. The resonance, however, will not occur if the driving force is of a frequency that is below the natural or resonating frequency of the object being struck.

Analysis of the test dummy shows that the natural or resonating frequency of the head is approximately 128 Hz, while the natural frequency of the accelerometer attachment in the test dummy's head is approximately 255 Hz. The natural resonating frequencies of the test dummy's chest and chest accelerometer attachment are approximately 85 Hz and 185 Hz.

Impacts with hard and unyielding objects, such as the unpadded portion of a car's instrument panel, can create high frequencies, generally up to 1,000 Hz. Impacts with soft and yielding surfaces, such as a padded child restraint, create low frequencies, generally less than 50 Hz.

The test used in Standard No. 213 to evaluate child restraints does not include impacts with hard and unyielding surfaces. In Standard No. 213 testing, the child restraint is placed on a vehicle seat and attached by a lap belt. There is no portion of a vehicle's interior, such as an instrument panel, placed in front of or to the side of the vehicle seat. Thus, during the testing, the dummy will contact the belts or padded surfaces of the child restraint. Since the belts and padded surfaces are yielding and energy-absorbing, contact with them will involve impacts where the frequencies are well below the natural or resonating frequency of the test dummy's head and chest.

Ford raised the issue of whether contact between the head and arms of the dummy during the testing might produce frequencies that will cause the test dummy's head to resonate. Ford said that it had experienced dummy head and arm contact in some of its tests and resonance occurred.

The agency had conducted more than 150 tests of child restraint systems. There have only been 2 tests in which the head of the test dummy struck the toes and resonances occurred. The head-limb contact occurred in those tests because of massive structural failures in the child restraint system.

Although resonances did occur when the head struck the toes, the validity of the acceleration measurement in those tests is irrelevant for determining if the child restraint complied with Standard No. 213, *Child Restraint Systems.* The structural failure is, by itself, a violation of the standard. The agency has not found head and limb contact affecting acceleration measurements in any child restraint that maintained its structural integrity during the testing.

In the past several years, the agency has conducted ten tests of the Ford TOT GUARD. In one of those tests, the arm briefly touched the head, but there was no effect on the acceleration measurement. The dummy in those tests was positioned in accordance with the test procedure set out in Standard No. 213. Since the test procedure permits the limbs to be positioned so that they will not inhibit the movement of the head or torso the agency looked at the effect of positioning the dummy's arm in different locations on the shield or the side of the TOT GUARD. None of the different arm positions resulted in head to arm contact affecting acceleration measurement.

Triaxial Accelerometers

Part 572 currently allows the use of either triaxial accelerometers or single axis accelerometers to measure accelerations in the head and chest of the 3-year-old child test dummy. The June 26, 1980 notice (45 FR 43355) proposed specifying the use of only triaxial accelerometers in the test dummy to eliminate calibration problems caused by single axis accelerometers. The agency proposed only using triaxial accelerometers after GM was unable to calibrate its test dummies with single axis accelerometers. In GM's head calibration tests, the peak resultant acceleration exceeded the upper limit set by the regulation.

GM agreed that use of triaxial accelerometer "may reduce the possibility of exceeding the peak acceleration in the dummy calibration test." It, however, argued that the use of triaxial accelerometers will not solve the problem of resonance. As previously explained, the types of impacts experienced in child restraint testing will not produce resonances. The purpose of requiring the use of triaxial accelerometers is to enable manufacturers to calibrate consistently their test dummies within the acceleration limits set in the regulation.

Ford argued that single axis accelerometers are easier to work with, more reliable and more easily repaired than triaxial accelerometers. The agency is not aware of any data, and Ford supplied none, indicating that triaxial accelerometers are less reliable than single axis accelerometers. Contrary to Ford's assertion, a triaxial accelerometer should be easier to use. The axes and seismic mass center of the triaxial accelerometer (Endevco model 7267C-750) currently used in dummy testing are permanently fixed in a mounting block. With single axis accelerometers, three separate accelerometers must be positioned by each user on a mounting block in order to instrument the dummy. Thus the possibility of variation in mounting location between different users is increased by the use of single axis accelerometers.

Single axis accelerometers are more readily repairable than triaxial accelerometers. The agency, however, has used triaxial accelerometers in numerous dummy tests for several years and has found that their repair experience is comparable to single axis accelerometers.

Based on all these considerations, the agency has decided to adopt the triaxial accelerometer requirement as proposed.

Calibration Limit

To accommodate minor variation in test measurements between different test laboratories, the agency's June 26, 1980 notice (45 FR 43355) proposed to slightly increase the permissible resultant acceleration limit for the head calibration test from 115 g's to 118 g's. Neither Ford nor GM opposed this change, so the agency is adopting it as proposed. Although the agency is expanding the upper limit of the calibration range, experience with the Part 572 adult test dummy has shown that manufacturers will develop production techniques to produce test dummies that have acceleration responses that fall within the middle of the specified calibration range.

Correction

The final rule established by the agency's June 26, 1980 notice (45 FR 43352) amended the head calibration head test procedures. The notice inadvertently made the amendment to section 572.1(c)(2) of Part 572 instead of to section 572.16(c)(2). This notice corrects that typographical error and makes the amendment to section 572.16(c)(2).

Costs

The agency has considered the economic and other impacts of this final rule and determined that this rule is not significant within the meaning of Executive Order 12221 and the Department of Transportation's policies and procedures implementing that order. Based on that assessment, the agency has concluded that the economic and other consequences of this rule are so minimal that a regulatory evaluation is not necessary. The impact is minimal since the primary effect of this rule is to bind the agency to using one of the two types of accelerometers formerly permitted by the regulation. The economic impact on manufacturers choosing to purchase triaxial accelerometers needed to instrument the dummy is approximately $2,500.

The agency finds, for good cause shown, that it is in the public interest that the amendments made by this notice have an immediate effective date. The immediate effective date is needed since the test dummy will be used in conducting compliance tests for Standard No. 213, *Child Restraint Systems*, which goes into effect on January 1, 1981.

The engineer and lawyer primarily responsible for this notice are Vladislav Radovich and Stephen Oesch, respectively.

In consideration of the foregoing, Subpart C of Part 572, *Anthropomorphic Test Dummies*, of Title 49 of the Code of Federal Regulations is revised to read as follows:

§ 572.16 [Amended]

1. The first sentence of paragraph (b) of § 572.16 is revised to read as follows:

* * * * *

(b) When the head is impacted in accordance with paragraph (c) of this section by a test probe conforming to § 572.21(a) at 7 fps., the peak resultant acceleration measured at the location of the accelerometer mounted in the headform in accordance with § 572.21(b) shall be not less than 95g and not more than 118g. * * *

* * * * *

2. Paragraphs (b) and (c) of § 572.21 are revised to read as follows:

§ 572.21 Test conditions and instrumentation.

* * * * *

(b) A triaxial accelerometer is mounted in the head on the mounting block (A/310) located on the horizontal transverse bulkhead as shown in the drawings subreferenced under assembly SA 103C 010 so that its seismic mass centers are positioned as specified in this paragraph relative to the head accelerometer reference point located at the intersection of a line connecting the longitudinal centerlines of the transfer pins in the sides of the dummy head with the midsagittal plane of the dummy head. The triaxial accelerometer is aligned with one sensitive axis parallel to the vertical bulkhead and midsagittal plane and its seismic mass center is located 0.2 inches dorsal to and 0.1 inches inferior to the head accelerometer reference point. Another sensitive axis of the triaxial accelerometer is aligned with the horizontal plane and is perpendicular to the midsagittal plane and its seismic mass center is located 0.1 inch inferior to, 0.4 inches to the right of and 0.9 inch dorsal to the head accelerometer reference point. The third sensitive axis of the triaxial accelerometer is aligned so that it is parallel to the midsagittal and horizontal planes and its seismic mass center is located 0.1 inches inferior to, 0.6 inches dorsal to and 0.4 inches to the right of the head accelerometer reference point. All seismic mass centers shall be positioned within ±0.05 inches of the specified locations.

(c) A triaxial accelerometer is mounted in the thorax on the mounting plate attached to the vertical transverse bulkhead shown in the drawing subreferenced under assembly No. SA 103C 030 in drawing SA 103C 001 so that its seismic mass centers are positioned as specified in this paragraph relative to the thorax accelerometer reference point located in the midsagittal plane 3 inches above the top surface of the lumbar spine and 0.3 inches dorsal to the accelerometer mounting plate surface. The triaxial accelerometer is aligned so that one sensitive axis is parallel to the vertical bulkhead and midsagittal planes and its seismic mass center is located 0.2 inches to the left of, 0.1 inches inferior to and 0.2 inches ventral to the thorax accelerometer reference point. Another sensitive axis of the triaxial accelerometer is aligned so that it is in the horizontal transverse plane and perpendicular to the midsagittal plane and its seismic mass center is located 0.2 inches to the right of, 0.1 inches inferior to and 0.2 inches ventral to the thorax accelerometer reference point. The third sensitive axis of the triaxial accelerometer is aligned so that it is parallel to the midsagittal and horizontal planes and its seismic mass center is located 0.2 inches superior to, 0.5 inches to the right of and 0.1 inches ventral to the thorax accelerometer reference point. All seismic mass centers shall be positioned within ±0.05 inches of the specified locations.

3. The document amending Subpart C—Three-Year-Old Child of Part 572, *Anthropomorphic Test Dummies*, of Title 49 of the Code of Federal Regulations published in the Federal Register of June 26, 1980 as 45 FR 43352 is corrected by changing the reference to "Section 571.1(c)(2)" made in the first amendment to the regulation set out on page 43353 to read "572.16(c)(2)".

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 8, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80-38634 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Final Regulations: Permit Application Fees

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

ACTION: Final rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) is amending the foreign fishing regulations as follows: (1) The permit application fee is $50 plus a surcharge; (2) Vessel activities are redefined under § 611.3, Permits; and (3) The Assistant Administrator for Fisheries, NOAA, may refund permit application fees in the special case of drastic reductions of the expected allocations between the time permit applications are submitted and the time allocations are awarded. These amendments are made to streamline application procedures.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, Fishery Management Specialist, F/CM7, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7432 or 202-653-5526.

SUPPLEMENTARY INFORMATION: The proposed rulemaking was published at 45 FR 64995–64996 on October 1, 1980. Comments were invited for 45 days ending November 17, 1980. The amendment, comments, and the action being taken are summarized below.

I. Permit Fees

The NMFS imposed a vessel permit fee, as well as other fees, when the Fishery Conservation and Management Act of 1976 was implemented on March 1, 1977. The vessel permit fee was based on the size and activity of the vessel. Catching vessels paid $1.00 per gross registered ton (GRT), processing vessels paid $0.50 per GRT up to $2,500.00, non-retention catching vessels paid $200.00 per vessel, and "other support" vessels paid $200.00 per vessel. In 1979, an amendment required the permit fee to be paid when the application was submitted, instead of when the permit was issued.

NMFS reviewed the practice of assessing permit fees in relation to the size and activity of the vessel. Such graduated fees are not related to actual costs of processing applications. Furthermore, when errors occur in determining tonnages of vessels, permit fees and billings require adjustment. NMFS concluded that a uniform fee to recover the cost of processing the applications would resolve these problems. The cost was established by using the following data:

Cost of Processing Foreign Fishing Vessel Permit Applications

Department of State:	
Salaries	$13,000
Duplicating	1,250
Mailings	628
FEDERAL REGISTER notices	18,480
Total	33,358
Department of Commerce:	
Salaries	26,600
Computer processing	18,000
Printing of forms	22,600
Messenger service	300
Total	67,900
Grand total	$101,258

The average cost of processing a permit application is $101,258 divided by 2,100 applications, or $48.22. This is rounded to $50.00 per application.

The total permit fees collected by the United States will decrease from roughly $1 million annually to about $100,000 annually.

II. Definitions

The definition of vessel activity will be moved from § 611.22, Fees, to § 611.3, Permits. Originally, vessels were classified by activity in order to determine the applicable fee rate. While a uniform permit fee is now applied for all vessels, NMFS believes that the public is interested in information on the number of foreign catching, processing, and other support vessels permitted annually. For this reason, the classifications will remain in the foreign fishing regulations but will be included in the Permits subsection.

Scouting

In 1980, numerous opportunities to increase the catch by United States fishermen were not realized because permitted foreign processing vessels which were receiving the U.S. catch could not scout for the U.S. vessels. Under the old classification system, a permitted foreign vessel of a nation which held no allocation in the fishery could not scout for fish unless it was issued a non-retention permit. In order to realize these benefits for United States fishermen participating in over-the-side sales, "scouting" is moved from from a catching activity to an "other support" activity. As before, "scouting" does not involve removal of fish from the sea.

III. Refunds

The Assistant Administrator for Fisheries, NOAA, is given the authority to refund permit application fees in special cases of drastic reductions of the expected allocations between the time permit applications are submitted and the time allocations are awarded.

Comments and Action Taken

One comment was received on the proposed rulemaking. It supported all the proposals. Therefore, there are no substantive differences between the proposed rule and the final rule.

The Assistant Administrator has determined that these amendments do not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended. Therefore, no environmental assessment or environmental impact statement is required. The Assistant Administrator also has determined that this amendment does not constitute a significant action in that it will not substantially or materially alter that portion of the foreign fishing regulations governing fees, and therefore does not require the preparation of a regulatory analysis under Executive Order 12044.

The Assistant Administrator also has determined that some countries have allocations that will not lapse at the end of the calendar year, but carry over into 1981. Therefore, the vessels must have permits on board by January 1 in order to continue their harvest. Accordingly, the Assistant Administrator waives part of the thirty-day delay in implementation required under the Administrative Procedure Act.

Signed at Washington, D.C., this 9th day of December 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

For the reasons set out in the preamble, 50 CFR Part 611 is amended as shown.

1. By amending § 611.3 as follows:

§ 611.3 Permits for foreign fishing vessels [Amended]

1. Paragraph (f) is removed.

2. Paragraphs (d) and (e) are relettered as paragraphs (e) and (f), respectively.

3. Insert the following new paragraph (d):

* * * * *

(d) Each vessel will be authorized for one of the following activities:

Class 1: Catching, processing, and/or other support, as defined in § 611.2(r).

Class 2: Processing and/or other support, as defined in § 611.2(r)(2) and (r)(3).

Class 3: Other support, as defined in § 611.2(r)(2), 611.2(r)(3)(ii), and 611.2(r)(3)(iii).

* * * * *

2. By amending § 611.22 to read as follows:

§ 611.22 Fee schedule for foreign fishing permits. [Amended]

(a) * * *

(1) *Permit fees* (i) Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $50.00 per vessel, plus the surcharge authorized under paragraph (c) of this section. At the time the application is submitted to the Department of State, the fees must be sent to: Division Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. The permit fee payment must be accompanied by a list of the vessels for which payment is made.

(ii) Permit fees may be refunded if the application is not approved. On a case-by-case basis, the Assistant Administrator may refund permit fees if the country's allocation is significantly and unexpectedly reduced.

On a case-by-case basis, the Assistant Administrator may allow the substitution of a similar vessel when the originally permitted vessel is disabled or

otherwise cannot participate in the fishery.

* * * * *

[FR Doc 80-38841 Filed 12-12-80; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries; Closure of Surf Clam Fishing Area

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

ACTION: Notice of closure of surf clam fishing area.

SUMMARY: Notice is given of the closure of an area of the fishery conservation zone (FCZ) offshore of Chincoteague, Virginia to fishing for surf clams and ocean quahogs because of the predominance of small (length less than 4½ inches) surf clams. The area is approximately 130 square miles and lies between eighteen and twenty-seven nautical miles offshore between Chincoteague Inlet and Wachapreague Inlet.

The action is based upon reports of commerical fishermen and scientific researchers which indicate 60 percent or more of the surf clams in this area are under 4½ inches in length. The area thus meets the criteria governing closure.

EFFECTIVE DATE: December 9, 1980

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930, Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: Regulations implementing the fishery management plan for the Atlantic surf clam and ocean quahog fisheries contain provisions for the closure of areas which contain beds of small surf clams. Section 652.23(b) (45 FR 793) allows the Regional Director to close an area to fishing if he determines (based on logbook entries; processor's reports, survey cruises, or other information) that the area contains surf clams of which (1) 60 percent or more are smaller than 4½ inches in size; and (2) not more than 15 percent are larger than 5½ inches in size.

Since the middle of 1979, numerous fishermen and processors of surf clams have indicated that unusually large numbers of small surf clams were present offshore of Chincoteague, Virginia. A survey was conducted in August, 1980 to locate and define the area where small clams predominated. The survey delineated an area within which the surf clam size distribution met the criteria for closure.

On October 31, 1980, a public hearing was held in Dover, Delaware to determine the social and economic importance of the area proposed for closure. Those in attendance generally supported the need for closure of the area. According to available logbook information, testimony at the hearing, and written comments received, the area provides a portion of the harvest of approximately 22 vessels. Conflicting testimony was presented concerning the presence of large clams in portions of the area which were not surveyed. Three area processors and two area vessel operators contend that large clams are present in the area and that fishing occurs occasionally; when that happens it can be economically important to those fishermen. Other processors and vessel operators contend that only a small amount of large clams are present, and that they are so interspersed among small clams that their harvest results in large and wasteful mortalities of the smaller clams. Additional survey work will be scheduled as soon as possible to resolve that conflict. In the interim, based on the best available information and the majority of the comment received, the area will be closed to protect the extensive amounts of small clams found on these shoals.

The area being closed is approximately 130 square miles. It is located between eighteen and twenty-seven nautical miles offshore between Chincoteague Inlet and Wachapreague Inlet and is defined as follows: beginning at a point 37°43.2′ N. latitude and 75°00.8′ W. longitude; thence southeasterly in a straight line to 37°42.5′ N. latitude and 74°55.5′ W. longitude; thence southwesterly in a straight line to 37°27.7′ N. latitude and 75°00.3′ W. longitude; thence northwesterly in a straight line to 37°28.3′ N. latitude and 75°14.3′ W. longitude; thence northeasterly in a straight line to 37°43.2′ N. latitude and 75°.00.8′ W. longitude, the point of beginning. Closure of the area for a period of at least two years has been recommended. The corners of the area are also approximated by Loran "C" bearings. These bearings are locally used rates 9960 x and y: 26997–41910; 26968–41910; 26968–41738; 27034–41723. Fishermen are advised that these Loran "C" bearings are only approximations, and that the area to be closed is legally defined on the basis of the coordinates of latitude and longitude.

Surveys of the closed area will be conducted periodically to monitor the growth of the clams. The Regional Director will determine when the area may be reopened to fishing based on those surveys.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., on behalf of the Regional Director on this 9th day of December, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-38666 Filed 12-12-80; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 242
Monday, December 15, 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 AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1435

Withdrawal of Price Support for 1980 Crop Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation.

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: Consideration of price support for the 1980 crops of sugar beets and sugarcane, as represented by a proposed rule published on August 15, 1980, (45 FR 54347) is completed and the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Laurence E. Ackland, Sugar Branch, (202) 447-5647.

SUPPLEMENTARY INFORMATION: After careful consideration of comments, market prices, proposed levels of support and other factors, it has been determined that no price support program for the 1980 crops of sugar beets and sugarcane is necessary. Therefore, notice is hereby given by the Secretary of Agriculture that the proposed rule published on August 15, 1980, (5 FR 54347) relating to price support for 1980 crop sugar beets and sugarcane is withdrawn.

Signed at Washington, D.C., on December 9, 1980.

Bob Bergland,
Secretary.

[FR Doc. 80-38707 Filed 12-12-80; 8:45 am]
BILLING CODE 3410-05-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 80-758]

Shared Appreciation Mortgage; Graduated Payment Adjustable Mortgage

Dated: December 4, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Extension of comment period on proposed rules.

SUMMARY: The Board extends until December 30, 1980, the closing date of the comment period on the Board's proposal to authorize Federal savings and loan associations to make, purchase and participate in shared appreciation mortgage instruments and in graduated payment adjustable mortgage instruments.

DATE: Comments are now due on or before December 30, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Hall, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Tel. No. (202) 377-6466.

SUPPLEMENTARY INFORMATION: On September 30, 1980, the Board, by Resolution Nos. 80-610 and 80-612 (45 Fed. Reg. 66801, 66798 (1980), proposed to amend its regulations to permit Federal associations to make, purchase and participate in shared appreciation mortgage instruments (SAMs) and in graduated payment adjustable mortgage instruments (GPAMs). Comments on the proposals originally were due by December 1, 1980.

However, on October 23, 1980, by Resolution No. 80-653 (45 Fed. Reg. 72675 (1980)), the Board proposed a number of changes to its existing regulations on alternative mortgage instruments. In connection with these proposed changes, the Board is in the process of holding joint hearings with the Office of the Comptroller of the Currency, which has proposed to authorize national banks to issue adjustable-rate mortgages (45 Fed. Reg. 64196 (1980)). Since these hearings will not be completed until December 9, and since the comment periods on the Board's proposed alternative mortgage instrument amendments and on the regulation proposed by the Office of the Comptroller of the Currency extend until December 30, 1980, the Board has determined to extend the comment period on the proposed SAM and GPAM regulations to December 30, 1980.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; Reorg. Plan No. 3 of 1947; 3 CFR 1943-1948 Comp. 1071)

By the Federal Home Loan Bank Board.
Robert D. Linder,
Acting Secretary.

[FR Doc. 80-38848 Filed 12-12-80; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 80-ASO-71]

Proposed Temporary Restricted Areas; Camp Lejeune, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate temporary restricted areas in the vicinity of Camp Lejeune, N.C., to contain hazardous air activity associated with a major joint military exercise. Applicable areas would be included in the Continental Control Area. This action would prohibit unauthorized flight operations by nonparticipating aircraft within the proposed restricted areas during their designated times of use.

DATES: Comments must be received on or before January 14, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASO-71, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

Send comments on environmental aspects to: Captain C. M. Zucker, USN, CINCLANT N37, Norfolk, Va. 23511. Telephone: (804) 444-6575.

Send comments on land use aspects to: Mr. Ernest W. Peele, Maneuver Real Estate Office, Savannah District Corps of Engineers, New River Plaza Station, P.O. Box 5126, Jacksonville, N.C. 28542.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, 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) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before January 14, 1981 will be considered before action is taken on the proposed amendments. 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.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which desicribes the application procedures.

The Proposal

The FAA is considering amendments to § 71.151 of Part 71 and § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would designate temporary restricted areas identified as R-5315A, R-5315B, R-5315C, R-5315D, and R-5315E, Camp Lejeune, N.C., to contain hazardous air activity associated with a major joint military exercise. Applicable areas would be included in the Continental Control Area. This exercise will provide necessary training for several military commands operating under the sponsorship of the United States Atlantic Command, Norfolk, Va. The air activities associated with the exercise will be such that simultaneous flight by nonparticipating aircraft cannot be safely conducted within the proposed temporary restricted areas when they are in use by the military. These activities will consist of high performance military aircraft and helicopters engaged in fast tempo air-to-air and air-to-ground air operations where pilots may be restricted from properly clearing themselves from nonparticipating aircraft. This situation creates a hazard and requires designation of temporary restricted areas. Live ordnance will not be used and supersonic flight will be prohibited within the proposed temporary restricted areas. Approximately 225 aircraft would be utilized to conduct approximately 270 fixed wing and 150 helicopter daily sorties. Participating aircraft operating outside the exercise areas will file individual flight plans to the maximum extent practicable. The boudary abutments to existing special use airspace areas are necessary to accommodate interarea transition into and out of adjacent areas which will also be utilized extensively during the exercise. Communications equipment would be installed and maintained between appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise areas when military activity permits. Additionally, a reverse charge telephone number and VHF radio communications frequency would be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The proposed temporary restricted areas would be designated for joint use to permit uitlization of the airspace by the controlling agency for authorized transit by nonparticipating VFR and IFR air traffic when military activity permits. The military would provide reasonable access to private or public use land within the proposed temporary restricted areas. The United States Atlantic Command, Norfolk, Va., will serve as lead agency for purposes of compliance with the Environmental Policy Act (NEPA). Section 71.151 of Part 71 and § 73.53 and Part 73 were republished in the Federal Register on January 2, 1980 (45 FR 346 and 716).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (45 FR 346 and 716) as follows:

1. In § 71.151 between "R-5314 Dare County, N.C." and "R-5502 Lacarne, Ohio" the following is added:

"R-5315A Camp Lejeune, N.C. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

R-5315C Camp Lejeune, N.C. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

R-5315D Camp Lejeune, N.C. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

R-5315E Camp Lejeune, N.C. Continuous from 0001 May 6 until 2400 local time May 12, 1981."

2. In § 73.53 the following is added:

"R-5315A Camp Lejeune, N.C.

Boundaries. Beginning at Lat. 34°36'05"N., Long. 77°26'08"W.; to Lat. 34°33'00"N., Long. 77°19'00"W.; to Lat. 34°30'20"N., Long. 77°15'50"W.; thence southwest 3 NM from and parallel to the shoreline to Lat. 34°23'30"N., Long. 77°30'00"W.; to Lat. 34°21'45"N., Long. 77°32'30"W.; to Lat. 34°26'30"N., Long. 77°40'00"W.; to point of beginning.

Designated altitudes. Surface to but not including FL 180.

Time of designation. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

Controlling agency. FAA Washington ARTC Center, Leesburg, Va.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5315B Camp Lejeune, N.C.

Boundaries. Beginning at Lat. 34°51'00"N., Long. 77°05'30"W.; to Lat. 34°42'00"N., Long. 76°54'45"W.; to Lat. 34°41'50"N., Long. 76°56'20"W.; to Lat. 34°37'30"N., Long. 76°56'20"W.; thence southwest 3 NM from and parallel to the shoreline to Lat. 34°34'30"N., Long. 77°09'00"W.; to Lat. 34°44'50"N., Long. 77°14'40"W.; to Lat. 34°49'30"N., Long. 77°10'00"W.; to point of beginning.

Designated altitudes. Surface to but not including 1,200 feet MSL.

Time of designation. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

Controlling agency. FAA Washington ARTC Center, Leesburg, Va.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5315C Camp Lejeune, N.C.

Boundaries. Beginning at Lat. 34°57'00"N., Long. 77°02'45"W.; to Lat. 34°38'30"N., Long. 76°43'00"W.; to thence west 3 NM from and parallel to the shoreline to Lat. 34°37'30"N., Long. 76°56'20"W.; to Lat. 34°41'50"N., Long. 76°56'20"W.; Lat. 34°42'00"N., Long. 76°54'45"W.; to Lat. 34°51'00"N., Long. 77°05'30"W.; to Lat. 34°49'30"N., Long. 77°10'00"W.; to point of beginning.

Designated altitudes. 4,000 feet MSL to but not including FL 180.

Time of designation. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

Controlling agency. FAA Washington ARTC Center, Leesburg, Va.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5315D Camp Lejeune, N.C.

Boundaries. Beginning at Lat. 35°12'00"N., Long. 77°25'30"W.; to Lat. 34°57'00"N., Long. 77°02'45"W.; to Lat. 34°49'30"N., Long. 77°10'00"W.; to Lat. 34°44'50"N., Long. 77°14'40"W.; to Lat. 34°40'30"N., Long. 77°19'00"W.; to Lat. 35°06'00"N., Long. 77°30'00"W.; to point of beginning.

Designated altitudes. Surface to but not including FL 180.

Time of designation. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

Controlling agency. FAA Washington ARTC Center, Leesburg, Va.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5315E Camp Lejeune, N.C.

Boundaries. Beginning at Lat. 35°20'30"N., Long. 77°19'00"W.; to Lat. 35°43'50"N., Long. 76°35'30"W.; to Lat. 35°38'55"N., Long. 76°01'00"W.; to Lat. 35°36'45"N., Long. 76°01'20"W.; to Lat. 35°18'15"N., Long. 76°16'40"W.; to Lat. 35°23'15"N., Long. 76°34'40"W.; to Lat. 35°03'00"N., Long. 76°57'00"W.; to Lat. 34°57'00"N., Long. 77°02'45"W.; to Lat. 35°12'00"N., Long. 77°25'30"W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Time of designation. Continuous from 0001 May 6 until 2400 local time May 12, 1981.

Controlling agency. FAA Washington ARTC Center, Leesburg, Va.

Using agency. United States Atlantic Command, Norfolk, Va.

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 11.65)

Note.—The FAA has determined that this document involves a proposed 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 and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C. on December 8, 1980.

Shelomo Wugalter,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-38673 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

Revision of the Fuel Costs Adjustment Clause Regulating Relation to Fuel Purchases From Company Owned or Company Controlled Sources, Informal Conferences

December 10, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Informal Conferences.

SUMMARY: The Office of General Counsel of the Federal Energy Regulatory Commission (Commission) will conduct informal conferences to discuss its proposed amendments to 18 CFR 35.14(a)(7) which concern fuel cost adjustment clauses relating to fuel purchases from company owned or controlled sources (44 FR 28683 (May 16, 1979)). The issues under discussion are (1) the percentage of ownership interest of a utility in its fuel supplying source which should trigger a presumption of control, and (2) whether there are jurisdictional conflicts between the Commission and the Securities and Exchange Commission under the Federal Power Act and the Public Utility Holding Company Act. Interested members of the public may make appointments to meet with staff members designated below. Appointments may be made by phoning, in advance, the staff members designated below.

DATES: December 18, 19, 22, 23, and 24 of 1980 at times to be determined on an individual basis. Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Christine P. Benagh, Federal Energy Regulatory Commission, Room 8104-B, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8606.

Paul W. Hartley, Federal Energy Regulatory Commission, Room 8308-C, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8608.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38836 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-886]

Community Development Block Grants, Subpart D, Entitlement Grants

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: The Department of Housing and Urban Development proposes to amend the regulation relating to program benefit to low- and moderate-income persons in order to provide guidelines for applicants to follow when applying for an exception to the general rule for determining when an activity is considered to principally benefit those persons. In addition, a new provision would be added which outlines the steps an applicant must undertake to claim an exemption.

DATE: Comments due February 13, 1981.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Neil H. Stern, entitlement Cities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, or telephone (202) 755-9267. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: In order to clarify the responsibility of the applicant when applying for an exception to the general rule on when an activity is considered to principally benefit low- and moderate-income persons, we propose to revise paragraph (d)(5) of § 570.302, Program benefit to low- and moderate-income persons, to describe the actions and documentation an applicant should reflect in the application when using this exception rule. The wording of Section 570.302(d)(5)(A) has been revised for clarification. Section 570.302(d)(5)(D) has been added which outlines the steps the grantee must undertake to claim the exemption.

Accordingly, it is proposed to amend 24 CFR Part 570.302(d)(5):

§ 570.302 Program benefit to low- and moderate-income persons.

* * * * *

(d)* * *

(5) A project which serves an area with less than a majority of low- and moderate-income persons where: (i) the applicant has no areas within its jurisdiction where low- and moderate-income persons constitute a majority, or (ii) the applicant has so few such areas that it is inappropriate to limit the grant to projects in those areas; provided that:

(A) The project serves an area that is among those areas having the largest percentage of residents who are low- and moderate-income in the applicant's jurisdiction;

(B) The project is clearly designed to meet identified needs of low- and moderate-income persons in those areas;

(C) The project benefits such persons at least in proportion to their share of the population of the areas served; and

(D) The applicant has clearly shown that the use of this exception provision to the general rule is justified by providing:

(1) A description of how the applicant determined that it has no areas where low- and moderate-income persons are a majority, or so few that it is inappropriate to limit use of block grant funds to those areas, including a description of the efforts made to identify areas below the census tract level which have a majority of low- and moderate-income residents, but which are not so small as to make projects infeasible;

(2) Information on the percentages of residents in the areas targeted for assistance who are low- and moderate-income and how those areas rank against untargeted areas;

(3) An explanation justifying why any untargeted areas that contain a higher percentage concentration of low- and moderate-income residents were passed over for assistance in favor of an area with a lower percentage concentration of low- and moderate-income residents;

(4) A description of how the project will meet identified needs of low- and moderate-income persons in those areas; and

(5) An explanation of the basis upon which it has been determined that low- and moderate-income persons will benefit from the project at least in proportion to their share of the population of the area served.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12044 as extended by Executive Order 12221.

The legislative review provisions of Section 7(o) of the Department of Housing and Urban Development Act have been complied with.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) as subsequently amended; and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., October 30, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-38595 Filed 12-12-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

24 CFR Part 570

[Docket No. R-80-899]

Small Cities Housing Assistance Plan; Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request.

SUMMARY: Section 7(o)(4) of the Department of HUD Act permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information an interim rule for which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of the General Counsel, 451 Seventh Street, S.W., 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 Congressional Banking Committees the interim rule listed below. The purpose of the transmittal is to request waiver of both the 15-day prepublication review period under Section 7(o)(2), and the 30-day delayed effective date for the final rule under Section 7(o)(3) 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:

Interim Rule—24 CFR Part 570, Subpart F Small Cities Housing Assistance Plan

This interim rule revises the Housing Assistance Plan regulations for small cities by establishing a single set of requirements for both Comprehensive and Single Purpose Grant applicants. the rule also simplifies and makes the Housing Assistance Plan (HAP) requirements more flexible. The new requirements are tailored to small cities' needs, capacities, and access to data, and increase the HAP's usefulness to applicants and to HUD.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)); Section 324 of the Housing and Community Develoment Amendments of 1978)

Issued at Washington, D.C., December 8, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-38733 Filed 12-12-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. R-80-880]

24 CFR Part 891

Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds

AGENCY: Department of Housing and Urban Development (HUD)

ACTION: Proposed Rule.

SUMMARY: HUD is proposing to amend the procedure for the allocation of housing assistance funds to provide opportunity for comment on the allocation plan to all cities and other formula entitlement block grant recipients which are established as separate allocation areas and any central city of 150,000 or more population which is the central city of an Areawide Housing Opportunity Plan area. In addition, HUD is proposing to implement a recent statutory amendment requiring that any amounts allocated to a State or to areas or communities within a State not be reallocated outside of the State unless HUD determines that they cannot be used within the original State.

DATE: Comments due: February 13, 1981.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the

above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Office of Policy and Budget, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-7166. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD and Community Development Block Grant (CDBG) recipients must work together closely to assure that community development activity and housing assistance programs are well coordinated for the maximum effectiveness of both. A critical element in such coordination is the development of the allocation plan which is prepared in each Area Office each fiscal year for the allocation of housing assistance funds consistent with the Housing Assistance Plans (HAPs) submitted by the CDBG recipients as a part of their Grant application pursuant to Section 104 of the Housing and Community Development Act of 1974. For most SMSA central cities with populations over 150,000, HUD designates the city a separate allocation area; and the allocation plan is based on the Annual Action Plan of the HAP in regard to the proportional goals for housing and household type. These localities are singled out because their fair share of housing assistance is large enough to permit funding more than one housing type, thus permitting allocations which are more consistent with local housing and community development strategy; however, HUD field offices have the discretion of consulting with other units of local government in addition to those cited above. Because the numerical HAP goals generally exceed the number of units which can be funded and because a variety of programs is available, e.g., Section 202, low-income public housing, Section 8 set-aside for site agencies, the development of the allocation plan for a city involves many decisions which cannot be anticipated at the time the HAP is prepared. The Department proposes to provide a more formal opportunity for the city to comment on the proposed allocation plan so that decisions to divide available funds by program as well as housing and household type can be as responsive as possible to local priorities. Other separate allocation areas, such as urban counties, will also participate in this procedure. The comment opportunities in 24 CFR 891.507 already granted Area Planning Organizations with approved Area Housing Opportunity Plans (AHOPs) will be integrated into this process.

In addition, the Department is proposing to allow local governments to designate neighborhoods within which they would prefer that Section 8 New Construction and Substantial Rehabilitation projects be located. The HUD Notices of Fund Availability will alert developers to those neighborhoods in which projects are likely to receive favorable local comment in the review procedure required by Section 213 of the Housing and Community Development Act of 1974. The preferred neighborhoods must be consistent with the general locations for housing shown on approved HAPs. Individual sites within these neighborhoods are still subject to HUD environmental and site and neighborhood standards.

In designing the consultation process, HUD has had to balance its desire to involve localities in the allocation design against the time pressures field offices face in formulating allocation plans. By regulation, field offices must devise allocations for their entire jurisdiction in 30 days, using a complex matrix to divide funds among localities. It is necessary to assure that consultations with localities with separate allocation plans do not delay or disrupt the allocations to all areas.

Finally, all parties should realize that the initial, agreed upon allocation plans may be subsequently revised by the field office, based on the number and quality of applications, availability of additional funds or other reasons.

Section 204(b) of the Housing and Community Development Amendments of 1979 revised section 213(d)(1) of the Housing and Community Development Act of 1974 by inserting a new sentence, as follows:

> Any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.

This provision is being implemented by adding a new sentence in § 891.405, Reallocation of Uncommitted Contract Authority.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, it is proposed to amend 24 CFR Part 891 as follows:

§ 891.404 [Amended]

1. In § 891.404(c)(1) delete the third sentence, which reads: For those central cities and other entitlement recipients which are established as separate allocation areas under paragraph (a)(4) of this section, the field office shall consult with the Chief Executive Officer or his/her representative in the preparation of the allocation plan.

2. Add a new § 891.404(c)(3) to read as follows:

* * * * *

(C) * * *

(3) for those SMSA central cities and other formula entitlement block grant recipients including urban counties, which are established as separate allocation areas under paragraph (a)(3) of this section and any central city of 150,000 or more population which is participating as the central city in an AHOP area, the field office shall develop allocation plans in cooperation with the city or other block grant recipient as follows:

(i) The field office shall transmit to the city or other block grant recipient the tentative allocation plan developed pursuant to paragraphs (a) through (c)(2) of this section and shall provide such technical assistance as may be useful to the Chief Executive Officer in commenting on the plan.

(ii) The field office manager must invite the Chief Executive Officer to a meeting to receive and discuss the Chief Executive Officer's comments concerning the housing, household and program types proposed and any other issues concerning the planned use of available contract authority. At this time, the Chief Executive Officer should also state any intention to request pre-approved sites pursuant to 24 CFR 880.303 and 881.303. The field office manager shall arrange the meeting to be held no sooner than five working days after transmittal of the plan. If the Chief Executive Officer or a designee cannot attend such a meeting within a reasonable time, the field office manager may proceed with the allocation process without local consultation.

(iii) So that localities can encourage the location of Section 8 projects in specific neighborhoods, the Chief Executive Officer may, in the local comments on the allocation plan,

request specific neighborhood preferences to be noted in Notices of Fund Availability (NOFAs) for Section 8 New Construction or Substantial Rehabilitation. Such neighborhoods must be within the general locations shown on the city's approved HAP. Specific sites will still undergo normal HUD environmental review and site and neighborhood review. However, the NOFA will alert developers to those neighborhoods in which projects are likely to receive favorable local comment in the procedure for local government comment required by Section 213 of the Housing and Community Development Act of 1974.

(iv) The Chief Executive Officer must confirm the comments in writing to the field office. To assure consideration, the comments should be transmitted within three working days after the Chief Executive Officer's meeting with the field office manager.

(v) The field office shall accommodate the Chief Executive Officer's written comments to the extent feasible, consistent with the city's approved housing assistance plan and other regulatory and programmatic restrictions, including the competing needs of other communities, by revising the allocation plan, stating local neighborhood preferences in Notices of Fund Availability, and taking other actions necessary and appropriate to insure responsiveness of HUD housing assistance programs to local housing and community development strategy.

(vi) The field office shall also provide the allocation plan for participating Area Housing Opportunity Plan (AHOP) jurisdictions to the AHOP agency and invite the agency to a meeting. At this time, the AHOP agency may make the recommendations otherwise submitted pursuant to § 891.507.

§ 891.405 [Amended]

3. Add a new sentence at the end of § 891.405(d) to read:

* * * * *

(d) * * * In addition, any amounts allocated to a State or to areas or communities within a State which are not likely to utilized within a fiscal year shall not be reallocated for use in another State unless HUD determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.

(Sec. 7(d), Department of Housing and Urban Development Act (45 U.S.C. 3535(d)))

Issued at Washington, D.C., October 2, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commission.

[FR Doc. 80-38713 Filed 12-12-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 359]

Labeling and Advertising of Wine (Appellation of Origin) Under the Federal Alcohol Administration Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing an amendment to a regulation which will require that appellations of origin which appear on foreign wine imported into the United States be labeled in accordance with the laws and regulations governing the labeling of wine for home consumption in the country of origin.

DATE: Comments must be received on or before February 13, 1981.

ADDRESS: Before adopting this proposed regulation, the bureau will consider any written data, comments, or suggestions which are submitted to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. box 385, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Roger L. Bowling, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (45 FR 37672, 54624) revising wine labeling regulations in 27 CFR Part 4. These regulations, in addition to other revisions, amended the appellations of origin regulations as they relate to American and imported foreign wines.

The regulations define an appellation of origin for imported wines as:

(1) A country;

(2) A State, province, territory, or similar political subdivision of a country equivalent to a State or county; or

(3) A viticultural area.

The use of an appellation of origin is qualified in that the wine is entitled to bear an appellation of origin other than a viticultural area if:

(1) At least 75 percent of the wine is derived from fruit or agricultural products grown in the area indicated by the appellation of origin; and

(2) The wine conforms to the laws and regulations governing the composition, method of production, and designation of wines made in such country, province, etc. as appropriate.

A wine may be labeled with a viticultural area appellation if at least 85 percent of the wine is derived from fruit or agricultural products grown in the area indicated by the appellation of origin.

Regulation Proposal in This Notice

During the drafting of Treasury Decision ATF-53, the sections that apply to imported wine, such as vintage dates, were further qualified so that vintage wine would be entitled to bear such vintage date if it has been sold within the country of origin.

However, this qualification was not inserted into the regulations pertaining to the use of appellations of origin. This, in effect, would allow any foreign country which exports wine to the United States to label such wine with an appellation of origin that would not be entitled to appear on wines if the wines were to be sold within the country of origin. Furthermore, a foreign country could promulgate a separate set of regulations for wine to be exported which would not conform to the requirements of the laws and regulations governing wine for home consumption.

Therefore, in an effort to make a conforming change to the regulations which will return the requirement for the labeling of appellations of origin of foreign wines to the status they enjoyed prior to the adoption of § 4.25a(b)(2) and (e)(3) and to prevent inferior foreign wines from being dumped into the American market and to preclude consumer deception, the bureau is amending these regulations so that all appellations of origin on foreign wines exported to the United States must be labeled in comformity with the laws and regulations governing wines for home consumption in the country of origin.

Modifications to the Proposed Regulations

Although this notice proposes the specific terms and substance of the amendment to the regulation, we invite comments as to any modifications which should be made prior to the final adoption. The final regulation may differ

in terms of the proposed regulation after consideration has been made of all comments received pursuant to this notice.

Disclosure of Comments

Comments on this notice may be inspected at the ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, 12th and Pennsylvania Avenue, NW, Washington, DC, during normal business hours.

The Bureau will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting the comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on the proposed regulations should submit his or her request, in writing, to the Director within the 60 day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Roger L. Bowling, Research and Regulations Branch, Bureau of Alchohol, Tobacco and Firearms. However, personnel from other officers in the Bureau and of the Treasury Department participated in the preparation of this document, both in matters of substance and style.

Authority Citation

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 4 is proposed to be amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Subpart D—Labeling Requirements for Wine

Par. 1. Section 4.25a is amended by qualifying paragraph (b)(2) that appellations of origin on foreign wine must be in conformity with the laws and regulations governing wine for home consumption; and adding a new requirement in paragraph (e)(3) to be designated as (iii) and redesignating existing (iii) and (iv) as (iv) and (v), respectively. As amended, § 4.25a(b)(2) and (e)(3) reads as follows:

§ 4.25a Appellations of Origin (not mandatory before January 1, 1983).

(a) * * *
(b) * * *
(1) * * *

(2) *Imported wine.* An imported wine is entitled to an appellation of origin other than a viticultural area if:

(i) At least 75 percent of the wine is derived from fruit or agricultural products grown in the area indicated by the appellation of origin; and

(ii) The wine conforms to the requirements of the foreign laws and regulations governing the composition, method of production, and designation of wines for home consumption.

* * * * *

(e) * * *
(1) * * *
(2) * * *

(3) *Requirements for use.* A wine may be labeled with a viticultural area appellation if: (i) the appellation has been approved under part 9 of this title or by the appropriate foreign government; (ii) not less than 85 percent of the wine is derived from grapes grown within the boundaries of the viticultural area; (iii) in the case of foreign wine, it conforms to the requirements of the foreign laws and regulations governing the composition, method of production, and designation of wines for home consumption; (iv) in the case of American wine, it has been fully finished within the State, or one of the States, within which the labeled viticultural area is located (except for cellar treatment pursuant to § 4.22(c), and blending which does not result in an alteration of class and type under § 4.22(b)); and (v) it conforms to the laws and regulations of all the States contained in the viticultural area.

Signed: November 10, 1980.

G. R. Dickerson,
Director.

Approved: November 26, 1980.

Richard J. Davis,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-38685 Filed 12-12-80; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Hearing and Public Comment Period on the Resubmitted Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Iowa regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) that have been resubmitted by the State and which were not previously approved by the Secretary of the Interior.

This notice sets forth the times and locations that the Iowa program is available for public inspection, the date when and location where OSM will hold a public hearing on the resubmission, the comment period during which interested persons may submit written comments and data on the proposed program, and other information relevant to public participation during the comment period and public hearing.

DATES: The public comment period on the resubmitted Iowa permanent regulatory program is opened for 16 days, ending December 31, 1980. A public hearing will be held on December 30, 1980, at 7:00 p.m. in Des Moines, Iowa at the address listed below. Comments from members of the public must be received on or before 5 p.m. on December 31, 1980, in order to be considered in the Secretary's decision.

ADDRESSES: The public hearing will be held at: Holiday Inn—Downtown, I-235 & 6th Avenue, Des Moines, Iowa.

Written comments should be sent to: Regional Director, Office of Surface Mining Reclamation and Enforcement, Region IV, 4th Floor, Scarritt Bldg., 818 Grand Avenue, Kansas City, Missouri 64106; or may be hand delivered to the Regional Office.

Copies of the full text of the proposed program, a listing of scheduled public meetings and copies of all written comments and notes of public meetings are available for review and copying at the OSM Region IV Office and the office of the Iowa Department of Soil Conservation listed below, during business hours. Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Bldg., Des Moines, Iowa 65101.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone (816) 374-3920.

SUPPLEMENTARY INFORMATION: On February 28, 1980, the State of Iowa submitted to OSM a proposed State regulatory program, pursuant to the provisions of 30 CFR Part 732 (44 FR 15326-15328). The Regional Director published notice of receipt of the program submission on March 6, 1980 (45 FR 14598), and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting was held on April 15, 1980, on the issue of the program's completeness. On April 25, 1980, the Regional Director published notice (45 FR 27953) announcing that he had determined the program to be incomplete.

A public hearing on the substantive adequacy of the initial Iowa submission was held on July 17, 1980, in Des Moines, Iowa, by the Regional Director, after notice on June 18, 1980, in the Federal Register (45 FR 41164) and in newspapers of general circulation within the State. The public comment period on the initial submission ended on July 25, 1980.

Throughout the period of program review, beginning with the submission of the program, OSM had frequent contact with the staff of the Iowa Department of Soil Conservation. Minutes or notes of the discussions were placed in the Administrative Record and made available for public review and comment. The full chronology of the events leading to the Secretary's initial decision is contained in the Federal Register notice of the partial approval by the Secretary (45 FR 68673), published on October 16, 1980.

That notice also contained the Secretary's findings, detailed explanations of those findings and the Secretary's decision, which approved specific parts of the Iowa program and disapproved other parts. Discussions after the initial decision between OSM and Iowa relating to parts of the program that were disapproved are in the Administrative Record and are available for public review at the offices listed above. Under the procedures in 30 CFR 732.13(f), Iowa had 60 days from the date of publication of the Secretary's initial decision in which to submit a revised program for consideration. The State submitted its revised program on December 15, 1980.

The public comment period announced today ends at 5:00 p.m. on December 31, 1980. During this comment period, the Secretary is also soliciting comments from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies.

After the public comment period, the public hearing and review of all comments, the Regional Director will transmit to the Director a recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program as amended by the resubmission be approved, disapproved or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are in 30 CFR 732.12(d) and (e) (44 FR 15326-15327). For further details, refer to the corresponding sections of the preamble (44 FR 14959-14961).

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the State of Iowa will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-federal and non-Indian lands in Iowa. If the revised program is approved, the Secretary and the Governor may also enter into a Cooperative Agreement governing regulation of these activities on federal lands in Iowa. The cooperative agreement would be the subject of a separate rulemaking and Federal Register notice. If the revised program is disapproved, a federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Iowa.

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established Subchapter T of 30 CFR, Chapter VII. Subchapter T will consist of parts 900 through 950. Provisions relating to Iowa will appear at 30 CFR Part 915.

At the public hearing, parties wishing to comment on the proposed program will be asked to register on the speaker's agenda. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.
2. Based on the number in attendence, each participant may be limited to 10 minutes.
3. Participants will be called in the order in which they register.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the Federal Register (44 FR 54444-54445) governing contacts between the Department of the Interior and both state officials and members of the public.

Interested members of the public are encouraged to read the Secretary's initial decision on the Iowa program submission (45 FR 68673), published on October 16, 1980. That document contains detailed findings and explanations relating to the parts of the initial submission that were specifically approved or disapproved. Unless a change has been made to a part of the program previously approved, the Secretary will consider comments relating only to those portions previously disapproved or to any portions of the program first appearing in the resubmission.

OSM especially solicits comments on Iowa's proposed system for the judicial assessment of civil penalties. Specifically, the Secretary requests comments on whether Iowa's civil penalty system incorporates penalties no less stringent than and contains the same or similar procedural requirements as SMCRA, as required by Section 518(c) of SMCRA.

The Secretary notes that Iowa's regulations, although fully enacted on December 3, 1980, will become effective on January 29, 1981. Accordingly, should the Secretary approve or conditionally approve the Iowa program, the Secretary is considering waiving the provision of 30 CFR 732.13(h) that states that an approved state program becomes effective on the date of publication of the decision in the Federal Register. The effect of this waiver would be to make the approved program effective on January 29, 1981, rather than on the date of publication of the decision in the Federal Register. The Secretary invites comments on this procedure.

Set forth below is a summary of the contents of the resubmission:

1. Rules enacted on December 3, 1980.
2. Changes in Volume 4, the narrative portion of the permanent program, describing agency budget and staffing, past mining activities and frequency of inspection.

3. An Attorney General's statement concerning the apparent conflicts between Section 17A.18(3) of Iowa's Administrative Procedure Act and Section 14 of the ISCMA regarding issuance of cessation orders without a prior hearing for failure to abate a notice of violation. (See 45 FR 68673–68686, Finding 4(i)).

4. A statement from the Attorney General designed to demonstrate that Iowa's system for judicial assessment of civil penalties is consistent with Section 518 of SMCRA.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Iowa program. Under section 702(d) of SMCRA (30 U.S.C. 1292(d)) approval does not constitute a major action within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1979 (42 U.S.C. 4332).

Dated: December 5, 1980.

Raymond L. Lowrie,

Regional Director, OSM Region IV.

[FR Doc. 80-38663 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-05-M

National Park Service

36 CFR Part 7

Gulf Islands National Seashore; Off-Road Vehicles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The intent of these proposed regulations is to implement a progam of controlled off-road driving by motor vehicles in two areas of the Florida District of Gulf Islands National Seashore. Oversand routes in these two areas were closed in 1979 due to natural beach erosion in one case and to severe resource damage in the other case. Study of the situation and comments submitted by the public have indicated that a permit system and other control measures are necessary if off-road vehicle use of these areas is to be resumed. These proposed regulations are similar to those which have been found effective in other national seashores with off-road vehicle use.

DATES: Written comments, suggestions, or objections will be accepted until January 14, 1981.

ADDRESS: Comments should be directed to: Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, FL 32561.

FOR FURTHER INFORMATION CONTACT: Carl Christensen, Chief Ranger, Gulf Islands National Seashore, Telephone: (904) 932–3192.

SUPPLEMENTARY INFORMATION:

Background

The Florida District of Gulf Islands National Seashore includes tracts of land on two barrier islands, as well as mainland sites in the Pensacola area. Small portions of the islands, Perdido Key and Santa Rosa Island, have traditionally been used by off-road vehicles (ORV's) in the past, largely as a means of access for fishermen to reach beaches and the Pensacola Pass area. this use predates establishment of the Seashore by many years.

When the National Park Service (NPS) took control of the lands where ORV use was taking place, this use was allowed to continue, subject to general NPS regulations governing vehicle use and resource protection. Specific routes were designated for ORV use at Gulf Islands, but no additional regulations were established to provide other control measures.

By early 1979 it became obvious that ORV use on Perdido Key was creating serious damage to vegetation, dunes, and historic features on the island.

Once this was recognized, closure of the routes there became mandatory, under Executive Order 11989. This order, issued May 24, 1977, requires the closure of any ORV route when ORV use is causing considerable adverse effects on resources of the public lands. The order requires that such a closure remain in effect until measures have been taken to prevent recurrence of the damage. The Perdido Key closure took effect on April 24, 1979.

The ORV route on Santa Rosa Island was shorter and received less use than on Perdido Key and showed less signs of resource impact. However, during the 1978–79 winter, natural erosion of a portion of the beach on this route forced its closure. Thus, upon closure of the Perdido Key routes, all ORV use in the Seashore was prohibited.

Announcement of the Perdido Key closure was accompanied by a request to the public for comments and suggestions on what could be done about ORV use at Gulf Islands. Research projects examining Perdido Key's physical and biological features were begun and the park staff began developing alternatives to deal with future ORV management. Based upon these activities, an Assessment of Alternatives was released by the park in mid-May, 1980 in order to obtain public comment on the various alternatives under consideration. The present proposed regulations reflect the alternative strategy preferred by the majority of the public commenting on the Assessment of Alternatives to date. This is also the strategy which the National Park Service feels will properly fulfill its responsibilities for management of these areas. The NPS is now consulting with the U.S. Fish and Wildlife Service concerning the effects of the proposed regulations on endangered species in the area.

Major Alternatives Considered

As set out in the Assessment, the alternatives considered involved whether or not any future ORV use would be permitted at Gulf Islands, what routes might be designated for ORV use, and what control measures might be used.

The only areas under consideration for ORV use were the easternmost seven miles of Perdido Key and the westernmost one mile of Santa Rosa Island. These are areas which had previously contained ORV routes. Consideration was given to leaving both areas closed, to opending one of the other of them, or to opening both.

The two major possible routes on Perdido Key were parallel, one on the Gulf of Mexico beach and one through the interior of the island. On Santa Rosa Island, one route would have followed the previous route, which led to the beach from a point southeast of Fort Pickens and then followed the beach west to Pensacola Pass. The other route followed a more direct course over the seawall west of Fort Pickens and to the Pass via an interior route.

The control measures considered dealt with use of a permit system, whether or not permit fees would be charged, restrictions on the types of vehicles to be allowed, requirements for auxiliary equipment, route closures, traffic rules, and public use limits.

Designation of Routes

The proposed regulations authorize the Superintendent to designate ORV routes on both Perdido Key and Santa Rosa Island. At the present time, only one route is to be designated in each of these areas.

On Santa Rosa Island, the route leaves a paved road near Battery 234, southeast of Fort Pickens, and proceeds south through a break in the dunes to the beach. On the beach, the route then goes west to Pensacola Pass at the end of the island, ending on the north shore just east of the Pass. No travel on the dunes or the dredge spoil will be authorized. Total length of this route is approximately one mile.

The Perdido Key route is also primarily a beach route. From the Johnson Beach parking lot the route follows a partially destroyed paved road for two miles east, then goes onto the beach. From there, the Gulf of Mexico beach is followed eastward to Pensacola Pass, a distance of about four miles. The beach is then followed northward about ¾ of a mile to the rock jetty at the northeast tip of the island, where the route ends.

No internal routes are being designated at this time. Hurricane damage in September, 1979 was severe, flattening most dunes on Perdido Key. Since these are only now beginning to rebuild, any attempt at an internal route is highly likely to interfere with the dune-building process. Consideration of the designation of internal routes will be held in abeyance until dunes have again become established.

At this time it is not known whether the two miles of paved road east of Johnson Beach will be repaired and opened to regular traffic. When and if this does take place, the public road will replace this section of ORV route, with the remainder of the route unchanged.

As described in the regulations, the beach routes will be marked by a line of posts on the landward side. These posts will confine ORV's to the area between the water and the toe of the dunes, but will not be placed more than 100 feet from the water where beaches are wide.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding these proposed regulations or the ORV routes which have been proposed to the address noted at the beginning of this notice.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under E.O. 12044, as amended, and Part 14 of Title 43 of the Code of Federal Regulations.

Drafting Information

These regulations were written by Carl Christensen, Chief Ranger, Gulf Islands National Seashore.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); National Park Service Order No. 77 (38 FR 7478), as amended; and Southeast Regional Director Order No. 6 (42 FR 59428), as amended)

Franklin D. Pridemore,

Superintendent, Gulf Islands National Seashore.

In considering of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by revising § 7.12 by the addition of a new paragraph (b) to read as follows:

§ 7.12 Gulf Islands National Seashore.

* * * * *

(b) *Off-road operation of motor vehicles*—(1) *Route designations.* (i) The operation of motor vehicles, other than on established roads and parking areas, is limited to oversand routes designated by the Superintendent in accordance with § 4.19(b) of this chapter. Operation of vehicles on these routes will be subject to all provisions of Parts 2 and 4 of this chapter, as well as the specific provisions of this paragraph (b).

(ii) Oversand routes may be designated by the Superintendent in the following locations:

(A) In the eastern portion of Perdido Key from the easternmost extension of the paved road to the east end of the island, excluding the Perdido Key Historic District near the former site of Fort McRee.

(B) In the westernmost portion of Santa Rosa Island, from the vicinity of Fort Pickens to the west end of the island.

(iii) Oversand routes designated by the Superintendent will be shown on maps available at park headquarters and other park offices. Signs at the entrance to each route will designate the route as open to motor vehicles. Routes will be marked as follows:

(A) On beach routes, travel is permitted only between the water's edge and a line of markers on the landward side of the beach.

(B) On inland routes, travel is permitted only in the lane designated by pairs of markers showing the sides of the route.

(2) *Permits.* (i) The Superintendent is authorized to establish a system of special recreation permits for oversand vehicles and to establish special recreation permit fees for these permits, consistent with the conditions and criteria of § 1227.10 of Chapter XII of this title.

(ii) No motor vehicle shall be operated on a designated oversand route without a valid permit issued by the Superintendent.

(iii) Permits are not transferable to another motor vehicle or to another driver. The driver listed on the permit must be present in the vehicle at any time it is being operated on an oversand route. Permits are to be displayed as directed at the time of issuance.

(iv) No permit shall be valid for more than one year. Permits may be issued for lesser periods, as appropriate for the time of year at which a permit is issued or the length of time for which use is requested.

(v) For a permit to be issued, a motor vehicle must:

(A) Be capable of four-wheel drive operation.

(B) Meet the requirements of §§ 4.12, 4.19(e), 4.20, and 4.21 of this chapter and conform to all applicable State laws regarding licensing, registration, inspection, insurance, and required equipment.

(C) Contain the following equipment to be carried at all times when the vehicle is being operated on an oversand route: shovel; tow rope, cable, or chain; jack; and board or similar support for the jack.

(vi) No permit will be issued for a two-wheel drive motor vehicle, a motorcycle, an all-terrain vehicle, or any vehicle not meeting State requirements for on-road use.

(vii) In addition to any penalty required by § 1.3 of this chapter for a violation of regulations governing the use of motor vehicles on oversand routes, the Superintendent may revoke the permit of the person committing the violation or in whose vehicle the violation was committed. No person whose permit has been so revoked shall be issued a permit for a period of one year following revocation.

(3) *Operation of vehicles.* (i) No motor vehicle shall be operated in any location off a designated oversand route or on any portion of a route designated as closed by the posting of appropriate signs.

(ii) No motor vehicle shall be operated on an oversand route in excess of the following speeds:

(A) 15 miles per hour while within 100 feet of any person not in a motor vehicle.

(B) 25 miles per hour at all other times.

(iii) When two motor vehicle meet on an oversand route, both drivers shall reduce speed and the driver who is traveling south or west shall yield the right of way, if the route is too narrow for both vehicles.

(iv) The towing of trailers on oversand routes is prohibited.

(4) *Closures.* (i) The Superintendent may close all or any portion of an oversand route during any period when weather, tides, or other physical conditions require closure for public safety or to protect natural resources, or when necessary to protect wildlife.

(ii) The Superintendent shall close any oversand route whenever the use of motor vehicles on that route is causing considerable adverse effects on the vegetation, dunes, wildlife, historic features, or other resources of the park.

(iii) Closure of any oversand route will be announced by the posting of appropriate signs.

(5) *Public use limits.* In accordance with the procedures set forth in § 2.6(b) of this chapter, the Superintendent may establish a limit on the number of motor vehicles permitted on any oversand route at any one time, when such limits are required in the interests of public safety, protection of the resources of the area, or coordination with other visitor uses.

[FR Doc. 80-38722 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A2-FRL 1702-6]

Approval and Promulgation of Implementation Plans; Proposed Revision to the New York State Implementation Plan: Reopening of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: General notice to reopen comment period.

SUMMARY: This notice reopens the comment period for an additional 14 days on a notice of proposed disapproval of the portion of the New York State Implementation Plan that is intended to satisfy the Clean Air Act's requirement to meet basic transportation needs (June 30, 1980; 45 FR 43794). The public comment period is being reopened in response to a request that the Environmental Protection Agency (EPA) consider in its review of the State's plan a document which was recently published and sent to EPA. This document, "Metropolitan Transportation Authority Staff Report of Capital Revitalization for the 1980's and Beyond," was published on November 25, 1980, after the close of the public comment period. The purpose of this notice is to announce EPA's intent to consider the Metropolitan Transportation Authority (MTA) staff report in relation to its proposed proposed action and to notify the public of the document's availability.

DATES: The comment period is extended to December 30, 1980.

ADDRESSES: Written comments should be addressed to: Charles S. Warren, Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278.

The Metropolitan Transportation Authority staff report and all documents received on EPA's proposed action are available for inspection and copying at the following address: Environmental Protection Agency, Region II, Air Programs Branch, Room 1005, 26 Federal Plaza New York, New York 10278.

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

SUPPLEMENTARY INFORMATION: This notice reopens for an additional 14 days, until (14-days from today's notice), the period for comment on a notice of proposed rulemaking published in the June 30, 1980 Federal Register (45 FR 43794). This June 30, 1980 notice proposes disapproval of certain portions of a revision to the New York State Implementation Plan related to public transportation improvements in in the New York City metropolitan area (New York City and Nassau, Suffolk, Westchester and Rockland Counties). The original comment period closed on August 29, 1980, but was reopended once before, from September 18, 1980 to November 17, 1980. On November 25, 1980, the Metropolitan Transportation Authority (MTA) published a staff report "Capital Revitalization for the 1980's and Beyond." The Environmental Protection Agency (EPA) has been asked to include this document in its review of the New York State plan. Because EPA does intend to consider this MTA report in its review of the State's plan, it is taking this action to reopen the public comment period on its June 30, 1980 proposed disapproval.

This notice of additional time for comment will not result in any adverse impact on the State. As was explained in the Agency's June 30, 1980 notice of proposed rulemaking, the restrictions on Federal funding provided for under the Clean Air Act are not in effect at the present time and will not be triggered either by this extension of the comment period or by a final action disapproving the transportation element of New York's State Implementation Plan. In order for the funding restrictions to be imposed, EPA must make a separate finding, involving a separate administrative notice and comment period, that the State is no longer making reasonable efforts to submit an adequate plan. The procedures for making such a finding are discussed in a Joint EPA-Department of Transportaiton policy statement published on April 10, 1980 at 45 FR 24692.

(Sec. 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601))

Dated: December 10, 1980.

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-39016 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-632]

Overseas Communications Services; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment and reply period.

SUMMARY: On October 9, 1980, the Commission adopted a Notice of Proposed Rulemaking (NPRM) which addresses the voice/record dichotomy in the provision of international communications services. The NPRM seeks comments on the Commission's tentative conclusions that AT&T should be permitted to provide international record services and the international record carriers(IRCs) should be permitted to provide international voice services.

DATES: Comments due on or before January 16, 1981. Replies due on or before February 20, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, (202) 632-7265.

In the matter of Overseas Communications Services, request for extension of time, CC Docket No. 80-632 (45 FR 76498). *Order.*

Adopted: December 5, 1980.

Released: December 8, 1980.

By the Common Carrier Bureau:

1. Western Union International, Inc. (WUI), on behalf of the international record carriers,[1] requests an extension of time from December 12, 1980, to

[1] WUI states it has been authorized to represent to the Commission that ITT World Communications Inc., RCA Global Communications, Inc., TRT Telecommunications Corporation and FTC Communications Inc. concur in this request for extension of time. WUI also states that AT&T does not oppose the request.

March 12, 1981, to file comments in the subject proceeding. WUI also requests that a reply period of not less than six weeks be established. Currently reply pleadings are due January 16, 1981.

2. In support of its request WUI avers that the proceeding involves complex and interrelated factors of fundamental importance to the present industry structure. WUI states that counsel for the various carriers have been inundated by the number of ongoing appellate and regulatory proceedings relating to a wide variety of common carrier issues. WUI also states that essential support resources are extended to their limits. WUI concludes that a complete record can only be established through a pleading cycle which allows adequate time to fully address and analyze all of the relevant issues.

3. Due to the numerous complex issues raised in this proceeding and the benefits to the public and the Commission in having full and factually substantiated comments submitted, we believe a reasonable extension of the filing period is justified. However, a 3 month extension coupled with the initial 6 week filing period is excessive. Instead, we will extend the comment filing period approximately one month until January 16, 1981. We believe that a one month reply filing period is adequate and will establish the due date accordingly.

4. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules and Regulations, 47 CFR Section 0.291 (1979), that the request by WUI for an extension of time to file comments in CC Docket No. 80-632 is granted in part and DENIED in part, and that interested parties shall file comments in this proceeding on or before January 16, 1981. Replies shall be filed on or before February 20, 1981.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-38720 Filed 12-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 67

[CC Docket No. 80-286; FCC 80-692]

Joint Board; Establishment of General Procedural Rules

AGENCY: Federal Communications Commission.

ACTION: Federal-State Joint Board Order, Docket No. 80-286.

SUMMARY: The Federal-State Joint Board has established general procedural rules it will follow. The *ex parte* rules were clarified and the State staff members identified. The Board set forth the current service list and provided a period of thirty days from Federal Register publication for finalization of the service list.

DATE: Notices of intent to participate to be filed no later than January 14, 1981.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Room 530, (202) 632-4715.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 67 of the Commission's rules and establishment of a joint board; Memoradum Opinion and Order (*See also* 45 FR 76213, November 18, 1980).

Adopted: November 12, 1980.

Released: December 5, 1980.

By the Federal-State Joint Board:

1. In the order instituting this proceeding, the Commission stated its belief that it was appropriate for the Joint Board to establish procedures.[1] In the *First Supplemental Notice*, FCC 80-546, released September 25, 1980, the Commission established that certain *ex parte* rules were applicable to this proceeding and set forth general filing requirements. The Joint Board having convened is now in a position to establish the procedures under which it will operate. These procedures will facilitate development of a record upon which the Joint Board can prepare a recommended decision for the Commission's consideration.

2. Inasmuch as the the ultimate purpose of this proceeding is to revise provisions of Part 67 of the Commission's rules relating to the allocation of exchange plant investment and associated expenses, we will, in general, attempt to follow the Commission's Rules and Regulations pertaining to rulemaking. See 47 CFR 1.1-1.120 and 1.399-1.430.

3. In the First Supplemental Notice the Commission provided that our initial efforts would be subject to the *ex parte* rules as they apply to informal rulemaking proceedings. Until further notice, members of the public are advised that *ex parte* presentations are permitted until final written submission or oral presentations are made to the Joint Board. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and Joint Board and a Commissioner or Joint Board member or a member of the Commission's or the Joint Board's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the person or persons receiving the oral presentation. Each filing of a written presentation or a summary of an oral presentation must state on its face that the Secretary has been served and include the docket number of the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

4. Persons employed by State commissions who serve as members of the Joint Board staff are deemed to be Commission decision-making personnel for purposes of the Commission's *ex parte* rules. In order to avoid the possibility of an inadvertent *ex parte* communication or violation of the rules, the members of the Joint Board staff who are employed by State commissions will be identified in the record.

5. In the *First Supplemental Notice*, the Commission set forth filing requirements and invited potential parties to file a notice of intent to participate. The Joint Board will require, unless otherwise specified, that an original and four copies of all filings be made with the Secretary, Federal Communications Commission, one copy served on each State member of the Joint Board and one copy filed with each of the designated State staff. Moreover, it would be desirable to compile a complete service list. Therefore, we will require that notices of intent to participate be filed no later than January 14, 1981. This notice should contain the address to which service should be executed. Failure to file such a notice will not preclude any person from filing comments or replies; however, parties who have filed such notice will not be required to file copies of their comments on persons who do not file notice of intent to participate in accordance with this order. Attachment A is a service list identifying parties which have already filed such notices as well as the State

[1] Notice of Proposed Rulemaking and Order Establishing a Joint Board, FCC 80-339, released June 12, 1980, paragraph 32.

Commission members and the designated State staff.

6. Four members of the Joint Board comprised of two Federal Commissioners and two State Commissioners shall constitute a quorum. Many routine matters come before the Joint Board dealing with essentially procedural matters. The Chief, Common Carrier Bureau has been delegated broad authority in rulemaking proceedings before the Commission. We hereby authorize the Chief, Common Carrier Bureau to perform the same delegated authority functions in connection with this Joint Board proceeding which he has been or may be authorized to perform in connection with any Commission rulemaking proceeding. In addition, in the event matters are raised requiring full Joint Board action, the Chief, Common Carrier Bureau is authorized to solicit and record the votes of the Joint Board members by telephone inquiry.

7. Accordingly, it is ordered, that any interested party not identified in Appendix A may file, on or before January 14, 1981, a Notice of Intention to Participate.

8. It is further ordered, That all parties shall file an original and four copies of all filings with the Secretary, Federal Communications Commission, and shall file one copy with each State Commission Joint Board member and one copy with each dessignated State staff member at addresses specified by them. Copies of all filings in this proceeding shall be available for public inspection during regular business hours in the Commisson's Public Reference Room at its headquarters.

9. It is further ordered, That the Chief, Common Carrier Bureau is authorized to perform all functions that have been delegated to the Chief, Common Carrier Bureau in Commission rulemaking proceedings. The Chief, Common Carrier Bureau is authorized to solicit and record the votes of the Joint Board via telecommunications for matters requiring Joint Board action.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Richard D. Gravelle, Commissioner, California Public Utilities Commission, 350 McAllister Street, San Francisco, California 94102

Edward B. Hipp, Commissioner, North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina 27602

Edward P. Larkin, Commissioner, New York Public Service Commission, Two World Trade Center, New York, New York 10047

Edward M. Parsons, Jr., Commissioner, Wisconsin Public Service Commission, 432 Hill Farms State Office Building, Madison, Wisconsin 53702

Guy E. Twombly, Maine Public Utilities Commission, State House, Augusta, Maine 04333

Gary A. Evenson, Fred C. Huebner, Wisconsin Public Service Commission, 4802 Sheboygan Avenue, Madison, Wisconsin 53702

Charles D. Land, Texas Public Utility Commission, 7800 Shoal Creek Blvd., Suite 400N, Austin, TX 78757

Robert E. Osborn, Iowa State Commerce Commission, State Capitol, Des Moines, Iowa 50319

Paul Popenoe, Jr., California Public Utilities Commission, 350 McAllister Street, San Francisco, CA 94102

Hugh L. Gerringer, Public Staff—NCUC, Communications Division, Box 991, Raleigh, NC 27602

Jim Stringer, Oregon Public Utilities Commission, Labor and Industries Building, Salem, OR 97310

JoAnn Hanson, Minnesota Department of Public Service, 7th Floor, American Center Building, 160 East Kellogg Blvd., St. Paul, Minnesota 55110

Ronald Choura, Michigan Public Service Commission, 6545 Merchantile Way, P.O. Box 30221, Lansing, MI 48909

Alex H. Hills, Alaska Public Utilities Commission, 338 Denali Street, Anchorage, Alaska 99501

Allen Bausbeck, New York Public Service Commission, Empire State Plaza, Albany, NY 12223

Mr. Richard McMillan, Minnesota Public Utilities Commission, 780 American Center Building, St. Paul, Minnesota 55101

John L. Bartlett, Esq., Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006, Counsel for ARINC

Robert K. McGuire, Esq., Alascom, Inc., 949 East 36th Street, Pouch 6607, Anchorage, Alaska 99502

Alan Y. Naftalin, Esq., Margot Smiley Humphrey, Esq., Koteen & Burt, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, Counsel for Alascom

John W. Pettit, Esq., Joe D. Edge, Esq., Brian C. Murchison, Esq., Hamel, Park, McCabe & Saunders, 1776 F Street, N.W., Washington, D.C. 20006, Counsel for State of Alaska

Alan Auckenthaler, Esq., Assistant General Counsel, American Satellite Company, 20301 Century Boulevard, Germantown, Maryland 20767

Edward L. Friedman, Esq., Burton K. Katkin, Esq., Alfred Winchell Whittaker, Esq., Keith E. McClintock, Esq., O. Carey Epps, Esq., American Telephone and Telegraph Company, 195 Broadway, New York, New York 10007

Thomas L. Jones, Esq., Continental Telephone Corporation, 1800 K Street, N.W., Suite 629, Washington, D.C. 20006

Richard M. Cahill, Esq., Richard McKenna, Esq., GTE Service Corporation, One Stamford, Connecticut 06904

James R. Hobson, Esq., 1120 Connecticut Avenue, Suite 900, Washington, D.C. 20036, Counsel for GTE Service Corporation

Michael H. Bader, Esq., Kenneth A. Cox, Esq., William J. Byrnes, Esq., John M. Pelkey, Esq., Haley, Bader & Potts, 1730 M Street, N.W., Suite 700, Washington, D.C. 20036, Counsel for MCI Telecommunications Corporation

John M. Lothschuetz, Esq., Carolyn C. Hill, Esq., John W. Hunter, Esq., United Telephone System, Inc., 1875 Eye Street, N.W., Suite 1250, Washington, D.C. 20006

John R. Hoffman, Esq., United Telephone Systems, Inc., P.O. Box 11315, Kansas City, MO 64112

Arthur H. Simms, Esq., Peter G. Wolfe, Esq., The Western Union Telegraph Company, 1828 L Street, N.W., Suite 1001, Washington, D.C. 20036

John R. Worthington, Esq., Ruth Baker-Battist, Esq., MCI Telecommunications Corporation, 1150 17th Street, N.W., Washington, D.C. 20036

Kevin H. Cassidy, Esq., Satellite Business Systems, 8283 Greensboro Drive, McLean, Virginia 22102

W. Theodore Pierson, Jr., Esq., Pierson, Ball & Dawd, 1200 Eighteenth Street, N.W., Washington, D.C. 20036

John V. Kenny, Esq., Daniel A. Huber, Esq., Southern Pacific Communications Company, 1801 K Street, N.W., Suite 221, Washington, D.C. 20006

James M. Tobin. Esq., Southern Pacific Communications Company, 1015 18th Street, N.W., Suite 310, Washington, D.C. 20036

Leroy T. Carlson, Jr., Executive Vice-President, Telephone and Data Systems, Inc., 79 West Monroe Street, Suite 905, Chicago, Illinois 60603

Alan Y. Naftalin, Esq., Margot Smiley Humphrey, Esq., Koteen and Burt, 1150 Connecticut Ave., N.W., Washington, D.C. 20036, Counsel for TDS

Thomas J. O'Reilly, Esq., Chadbourne, Parke, Whiteside & Wolff, 1612 K Street, N.W., Washington, D.C. 20006, Counsel for United States Independent Telephone Association

[FR Doc. 80-38846 Filed 12-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-658; RM-3584]

TV Broadcast Station in East St. Louis, Illinois; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein corrects the previous adopted Notice of Proposed Rule Making proposing the assignment of a first commercial TV channel to East St. Louis, Illinois, in response to a petition filed by the International Black Baptist Bible College. The previous *Notice* incorrectly proposed the assignment as a noncommercial channel.

DATES: Comments must be filed on or before February 2, 1981, and reply comments on or before February 23, 1981.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (East St. Louis, Illinois); Notice of Proposed Rule Making.

Adopted: December 3, 1980.

Released: December 9, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making,[1] filed by International Black Baptist Bible College ("petitioner"), which seeks the amendment of 73.606(b) of the Commission's Rules (the Television Table of Assignments) by assigning UHF television Channel 46 to East St. Louis, Illinois.[2] Petitioner states that it will apply for the channel, if assigned. No comments have been received on the proposal.

2. East St. Louis (pop. 69,996[3]), in St. Clair County (pop. 285,199) is located in southwest Illinois, directly across the Mississippi River from St. Louis, Missouri. It has no local television service.

3. Petitioner claims that the proposed assignment would benefit the community by creating a new programming source directed toward the cultural and social needs of the community. It notes that there are several universities and educational centers in the area. In addition, East St. Louis is one of 63 model cities in the nation and only 5 minutes from St. Louis, Missouri. Petitioner further states that the programming would be directed toward the needs and interests of the minority community.

4. The Commission finds that the proposed assignment should be considered in a rule making proceeding. The proposal would provide the opportunity for a first local TV station to serve the needs of East St. Louis, Illinois.

5. In view of the above, comments are invited on the following proposal to amend the Television Table of Assignments, Section 73.606(b) of the Commission's Rules, with regard to the following community:

City	Channel number	
	Present	Proposed
East St. Louis, Illinois		46

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before February 2, 1981, and reply comments on or before February 23, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by referece its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* the following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other doucments shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-38850 Filed 12-12-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] The previous *Notice of Proposed Rule Making* incorrectly stated that the petitioner was seeking a noncommercial educational assignment.

[3] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-754; RM-3669]

TV Broadcast Station in Middleton, Massachusetts; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign UHF television Channel 62 to Middleton, Massachusetts, as that community's first television assignment, in response to a petition filed by MFP, a group of citizens from Massachusetts and New Hampshire.

DATES: Comments must be filed on or before January 30, 1981, and reply comments on or before February 19, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rosa Iris Ovaitt, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Middleton, Massachusetts), BC Docket No. 80-754 RM-3669; Notice of proposed rulemaking.

Adopted: December 1, 1980.

Released: December 8, 1980.

By the Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by MFP, identified as a group of citizens from Massachusetts and New Hampshire ("Petitioner"), proposing the assignment of UHF television Channel 62 to Middleton, Massachusetts, as that community's first television channel assignment.

(b) Channel 62 could be assigned to Middleton, provided the transmitter is located at least 26.7 kilometers (16.7 miles) north northeast of Middleton to comply with all distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned. The Association of Maximum Service Telecasters, Inc. filed comments requesting that the Commission clearly place a site restriction on the assignment to avoid short-spacings. We will do so if this proposal is finally adopted.

2. *Demographic Data:*

(a) *Location:* Middleton is located in northeast Massachusetts, approximately 30 kilometers (18 miles) north of Boston.

(b) *Population:* Middleton—4,044; [2] Essex County—637,887.

3. *Economic Considerations:* Petitioner states that Middleton is a farming and residential community which is presently looking to attract business and industry in order to broaden its tax base. Manufacturing is by far the largest source of employment involving 48% of the average employed population of Middleton.

4. In view of the fact the proposed UHF television channel assignment would provide for a first local television service to Middleton, Massachusetts, the Commission believes it appropriate to propose amending the Table of Assignments, Section 73.606(b) of the Commission's Rules, with regard to Middleton, Massachusetts, as follows:

[1] Public Notice of petition was given on May 28, 1980, Report No. 1230.

[2] Population figures are taken from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
Middleton, Mass		62

5. Canadian concurrence in this proposal must be obtained.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before January 30, 1981, and reply comments on or before February 19, 1981.

8. For further information concerning this proceeding, contact Rosa I. Ovaitt, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other doucments shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-38732 Filed 12-12-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[BMCS Docket No. MC-90; Notice No. 80-1]

Hours of Service of Drivers—Ad Hoc Petition

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Denial of petition and docket closing notice.

SUMMARY: Certain owner-operator truck drivers petitioned the FHWA to make

immediate changes to expand the present hours of service regulations and to eliminate the log book requirements. On January 24, 1980, a request for public comment was published (45 FR 5781) to solicit comments on the merits of the petition. The purpose of this notice is to announce the denial of the petition and to close Docket MC-90.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, (202) 426-9767, or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: A request for public comments was published in the Federal Register (45 FR 5781) on January 24, 1980. Specifically, comments were requested on the merits of a petition filed by the owner-operator participants of a White House established Ad Hoc Working Group. The petitioners requested immediate changes to the hours of service requirements of the Federal Motor Carrier Safety Regulations (FMCSR).

Background

The shortage of both gasoline and diesel fuel in the summer of 1979 and the accompanying escalation in fuel prices created economic pressures on the motor carrier industry and especially the independent owner-operators. Several representatives of the independent truck owner-operators were invited to the White House to discuss their problems and to try to find solutions. To follow up on those discussions, the White House directed that working parties be established by the Department of Transportation (DOT) and the Department of Agriculture (DOA). These working parties were to consist of representatives of owner-operator truck drivers and appropriate Government officials. The DOT was charged with examining the general problems of all independent truckers while the working party at DOA was charged with looking into those specific problems that were peculiar to the haulers of agricultural commodities.

There were several meetings between the truck owner-operators and the DOT representatives, before a report was forwarded to the White House in October 1979. The owner-operator truck drivers had ten issues on their agenda. One of the items was the log book and hours of service regulations. The driver's log is used to record a driver's work activities and to detect violations of the hours of service rules.

On September 12, 1979, the owner-operator group petitioned the Federal Highway Administrator to take emergency action to suspend the present log book requirements and to expand the hours of service. It was proposed that the log book requirements should be superseded by a check-off system whereby the time in and time out of an owner-operator or other trucker would be entered on the bill of lading. It was also proposed that the present hours of service be expanded to not more than 12 hours of driving in one 24 hour period and that the maximum on-duty time be no more than 96 hours in any 8 day period. The petitioners requested action immediately without complying with the notice and comment requirements of the Administrative Procedures Act because they felt the conditions constituted a national transportation emergency.

A preliminary analysis of the petition filed by the owner-operators did not support an emergency need to change the present hours of service requirements without the necessary notice and opportunity to comment being provided to inform other members of the trucking industry and the general public. Consequently, the immediacy of the petition was denied at the same time the public was given the opportunity to comment on the merits of the proposal (45 FR 5781).

Comments to Rulemaking

The comments of over 700 commenters were considered. Ninety-four percent of the commenters opposed the changes sought in the petition, 5 percent supported them and 1 percent either partially supported the changes or their comments were outside the scope of the matter.

Opposing Comments

The majority of comments which opposed expanding the hours of service and eliminating the log book requirements came from drivers. There were also comments from carriers, carrier groups, insurance agencies, State enforcement agencies, U.S. Government agencies, and private citizens.

One driver stated he was opposed to expanding the maximum driving limit because "the limitations are not voluntary, they're mandatory * * *. Maybe an owner-operator would benefit from driving as he feels like driving and resting as long as he likes, but a company driver would be dismissed if he tried it." Another driver stated that the present limit of 70 hours does not allow enough time to spend with his family, as he is forced to work 70 hours a week with no monetary compensation over 40 hours. He feels what is needed is less hours not more and that drivers cannot take the additional physical or mental abuse that would result from additional hours. Another driver who has been driving 21 years states, "There is no way the so-called better highways will help prevent accidents. All it has done is given drivers more room to play and speed." This driver states the speed limit is constantly abused, and that drivers carry two log books. The consensus of the drivers is that the proposed expansion of the hours of service limitations is unfair, unreal, unsafe and represents a view that the driving and on-duty limitation should be lowered, not raised.

The International Brotherhood of Teamsters (IBT) opposed any increase in the allowable hours of service, based on evidence that such an increase would have a detrimental effect on highway safety. The IBT added that "enforcement of the hours of service regulations requires the use of a driver's log, and that abuse of the present system is no reason to replace it with a less effective means as contemplated by the petitioners." It is the IBT's opinion that the FHWA's responsibility is public safety, and any contemplated changes must focus upon potential safety repercussions rather than upon any real or potential financial impact. The IBT also opposes the suggestion of using a check-off time-in and time-out system on bills of lading, stating it is not workable and will now allow adequate control of driving hours.

The Professional Drivers Council (PROD) is opposed to both of the changes proposed by the petitioners. The PROD indicated that improving the hours of service regulations has always meant shortening, not lengthening, the maximum hours of service. The PROD opposes the direct application of the proposed changes to owner-operators, as exhausted owner-operators, pushing themselves beyond the limits of human endurance, are a safety hazard not only to themselves, but to everyone they share the highways with. If the hours of service were increased for company drivers as well as owner-operators, PROD feels the effects would be even worse; as company drivers do not set their own hours, and certain scheduling and dispatch practices can already result in drivers being legally kept at work for up to 20 hours at a time.

Several motor carriers commented that the present hours of service are adequate and, if increased could adversely affect safety. They believed

that an increase based solely on monetary reasons was not justified.

With respect to the petitioners' statement that increased hours would generate increased revenue for the industry, several commenters felt it was difficult to understand the owner-operator's mathematics or economics. The commenters contended that revenue is directly proportionate to the amount of cargo moved and the associated rates therewith, and that although increased hours might well increase an individual operator's revenues, the result would be fewer loads or less revenue for other operators. Other commenters indicated that the economics set forth by the petitioners were exaggerated because additional fuel consumption, tire wear, and minor and major repair of the units would increase with increased hours.

With respect to the petitioners' suggestion of using a check-off time-in and time-out system on bills of lading, most commenters felt it could not work. One commenter stated that "the bill of lading is not a time card but a contract between a carrier and shipper covering freight acceptance and movement. Most are already cluttered without having to keep track of the driver's time." Another commenter stated that "this proposal indicates that the proponents have little knowledge of the motor carrier industry * * *." The proponents do not recognize the bills of lading do not always move with vehicles or accompany drivers." Another commenter opposed the replacing of driver's logs with the bill of lading system, as the present log facilitates verification of a driver's activities.

The American Trucking Associations, Incorporated (ATA), opposes the proposed modification, stating that 40 years of experience have proven that the present driving time limit of 10 hours followed by 8 consecutive hours off duty is reasonable. It was felt that, absent documented proof that increasing driving time will not contribute to increased likelihood of accidents, an increase in the hours of service could not be justified.

Several State agencies opposed the proposal set forth in the petition. The California Highway Patrol commented that the bill of lading concept would be unworkable, and that the resulting lack of continuity would hamper enforcement. The State of Vermont commented that the proposal was not desirable from the standpoint of safety. The State of New Jersey strongly opposed the proposal. In order to support its position, New Jersey conducted an accident analysis, examining truck accidents on the New Jersey Turnpike during the 12-month period between January 1, 1979, and December 31, 1979. During this period, of the 3,160 accidents that occurred on the New Jersey Turnpike, 1,339 or 42.4 percent were truck related. During this same period, the truck accident rate was 282.5 accidents per 100 million vehicle miles, compared with an overall rate of 112.2 accidents per 100 million vehicle miles for all vehicles. It should be noted that during this same period trucks comprised only 14.3 percent of the traffic volume, and yet they were involved in 42.4 percent of the accidents. Of the truck accident reports, 30.3 percent of the contributing causes were inattentive driving or the driver falling asleep. Also, all 176 nighttime truck accidents were analyzed and it was found that 103 of these accidents were attributable to the truck drivers' inattentive driving and to the fact that the truck driver fell asleep.

Supporting Comments

Approximately 40 comments of the total 700 supported the proposed changes set forth in the petition. The majority of the supporting comments were owner-operators. Many of these commenters stated that they need to protect their investment and the only way they could stay in business was to violate the DOT safety rules. One driver commented that the extra hours would allow a trucker to do legally what he is now doing illegally, as there is a minimum income that must be made in order to survive.

Another driver added, "It is a waste of energy, man power, and equipment to be forced to leave our trucks set idle when they should be on the road. Our company must be able to operate free of these present DOT rules to stay in business." One independent driver commented that the economy is dead and that he was dying too. Most commenters who supported the petition felt it was needed to survive economically. Although independent operators are somewhat pressured into operating in order to protect their investment, one commenter stated that a fatigue-related accident could cause financial disaster.

With respect to the driver's log requirements, the majority of supporting comments indicated that they would like to see an alternative to the log or have the log eliminated entirely. However, several carrier representatives felt the check off time-in, time-out on the bill of lading would not work. One driver admitted he could not live with a log book. He added "It only makes an honest trucker dishonest." One commenter stated that log books are frequently used as a means of harassment by local law enforcement officers to raise revenues. But one driver commented, "I use it for one reason. In every state in this country if a truck driver is stopped by a highway patrolman for any reason, sometimes even speeding, if the officer can write a log-book ticket he usually won't bother you with anything else. Therefore, I never carry an up-to-date log."

Several commenters felt that certain conditions such as completion of the Interstate Highway System, the 55 m.p.h. speed limit, improvement of vehicles, and the better brake engineering, have improved over the past which would tend to support the petition.

Hours of Service Requirements and Research

The present hours of service regulations in 49 CFR Part 395 provide that a driver shall not drive for a period in excess of 10 hours following 8 consecutive hours off duty, or drive for any period after having been on duty 15 hours following 8 consecutive hours off duty. The regulations also prohibit a driver from remaining on duty for more than 70 hours in any period of 8 consecutive days.

The reationale for the hours of service regulations is justified by the concept that the longer a person drives, the more fatigue that person becomes and consequently, the more prone to becoming involved in accidents. It is also believed that driver fatigue is a major contribution to many commercial vehicle accidents, as the demands placed on the medium and heavy-duty commercial vehicle drivers far exceed those of passenger car operators. Every effort must be made to ensure that physical and mental stresses which might contribute to the loss of vehicular control are minimized or eliminated. The principal method of controlling driver fatigue is to regulate work/rest cycles and to limit the hours of continuous service.

The study of fatigue in driving is complex as there is much difficulty in even defining fatigue for purposes of general applicability.

The Concept of Fatigue

The importance of fatigue in everyday life has led to numerous attempts to study the phenomena that cluster under the fatigue level. In a review of all material on fatigue, more than 40 definitions were found.

Although there are different kinds of fatigue, when fatigue exists it is essentially the same in all cases. The core of fatigue is the self-realization of relative irritability to carry on. It is a negative orientation toward a task demand.

There is a tendency not to define fatigue, but rather to state that certain symptons arise from it, represent it, or are due to it, is characteristic. There are three classes of pertinent phenomena: the work done, the physiological effects, and the conscious experiences.

Fatigue is accompanied by a feeling of weariness which appears with prolonged work. The feeling of fatigue may be accompanied by inability, anxiety, excessive worry, and disturbed emotional states of all kinds which lead to disturbance in social relationships. The physiological effect of work is fatigue. Control of fatigue and recovery of energy for further work are not only physiological problems but very important ones.[1]

Symptom and Effects of Fatigue

When fatigue is present in a healthy person there is reluctance to undertake any form of exertion and there is a slowing of response coupled with a decrease in accuracy of performance. Fatigue from working in stressful environments has several manifestations, the most simple to measure being an increase in heart beat rate. In a recent study, O'Hanlon [2] recorded the heart rate variability of three drivers while they drove an instrumented van over a 364-mile stretch of highway which varied with respect to road features. It was found that the heart rate variability increased markedly with continuous driving and decreased substantially after the occurrence of driving events, such as inadvertently running over raised lane markers which evidently realerted the driver. Other studies also report similar changes in heart rate as a function of driving and fatigue.

Other symptoms of fatigue include poor judgment and disorganization of skill.[3]

Vision

An important attempt to understand fatigue, in recent times, was made through the avenue of visual fatigue. Vision, though primarily a function of a specific visual pathway, involves the participation of whole organism.[4]

It has been found that the peripheral retina is more impaired by stress arising from fear, fatigue, and visual noise than is the foveal retina. After a period of sustained driving, it is hypothesized that the peripheral region of the retina may become less effective in providing velocity information to the driver who would then be forced to use more of his foveal vision to obtain the needed information; hence the shift in the focus of fixation. Such a shift, of course, would reduce the information the driver receives from the frontal field.

It has been suggested that impairment of the driver's visual information processing can result from prolonged driving. As the driver becomes fatigued, the ability to receive information through peripheral vision decreases forcing greater reliance upon foveal vision for that information. The implication is that the driver cannot maintain the same degree of control of the vehicle, in terms of velocity and road position, as could be maintained while not fatigued. Sleep deprivation further impairs these abilities.

Boredom

Fatigue follows prolonged exertion and requires rest, preferably sleep. Its effect upon motivation is negative; the more tired a person is the less the person desires to do anything. But fatigue itself is in turn partially dependent upon motivation. Boring tasks tire one much more quickly than interesting activites.[5]

Safety and Fatigue in Driving

The problem of fatigue in driving includes both the fatigue resulting from driving and the effects of fatigue, from whatever source, on driving.[6] Stress is also an important factor in the production of driving fatigue, and there are various methods of assessing the effects of the emotional arousal which stress produces.

The type of fatigue arising from driving is very different from that produced by physical exercise, and that it is caused largely by the stresses arising from traffic and other conditions, which produce varying states of emotional arousal. Repeated emotional arousal over a short period results in oversensitive behaviors showing strong responses to slight irritations. If the period is prolonged, it is followed by a state of lowered vigor in which there is a reduction in intensity of response to the environment and a raised threshold of arousal. Either of these states is expected to increase the risk of an accident both to the subject and to other drivers.

Skilled tasks, such as driving, require complex, coordinated and accurately timed activities as well as simple repetitive movements. One essential characteristic of skill fatigue is that although the subject is physically capable of performing the desired task he or she does not actually carry it out correctly unless particular care is taken. With the onset of fatigue, the subjects' timing is affected; parts of the cycle or operations are occasionally slowed and other parts rushed to compensate.

With respect to rest breaks and pauses, experiments indicated that the most successful driving was done when rests of 20–30 minutes were taken every 1.5 to 2 hours.[7]

Drowsiness and Sleep

One of the most frequently occurring driver behaviors in highway traffic accidents is drowsiness or sleep. In each year analyzed, sleep was a factor in from 13 to 20 percent of accidents involving fatalities.

A paper entitled, "Drowsiness and Driving: Preliminary Report of a Population Survey" [8] reported the results of a population survey on drowsiness and driving. The study tested the hypothesis that drowsiness at the well is a behavioral phenomenon experienced by a significant portion of the driving population, and that it is a contributing factor in vehicular accidents.

A questionnaire was presented to 1,500 applicants for license renewal. Responses clearly justified the following observations:

1. Drowsiness while driving affects nearly two-thirds of the driving population.
2. Drowsiness and falling asleep at the wheel are significant causal factors in vehicular accidents.
3. Risk is directly related to age and sex and at least indirectly related to reductional and amount of driving.

Monotony

Monotony is used to refer to the stimulus situations experienced by an individual, in its objective and measurable dimensions. To the extent that a stimulus situation remains unchanged, or changes only in a repetitive and predictable way, it will be

[1] Canada Department of Labour, "Review of Literature Pertaining to the Effects of Fatigue on Driving," (Ottawa Canada Department of Labour, April 1972).

[2] O'Hanlon, J. F. "Fatigue as Estimated from Concurrent Performance Psychophysiological Measures in Prolonged Driving," Human Factors Research, Inc., 1971.

[3] Canada Department of Labour, "Review * * *."

[4] Bartley, S. Howard, and Chute, Eloise, *Fatigue and Impairment in Man*. New York. McGraw Hill, 1947, p. 33–46.

[5] Ibid., p. 18.

[6] Crawford, A., *Ergonomics*, V.4, April 1961, "Fatigue and Driving," p. 143.

[7] Kazuyoshi Yajima, "Fatigue in Automobile Drivers Due to Long Time Driving," Society of Automotive Engineers Paper No. 760050 (Detroit: Society of Automotive Engineers, 1976).

[8] Drowsiness and Driving: Preliminary Report of a Population Survey, D.H. Tilley, Community Health Services, Duke University, given at SAE International Automotive Engineering Congress, Detroit, Michigan, January 1973.

said to be monotonous.[9] In this sense the environment of a long distance truck driver, who usually drives the same truck over the same route for months or years, may be said to be montonous.

Three hypnotic effects of long monotonous journeys have been noted by American investigators.[10] The effects are:

1. The driver's inability to appreciate vehicle speed in terms of stopping distance when travelling at high speeds or when slowing to enter a restricted area.

2. A state of "trance" brought about by traversing mile after mile of monotonous highway.

3. Hypnagogic hallucinations, in which, after driving long distances, drivers imagine they see something on the road and make emergency stops. The driver carries out the emergency stop, sometimes driving off the road, without recognizing that the situation is not real.[11] The phenomenon occurs typically at night, while the vehicle is moving but while the driver's activity is at a low level. All 33 of a group of long haul truck drivers interviewed reported having experienced these hallucinations, mainly at night, while none of a group of 20 local truck drivers had done so. The 33 drivers thought that the frequency of the hallucinations had been reduced considerably after the introduction of a shorter working day.

Summary of Fatigue

Fatigue, however, it is defined, appears to be the chief factor limiting a person's output. Various studies have shown that when the working day is lengthened, productivity goes down; when the number of hours worked is reduced, performance increases.

The influence of fatigue in accident causation has been demonstrated, and where there has been a reduction in hours worked, there has been a corresponding reduction in accidents. There is some evidence that 8 hours of work a day, where the work is fairly demanding, is the maximum that should be permitted for highest productivity and lowest accident rate. For easier work or where it is possible to schedule several breaks over the course of the work day, longer hours may well be permissible.

The overall effect of fatigue on driving time, is a decrease in driver performance. Physiological and psychological testing show diminishing driver alertness, judgment, reaction time, foveal vision, peripheral vision and attention span, as a result of fatigue. Adequate rest breaks, on the other hand, may slow the onset of fatigue.

There is some data available on the effects of extended working hours on accidents, performance, illnesses and accidental errors in occupational activities, but comprehensive data with respect to motor carrier employees is limited.

A recently written article on fatigue reported that "Probably the most difficult factor to identify in accident causation is the element of fatigue. Unless there is an accident where the driver is completely asleep and drives off the roadway, or there is an absence of braking marks, fatigue is not readily apparent through normal investigative procedures. In addition, drivers will rarely admit to their fatigue and possibly are not even aware of it." [12] The author continued, "Drivers must be completely convinced that fatigue is the number one killer of over-the-road drivers." [13]

BMCS Research Activities

One of the first research programs ever undertaken by BMCS with respect to fatigue and truck operations was a 1971 study entitled "A Study of the Realtionships Among Fatigue, Hours of service, and Safety of Operations of Truck and Bus Drivers—Phase I." [14]

The main objective was to identify the factors that cause driver fatigue and contribute to unsafe operations. Other objectives of this research effort were to develop scientifically valid data upon which to judge present safety rules and to determine whether there was a relationship between drivers's hours of service and commercial motor vehicle accidents.

The results of this study indicated that many drivers presently suffer from fatigue on the road, in the sense of decreased arousal and increased performance error.

A companion research effort to the Phase I fatigue study determined the effects of in-cab environmental factors such as heat, noise, and vibration on driver fatigue.[15] The objective was to measure the stressful effects of heat, noise, and vibration on the physiological status, feelings, alertness, and fatigue, and actual driving performance of automobile and truck drivers under realistic driving conditions. It was felt that since commercial motor vehicles are often driven under these stresses, the drivers were forced to endure an extraordinary burden of stress. If such circumstances caused fatigue they would also contribute to accidents.

The experiments indicated that high heat stress was shown to significantly affect both driver performance and various indices of central nervous system arousal that are felt to be important to safe driving.

Different levels of noise and vibration stress, typical of many trucking operations did not differentially affect driver performance.

In contrast to the Phase I fatigue study, the second phase "Effects of Hours of Service Regulatory of Schedules and Cargo Loading on Truck and Bus Driver Fatigue" [16] established the relationship between fatigue and safety of operations for commercial drivers who do not operate on a regularly scheduled basis, and who may devote a considerable portion of each day to various nondriving activities, such as cargo moving and truck loading. It had been suggested that both irregular schedules and supplemental labor may be responsible for driver fatigue over and above that which develops simply as a function of long periods at the driving task. The research that has been valid and the results of this research effort must be considered in the formulaion of any revision of the maximum driving limitations.

The major findings of the second phase were: (1) That relay drivers operating on an irregular schedule suffer greater subjective fatigue, physiological stress, and performance degradation than drivers who work a similar number of hours on a regular schedule; (2) that cumulative fatigue occurs during 6 consecutive days of relay operation but the fatigue is strongly affected by the time of day; (3) that fatigue effects are evident after about 8 hours of relay truck driving when the schedule is regular and onsiderably earlier when the

[9] Journal of Applied Psychology, 1970, Arousal, Montony and Accidents in Line Driving, Vol. 54, No. 6, 590–519.

[10] Crawford, A., *Ergonomics*, V.4, April 1961, "Fatigue and Driving" p. 145.

[11] McFarland, R.A., and Mosely, A. L., Human Factors in Highway Transport Safety. Harvard School of Public Health, boston, Massachusetts, 1954.

[12] Lewis, Henry, "Fatigue: A Problem on the Road and Off/Has the Truck and Bus Industry Properly Analyzed the Factors of Fatigue." September 1978. p. 11.

[13] Ibid, p. 11.

[14] William Harris et al., Human Factors Research, Inc., "A Study of the Relationships Among Fatigue, Hours of Service, and Safety of Operations of Truck and Bus Drivers," (Springfield, Va., National Technical Information Service, 1972 (PB–213 963, $8.00)).

[15] Macke, R. R. O'Hanlon, J. F., and McCauley M., Human Factors Research, Inc., "A Study of Heat, Noise, and Vibration in Relation to Driver Performance and Physiological Status, December 1974.

[16] Macke, Robert R., and Miller, James C., Human Factors Research, Inc., Effects of Hours of Service Regularity of Schedules and Cargo Loading on Truck and Bus Driver Fatigue (Springfield, Va.: National Technical Information Service, 1978 (PB 290–957, $16.00)

schedule is irregular; (4) that participation in heavy cargo loading, to the extent engaged in by many relay drivers, increases the severity of fatigue associated with irregular work schedules.

In the research report entitled "Analysis of Accident Data and Hours of Service of Interstate Commercial Motor Vehicle Drivers" [17] the results of an analysis of the relationship between commercial motor vehicle accidents and the hours of service and rest of drivers regulated by the FMCSR were presented.

A total of 25,666 single and two-man truck accidents and 483 bus accidents occuring during 1976 were analyzed with data from the Motor Carrier Accident Report Forms (50T and 50B) and special supplementary driver service and rest report forms. A limited volume of driver exposure data was available for comparative analysis.

The topics covered in the research included: (1) The hours of service regulations; (2) driving, duty fatigue, and accidents occurring between periods of extended rest; (3) rest and use of a sleeper berth; (4) driver age, experience, and physical condition; (5) cyclin patterns; and, (6) carrier and vehicle characteristics.

In addition, all the research referenced in the Advance Notice of Proposed Rulemaking on Hours of Service dated May 22, 1978 (43 FR 21904), was again reviewed.

The Driver's Log

The purpose of the driver's log is to permit agents of the FHWA, drivers, and carriers to monitor drivers' hours of service to ensure that drivers do not work or drive for longer periods than are permitted by Federal law. The FMCSR limit the hours a driver may work or drive to ensure that people are not killed or injured in highway accidents caused by fatigued drivers of commercial trucks and buses. The Supreme Court has made it clear that a recordkeeping or reporting requirement imposed by Federal law does not violate the fifth amendment's privilege against self-incrimination unless two factors are present: (1) The requirement is imposed only on a group of people who are suspected or engaged in criminal activity, and (2) the requirement imposes a duty to disclose information concerning matters that are usually the subject of criminal prosecution. Some of the cases applying these rules are *United States* v. *Sullivan*, 274 U.S. 259 (1927); *Albertson* v. *Subversive Activities Control Board*, 382 U.S. 70 (1965); *Marchette* v. *United States*, 390 U.S. 39 (1968); and *California* v. *Byers*, 402 U.S. 424 (1971). Driver's log requirements do not violate the fifth amendment previlege, and they are neither imposed on a suspect group nor are they in an area permeated with criminal sanctions. The law, as it stands today, does not support the theory that the dirver's log is an invasion of individual privacy under the fifth amendment. Although there are some costs involved in complying with log requirements, in *United States* v. *Sawyer Transport, Inc.* 337 F. Supp. 29, 30 (D. Minn. 1971), *aff'd per curiam*, 463 F 2d 175 (8th Cir. 1972), the court confirmed that the costly burden of compiling and policing daily logs was one that Congress deemed necessary to impose. The court stated:

> Congress recognized that interstate highway safety is a national problem and that excessive hours spent in driving over the road endangers others using the highways as well as the individual driver; that the only practical way to exercise control over independent day and night around the clock truck drivers is to limit their continuous hours of operation; that to enforce such, a log showing time on and off duty, time spent in driving as well as time spent in the sleeper berth is required to be kept and filed each day or at the completion of each trip with the employing motor carrier. Congress did not deem it an undue burden to require all drivers to file such nor to impose on the motor carrier the burden of policing such to determine their truth or falsity.

Research Efforts Regarding Alternatives to Logs

Research concerning a substitute for the driver's log is under way. The FHWA awarded a contract in April 1978, to examine and develop feasible alternative methods of regulating commercial motor vehicle driver's hours of service.

The research effort concluded that there is no single alternative to the existing driver's lot that can be recommended universally at the present time. It was further concluded that offering the option to carriers and drivers of using any one of the following methods could possibly satisfy the objective of depicting whether the maximum hours of service rules were exceeded:

1. The existing driver's log;
2. The tachograph (a mechanical device to record, time, engine operation, and speed) with additional information to be added to the existing recording charts; or
3. Existing carrier time cards or trip sheets, assuming they include specified critical information.

Phase I of the contract, "Alternative Methods of Regulating Commercial Motor Vehicle Drivers' Hours of Service," [18] is available for review at the Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590, Room 3402. In September 1979, the contract was modified to provide a 1-year test program of the two alternatives. The two alternatives will be assissed as to their evidentiary value, acceptance by all parties, reduction of driver and company paperwork burden, and economic feasibility.

The general public, State enforcement personnel, and the BMCS field staff will be advised of carriers' participation in the program. A formal notification was published in the Federal Register authorizing the use of the alternative method of recording a driver's hours of service for approximately 28 carriers (45 FR 28142). The test will be completed by April 1981.

Discussion of Petition Points

The petitioners indicated that the present log book requirements are unenforceable, therefore, a better method is needed. Their plan is to use a time in, time out notation on the bill of lading.

The time in, time out notations on the bill of lading would not be an acceptable alternative to the daily log as was pointed out by seven commenters to the rulemaking notice. The Interstate Commerce Act and the DOT Act provide authority to regulate common, contract, and private carriers of property operating in interstate or foreign commerce. The FHWA does not have jurisdiction to regulate shippers except in certain instances in which hazardous materials are transported. Therefore, FHWA cannot require a shipper or consignee not subject to our requirements to make notations on bills of lading or other type documentation.

The time in, time out on the bill of lading could not serve as an enforcement tool in establishing hours of service violations. Under such a system, the basic elements to determine hours of service compliance have been eliminated. Driving time, on-duty time, sleeper berth time, or off-duty time could not be ascertained.

The petitioners state that thousands of owner/operators violate the present requirements daily. If the present system

[17] Hackman, Kenneth D., Larson, Emile E., Shinder, Allen E., Safety Management Institute, "Analysis of Accident Data and Hours of Service of Interstate Commercial Motor Vehicle Drivers," August 1978.

[18] Milne, J. A., Jr., Lindsay, W. A., and Wiltshire, D., Chilton Company, "Alternative Methods of Regulating Commercial Motor Vehicle Drivers' Hours of Service," Phase I, January 1979.

is violated but still provides a relatively effective monitoring system, we would not have substantiation to change to one that would further frustrate FHWA's efforts to obtain compliance or a prosecution in cases where the FMCSR are flagrantly violated. Payroll records, bills, and timecards, although presently used along with the driver's daily log to assist the BMCS in many cases where carriers and drivers are being prosecuted for false logs, cannot be used as evidence to prove that the driver drove a particluar vehicle on a specified day in interstate commerce. They only prove that he was on duty, not that he was driving. As a prerequisite to any enforcement action against any carrier or driver, the Government must produce evidence that the vehicle was in interstate commerce, that maximum hours of service were exceeded, and that the driver or carrier knowingly and willfully exceeded these maximums. The driver's daily log, written in the driver's own handwriting fills that need, and until an acceptable alternative method is found, should not be eliminated.

The petitioners' point out that the Bureau's limited field staff cannot provide adequate enforcement. The Bureau's field staff is limited. However, to demonstrate the extent to which safety benefits can be obtained under an approach utilizing State officials to assist the BMCS in identifying imminently hazardous vehicles and offending drivers, the Bureau has implemented a commercial motor vehicle inspection and weighing demonstration program with a limited number of States. Upon successful results, this approach will be expanded nationwide.

The petitioners claim that if the current allowable hours of service were expanded not to exceed 12 hours in one 24-hour period and no more than 96 hours in a 8-day period, increased revenue would result. The FHWA questions how increased hours of service can generate an additional 4.4 billion dollars worth of freight to be transported as claimed by the petitioners. The comments to the notice provided no evidence that increased revenue would result, only that individual operator's revenues could increase at the expense of other operators, providing less revenue for them.

Petitioners also state that the 55 m.p.h. speed limit has hurt owner/operators, and that improved driving conditions, roads and vehicles have reduced the number of highway accidents. It is true that roads and certain driving conditions have improved. However, the DOT believes that the 55 m.p.h. speed limit should not be increased. Although the speed limit was initially imposed as a fuel conservation measure, it has resulted in safety benefits far beyond the most optimistic predictions of safety experts. No other traffic safety measure thus far implemented has achieved its degree of success in saving lives. Unfortunately, as highway speeds are again going up, so are the number of people being killed or seriously injured in highway accidents. The DOT supports the 55 m.p.h. speed limit. This speed limit saves fuel and more importantly lives. Although commercial vehicle engineering has provided updated and better equipment, recent BMCS roadside inpection data indicate that a high percentage of vehicles are being operated on the highways in imminently hazardous conditions.

Conclusion

The FHWA has the responsibility for establishing hours of service of drivers operating in interstate or foreign commerce. Congress has the power under the commerce clause of the Constitution to authorize the DOT to take such steps as are required in the development of hours of service regulations.

Highway safety is the purpose of the FMCSR. The greater the safety factor, measured by the likelihood of harm and the probable severity of that harm in the case of an accident, the more stringent the requirement must be to ensure safe driving. The FHWA will not permit additional hours of service and do away with the means of controlling these hours if doing so would run an unreasonable risk of increasing accidents on the highway. The FHWA emphasizes safety in its decisions establishing the appropriate hours of service limitations. The safety factor must be evaluated in terms of the possibility or likelihood of injury or death.

The petition does not contain the type of physiological data and other scientific information that are necessary to support such a proposal to alter the existing rules. The adoption of this proposal would result in a considerable extension of driving on-duty time for certain drivers. The FHWA would be remiss in its responsibilities to make the changes requested in the petition without further proof and documentation that to do so would not cause a decline in highway safety.

The petitioners arguments are based primarily on economic considerations. At the present time the FHWA has no empirical evidence to either support or refute the petitioners' argument of increased revenue of $20,000 per driver per year. However, it is unlikely that these figures can go unchallenged since an inherent assumption of the petition is that owner-operators could haul additional cargo with increased hours of operation. Competitive factors would likely dictate otherwise.

If scientific and technical data is available assuring that additional hours of work will not create the potential for dangerous driver fatigue and other adverse safety affects, it is unknown to the FHWA. The influence of fatigue in accident causation has been demonstrated and where there has been a reduction in hours worked, there has been a corresponding reduction in accidents.

The decision to close this docket and deny the petition to expand the hours of service and eliminate log books is based on several considerations. The comments to the rulemaking notice overwhelmingly opposed the changes set forth in the petition. A review of available literature on this matter continues to indicate that the hours of service should not be increased. The BMCS has taken steps in a number of related efforts to reduce the paperwork burden on drivers and motor carriers while retaining adequate controls over the hours of service. These efforts include the multi-day log, the recently expanded 100-mile radius exemption, and the research effort to find an alternative to the driver's log.

The owner-operators are an important and knowledgeable segment of the trucking industry, and their views are being considered. The general rulemaking proceeding (Docket MC-70) reexamining the hours of service regulations is currently under way. Presently, the economic impact of any major changes in the hours of service is being assessed. The BMCS will make a special effort to incorporate the owner operator views in this proceeding, since these views are different and may constitute an underrepresented perspective. However, for the various reasons stated throughout, and mainly that there is no evidence to show that doing so would not adversely affect highway safety, the petition of the Ad Hoc Owner-Operators is denied and Docket No. MC-90 is hereby closed.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)

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

Issued on: December 8, 1980.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 80-38826 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-22-M

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49 CFR Part 395

[BMCS Docket No. MC-70-2; Notice No. 80-14]

Hours of Service of Drivers; 10-Hour Exemption—Drivers' Logs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Comments and information are solicited on a proposed limited exemption to Part 395 of the Federal Motor Carrier Safety Regulations (FMCSR). The proposal allows for an exemption from preparing the driver's log if the driver reports for duty, is relieved from duty, and returns to the same work reporting location within 10 hours. This action is being taken in a continuing effort to reduce the paperwork burden on drivers and motor carriers in interstate and foreign commerce without compromising highway safety.

DATE: Comments must be received on or before April 14, 1981.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted, preferably in triplicate, to Room 3402, Bureau of Motor Carrier Safety (BMCS) 400 Seventh Street, SW, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, (202) 426-9767; of Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

An Advanced Notice of Proposed Rulemaking (ANPRM) was published on November 9, 1977 (42 FR 58418), soliciting comments on the possibility of adding a provision to exempt certain drivers from preparing a driver's log when they operate motor vehicles between specified fixed locations or over the same route day after day within the allowable hours of service.

The ANPRM asked for information and opinions on eight points to develop a Notice of Proposed Rulemaking (NPRM) which would be feasible for the various types of commercial trucking operations.

Response to the ANPRM

Forty-seven comments were filed in reply to the ANPRM, of which 41 were generally in support of an exemption, four were opposed, and two were outside the scope of the matter. Althouth the idea of an exemption from log preparation for drivers operating between specified fixed locations or over the same route day after day was widely supported, the information received with respect to the eight points was quite diversified.

As an example, some commenters felt a 100-mile radius exemption would benefit their operation, some wanted 150 miles and still others felt there should be a 250-mile radius exemption for drivers who depart and return to the same terminal each day. Several commenters felt that if runs could be accomplished within 10 hours, the mileage should not be limited.

Some commenters indicated that all of their operations were controlled by time clocks; others stated that time clocks could not be used in all of their operations.

With respect to whether there should be a mileage limitation, one commenter requested "a reasonable one" but most commenters indicated a mileage limitation was impracticable. Regarding a time limitation, several stated the present hours of service should be the time limit. Some commented that time limitation should be 10 consecutive hours from the time the driver reports for duty until the time the driver is relieved from duty. Some commenters said both time and mileage limitations should be imposed.

The ANPRM asked, "Should drivers who would qualify for an exemption be used exclusively in a particular operation?" Some respondents indicated that drivers should be used exclusively in one type of operation, as it would be complicated to switch. Others stated that exclusive use of drivers in one type of operation would create inflexibility and the idea behind the proposal would be destroyed.

There were also differences in opinion as to what safety risks could be anticipated, and what safeguards should be imposed to ensure against violations of the maximum driving time limits.

Three State law enforcement agencies expressed concern about the idea of an exemption from preparing logs and felt it would hamper highway enforcement. One suggested that if a fixed point exemption were adopted, drivers should be required to carry a letter from the U.S. Department of Transportation naming fixed locations and route.

The International Brotherhood of Teamsters stated that "the unwarranted relaxation will have a detrimental effect on highway safety," and that enforcement would be impaired.

Research Efforts Regarding Alternatives to Logs

Research on a substitute for the driver's log has been under way for some time. The FHWA awarded a contract to Chilton Company, Radnor, Pennsylvania, in April 1978, to examine and develop feasible alternative methods of regulating commercial motor vehicle drivers' hours of service.

The research effort concluded that there is no single alternative to the existing driver's log that can be recommended universally at the present time. It further concluded that offering the option to carriers and drivers of using any one of the following methods might satisfy the objective of ensuring that the maximum hours of service rules are not violated:

1. The existing driver's log,
2. The tachograph—with additional information to be added to the existing recording charts, or
3. Existing carrier time card or trip sheets—assuming they include specified critical information.

Phase I of the contract, "Alternative Methods of Regulating Commercial Motor Vehicle Drivers' Hours of Service" is available for review at the BMCS, Room 3402, 400 Seventh Street, SW, Washington, D.C. 20590. In September 1979, the contract was modified to provide a one-year test program of the two alternatives. The two alternatives will be assessed as to their evidentiary value, acceptance by all parties, reduction of driver and company paperwork burden, and economic feasibility.

The public, State enforcement personnel, and the BMCS field staff have been advised of carriers' participation in the program. A formal notification was published in the Federal Register (45 FR 28243; April 28, 1980) authorizing the use of the alternative method of recording drivers' hours of service for approximately 35 carriers. The test program will run from May 1980 to April 1981.

Responsibilities for Establishing Hours of Service

The primary mission of the BMCS' program is to reduce highway fatalities and injuries. This task is accomplished by continuously monitoring the maximum hours of service of medium and heavy commercial vehicle drivers in

an endeavor to eliminate fatigue-induced accidents and their attendant loss of life, personal injuries, and severe property damage.

The BMCS is vitally concerned about the paperwork involved in enacting the program and has taken steps to reduce paperwork, such as the multi-day log, the lightweight vehicle exemption, the 100-mile exemption, research efforts to find an alternative to the log, and in this particular rulemaking effort, the 10-hour limitation. However, safety is the primary concern of the BMCS and current and proposed procedures must be examined in the context of their effect on safety and the legal problem that the changes may produce in prosecuting violators.

The many different types of carrier operations make it difficult to draw up an exemption that covers all of the operations and at the same time ensures that carriers are observing the hours of service requirements. The comments received in response to the ANPRM document this problem.

Discussion of Proposed Rule

This NPRM sets forth an exemption from preparing logs if the driver reports for duty and is relieved from duty at the same work reporting location within 10 consecutive hours. Several commenters indicated that they had operations in this category. While the exemption reduces paperwork, safety on the highways would not be compromised, as the 10-hour driving rule of the hours of service regulations would not be exceeded under this exemption.

The NPRM requires time records to be kept by carriers relating to: the total number of hours the driver is on duty each day; the time the driver reports for duty each day; the time the driver is released from duty each day; and the total on-duty time for the preceding 7 days. The requirement to keep these records does not impose an additional paperwork burden on carriers, because they are already required to keep such records by the Department of Labor under the Fair Labor Standards Act (OMB-044-R-0840 Wage Hour 1261 and OMB-044-R-1093 Wage Hours 347).

The proposed exemption in no way alters the hours of service regulations, or the exemption thereto, that appear in Section 395.3 of the FMCSR.

Accordingly, it is proposed to amend 49 CFR 395.8 and 395.9 as follows:

1. By adding § 395.8(t)(6) to read:

§ 395.8 Driver's daily log.

* * * * *

(t) Exemptions—

* * * * *

(6) *Ten-hour exemption.* A driver is exempt from the requirements of this section if—

(i) The driver reports for duty and is relieved from duty at the same work reporting location within 10 consecutive hours;

(ii) At least 8 consecutive hours off duty separate each 10 hours on duty;

(iii) The motor carrier which employs the driver maintains accurate and true records showing—

(A) The total number of hours the driver is on duty each day;

(B) The time the driver reports for duty each day;

(C) The time the driver is released from duty each day; and

(D) The total on-duty time for the preceding 7 days in accordance with paragraph (r) of this section for drivers used for the first time or intermittently.

2. By adding § 395.9(v)(5) to read:

§ 395.9 Driver's multi-day log.

* * * * *

(v) Exemptions—

* * * * *

(5) *Ten-hour exemption.* A driver is exempt from the requirements of this section if—

(i) The driver reports for duty and is relieved from duty at the same work reporting location within 10 consecutive hours;

(ii) At least 8 consecutive hours off duty separates each 10 hours on duty;

(iii) The motor carrier which employs the driver maintains accurate and true records showing—

(A) The total number of hours the driver is on duty each day;

(B) The time the driver reports for duty each day;

(C) The time the driver is released from duty each day; and

(D) The total on-duty time for the preceding 7 days in accordance with paragraph (t) of this section for drivers used for the first time or intermittently.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposed regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A draft regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald J. Davis of the program office at the address specified above.

(49 U.S.C. 304, 1655(e); 49 CFR 1.48(b) and 301.60)

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

Issued on December 8, 1980.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 80-38856 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Glazing Materials

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Grant of petition for rulemaking

SUMMARY: The purpose of this notice is to grant a petition for rulemaking filed by Saint-Gobain Vitrage (SGV) regarding Safety Standard No. 205, *Glazing Materials,* SGV reqests that NHTSA amend this standard to permit the use of glass-plastic windshields such as "Securiflex." a product SGV manufactures. The "Securiflex" windshield is made of laminated glass to which a layer of polyurethane is bonded on the inboard side. The petition states that such glass-plastic windshields reduce the risk of lacerations to a car occupant who strikes the windshield in an accident. However, the glazing used in Securiflex and other glass-plastic windshields does not qualify as Item 1 glazing (which is required by the standard for windshields) because the inboard plastic side fails Tests No. 18, *Abrasion Resistance,* of the standard.

SGV urges the agency to apply Test No. 18 only to the outboard side of plastic-coated glazing and suggests the adoption of other tests for flammability, weathering, etc. for the inboard side of the glazing.

The NHTSA believes that the petition filed by SGV has merit, and it is hereby granted. The agency will commence rulemaking to determine the safety consequences of the proposed amendments. The granting of a petition does not mean that a rule will necessarily be issued. The determination whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Jettner, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 Telephone: (202) 426-2264

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 8, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-38655 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 574

[Docket No. 80-20; Notice 1]

Tire Identification and Recordkeeping; Notice of Proposed Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that the Tire Identification and Recordkeeping regulation be amended to require that the tire identification number, which the tire manufacturer is required to mold or brand into or onto the sidewall of each tire it manufactures, be placed on the whitewall side of all whitewall passenger car tires and light truck tires and on both sidewalls of all blackwall passenger car tires and light truck tires. This proposal is issued in response to a petition for rulemaking submitted by the Center for Auto Safety. The identification number is currently placed on the blackwall side of whitewall tires and on only one sidewall of blackwall tires, making it very difficult for vehicle owners to locate the numbers of tires installed on vehicles. Since the intended function of the tire identification numbers is to permit quick and accurate identification of tires which are subject to a recall by the manufacturer to correct safety standard noncompliances or safety defects, the current placement of the number tends to defeat its intended function.

DATE: All comments on this notice must be received on or before March 16, 1981.

ADDRESS: All comments on this notice must refer to Docket No. 80-20 and be submitted to: Docket Section, Room 5108, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Crash Avoidance Division, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: The NHTSA has granted a petition for rulemaking filed by the Center for Auto Safety (the Center) requesting that 49 CFR Part 574, Tire Identification and Recordkeeping, be amended to require that the tire identification number be placed on the outside sidewall (i.e., the sidewall visible when a tire is mounted on a vehicle) of whitewall tires and on both sides of blackwall tires. The purpose of the identification number is to aid motorists in identifying tires subject to a recall for a safety defect or safety standard noncompliance. The Center stated that the current tire industry practice of placing the identification number on the inside sidewall of whitewall tires and on only one side of blackwall tires makes it very difficult for most motorists to find and read the identification numbers on their tires once they are mounted on vehicles.

The side of a tire bearing the identification number is almost always mounted so that it is on the inside of the tire underneath the vehicle. In the case of whitewall tires, which account for about 82 percent of tire sales in this country, the identification number is almost always molded on the blackwall or inside side of the tire. Blackwall tires, which have the identification number on one sidewall, are as likely to be mounted with the number side facing in as out. Thus, approximately 90 percent of all tires are mounted with their identification numbers not readily visible.

When the tire identification numbers appear on the inside sidewalls of the tires mounted on vehicles, motorists have three inconvenient ways of finding and recording those numbers. They may:

(1) Slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the numbers;

(2) Remove each tire, find and record the number and then replace the tire; or

(3) Enlist the aid of a garage or service station which can perform option 1 or place the vehicle on an auto lift so that the numbers can be found and recorded.

As a result of the difficulty and inconvenience of checking the tire identification numbers, the number of people who respond to a recall campaign is reduced and motorists unknowingly continue to drive their vehicles with potentially unsafe tires. The difficulty of finding and reading these numbers is illustrated by the limited number of responses by consumers to a NHTSA survey requesting that they provide this agency with various items of information, including the identification numbers of their tires. The continued use of the unsafe tires poses a safety risk not only for the occupants of the vehicles using those tires, but also for other highway users in the vicinity of those vehicles.

Requiring that the identification number be placed on the outside sidewall of whitewall tires and on both sides of blackwall tires would facilitate finding the number and thus should increase the response to recall campaigns. Both first and subsequent purchasers of tires would be aided by the requirement. One effect of the combination of the prevalence of long-lived radial tires and the frequency with which people change addresses is that a significant number of first purchasers are unreachable by mail by the tire manufacturers in the event of a recall. Another effect of radials is that there are large numbers of persons who purchase a used car with used radial tires. Unlike the case of first purchasers, there is no procedure for providing tire manufacturers with the names and addresses of subsequent purchasers. Thus there is no way that the tire manufacturers could directly contact subsequent purchasers in the event of a recall. The only way that either of these groups could determine that their tires have been recalled would be to find the identification numbers on their tires and compare them with the series of identification numbers contained in general public announcements about the recall.

To gather information on the feasibility and costs of implementing the proposed requirements, the agency sent special orders to nine tire manufacturers who together represent 84 persent of world tire production and 90 percent of domestic production of tires for use in this country. The responses to this order indicate that worker safety is no longer the problem it was reported to be in 1970 when NHTSA issued an identical proposal regarding the replacement of tire identification numbers. (35 FR 11800; July 17, 1970)

Among the questions in the special orders were ones asking whether the tire presses were operated 24 hours a day seven days a week and if so what measures could be taken to ensure that workers could safely change the identification number plates in the presses. (A tire press generally works like a clam shell. The lower half of the press remains in a fixed, horizontal position, while the upper half is movable. The tire mold, which also has a upper and lower half, fits inside the press.) From the responses to orders, the agency learned that of the 52 tire plants operated by the respondents in this country, 46 of them operate only five or six days a week. The remaining six plants operate all week. In the case of those 46 plants, workers can safely and easily change the number plates during one of the days when the molds are nonoperational and at room temperature. Indeed, the current

practice of the manufacturers is to change the number plates on these molds during their nonoperational day. On that day, workers can as easily change the number plates on the upper mold as on the lower mold.

None of the respondents suggested that changing the number plates in the six plants operating seven days a week would present insurmountable problems. The manufacturers indicated that workers could safely change the number plates on operating upper molds in any of several ways. One way would be to place insulated blankets over the bottom molds. Another way would be to mold the whitewall side of whitewall tires on the lower mold so that the number plates could be placed on the more readily accessible upper molds. Most tire manufacturers produce their whitewall tires with the whitewall side up because of their concern that producing them whitewall side down will cause cosmetic blemishes to that side. Apparently the problem is not insurmountable because other manufacturers produce their whitewall tires with the whitewall side down.

Many respondents did suggest that the space limitations on the whitewall side of tires might make it difficult to model the identification number on that side. In response to this concern, this notice proposes that Part 574 be amended to specify a minimum height requirement of 3/32 inch, instead of the current ¼ inch, when the identification number is molded on both sidewalls of a blackwall tire of when the identification number is molded on the whitewall side of a whitewall tire. By permitting over a 50 percent reduction in the required size of the identification number, it would be much simpler to locate the identification numer on the whitewall side of the tire. Further, this reduced size would still be larger than the minimum size required for the Standard 109 markings on tires. NHTSA is unaware of any consumer complaints that the Standard 109 markings on a tire are too small to be easily read.

NHTSA has reviewed the impacts of this proposal and determined that they are minimal. As noted below, the estimated compliance costs would not be any higher than $5.9 million dollars for one year, or about 3.7 cents per tire, based on an annual production of 160 million tires. The costs could be as low as $4.25 million. Accordingly, the agency has determined that this proposal is not a significant regulation within the meaning of Executive Order 12221. Further, given the minimal cost, the agency has also determined that a regulatory evaluation is unnecessary.

However, NHTSA is specifically seeking comments from the public on the amount of leadtime which should be allowed the manufacturers if this proposed requirement to place the identification numbers on the outside sidewall is adopted. The manufacturers ordinarily replace a mold after five years, and so about 20 percent of the manufacturers molds are replaced each year. If the requirement were to be effective five years from the date of publication of the final rule, costs to the manufacturer would be minimized, since no existing molds would have to be retrofitted to comply with the rule. Based on the responses to the special orders on this subject, NHTSA estimates that this leadtime would result in total costs of about $4.25 million, which could be spread over the five year period. If the requirement were effective two years from the date of publication of the final rule, which is the earliest date this agency estimates it would be feasible for compliance, about 60 percent of the existing molds would have to be retrofitted for compliance. This would raise the estimated costs to about $5.9. million, and most of this cost would have to be absorbed in the second year. The industry produces about 160 million new tires annually.

In consideration of the foregoing, it is proposed that 49 CFR Part 574 be amended as follows:

1. Section 574.5 is revised to read as follows:

§ 574.5 Tire identification requirements.

(a) Each passenger car tire and light truck tire manufactured on or after January 1, 1986 shall comply with the requirements of paragraph (2) of this section. Each passenger car tire and light truck tire manufactured before that date and all other tires, regardless of date of manufacture, shall comply with the requirements of either paragraph (1) or paragraph (2) of this section. All retreaded tries shall comply with the requirements of paragraph (3) of this section.

(1) Each tire manufacturer shall conspicuously label on one sidewall of each tire it manufactures, except tires manufactured exclusively for mileage contract purchasers, by permanently molding into or onto the sidewall, in the manner and location specified in Figure 1, a tire identification number containing the information set forth in paragraphs (c)(1) through (c)(4) of this section.

(2) Each tire manufacturer shall conspicuously label on the whitewall side of each whitewall tire it manufactures and on both sidewalls of each blackwall tire it manufactures, except tires manufactured exclusively for mileage contract purchasers, by permanently molding into or onto the sidewall, in the manner and location specified in Figure 1, a tire identification number containing the information set forth in paragraphs (c)(1) through (c)(4) of this section.

(3) Each tire retreader, except tire retreaders who retread tires for their own use, shall conspicuously label one sidewall of each tire it retreads by permanently molding or branding into or onto the sidewall, in the manner and location specified in Figure 2, a tire identification number containing the information set forth in paragraphs (c)(1) through (c)(4) of this section.

(b) The symbols to be used in the tire identification number required by paragraph (a) of this section for tire manufacturers and retreaders are "A, B, C, D, E, F, H, J, K, L, M, N, P, R, T, U, V, W, X, Y, 1, 2, 3, 4, 5, 6, 7, 8, 9, 0." Tires manufactured or retreaded exclusively for mileage contract purchasers are not required to contain the tire identification number if the tire contains the phrase "for mileage contract use only" permanently molded into or onto the tire sidewall in lettering at least ¼ inch high.

(c) The tire identification number shall consist of the following groupings:

(1) *First grouping.* The first group, of two or three symbols, depending on whether the tire is new or retreaded, shall represent the manufacturer's assigned identification mark (see § 574.6).

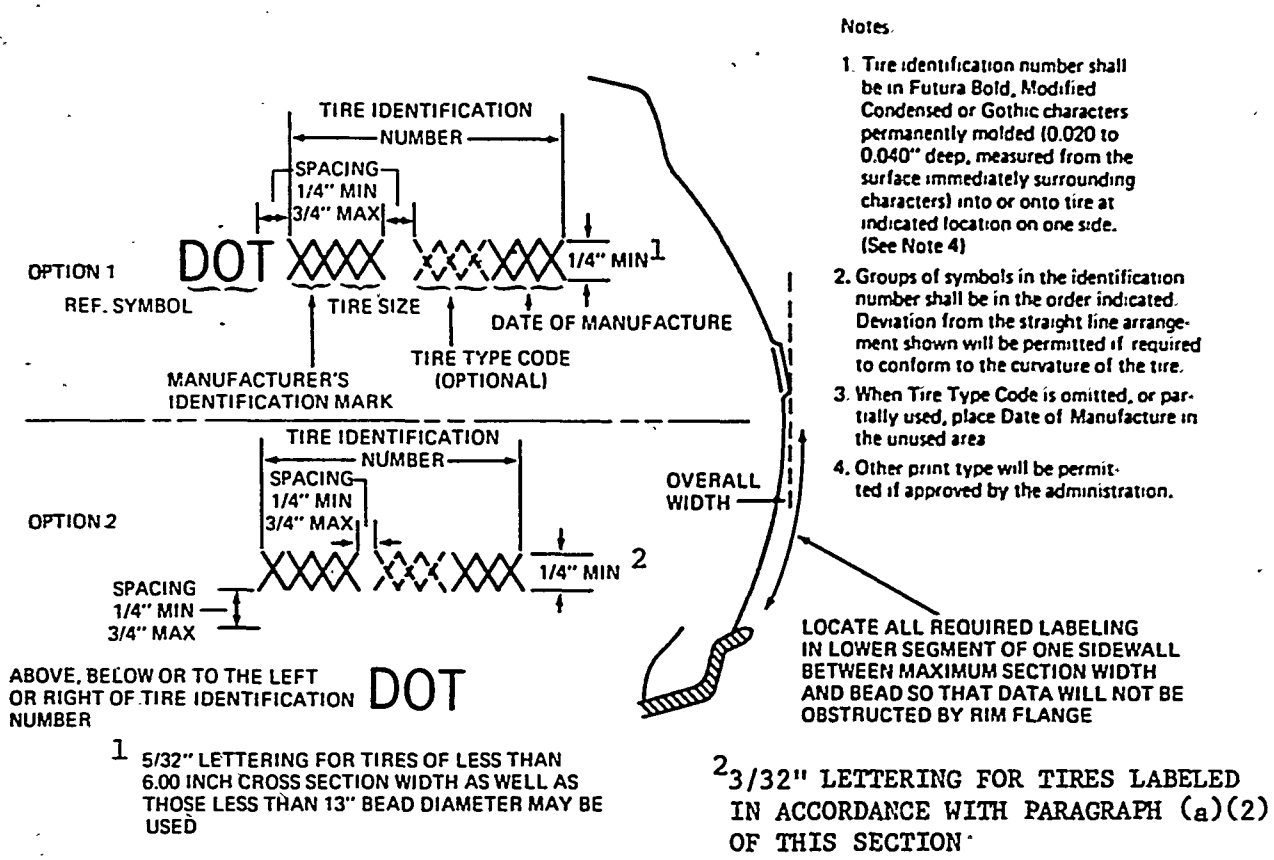
(2) *Second grouping.* For new tires, the second group, of no more than two symbols, shall be used to identify the tire size. For retreaded tires, the second group, of no more than two symbols, shall identify the retread matrix in which the tire was processed or a tire size code if a matrix was not used to process the retreaded tire. Each new tire manufacturer and each retreader shall maintain a record of each symbol used, with the corresponding matrix or tire size and shall provide such record to the NHTSA upon written request.

(3) *Third grouping.* The third group, consisting of no more than four symbols, may be used at the option of the manufacturer or retreader as a descriptive code for the purpose of identifying significant characteristics of the tire. However, if the tire is manufactured for a brand name owner, one of the functions of the third grouping shall be to identify the brand name owner. Each manufacturer or retreader who uses the third grouping shall maintain a detailed record of any descriptive or brand name owner code used, which shall be provided to the NHTSA upon request.

(4) *Fourth grouping.* The fourth group, consisting of three symbols, shall identify the week and year of manufacture. The first two symbols shall identify the week of the year using "01" for the first full calender week in each year. The final week of each year may include not more than 6 days of the following year. (Example: 311 means the 31st week of 1981, or August 2 through 8, 1981; 012 means the first week of 1982, or January 3 through 9, 1982). The symbols signifying the date of manufacture shall immediately follow the optional descriptive code (paragraph (c)(3) of this section). If no optional descriptive code is used, the symbols signifying the date of manufacture shall be placed in the area shown in Figures 1 and 2 for the optional descriptive code.

(d) In addition to the information required by paragraphs (a)(1) through (a)(3) of this section, the DOT symbol required by Federal Motor Vehicle Safety Standards shall be located as shown in Figures 1 and 2. The DOT symbol shall not appear on tires to which no Federal Motor Vehicle Safety Standard is applicable, unless, in the case of tires for which a standard has been issued but which is not yet effective, the symbol is covered by a label that is not easily removable and that states in letters at least 0.78 inches high:

NO FEDERAL MOTOR VEHICLE SAFETY STANDARD APPLIES TO THIS TIRE



Notes

1. Tire identification number shall be in Futura Bold, Modified Condensed or Gothic characters permanently molded (0.020 to 0.040" deep, measured from the surface immediately surrounding characters) into or onto tire at indicated location on one side. (See Note 4)
2. Groups of symbols in the identification number shall be in the order indicated. Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.
3. When Tire Type Code is omitted, or partially used, place Date of Manufacture in the unused area
4. Other print type will be permitted if approved by the administration.

FIGURE 1 IDENTIFICATION NUMBER FOR NEW TIRES

2. Section 574.6 is revised to read as follows:

§ 574.6 Identification mark.

To obtain the identification mark required by § 574.5(c)(1), each manufacturer of new or retreaded tires shall apply in writing to: "Tire Identification and Recordkeeping," Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, identify itself as a manufacturer of new tires or retreaded tires and furnish the following information:

(a) The name, or other designation identifying the applicant, and its main office address.

(b) The name, or other identifying designation, of each individual plant operated by the manufacturer, and the address of each individual plant, if applicable.

(c) The type of tires manufactured at each plant, e.g., passenger car tires, bus tires, truck tires, motorcycle tires, or retreaded tires.

* * * * *

Interested persons are invited to submit comments on this proposal. It is requested but not required that 10 copies be submitted. All comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the

information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter, or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is, in fact, confidential within the meaning of section 552(b)(4) and that diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination and copying in the docket at the above address both before and after that date. To the extent possible, comments filed after the comment closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the comment closing date and too late for consideration in this action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material in the docket as it becomes available after the comment closing date, and interested persons are advised to continue to check the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed, stamped postcard. When the comments are received, the docket supervisor will return the postcard by mail.

The program official and attorney principally responsible for the development of this proposed regulation are Arturo Casanova and Stephen Kratzke, respectively.

(Secs. 103, 112, 119, 158, and 201, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1418, and 1421); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 8, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-35657 Filed 12-11-80; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte No. MC-37 (Sub-33)]

Commercial Zones and Terminal Areas (Seattle, WA, Commercial Zone)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: In response to a petition filed by the Port of Bremerton, the Commission will consider whether to amend its exiting regulations at 49 CFR 1048.9 to expand the Seattle, WA, commercial zone to include a specified area adjacent to the present zone. The proposed expansion would increase the zone within which interstate motor carrier operations would be exempt from Federal economic regulation.

DATES: Comments must be filed with the Commission on or before January 14, 1981.

ADDRESS: Send comments (an original and 15 copies where possible) to: Ex Parte MC 37 (Sub-33), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: David M. Layton (202) 275-7989 or Edward E. Guthrie (202) 275-7929.

SUPPLEMENTARY INFORMATION: The commercial zone of Seattle, WA, is defined specifically in 49 CFR 1048.9, to include all points within 15 miles of the municipal limits of Seattle, a western portion of King County, and a southwestern portion of Snohomish County. The municipality of Bremerton, WA, lies within the defined Seattle commercial zone. However, the Olympic View Industrial Park which is owned and operated by the Port of Bremerton, lies approximately one-half mile beyond the commercial zone. The Port of Bremerton request that the limits of the Seattle commercial zone be individually determined to include the site jointly occupied by the Olympic View Industrial Park and the Bremerton-Kitsap County Airport, which is in close proximity to the boundary of the present zone. Petitioner proposes that 49 CFR 1048.9(c) be supplemented by adding to the existing description, the following:

* * *; and those in Kitsap County, WA, which are not within the area described in paragraph (b) of this section lying within the area bounded by a line beginning at the intersection of the line described in paragraph (b) of this section and Washington Highway 3 to the boundary of Olympic View Industrial Park/Bremerton-Kitsap County Airport, thence westerly, southerly, easterly, and northerly along the boundary of Olympic View Industrial Park/Bremerton-Kitsap County Airport to its juncture with Washington Highway 3, thence easterly along Washington Highway 3 to its intersection with the line described in paragraph (b) of this section.

Petitioner is essentially seeking the redefinition of the limits of the Seattle commercial zone to include the 1,600 acre tract which contains nearly all of the line zoned for manufacturing in Kitsap County and the adjacent airport.

It is Commission policy to describe specifically defined zones along readily identifiable boundaries. The use of such designations as streets, rights-of-way, and small waterways is to be avoided. We, therefore, request that interested persons submit comments suggesting a more feasible way to describe the area.

The Port of Bremerton presents various geographic, demographic, and economic information in support of its position that the area should be considered adjacent to and a part of Seattle. Specifically, petitioner states that, although the industrial park has attracted some new industries, its maximum potential development has been inhibited due to its exclusion from the commercial zone. It urges that the industrial, economic, and population growth associated with the nearby Trident Submarine Base, which is nearing completion, has resulted in increased economic interdependence between the entire area and the Seattle commercial zone. Attached to the petition are six letters from representatives of government agencies, commercial groups, and individual businesses which favor the proposed expansion of the Seattle commercial zone.

Comments and Procedural Matters

No oral hearing in this proceeding is contemplated. Any person (including petitioner) wishing to participate in the proceeding, in support of or in opposition to the proposal, is invited to submit written representations, views, and arguments. Comments suggesting modifications to the description of the proposed extension of the zone are encouraged. We do not believe that the action proposed will have an adverse effect on either the quality of the human environment or conservation of energy resources. However, anyone may comment on these aspects of the proposal. Written material or suggestions submitted will be available for public inspection at the Office of the Secretary of the Interstate Commerce Commission, 12th and Constitution Avenues, NW, Washington, DC, during regular business hours.

[49 U.S.C. 10321, 49 U.S.C. 10526, and 5 U.S.C. 553]

Decided: December 3, 1980.

By the Commission, Division 1, Commissioners Clapp, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38837 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-23)]

Practices of Motor Common Carriers of Household Goods (Investigation Into Estimating Practices)

AGENCY: Interstate Commerce Commission.

ACTION: Discontinuance of proposed rulemaking proceeding.

SUMMARY: The Commission instituted this proceeding for the purpose of allowing household goods carriers to offer binding estimates. The Household Goods. Transportation Act of 1980 contains a similar provision which, in effect, supersedes own rules. Accordingly, our proceeding shall be discontinued.

EFFECTIVE DATE: December 12, 1980.

FOR FURTHER INFORMATION CONTACT: Edward E. Guthrie, (202) 275-7691 or David B. Gaynor, (202) 275-7904.

SUPPLEMENTARY INFORMATION: The Commission instituted Ex Parte No. MC-19 (Sub-No. 23) to combat the problem of underestimation of the cost of a household goods move. The final version of the proposed rulemaking was published at 44 FR 34994, June 18, 1979. The solution proposed would have allowed carriers to offer binding estimates on the basis of the constructive weight of the goods. Subsequently, legislation was introduced to institute certain reforms in the regulation of these carriers. When it was later amended to include a provision allowing carriers to file tariffs establishing rates based on a carrier's written binding estimate of charges, we concluded that this proceeding should be held in abeyance. A notice to that effect was served on March 13, 1980 (45 FR 19672, March 26, 1980).

On October 15, 1980, the Household Goods Transportation Act of 1980, including the provision concerning binding estimates, became law. Consequently, there is nothing further to be accomplished in this proceeding.

It is ordered:

This proceeding is discontinued.

Decided: December 3, 1980.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38830 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Hake Fisheries of the Northwestern Atlantic; Approval of Amendment to Preliminary Fishery Management Plan and Request for Comment

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

ACTION: Notice of Approval of an Amendment to the Preliminary Fishery Management Plan (PMP) for the Hake Fisheries of the Northwestern Atlantic; Proposed Rulemaking; Request for Comment.

SUMMARY: The preliminary fishery management plan (PMP) for the hake fisheries of the Northwestern Atlantic has been amended. The amendment to the PMP (amendment) for silver hake and red hake includes: (1) Adjustment of the optimum yield (OY), expected domestic annual harvest (DAH) and the total allowable level of foreign fishing (TALFF); (2) establishment of reserves for the Georges Bank silver and red hake stocks; and (3) continuation of the PMP until further amended.

The proposed regulations incorporate the changes in the PMP and provide conditions for respecifying domestic annual processing (DAP).

DATES: Comments on the proposed regulations are invited until December 30, 1980.

ADDRESS: Send comments to the Regional Director, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Mark "Comments on Hake PMP" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson (617) 281-3600

SUPPLEMENTARY INFORMATION: The PMP was published on February 18, 1977 (42 FR 10146), and has been extended through 1980 with a series of minor amendments. The National Marine Fisheries Service (NMFS) has analyzed the latest available data for the silver and red hake stocks of Georges Bank and the Southern New England/Mid-Atlantic management areas (designated as areas 1-IV and V, respectively, in § 611.9, Appendix 11, Figure 1, Foreign Fishing Regulations). The PMP is amended to continue into 1981 and beyond.

Silver hake

The latest assessment data for silver hake indicate either a general improvement in, or maintenance of, both stocks at the beginning of 1980. However, the assessment indicates the need to reduce the OY's from 55,000 mt to 30,000 mt for the Southern New England/Mid-Atlantic stock and from 35,000 mt to 25,000 mt for the Georges Bank stock to ensure continued maintenance of the resource. An estimate of DAH based on the most recent data and a projection of changes in the industry has resulted in no change in the DAH for either silver hake stock; therefore, DAH will remain at 9,000 mt for the Georges Bank stock and 20,600 mt for the Southern New England/Mid-Atlantic stock. A reserve of 6,000 mt has been established for Georges Bank. No reserve has been established for the Southern New England/Mid-Atlantic stock. The TALFF has been reduced to 10,000 mt for the Georges Bank stock and 9,400 mt for the Southern New England/Mid-Atlantic stock.

Red hake

The latest assessment of red hake indicates an improvement in, or maintenance of, Georges Bank and Southern New England/Mid-Atlantic stocks. Consistent with the appropriate maintenance (Georges Bank) and improvement (Southern New England/Mid-Atlantic) management strategies, the OY for Georges Bank has been kept at the 1980 level of 6,000 mt while the Southern New England/Mid-Atlantic red hake OY has been increased from 11,000 mt to 16,000 mt. NMFS findings (resulting from the reviews of the most recent landings data and anticipated changes in the industry) support maintaining the DAH for the Georges Bank stock at 500 mt but increasing the DAH for the Southern New England/Mid-Atlantic stock from 8,000 mt to 13,000 mt. The landings data indicate a continued and steady expansion in the Southern New England/Mid-Atlantic red hake fishery. A DAH of 13,000 mt will provide for a continuation of this trend, yet still allow for moderate rebuilding of the stock. The TALFF for Georges Bank stock has been reduced to 2,500 mt and a reserve of 3,000 mt has been established. The TALFF for Southern New England/Mid-Atlantic stock is maintained at 3,000 mt, unchanged from 1980. No reserve is

established for this stock. The initial estimate of the annual amounts of the U.S. harvest of red and silver hake expected to be utilized by DAP is the same as the initial DAH for each species. Thus, the amounts of the U.S. harvest of each species which may be available for receipt by foreign vessels (JVP) are initially set at zero. The proposed regulations include the initial estimate but provide a procedure for reassessing DAP and JVP at the time that permit applications are received from foreign nations to receive U.S. harvested hake. In those cases where that reassessment finds DAP less than DAH plus the reserve (if any), the regulations earmark the excess for JVP.

Modifications of Foreign Processing Limitations

The phrase "* * * except as otherwise authorized by permit" is proposed to be added to Subpart C, § 611.50(b)(2) of the regulations. This addition is designed to allow foreign vessels with valid JVP permits to process U.S. harvested fish outside of the foreign window restrictions.

PMP Renewal

To date the practice has been to renew the PMP on an annual basis. Although the data will continue to be assessed on at least an annual basis, the amendment of the plan or its regulations will be performed only on an "as needed" basis in the future.

Executive Order 12044, NEPA and National Standards

The Assistant Administrator has determined that this action is not significant with respect to the criteria of Executive Order 12044, the National Environmental Policy Act, and is not inconsistent with the National Standards established by the FCMA. An Environmental Assessment has been prepared by NOAA with the finding that the action will not have a significant impact on the environment.

Foreign Fishing Windows established in the PMP's regulations (§ 611.50(b)(2)) are exclusively open for the period beginning January 1 and ending March 31 for each calendar year for bottom gear fishing. both the red and silver hake fisheries solely use bottom gear. In addition, foreign vessels which take hake as a by-catch are expected to be in the area in early January. For that reason we have limited the comment period on the proposed regulations to December 30, 1980.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 9th day of December 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Amendment to the Hake PMP

The Hake Fisheries of the Northwestern Atlantic PMP was originally published on February 18, 1977 (42 FR 10146), amended on November 2, 1978 (43 FR 51054), and December 27, 1979 (44 FR 76539). That PMP, as amended, is further amended as follows:

(1) The number of the section for: "Status of Fishery Stocks" is Section "III" instead of "II", as shown in 42 FR 10175.

(2) "Distribution of Exploited Stocks" (10175), "Abundance of Exploited Stocks" (10177) and "Current Fishing Status" (19179) are updated by adding the following at the end of each section "See 1981 Appendix of PMP for more recent data."

(3) Section IV, "Optimality" is amended by adding the following at the end of each section "see 1981 Appendix of PMP for more recent data." In addition, the table on page 10182 of Section IV is amended as follows:

	OY	DAH	DAP	JVP	Reserve	TALFF
Silver hake:						
5Ze	25,000	9,000	9,000	0	6,000	10,000
5Zw+6	30,000	20,600	20,600			9,400
Red hake:						
5Ze	6,000	500	500	0	3,000	2,500
5Zw+6	16,000	13,000	13,000	0		3,000

(4) One appendix is added. That appendix is the Environmental Assessment of the 1981 amendments to the Hake Fisheries of the Northwestern Atlantic PMP. It is entitled "1981 Appendix to the Hake PMP-Environmental Assessment" and is available for public inspection at the Northwestern Regional Office.

Proposed Amendment to the Hake Regulations

1. Section 611.50, paragraph (b)(2) is proposed to read as follows:

§ 611.50 Northwest Atlantic Ocean Fishery.

* * * * *

(b) * * *

(2) Vessels subject to this section may fish only during the seasons and with the types of gear specified in Table I of this section. Fishing may be conducted only in the areas specified in Figure I of Appendix II to 611.9 except as otherwise authorized by permit.

* * * * *

2. 50 CFR Part 611 is proposed to be amended by adding § 611.53 as follows:

§ 611.53 Hake Fishery.

(a) *Definitions.* For purposes of this section, "joint venture harvest" means U.S. harvested hake transferred at sea to foreign processing vessels.

(b) *New Estimates of DAP.* Upon receipt of an application for a permit for a foreign processing vessel to receive U.S. harvested hake, the Regional Director shall make new estimates of DAP based on the most recent information available. If the initial DAH plus the reserve (if any) is greater than the new estimate of DAP, the excess is available for joint venture harvest. If the new estimate of DAP is greater than the initial DAH plus the reserve (if any), no excess is available for joint venture harvest I11(c) *Respecification of JVP.* The Regional Director shall publish in the Federal Register the new estimate of DAP and the respecification of the amount available for joint venture harvest (JVP).

§ 611.20 (Appendix 1) [Amended]

3. Section 611.20, Appendix 1, is revised by inserting the following:

Appendix 1.—*Section 611.20—OY, DAH, DAP, JVP, Reserve, TALFF*

	Species and code	Areas	OY	DAH	DAP	JVP=(DAH-DAP)	DNP	Reserve	TALFF
Northeast Atlantic Ocean fisheries	Hake, silver, 104	[1] 1-4	30,000	20,600	20,600	0	—	0	9,400
		[1] 5	25,000	9,000	9,000	0	—	6,000	10,000
A. Hake fishery	Hake, red, 105	[1] 1-4	16,000	13,000	13,000	0	—	0	3,000
		[1] 5	6,000	500	500	0	—	3,000	2,500

[1] OY, DAH, DAP, JUP, DNP, and Reserve are for Southern New England/Mid-Atlantic management area, which includes foreign fishing areas 1-4, and for Georges Bank area, which includes foreign fishing area 5. See § 611.9, Appendix II, Figure 1 for a description of the foreign fishing areas.

[FR Doc. 80-38842 Filed 12-12-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 242
Monday, December 15, 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.

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Retail Sales and Inventories; Determination

In accordance with title 13, United States Code, sections 182, 224 and 225, and due Notice of Consideration having been published October 2, 1980, (45 FR 65268) I have determined that certain 1980 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, data covering 1979 and 1980 year-end inventories, 1980 accounts receivable balances, and 1980 annual sales. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of firms operating retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from a sample of stores with probability of selections based on their sales size.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available on written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 10, 1980.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 80-38738 Filed 12-12-80; 8:45 am]

BILLING CODE 3510-07-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate four New York Region projects for a twelve month period beginning April 1, 1981. The aggregate total cost of the projects is $1,355,000.

Funding Instrument: It is anticipated that the funding instruments, as defined by the Federal Grant and Cooperative Agreements Act of 1977, will be grants.

Program Description: The General Business Services Program of the Minority Business Development Agency (MBDA) provides technical assistance without charge to eligible minority business persons and minority-owned firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either "not for profit" or commercial entities). These firms must be capable of providing such services as preparation of business plans, financial analysis, industrial management assistance, personnel management services, marketing planning and a broad range of other business services excluding legal services.

Applications are invited for the following four projects:

1. One grant for a management and technical assistance project to operate in the counties of Kings and Richmond, in New York State. the Project will operate at a cost not to exceed $220,000. The Project Number is 02-10-80001-01.

2. One grant for a management and technical assistance project to operate in the counties of Niagara, Erie, Genesee, Wyoming, Chautauqua, Cattaraugus, and Allegany, in New York State. The Project will operate at a cost not to exceed $110,000. The Project I. D. Number is 02-10-80003-01.

3. One grant for a management and technical assistance project to operate in the Commonwealth of Puerto Rico. The Project will operate at a cost not to exceed $805,000. Of the total $805,000 reserved for this project, at least $75,000 will be used to assist minority-owned businesses in the construction industry and another $70,000 of the total $805,000 will be used to hire consultants to provide specialized services not available from the staff of the General Business Service Center. The recipient should also be prepared, upon request, to serve a few clients in the U.S. Virgin Islands. the Project I. D. Number is 02-10-80006-01.

4. One grant for a management and technical assistance project to operate in the entire State of New York. Only construction contractors will be served under this project. The Project will operate at a cost not to exceed $330,000. The Project I.D. Number is 02-10-80007-01.

Eligibility Requirements: there are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for these projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 26 Federal Plaza, Room #3707, New York, New York 10278.

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, educational institutions, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of January 15, 1981. Applications received after that date will not be considered. A pre-application conference will be held on Monday, December 29, 1980 at 2:00 PM at 26 Federal Plaza, Room #305B, New York City.

Detailed submission procedures are outlined in each application kit; 11.800 Minority Business Development (Catalog of Federal Domestic Assistance) (This program is not subject to the requirements of OMB Circular A-95).

Dated: December 2, 1980.

Carlton L. Eccles,

Regional Director.

[FR Doc. 80-38739 Filed 12-12-80; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Changes Pertaining to the Interface Standards Exclusion List

In a notice published in the Federal Register on October 15, 1980 (45 FR 68417), as corrected by the notice published on October 30, 1980 (45 FR 71838), the National Bureau of Standards (NBS) announced proposed changes to the exclusion list pertaining to Federal Information Processing Standards Publication 60-1, I/O Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems; and Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems. Interested parties were allowed until December 1, 1980, to submit written comments regarding the proposed changes to the exclusion list.

As a result of a review and analysis of comments received, NBS has made a determination that the following additions will be made to the exclusion list:

Manufacturer	Model
Burrough	B90 Series.
Burroughs	CP9000 Series.
Burroughs	B1900 Series.
CADO Systems Corp	C.A.T.
CADO Systems Corp	20/20.
Computer Talk	427 Distributed processing terminal.
E&L Instruments	MMD-2.
E&L Instruments	MD-X.
Hewlett-Packard	2100A.[1]
Hewlett-Packard	2100S.[1]
Hewlett-Packard	2114A/B.[1]
Hewlett-Packard	2115A.[1]
Hewlett-Packard	2116A/B/C.[1]
Pertec	MITS/ALTAIR 8800B.[1]
Prime	150.
Prime	250.
Qantel	200 Series.
Qantel	300 Series.
Wang	PCS III.
Wang	SVP.
Wang	LVP.
Wang	VS-B.
Wang	VS-F.
Wang	VS-50.
Wang	OIS.

[1] No longer manufactured.

Interested parties are invited to submit written comments or recommendations regarding the exclusion list to the Director, Institute for Computer Sciences and Technology, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Comments specifically identifying candidate systems which should be added or removed from the exclusion list are especially encouraged. Comments should also include information supporting any proposed additions (or removals) to that list according to the criteria described in the Federal Register notice of March 19, 1979 (44 FR 16466), which announced the availability of a proposed initial exclusion list. Any comments submitted which are deemed by the sender to contain confidential or proprietary information should be appropriately designated and marked.

NBS maintains a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of proposed changes and the announcement of the determination on proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments or recommendations regarding the exclusion list.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: December 10, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-38716 Filed 12-12-80; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

Senior Executive Service Employees; Bonus Awards

Below is a listing of Senior Executive Service employees who are scheduled to receive bonuses:

David S. Nathan, Deputy Assistant Secretary for Acquisition, Grants and Information Management, Office of the Assistant Secretary for Administration; $5,512.—To be paid 12/29/80

Nancy Ann Richards, Deputy Director for Budget, Office of Budget; $4,009.—To be paid 12/29/80

Robert L. Wright, Deputy Director for Procurement, Office of Procurement and Automatic Data Processing Management; $4,009.—To be paid 12/29/80

Frederick T. Knickerbocker, Deputy Assistant Secretary for International Policy Coordination, Office of the Assistant Secretary for Policy; $8,519.—To be paid 12/29/80

Gerard C. Iannelli, Deputy Assistant General Counsel for Legislation, Office of the General Counsel; $5,512.—To be paid 1/9/81

Jo Ann Sondey-Hersh,

Executive Secretary, Office of the Secretary, Performance Appraisal System.

[FR Doc. 80-38952 Filed 12-12-80; 8:45 am]

BILLING CODE 3510-BS-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Entitlements Program Crude Oil Cost Data November 1978 Through September 1980

The Economic Regulatory Administration (ERA) hereby issues its bi-monthly notice of crude oil cost data. The purpose of this notice is to make available to the public information on the effect of the entitlements program on the crude oil costs of the various segments of the refining industry. Table I (attached) sets forth the pre-entitlements costs of crude oil to (1) the major refiners (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, and Union-Oil), (2) large independent refiners (Amerada Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee, and Champlin), and (3) small refiners. Table II (attached) shows the post-entitlements crude oil cost distribution for the 22 major and large independent companies. Table III (attached) shows the pre-entitlements imported crude oil cost distribution for the same 22 companies.

The data are based on the reports filed each month on the Form ERA-49 by all refiners in the entitlements program.

Issued in Washington, D.C. on December 8, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

FOR FURTHER INFORMATION CONTACT:

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128, Washington, D.C. 20461, (202/653-3459)

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461, (202/653-4055)

BILLING CODE 6450-01-M

Table I

Crude Oil Costs
Before and After Entitlement Payments
(dollars per barrel)

		Majors (Top 15)**		Large Independents***		Small Refiners	
		Pre	Post*	Pre	Post*	Pre	Post*
1978	Nov	$12.51	$12.91	$13.26	$12.95	$13.07	$12.23
	Dec	12.68	13.06	13.78	13.25	13.22	12.43
1979	Jan	$12.76	$13.24	$14.06	$13.48	$13.60	$12.65
	Feb	13.17	13.65	14.22	13.60	13.72	12.77
	Mar	13.40	13.82	14.60	14.55	14.11	13.23
	Apr	14.15	14.60	15.85	15.27	14.82	13.96
	May	14.82	15.42	17.10	16.41	15.89	14.78
	Jun	16.43	16.93	18.61	17.39	17.76	17.17
	Jul	18.13	18.71	20.74	19.19	18.74	18.11
	Aug	19.11	19.62	21.73	20.25	20.52	20.06
	Sep	19.29	19.85	21.43	20.10	21.43	20.78
	Oct	20.02	20.68	22.63	23.89	21.60	20.62
	Nov	21.03	21.81	25.87	24.61	22.92	21.97
	Dec	22.71	23.55	26.00	23.65	24.96	24.23
1980	Jan	23.96	24.90	26.19	25.15	26.81	24.62
	Feb	25.22	26.13	28.60	26.15	27.32	26.51
	Mar	25.85	26.88	29.23	26.87	28.69	27.34
	Apr	26.16	27.02	29.41	27.96	28.90	27.22
	May	26.96	28.00	29.33	29.22	29.89	27.04
	Jun	27.80	28.86	31.51	30.41	30.56	27.99
	Jul	28.06	28.95	29.71	29.73	30.37	27.80
	Aug	27.54	28.98	31.25	30.44	30.72	27.31
	Sep	28.36	29.76	30.53	29.53	29.88	26.64
Change Jan 1979 to May 1980		15.60	16.52	16.47	16.05	16.28	13.99

*Post entitlements payment costs show the effect of the entitlements payments in the month for which the notice is published even though the payments take place two months later. For example, November 1979 data are shown in the entitlement notice for November 1979 published in January 1980.

**Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco and Union-Oil

***Amerada Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee & Champlin

PAGE 1

TABLE II

PRE-ENTITLEMENT
IMPORTED CRUDE OIL COST DISTRIBUTION
22 MAJOR AND LARGE INDEPENDENT COMPANIES

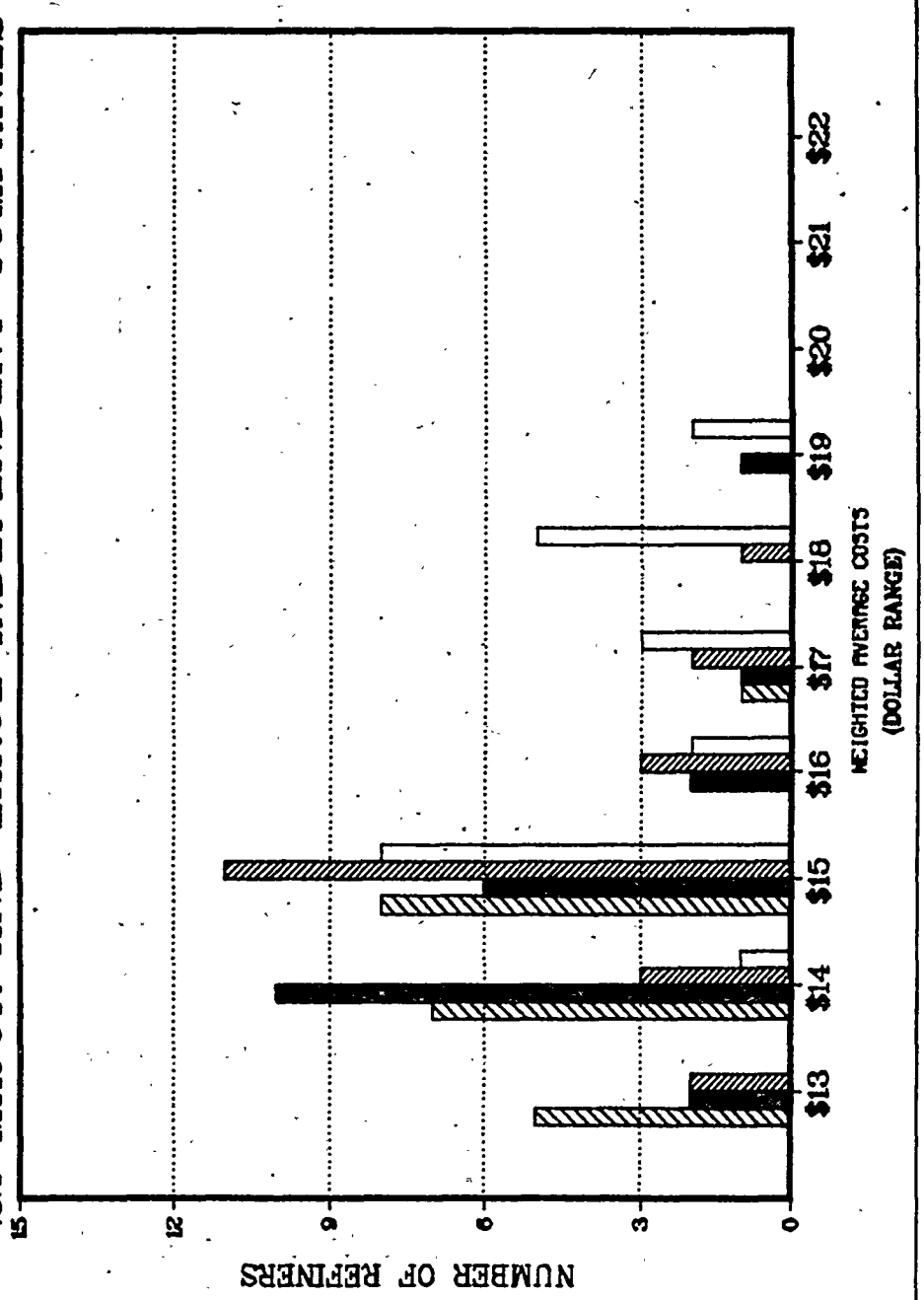


TABLE II

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TABLE II

PAGE 3

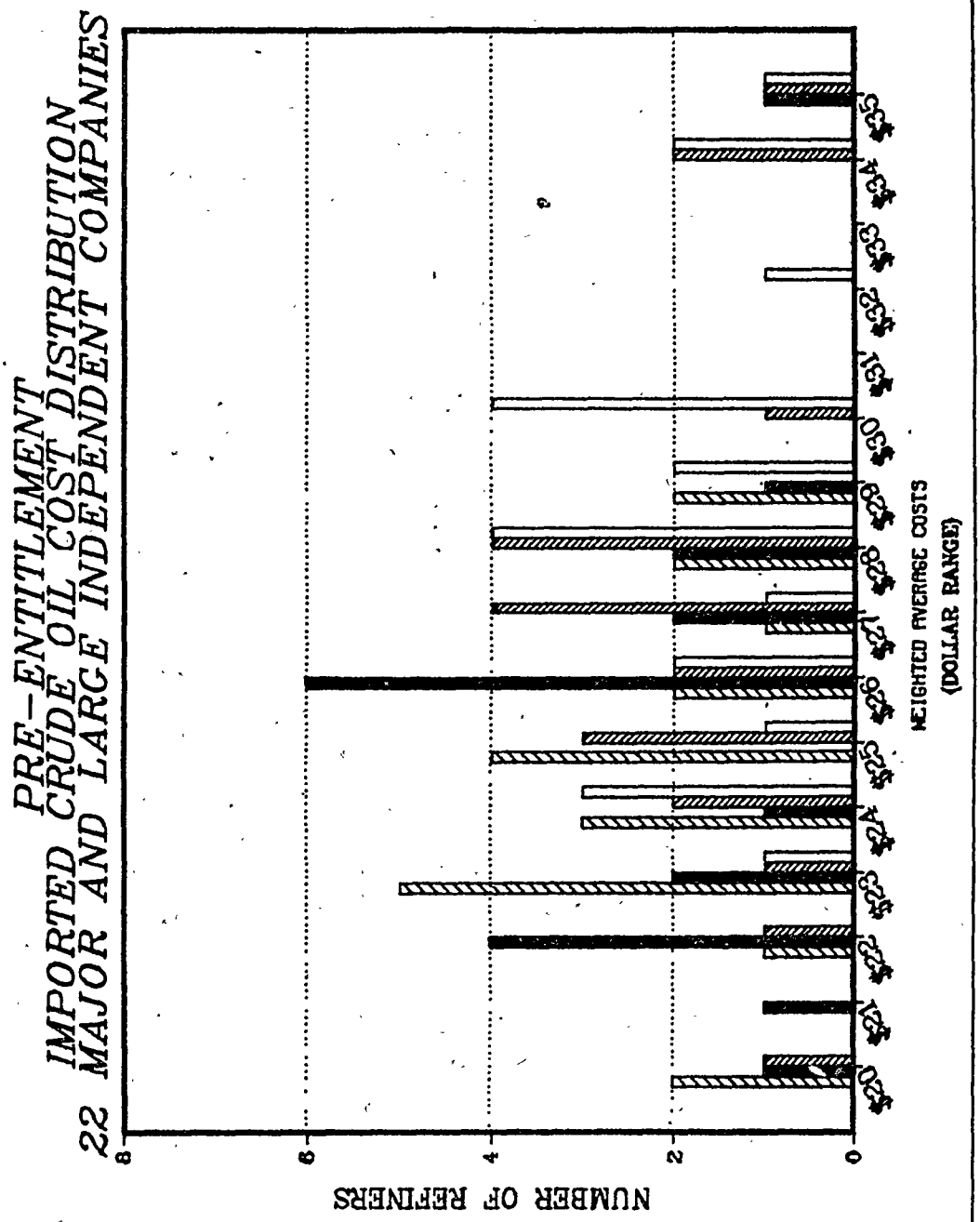


TABLE II

PAGE 4

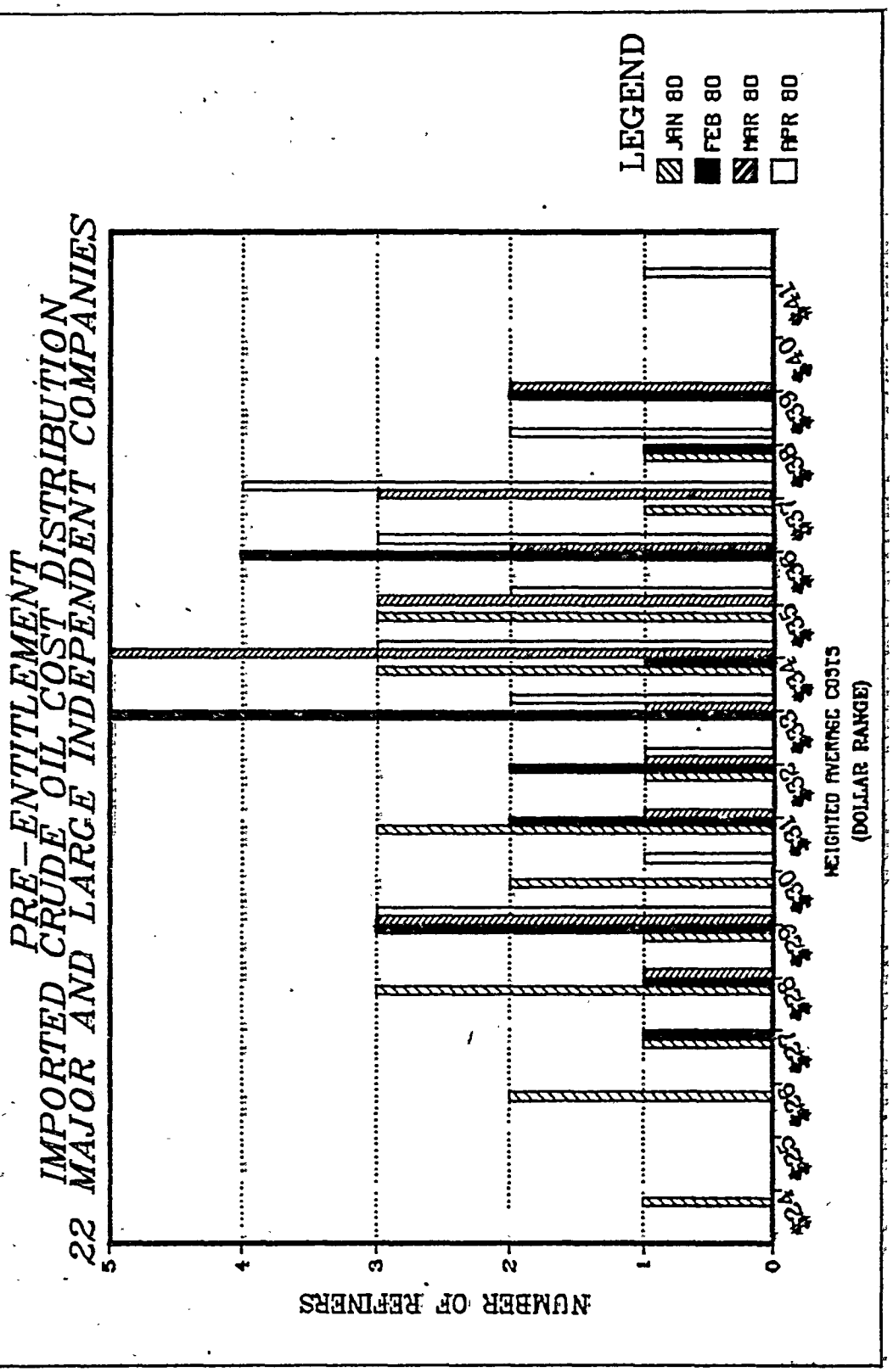


TABLE II

PAGE 5

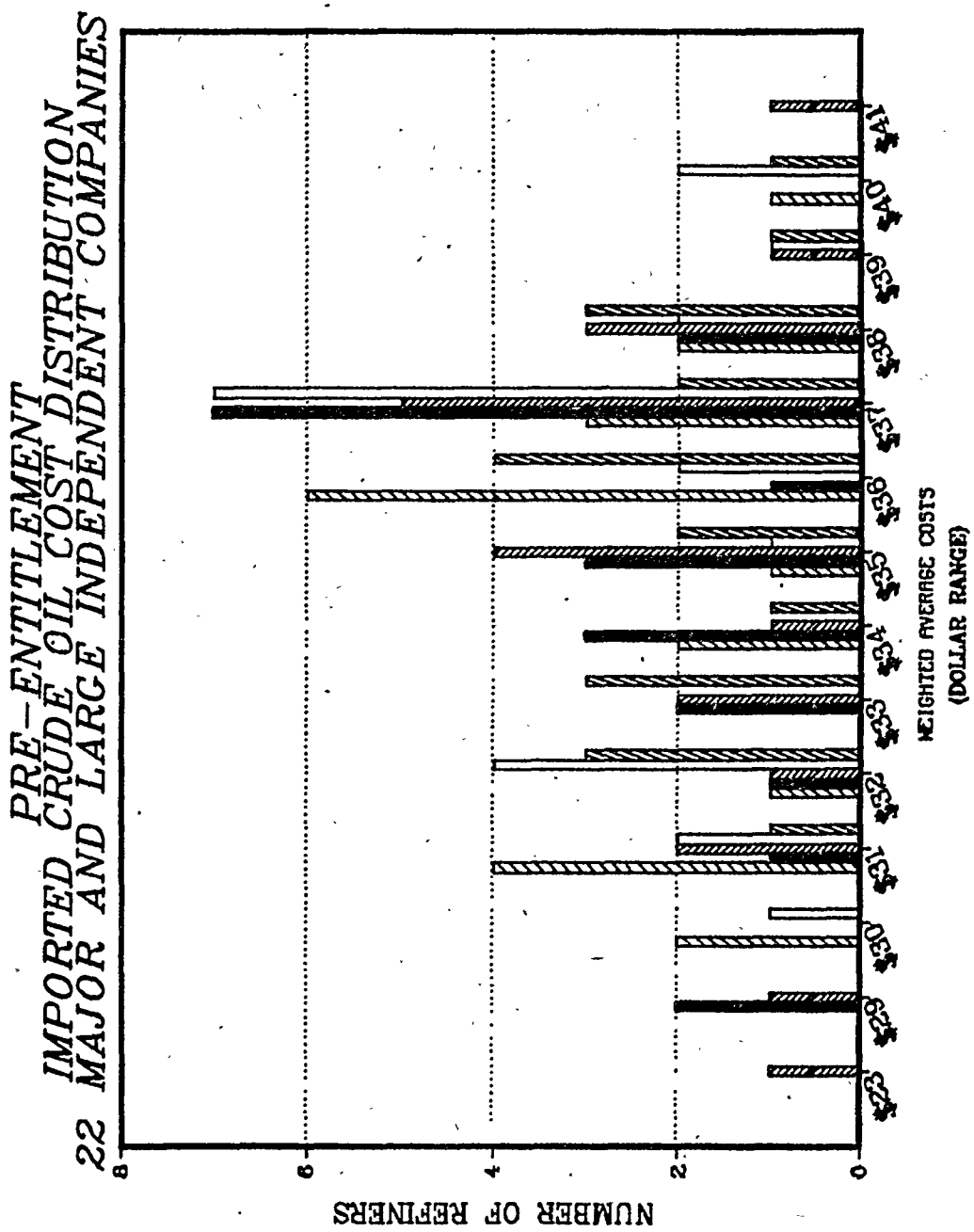


TABLE III

PAGE 1

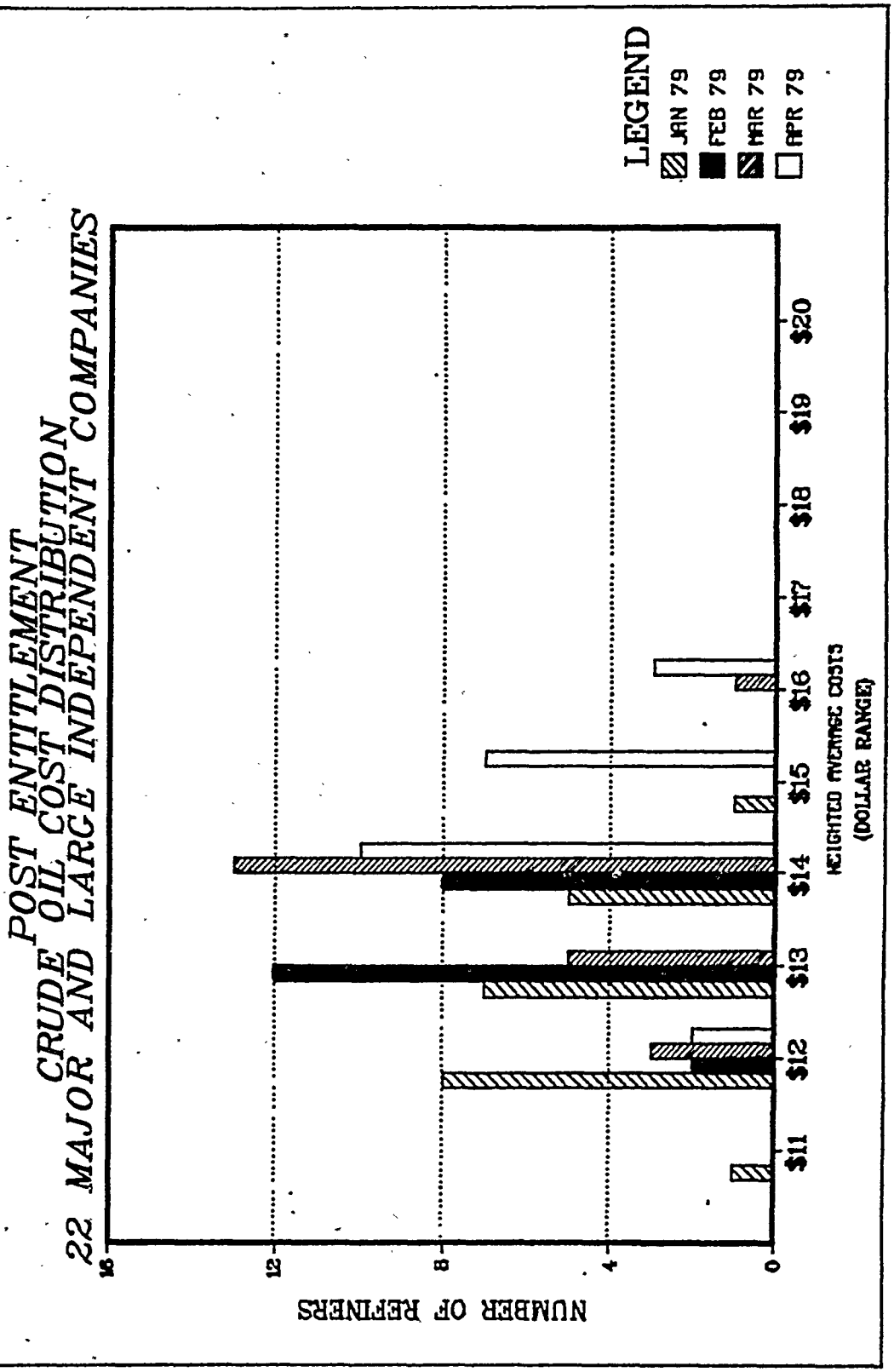
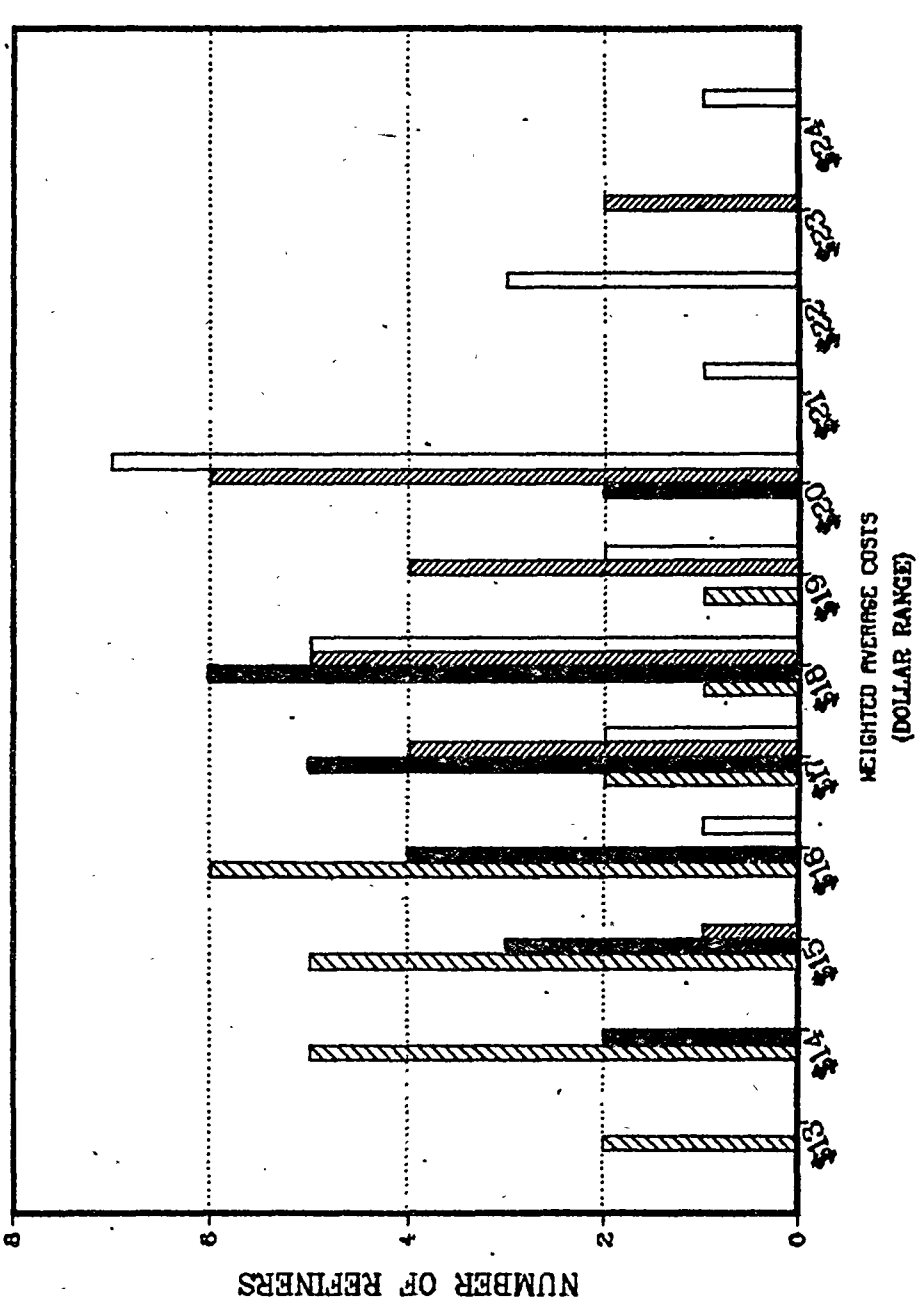


TABLE III

PAGE 2

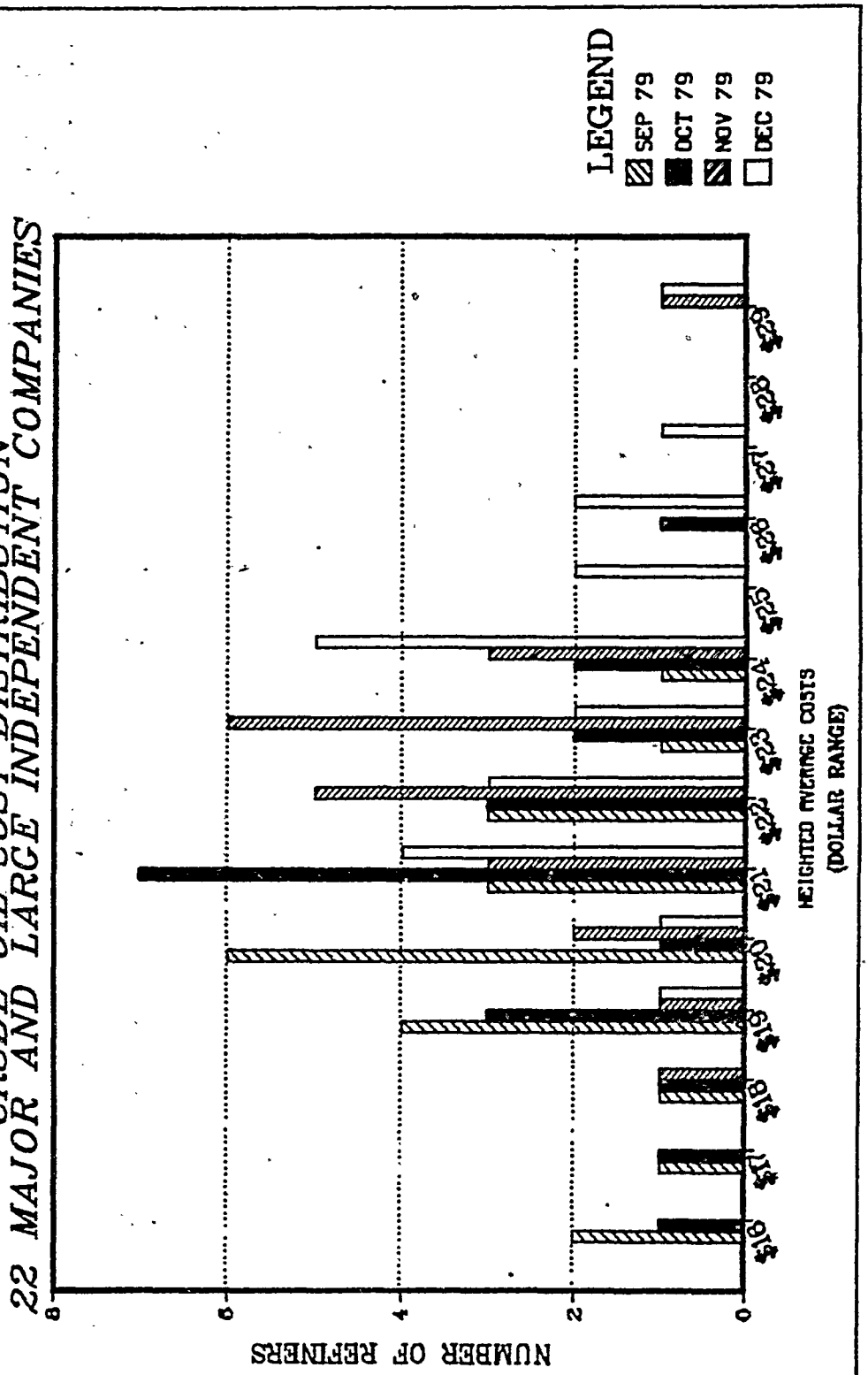
POST ENTITLEMENT
CRUDE OIL COST DISTRIBUTION
22 MAJOR AND LARGE INDEPENDENT COMPANIES



PAGE 3

TABLE III

POST ENTITLEMENT
CRUDE OIL COST DISTRIBUTION
22 MAJOR AND LARGE INDEPENDENT COMPANIES



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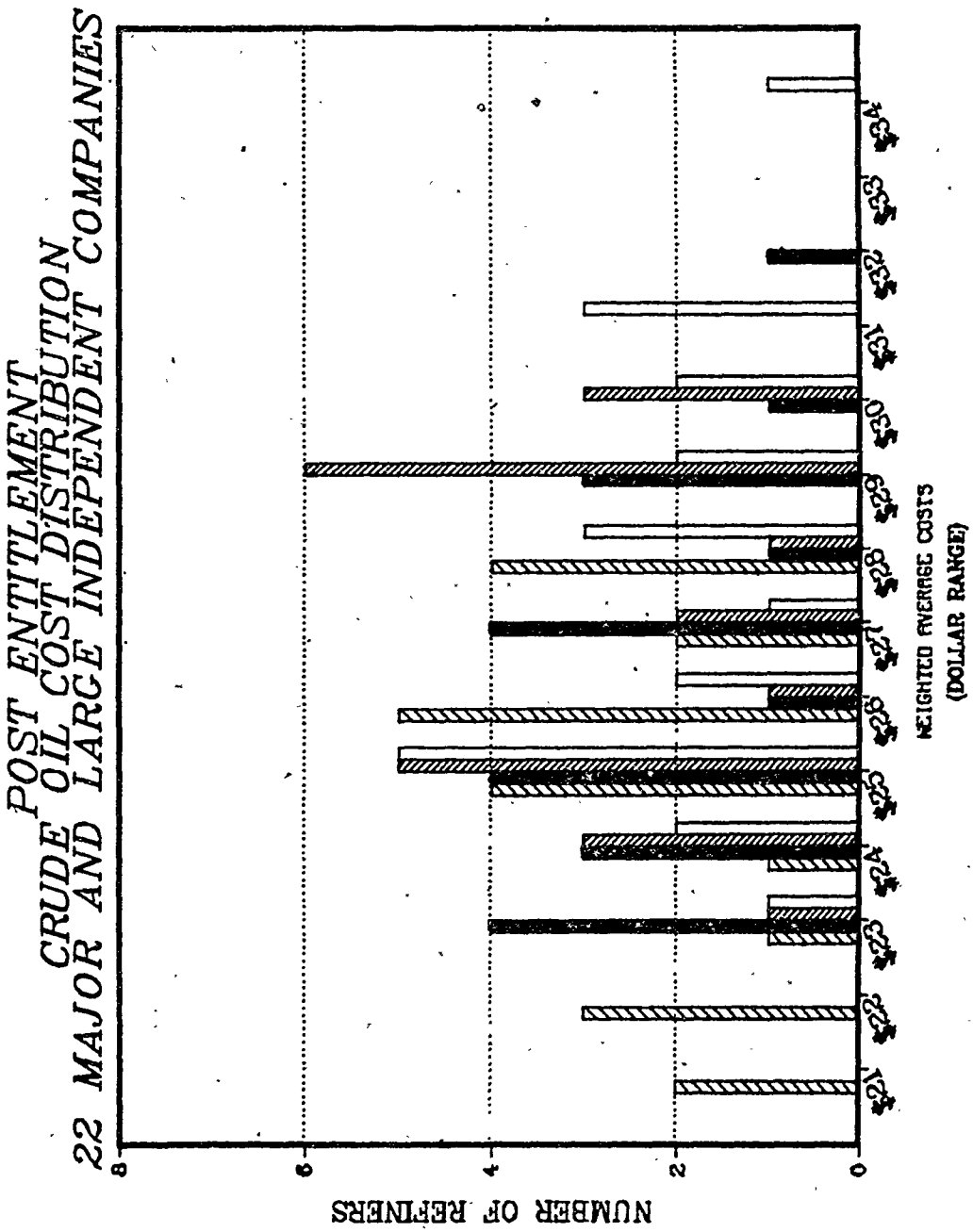
PAGE 4



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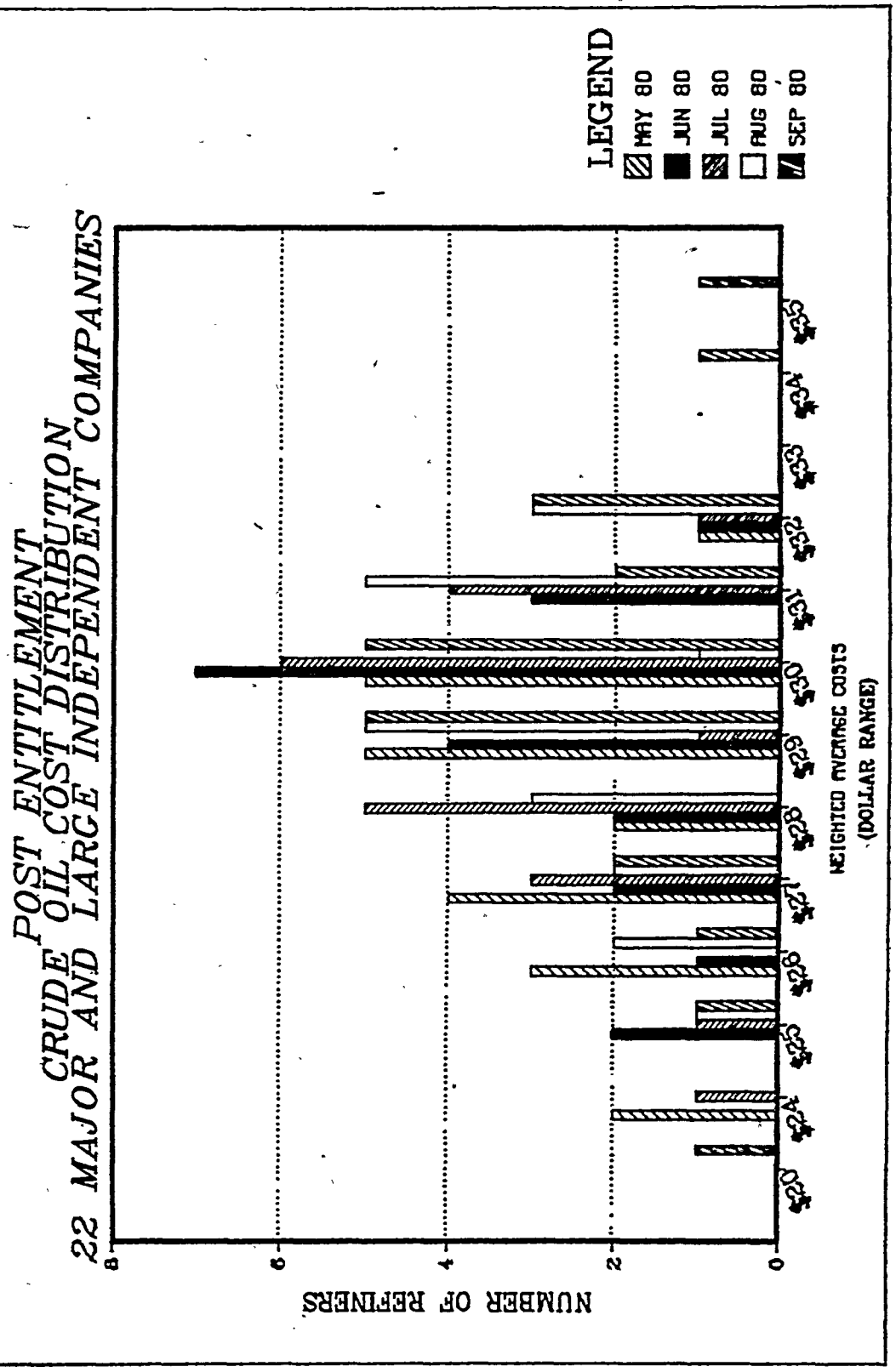

[FR Doc. 80-38706 Filed 12-12-80; 8:45 am]
BILLING CODE 6450-01-C

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Economic Regulatory Administration of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the months of September and October 1980. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;
2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;
3. Properly maintain records required under the aforementioned regulations; and
4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Robert H. Burch, Management Analyst, U.S. Department of Energy, Southeast District, ERA, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, telephone number (404) 881-2396.

Issued in Atlanta, Georgia on the 28th day of November 1980.

James C. Easterday,
District Manager.

Concurrence:

Leonard F. Bittner,
Chief Enforcement Counsel.

Consent Orders Issued, Southeast District, September and October 1980

Station	Address	Issue date	Highest cents per gallon violation	Total violation and penalty
S.A. Chevron	3851 S.W. College Rd., Ocala, FL 32671	8/25/80	4.0	170.00
Cash's Chevron Service	3936 Newberry Road, Gainesville, FL 32607	8/27/80	.6	100.00
City Hall Chevron	145 Orange Avenue, Daytona Beach, FL 32014.	9/12/80	7.6	493.00
Downtown Chevron	27 San Marco Avenue, St. Augustine, FL 32084.	9/16/80	2.9	515.00
Leo's Chevron Service	819 N. Lake Boulevard, N. Palm Beach, FL 33408.	9/12/80	1.2	100.00
Sea Mist Marina	743 NE 1st Avenue, Boynton Beach, FL 33435.	9/12/80	15.2	460.00
Fleming Union 76	2915 W. Highway 98, Panama City, FL 32401.	10/9/80	.7	100.00
Sun Harbor Marina	5505 W. Highway 98, Panama City, FL 32401.	10/9/80	5.2	500.00
Oakland Sunoco	901 W. Oakland Blvd., Ft. Lauderdale, FL 33311.	10/16/80	1.8	100.00
Auto Diesel Truck Stop	9101 W. Okeechobee Road, Hialeah Gardens, FL 33016.	10/15/80	8.0	244.00
Rodriquez Mobil	10260 N.W. 7th Avenue, Miami, FL 33168	10/15/80	2.1	100.00
M & G Chevron	999 W. Marietta St. NW., Atlanta, GA 30318	8/27/80	11.2	700.00
Piedmont-Ponce de Leon Std	180 Ponce de Leon, Atlanta, Georgia	9/10/80	7.5	124.00
Courtland Gulf	288 Courtland, Atlanta, GA 30303	9/18/80	7.1	100.00
Teddy's Std Svc	600 Bonaventure Avenue, Atlanta, GA 30306.	9/18/80	14.5	1,400.00
Holiday Inn Gulf	I-75 and S.R. 94, Valdosta, GA 31601	9/17/80	1.9	200.00
Ashburn Phillips 66	I-75 and Hwy 112, Ashburn, GA 31714	9/17/80	1.4	100.00
Bankhead Std	660 Ashby St. NW., Atlanta, GA 30318	9/29/80	7.4	380.00
Universal Garage	1161 Peachtree St. NE., Atlanta, GA 30309	10/9/80	4.3	100.00
Burk's 66	Route 4, Box 66, McDonough, GA 30253	10/22/80	2.7	100.00
Lan-Mar Marina	Route 2, Box 404, Gainesville, GA 30501	10/7/80	1.3	133.00
Grider Hill Boat Dock	Route 4, Albany, KY 42602	9/10/80	.8	100.00
Guist Creek Boat Dock	Route 3, Shelbyville, KY 40065	9/8/80	48.2	264.80
Lake Cumberland State Dock	P.O. Box 21, Jamestown, KY 42629	9/11/80	8.1	184.20
Idlewild Exxon	5541 E. Indep. Blvd., Charlotte, NC 28212	11/3/80	4.0	400.00
Cove Lake Center Amoco	U.S. 25 W and I-75, Caryville, TN 37714	8/22/80	.6	100.00
Matlocks Union 76	3150 S. Perkins, Memphis, TN 38118	9/15/80	6.8	1,000.00
Ford's Amoco Svc	2118 Country Drive, Petersburg, VA 23803	9/9/80	5.1	100.00
Lake Wright Exxon	5716 Northamption Blvd., Virginia Beach, VA 23455.	9/25/80	3.0	100.00

[FR Doc. 80-38843 Filed 12-12-80; 8:45 am]
BILLING CODE 6450-01-M

Hertz Corp., Rent-A-Car Division; Proposed Compliance Plan; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Hertz Corporation, Rent-A-Car Division; Proposed Compliance Plan; Correction.

On November 28, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy announced that the Hertz Corporation, Rent-A-Car Division (Hertz) and ERA had agreed to a Compliance Plan (Plan) which would bring Hertz into compliance with the DOE's Mandatory Petroleum Price Regulations for motor gasoline, and further provided an opportunity for public comment on the Plan (45 FR 79142, November 28, 1980).

That Federal Register Notice found at 45 FR 79142 announcing the Hertz Plan is hereby corrected to delete all references in the Notice to the Plan as being "proposed."

Issued in Washington, D.C., on the 8th day of December 1980.

Robert D. Gerring,
Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 38844 Filed 12-12-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Docket No. TA81-1-1-001]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

December 10, 1980.

Take notice that on December 1, 1980, Alabama-Tennesee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Thirty-Fourth Revised Sheet No. 3-A
First Revised Sheet No. 3-B
Second Revised Sheet No. 30-H
Alternate Thirty-Fourth Revised Sheet No. 3-A

These tariff sheets are proposed to become effective January 1, 1981.

Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the proposed changes in the rates of its suppliers, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. and Sun Gas Company. Alabama-Tennessee states that the rate changes have been made in conformity with the PGA and related provisions of its tariff. Alternate Thirty-Fourth Revised Sheet No. 3-A is proposed to be made effective in the event that the

Commission rejects Thirty-Fourth Revised Sheet No. 3–A.

The tariff sheets provide for the following rates:

Rate schedule	Rate after current adjustment	
	34th Rev. 3–A	>Alternate 34th Rev. 3–A
G–1		
Demand	$2.34	$2.34
Commodity	389.15	288.40
SG–1 Commodity	306.25	305.50
I–1: Commodity	296.83	296.08

First Revised Sheet No. 3–B shows that no estimated incremental pricing surcharges are contemplated during the period the rates are to be in effect. The Second Revised Sheet No. 36–H contains a new paragraph (e) which, it is stated, will allow Alabama-Tennessee to eliminate the separate adjustment heretofore made under Section 22 of its FPC Gas Tariff as long as Alabama-Tennessee is not under curtailment from its suppliers and not receiving or giving curtailment credits. Alabama-Tennessee states that unless the separate adjustment is eliminated, as provided in paragraph (e), it will serve only to create successive over and under adjustments of previous balances, *ad infinitum*.

Alabama-Tennessee further states that, in the event that the Second Revised Sheet No. 36–H is rejected by the Commission, Alabama-Tennessee has included with this filing Alternate Thirty-Fourth Revised Sheet No. 3–A which will supersede the First Substitute Thirty-Third Sheet No. 3–A. Alternate Thirty-Fourth Revised Sheet No. 3–A contains the same Section 20 adjustments which are on the Thirty-Fourth Revised Sheet No. 3–A plus the Section 22 adjustments which will be necessary in the event of the rejection of the Second Revised Sheet No. 36–H. Computations of the derivation of the Section 22 adjustments are also included.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38758 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-20-000]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Gas Research Institute Charge Adjustment Provision

December 10, 1980.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on November 26, 1980, tendered for filing 54th Revised Sheet No. 10, 13th Revised Sheet No. 10–A, and 1st Revised Sheet No. 20–H to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that the purpose of this filing is to include in its rates the Gas Research Institute ("GRI") surcharge as authorized by Opinion No. 96 for GRI funding of $0.0056 per Mcf, adjusted to $0.0054 per MMBtu, to reflect Algonquin Gas' Btu billing arrangements.

Algonquin Gas states the GRI surcharge is applicable to billing under its Rate Schedule F–1, WS–1, I–1, E–1, and SNG–1.

Algonquin Gas proposes that the effective date of the revised tariff sheets be January 1, 1981, as authorized by Opinion No. 96.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38759 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3450]

Beaver Falls Municipal Authority; Application for Preliminary Permit

December 8, 1980.

Take notice that Beaver Falls Municipal Authority (Applicant) filed on September 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3450 to be known as Eastvale Project located on the Beaver River in Beaver County, Pennsylvania and owned by Beaver Falls Municipal Authority. Correspondence with the Applicant should be directed to: Charles M. Andrews, Manager, Beaver Falls Municipal Authority, 1425 Eighth Avenue, Beaver Falls, Pennsylvania 15010.

Project Description.—The proposed run-of-the-river project would utilize existing facilities and would consist of: (1) An existing dam of rock filled timber cribs and concrete construction which is approximately 13-feet high and 500-fee long; (2) a reservoir with negligible pondage; (3) a headrace on the left bank which is blocked and would be repaired; (4) a powerhouse which would be restored and would contain units having an installed capacity between 2,900 kW and 5,300 kW; (5) a tailrace; (6) a new transmission line; and (7) appurtenant facilities. Applicant estimates the annual generation would average about 24,000,000 kWh.

Purpose of Project.—Project energy will be used at Applicant's water treatment facilities and by other public services. Excess power will be sold to industry in the project area.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time

it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for a FERC license. Applicant estimates the cost of the studies under the permit would be between $30,000 and $55,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended,* 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in acordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3450. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38760 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3451]

Beaver Falls Municipal Authority; Application for Preliminary Permit

December 8, 1980.

Take notice that Beaver Falls Municipal Authority (Applicant) filed on September 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3451 to be known as Townsend Project located on the Beaver River in Beaver County, Pennsylvania and owned by the Beaver Falls Municipal Authority. Correspondence with the Applicant should be directed to: Charles M. Andrews, Manager, Beaver Falls Municipal Authority, 1425 Eighth Avenue, Beaver Falls, Pennsylvania 15010.

Project Description—The proposed run-of-the-river project would utilize abandoned hydropower facilities of the Old Beaver Valley Water Company and would consist of: (1) An existing dam of rock filled timber cribs and concrete casing construction which is approximately 17-feet high and 450-feet long; (2) a reservoir with negligible pondage; (3) head gate (to be replaced) on the left river bank; (4) a headrace which would be restored; (5) penstocks which would be rehabilitated or replaced; (6) a powerhouse which would be rehabilitated or reconstructed and would contain units having an installed capacity of between 4,000 kW and 7,500 kW; (7) tailrace which would be restored; (8) a new transmission line; and (9) appurtenant facilities. Applicant estimates the annual generation would average about 33,000,000 kWh.

Purpose of Project—Project energy would be utilized at Applicant's I. S. Sahli Water Plant located one-half mile southeast of project and by other municipal services. Any surplus energy would be sold to the Townsend Industrial Park located nearby.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for a FERC license. Applicant estimates the cost of the studies under the permit would be between $30,000 and $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protests", or "Petition To Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3451. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38781 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-55-000]

Blue Dolphin Pipe Line Co.; Application

December 1, 1980.

Take notice that on November 13, 1980, Blue Dolphin Pipe Line Company (Applicant), P.O. Box 2099, Houston, Texas 77001, filed in Docket No. CP81-55-000 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 Natual Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Natural has obtained purchase rights to gas produced by Texome Production Company from Galveston Block 245, offshore Texas. Applicant states that Natural would deliver the gas to it at a connection at an existing subsea tap on Applicant's pipeline in Galveston Block 273, offshore Texas. Applicant assets it would redeliver the gas to Natural onshore at the downstream connection of a meter run installed by Applicant at the terminus of Applicant's pipeline adjacent ot Dow Chemical Company's "B" plant near Freeport, Texas, by delivering the gas to Dow Pipeline Company for the account of Natural.

Applicant states that it has entered into a tranportation agreement with Natural for a primary term extending until June 30, 1985, and that during the first three years Applicant estimates it would transport approximately 19,938,000 Mcf for Natural. Applicant states it would charge Natural 8.5 cents per Mcf for the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 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 ot 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 files, 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. 38782 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EC81-1-000]

Boston Edison Co., et al.; Filing

December 8, 1980.

The filing company submits the following:

Take notice that on November 20, 1980, Boston Edison Company, The United Illuminating Company, Public Service Company of New Hampshire, Cambridge Electric Light Company, and Central Vermont Public Service Corporation (Applicants) filed a joint application each seeking authority pursuant to Section 203 of the Federal Power Act to acquire a portion of a proposed issue of up to $40,000,000 principal amount of debt securities of Connecticut Yankee Atomic Power Company.

Applicants propose to acquire the debt securities pursuant to Five-Year Capital Contribution Agreements in proportion to their respective percentages of ownership of Connecticut Yankee's common stock, and the capacity and output of the Connecticut Yankee nuclear electric generating plant being purchased by them. Such percentages and the maximum amount of the debt securities to be purchased by Applicants are as follows: Boston

Edison Company, 9.5%, $3,800,000; Public Service Company of New Hampshire, 5.0%, $2,000,000; Cambridge Electric Light Company, 4.5%, $800,000, and Central Vermont Public Service Corporation, 2.0%, $800,000.

The net proceeds from the issue of the debt securities will be used to finance Connecticut Yankee's capital requirements and to repay short-term borrowings.

The debt securities would consist of notes subordinated to payment of all other borrowings of Connecticut Yankee and to any obligations under a fuel trust or similar arrangement, in the event of bankruptcy or default on any such other borrowings or obligations. The debt securities will mature on January 1, 1998, and will bear interest at a rate per annum equal to 1½% in excess of the prime rate in effect from time to time at The Connecticut Bank & Trust Company, Hartford, Connecticut.

Copies of this filing have been served on the Connecticut Department of Public Utility Control, the Massachusetts Department of Public Utility, the Vermont Public Service Board, the New Hampshire Public Utilities Commission, the Maine Department of Public Utility Regulation, and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38763 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1927-000]

Clifford L. Greenwalt; Filing

December 9, 1980.

Take notice that on November 28, 1980, Clifford L. Greenwalt submitted an application, pursuant to Section 305(b) of the Federal Power Act, to hold the following positions:

Senior Vice-President of Operations, CIPS, Public Utility.

Director, EEI, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38764 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 9, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia) on November 18, 1980, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective January 1, 1981.

Sixty-fourth Revised Sheet No. 16.
Twelfth Revised Sheet No. 16A.

Columbia Gas states that the aforementioned tariff sheets are being filed to reflect an increase in the GRI funding unit from .48¢ per Mcf to .56¢ per Mcf as authorized by Opinion No. 96 issued by the Federal Energy Regulatory Commission on September 30, 1980, at Docket No. RP80-108. Ordering Paragraph B of such Opinion approved the GRI funding requirement for the year 1981 and provides members of GRI may collect from their applicable customers a general R, D & D funding unit of .56¢ per Mcf during 1981 for payment to GRI.

Copies of this filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38765 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-16-000]

Colorado Interstate Gas Co.; Proposed Change in Tariff

December 10, 1980.

Take notice that Colorado Interstate Gas Company (CIG) on November 25, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1981. First Revised Sheet No. 61E contains a revision of Section 23 which would permit CIG to make cash refunds of the jurisdictional amount of all supplier refunds which are attributable to service provided prior to January 1, 1980. Section 23 in its present form, on Original Sheet 61E, along with § 282.500 of the Commission's Regulations, requires that those supplier refunds received by CIG be distributed to non-exempt users in the form of cash refunds and not credited to CIG's Unrecovered Cost of Purchased Gas account. CIG states that providing for cash refunds, regardless of the exempt or non-exempt status of each user, results in the proper division among CIG's customers of the gas supply refunds attributable to service provided prior to January 1, 1980, and also eliminates the possibility that non-exempt customers could realize an additional refund in the form of reduced rates for gas.

Copies of CIG's filing have been served upon the company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the

appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38768 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-59-000]

Columbia Gas Transmission Corp.; Application

December 9, 1980.

Take notice that on November 18, 1980, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81-59-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 141 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

Columbia Gas of Kentucky, Inc.

6 taps for residential service, 1 tap for commercial service: Estimated annual usage of 1,440 Mcf.

Columbia Gas of Ohio, Inc.

69 taps for residential service, 6 taps for commercial service: Estimated annual usage of 13,260 Mcf.

Columbia Gas of Pennsylvania, Inc.

13 taps for residential service, 1 tap for combined residential and industrial service: Estimated annual usage of 5,140 Mcf.

Columbia Gas of Virginia, Inc.

1 tap for residential service: Estimated annual usage of 150 Mcf.

Columbia Gas of West Virginia, Inc.

38 taps for residential service, 1 tap for commercial service: Estimated annual usage of 6,500 Mcf.

The Dayton Power and Light Company

5 taps for residential service: Estimated annual usage of 900 Mcf.

Applicant estimates the average cost of an interconnecting facility to be $300. It is further estimated that the total cost of the interconnections proposed herein is $42,432 which would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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 duly be 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. 80-38767 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-145-000]

Commonwealth Edison Co.; Filing

December 9, 1980.

The filing Company submits the following:

Take notice that Commonwealth Edison Company on November 28, 1980, tendered for filing Amendment No. 1 to the Interconnection Agreement dated as of July 1, 1979 between Commonwealth Edison Company, Commonwealth Edison Company of Indiana and Northern Indiana Public Service Company.

Amendment No. 1 provides for the inclusion in Service Schedule D-Short Term Power of provisions for the implementation of daily short term power transactions between the Companies.

Copies of the filing were served upon Northern Indiana Public Service Company, Commonwealth Edison Company of Indiana, the Public Service Commission of Indiana, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38768 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-22-000]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on November 26, 1980, tendered for filing, pursuant to Section 13.5 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1 and Ordering Paragraph (B) of Opinion No. 96 in Docket No. RP80-108, issued September 30, 1980, Twenty-Third Revised Sheet No. 16. The revised tariff sheet, proposed to be effective January 1, 1981, reflects the Gas Research Institute's 1981 funding unit of 0.56¢ per Mcf (0.54¢ per dt).

While Consolidated believes no waivers are necessary, Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheet to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38769 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-16-000]

Consumers Power Co.; Application

December 9, 1980.

Take notice that Consumers Power Company ("Consumers") on December 3, 1980, filed its Application for Authority to issue short-term notes aggregating $175,000,000 dated December 31, 1980, which will mature on December 31, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38770 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EC81-2-000]

Consumers Power Co.; Application

December 9, 1980.

The filing company submits the following:

Take Notice that Consumers Power Company ("Consumers Power") has submitted an application pursuant to Section 203(a) of the Federal Power Act for authorization to sell an undivided ownership interest to Northern Michigan Electric Cooperative, Inc. not to exceed 24 percent and an undivided ownership interest to Wolverine Electric Cooperative, Inc. not to exceed 12 percent in Consumers Power's 345 kV double circuit transmission line extending from the Campbell 345 kV Substation to the Palisades-Tallmade 345 kV transmission line. The transmission line which is the subject of this application extends from Ottawa County, Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38771 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 332]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 9, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
**********								
OHIO DEPARTMENT OF NATURAL RESOURCES								
**********								
*ALSID OIL & GAS DEVELOPMENT CO					RECEIVED: 11/25/80 JA: OH			
8106777		3407522350	103		COOL #1		15.0	
*ALTHEIRS OIL INC					RECEIVED: 11/25/80 JA: OH			
8106748		3410521947	103		RAYMOND FOWLER #1	RUTLAND TWP	5.0	COLUMBIA GAS TRANS C
*APPALACHIAN EXPLORATION INC					RECEIVED: 11/25/80 JA: OH			
8106680		3415721345	108		FOUTS #1		16.0	EAST OHIO GAS CO
8106681		3415721586	108		FOUTS #2		15.0	EAST OHIO GAS CO
*ATLAS ENERGY GROUP INC					RECEIVED: 11/25/80 JA: OH			
8106715		3413322341	103		E EVERETT NO 1 - #0896	DEERFIELD	11.0	EAST OHIO GAS CO
8106698		3413322362	103		FOLK NO 1 #2801	ATWATER	0.0	EAST OHIO GAS CO
8106696		3413322344	103		SAPP UNIT NO 2 #0899	DEERFIELD	0.0	EAST OHIO GAS CO
*BIGL BLAIR INCORPORATED					RECEIVED: 11/25/80 JA: OH			
8106828		3402920776	103		BROWN #1	HOMEWORTH FIELD	2.2	THE EAST OHIO GAS CO
8106827		3402920773	103		JOSEPH & ISABEL CHUMA #1	HOMEWORTH FIELD	35.0	EAST OHIO GAS CO
*BKR PROSPECTING LTD					RECEIVED: 11/25/80 JA: OH			
8106729		3412122331	103		ROBERT SCHUTT #2	ELK	5.0	COLUMBIA GAS TRANSMI
*BROWN STEEL CO					RECEIVED: 11/25/80 JA: OH			
8106738		3411923611	103	D	CLYDE E WATSON #1	PERRY	80.0	
*BUCKEYE OIL PRODUCING CO					RECEIVED: 11/25/80 JA: OH			
8106784		3409920135	108		R H SOEHM #1		18.0	EAST OHIO GAS CO
8106653		3416921988	108		REINHEIMER 30 #1		2.0	BERMAN SHAFER OPERAT
*C & D PRODUCING					RECEIVED: 11/25/80 JA: OH			
8106811		3405921158	108		SARAH B MOORE #1		4.0	EAST OHIO GAS CO
*CHANSE PETROLEUM CORP					RECEIVED: 11/25/80 JA: OH			
8106843		3400721378	103		A & H CLARK #1		4.0	
8106842		3400721280	103		HAROLD G CARTER #2		3.7	
*CLINE OIL & GAS CO					RECEIVED: 11/25/80 JA: OH			
8106673		3416723787	108		DOUGHERTY #1		6.0	RIVER GAS CO
8106670		3416723444	108		LANE #1		2.0	RIVER GAS CO
8106665		3416724356	108		STRECKER #2		3.0	RIVER GAS CO
8106667		3416721300	108		WYNN #1		5.0	RIVER GAS CO
8106661		3416724167	108		WYNN #2		6.0	RIVER GAS CO
*CLINTON OIL CO					RECEIVED: 11/25/80 JA: OH			
8106707		3412724809	103		J WILSON #3	CLAYTON	2000.0	
*DORFMAN PRODUCTION CO					RECEIVED: 11/25/80 JA: OH			
8106769		3409921005	103		BATES NO 4	DAMASCUS	4.9	DAMASCUS GAS CO
8106771		3409921026	103		C HALMSBERRY NO 3	DAMASCUS	2.0	DAMASCUS GAS CO
8106768		3409920991	103		COURTNEY NO 2	DAMASCUS	7.9	DAMASCUS GAS CO
8106772		3409921032	103		COURTNEY NO 3	DAMASCUS	7.9	DAMASCUS GAS CO
8106762		3409921196	103		COURTNEY NO 4	DAMASCUS	7.9	DAMASCUS GAS CO
8106785		3409920500	103		E HALMSBERRY NO 4	DAMASCUS	2.5	DAMASCUS GAS CO

JC NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106767		3409920990	103		MYERS CARR NO 2	DAMASCUS	7.8	DAMASCUS GAS CO
8106774		3409921098	103		MYERS CARR NO 3	DAMASCUS	7.8	DAMASCUS GAS
8106773		3409921097	103		MYERS CARR NO 4	DAMASCUS	7.8	DAMASCUS GAS CO
8106775		3409921099	103		WARREN NO 2	DAMASCUS	8.9	DAMASCUS GAS CO
8106766		3409920989	103		WILCOX NO 3	DAMASCUS	5.0	DAMASCUS GAS CO
*DRILLERS PETROLEUM CORP					RECEIVED: 11/25/80 JA: OH			
8106728		3412122249	103		DUANE & SUE MANTEL #2	JEFFERSON	30.0	
*ENERGY DEVELOPMENT CORP					RECEIVED: 11/25/80 JA: OH			
8106844		3400721413	103		SAWICKI #3		25.0	EAST OHIO GAS CO
*ENTERPRISE GAS & OIL INC					RECEIVED: 11/25/80 JA: OH			
8106826		3401921289	103		CLARK-MORRISON #6-E		36.5	EAST OHIO GAS CO
*FORAKER PRODUCING COMPANY INC					RECEIVED: 11/25/80 JA: OH			
8106724		3412724640	103		#3 SHERRICK	HARRISON	8.0	
8106706		3412724654	103		DEROLPH #1	HOPEWELL	8.0	
8106721		3412724502	103		F TAYLOR #1	CLAYTON	0.0	
8106740		3411924979	103		G MOORE #2	NEWTON	0.0	
8106742		3411925118	103		GRAHAM-MOODY #1	NEWTON	0.0	
8106716		3412724408	103		J SMITH #1	HARRISON	0.0	
8106739		3411924553	103		MCCAULEY #1	NEWTON	8.0	
8106723		3412724526	103		MCNULTY #3	HARRISON	0.0	
8106717		3412724449	103		PEABODY-LEWIS #6	HARRISON	0.0	
8106718		3412724450	103		PEABODY-LEWIS-MCELWEE #2	HARRISON	0.0	
8106722		3412724503	103		PENROD #1	HARRISON	0.0	
8106735		3412724399	103		SHERRICK #1	HARRISON	0.0	
8106720		3412724501	103		SHERRICK #2	HARRISON	0.0	
8106734		3412724390	103		WOLTZ #1	CLAYTON	0.0	
8106719		3412724490	103		WOLTZ #2	CLAYTON	0.0	
8106725		3412724648	103		WOLTZ #3	CLAYTON	0.0	
*G W F CORP					RECEIVED: 11/25/80 JA: OH			
8106796		3407321018	103		D LEE RUTHERFORD #1	RUTHERFORD	0.0	
*GASEARCH INC					RECEIVED: 11/25/80 JA: OH			
8106679		3415521922	103		SCOTT #1	VIENNA	20.0	
*GREEN GAS COMPANY					RECEIVED: 11/25/80 JA: OH			
8106810		3405921129	108		ARCHIE W & MILDRED M GOODWILL #1		0.0	EAST OHIO GAS CO
8106813		3405922735	103		JOHN BRANIGER #1		1.7	EAST OHIO GAS CO
*H G SPILLER					RECEIVED: 11/25/80 JA: OH			
8106676		3415520524	103		KARPOWICZ NO 1	CHAMPION	50.0	
8106677		3415520525	103		KARPOWICZ NO 2	CHAMPION	50.0	
*HOPCO RESOURCES INC					RECEIVED: 11/25/80 JA: OH			
8106743		3411925132	103		FAIRALL #1	JACKSON	12.0	NATIONAL GAS & OIL
8106744		3411925147	103		GRAHAM #1-C	JACKSON	12.0	NATIONAL GAS & OIL C
8106741		3411925098	103		MCCANN #1	LICKING	12.0	COLUMBIA GAS TRANSMI
8106727		3411925240	103		MILLER #2		12.0	COLUMBIA GAS TRANSMI
8106726		3411925236	103		PIEPER #1	MUSKINGUM	0.0	COLUMBIA GAS TRANSMI
*J D DRILLING CO					RECEIVED: 11/25/80 JA: OH			
8106750		3410521981	103		ALVIN BARNETT #1	SALISBURY	3.0	COLUMBIA GAS TRANSMI
8106751		3410521982	103		ALVIN BARNETT #2	SALISBURY	3.0	COLUMBIA GAS TRANSMI
8106806		3405320523	103		LEXIE EASTON #1		3.0	COLUMBIA GAS TRANSMI
8106825		3405320468	103		WALTER KALINOLOSKI #1		3.0	COLUMBIA GAS TRANSMI
*J H SEAL ASSOCIATES INC					RECEIVED: 11/25/80 JA: OH			
8106685		3416320445	103		F BRAY NO 1	SWAN	30.0	COLUMBIA GAS TRANSMI
8106666		3416320446	103		F BRAY NO 2	SWAN	30.0	COLUMBIA GAS TRANSMI

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106682		3416320416	103		R HOY NO 1	SWAN	30.0	COLUMBIA GAS TRANSMI
8106683		3416320419	103		T JOHNSTON NO 1	SWAN	30.0	COLUMBIA GAS TRANSMI
=JAMES I SHEARER					RECEIVED: 11/25/80 JA: OH			
8106837		3400720192	108		HELEN L WOHLGAMUTH #1		1.0	EAST OHIO GAS CO
=JERRY C OLDS					RECEIVED: 11/25/80 JA: OH			
8106818		3403124035	103		PHILLIPS #1		15.0	
=JOHN C MARON					RECEIVED: 11/25/80 JA: OH			
8106817		3403123968	103		JOHN MASON ETAL #2		15.0	NATIONAL GAS CO
8106816		3403123759	103		RACHEL EHRICH #1		24.0	CINCINNATI GAS & ELE
=K & T OIL & GAS CO INC					RECEIVED: 11/25/80 JA: OH			
8106691		3415320860	103		BLANKENSHIP #1	NORTHAMPTON	22.0	
8106693		3415320864	103		CUNNINGHAM #3	HUDSON	13.0	
8106692		3415320863	103		CUNNINGHAM #4	HUDSON	16.0	
8106678		3415321331	103		GRAND VALLEY #3	BLOOMFIELD	17.0	
8106695		3415320885	103		GRETHER #1	NORTHAMPTON	20.0	
8106694		3415320865	103		NORTHAMPTON BOARD OF TRUSTEES #1	NORTHAMPTON	30.0	
8106689		3415320774	103		QUICK #2	BOSTON	15.0	
8106690		3415320775	103		QUICK-ARMINGTON #1	BOSTON	15.0	
=L & M OPERATING INC					RECEIVED: 11/25/80 JA: OH			
8106651		3416724643	108		ALBERT BOSNER (B-3)		12.8	GAS TRANSPORT INC
8106659		3416724126	108		CARL AYERS #1		12.8	GAS TRANSPORT INC
8106664		3416724316	108		CECIL ARNOLD #1		12.8	GAS TRANSPORT INC
8106656		3416724094	108		DAVID ARCHER #1		12.8	GAS TRANSPORT INC
8106663		3416724220	108		DEAN DOEBERIENER #1		12.8	GAS TRANSPORT INC
8106662		3416724201	108		ED BARNES #1		12.8	GAS TRANSPORT INC
8106657		3416724097	108		J A HEISS #1		12.8	GAS TRANSPORT INC
8106658		3416724114	108		JAMES BAUERBACH #1		12.8	GAS TRANSPORT INC
8106660		3416724147	108		JAMES FARLEY #1		12.8	GAS TRANSPORT INC
8106675		3416723979	108		JOHN HENDERSHOT #1		12.8	GAS TRANSPORT INC
=LAKE REGION OIL INC					RECEIVED: 11/25/80 JA: OH			
8106764		3410322325	103		JAMES & PERIANNE ST VINCENT #1		10.0	COLUMBIA GAS TRANSMI
=LARRY H WRIGHT INC					RECEIVED: 11/25/80 JA: OH			
8106845		3400921901	108		MARK GRUEBER #1		1.0	COLUMBIA GAS TRANSMI
8106747		3410521795	108		MAX GRUEBER #1		1.0	COLUMBIA GAS TRANSMI
=LIBERTY OIL & GAS CORP					RECEIVED: 11/25/80 JA: OH			
8106749		3410521970	103		PAUL NUTTER #1	ORANGE	17.0	COLUMBIA GAS TRANSMI
=MERIDIAN OIL & GAS ENT INC					RECEIVED: 11/25/80 JA: OH			
8106838		3400720693	108		CLARA M BYRD #1		21.0	EAST OHIO GAS CO
8106839		3400720967	108		FRANK P PRIHIANO JR #2		12.0	EAST OHIO GAS CO
8106841		3400720968	108		J G FLEMING #1		5.0	EAST OHIO GAS CO
8106840		3400720829	103		LLEWYLLEN R COX #1		0.5	JONES & LAUGHLIN STE
=MINUTEMAN EXPLORATION COMPANY					RECEIVED: 11/25/80 JA: OH			
8106754		3411521712	108		ROBERTS #1		2.9	EAST OHIO GAS CO
=MITCHELL ENERGY CORPORATION					RECEIVED: 11/25/80 JA: OH			
8106815		3406720382	103		BIRNEY FARMS #1-41	CLINTON SAND	30.0	
=NEW FRONTIER EXPLORATION INC					RECEIVED: 11/25/80 JA: OH			
8106701		3415123193	103		BRUCKNER-CRUM UNIT #1	MINISHILLEN	32.0	
8106700		3415123192	103		FYLE-SHIFT UNIT #1	WASHINGTON	30.0	
8106702		3415123263	103		ROBERT FERO UNIT #3	USNAVURG	28.0	
8106812		3405922563	103		WILLIAM ENOS #2		30.0	
=NOBLE OIL CORP					RECEIVED: 11/25/80 JA: OH			
8106709		3413321110	103		GOURLEY-ELLIOTT UNIT #2	RAVENNA	20.0	GENERAL ELECTRIC CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106697		3413322347	103		HANNA HILLS #4	RAVENNA	20.0	GENERAL ELECTRIC CU
8106713		3413322280	103		KAINRAD #1	PALMYRA	20.0	GENERAL ELECTRIC CU
8106710		3413321614	103		LANGE #1	FREEDOM	20.0	EAST OHIO GAS CO
8106699		3413322366	103		POWERS #2	DEERFIELD	20.0	REPUBLIC STEEL CORP
8106711		3413322063	103		STATE-HARGETT #1	EDINBURG	20.0	GENERAL ELECTRIC CU
8106714		3413322283	103		THOMAS-NOVAK UNIT #1	EDINBURG	20.0	GENERAL ELECTRIC CU
8106712		3413322275	103		VENTURE #4 (PRITCHARD)	HIRAM	20.0	EAST OHIO GAS CO
8106745		3411925212	103		WHEELER #2	HOPEWELL	20.0	NATIONAL GAS & OIL C
-OAK DALE DRILLING CO					RECEIVED: 11/25/80 JA: OH			
8106708		3412724855	103		SOALE #3	COAL	36.0	COLUMBIA GAS TRANSMI
-OHIO TITAN ENERGY LTD 1980-2					RECEIVED: 11/25/80 JA: OH			
8106778		3407522354	103		#4 MELVIN AILLER		750.0	COLUMBIA GAS TRANSMI
-OILTECH INC					RECEIVED: 11/25/80 JA: OH			
8106779		3407522524	103		RAYMOND J AILLER #1		0.0	COLUMBIA GAS TRANSMI
-ORNIG OIL COMPANY					RECEIVED: 11/25/80 JA: OH			
8106819		3405320213	108		R O J CORPORATION NO 1		4.2	COLUMBIA GAS TRANSMI
8106820		3405320214	108		R O J CORPORATION NO 2		4.2	COLUMBIA GAS TRANSMI
8106821		3405320239	108		R O J CORPORATION NO 3		4.2	COLUMBIA GAS TRANSMI
8106822		3405320323	108		R O J CORPORATION NO 4		4.2	COLUMBIA GAS TRANSMI
8106823		3405320325	108		R O J CORPORATION NO 5		4.2	COLUMBIA GAS TRANSMI
8106824		3405320328	108		R O J CORPORATION NO 6		4.2	COLUMBIA GAS TRANSMI
-OXFORD OIL CO					RECEIVED: 11/25/80 JA: OH			
8106831		3403122382	103		HILTON EPPLEY #1		12.0	
8106782		3408923699	103		J W NETHERS #4		12.0	
8106737		3411922960	108		JOHN THRESS UNIT #1		11.0	NATIONAL GAS & OIL C
8106736		3411922819	108		MICHAEL MARTIN UNIT #1		1.5	NATIONAL GAS & OIL C
-PETRO EVALUATION SERVICES INC					RECEIVED: 11/25/80 JA: OH			
8106836		3416922414	103		NIRODE #1		20.0	COLUMBIA GAS TRANSMI
-QUADRANT EXPLORATION					RECEIVED: 11/25/80 JA: OH			
8106652		3416725457	103		C LACY RICE #2	NEWPORT	40.0	
8106654		3416725500	103		EARL & BEULAH CONGLETON #3	LIBERTY	50.0	
-QUAKER STATE OIL REFINING CORP					RECEIVED: 11/25/80 JA: OH			
8106797		3407321678	108		SUNDAY CREEK COAL #1		2.5	COLUMBIA GAS TRANSMI
8106799		3407322182	108		SUNDAY CREEK COAL #27		2.2	COLUMBIA GAS TRANSMI
8106798		3407322098	108		SUNDAY CREEK COAL #8		2.2	COLUMBIA GAS TRANSMI
-RELIANCE MANAGEMENT CO					RECEIVED: 11/25/80 JA: OH			
8106780		3408322721	103		A H ELLIOTT #4		5.0	COLUMBIA GAS TRANSMI
8106733		3412723314	108		DEWEY GILLOGLY #1		8.0	NATIONAL GAS & OIL C
8106752		3411520021	108		ELIZABETH FLOYD #4		3.0	NATIONAL GAS & OIL C
8106753		3411520407	108		HARRY PLETCHER #1		3.5	NATIONAL GAS & OIL C
8106829		3403122189	108		LEWIS & EUNICE ALLEN #1		2.0	COLUMBIA GAS TRANSMI
8106830		3403122275	108		LEWIS & EUNICE ALLEN #2		2.0	COLUMBIA GAS TRANSMI
8106730		3412720411	108		MINERVA HOUGH #2		12.0	NATIONAL GAS & OIL C
8106731		3412721207	108		ROY REAM #1		4.0	NATIONAL GAS & OIL C
8106755		3411900581	108		SHERIDAN SHINGLE #1		3.0	NATIONAL GAS & OIL C
-ROYAL PETROLEUM 80-III					RECEIVED: 11/25/80 JA: OH			
8106809		3405320566	103		ELLIOTT #1		5.0	COLUMBIA GAS TRANSMI
8106807		3405320556	103		FOWBLE #1		5.0	COLUMBIA GAS TRANSMI
8106808		3405320557	103		FOWBLE #2		5.0	COLUMBIA GAS TRANSMI
-SKY PETROLEUM CORP					RECEIVED: 11/25/80 JA: OH			
8106833		3403123702	103		SHAH SHAH & PATEL INVES CORP #7		30.0	
-THE MUTUAL OIL & GAS COMPANY					RECEIVED: 11/25/80 JA: OH			

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
8106801		3407322314	103	LARKIN #1	LARKIN #1	10.0	COLUMBIA GAS
8106800		3407322313	103	LEAMAN #1	LEAMAN #1	10.0	COLUMBIA GAS
-THOMAS L ROHN				RECEIVED: 11/25/80 JA: DH			
8106732		3412723041	108	WILLIAM NOLL #1		0.0	NATIONAL GAS & OIL C
-TRAK GAS & OIL PRODUCERS 1				RECEIVED: 11/25/80 JA: DH			
8106746		3410521758	103	VERNON WEBER #1A	2ND BEREA (LOWER MISSISS	5.0	
-UNITED GAS LINES INC				RECEIVED: 11/25/80 JA: DH			
8106783		3409320946	108	SPITZER-JACKSON #1		0.8	COLUMBIA GAS TRANSMI
-VALENTINE OIL PROPERTIES				RECEIVED: 11/25/80 JA: DH			
8106668		3416722925	108	OLLIE & GOLDIE WAGNER #1		3.2	COLUMBIA GAS TRANSMI
8106684		3416723105	108	OLLIE & GOLDIE WAGNER #2		3.2	COLUMBIA GAS TRANSMI
8106669		3416723174	108	OLLIE & GOLDIE WAGNER #3		3.2	COLUMBIA GAS TRANSMI
-VIKING RESOURCES CORP				RECEIVED: 11/25/80 JA: DH			
8106703		3415123301	103	BATES UNIT #1	LEXINGTON	30.0	
8106704		3415123302	103	BATES UNIT #2	LEXINGTON	30.0	
8106705		3415123303	103	DISIMONE #1	PARIS	30.0	
8106686		3415123307	103	P SLAGLE UNIT #3	PARIS	30.0	
8106687		3415123308	103	P SLAGLE UNIT #4	PARIS	30.0	
8106688		3415123314	103	SAEGER/DEPALAO UNIT #3	PARIS	30.0	
-W E SHRIDER CO				RECEIVED: 11/25/80 JA: DH			
8106781		3408923849	103	MARGUERITE NETHERS #1		3.0	NEHZANE GAS CO
-W R PATTON DRILLING CO				RECEIVED: 11/25/80 JA: DH			
8106776		3407522305	103	THOMAS HUMERCHOUSER #2		39.0	
8106795		3407522233	103	THOMAS HUMRECHOUSER #1		39.0	
-WILLIAM F HILL				RECEIVED: 11/25/80 JA: DH			
8106835		3403123410	108	BAKER #1		18.0	COLUMBIA GAS TRANSMI
8106790		3407521988	108	BARNER #1		14.0	COLUMBIA GAS TRANSMI
8106834		3403123301	108	BECHTOL #1-A		4.0	COLUMBIA GAS TRANSMI
8106803		3407521798	108	E SORENSON #1		4.4	COLUMBIA GAS TRANSMI
8106804		3407521811	108	E SORENSON #2		4.4	COLUMBIA GAS TRANSMI
8106805		3407521818	108	E SORENSON #3		4.4	COLUMBIA GAS TRANSMI
8106786		3407521827	108	E SORENSON #4		4.4	COLUMBIA GAS TRANSMI
8106788		3407521867	108	E SORENSON #5		4.4	COLUMBIA GAS TRANSMI
8106832		3403123004	108	FRANKS #1		9.0	COLUMBIA GAS TRANSMI
8106794		3407522122	108	HUNT #1		14.0	COLUMBIA GAS TRANSMI
8106792		3407522030	108	K R MILLER #1		2.0	COLUMBIA GAS TRANSMI
8106787		3407521829	108	L BEVINGTON #1		11.0	COLUMBIA GAS TRANSMI
8106793		3407522110	108	LONGFELLOW #1		14.0	COLUMBIA GAS TRANSMI
8106791		3407522009	108	REIGLE #1		3.2	COLUMBIA GAS TRANSMI
8106802		3407521633	108	STALLMAN #1		18.0	COLUMBIA GAS TRANSMI
8106789		3407521965	108	WACHTEL #2		8.7	COLUMBIA GAS TRANSMI
-WILLIAM N TIPKA				RECEIVED: 11/25/80 JA: DH			
8106814		3405922739	103	ARON #1		36.0	EAST OHIO GAS CO
-WINSTON OIL COMPANY				RECEIVED: 11/25/80 JA: DH			
8106671		3416723479	108	C ANDERSON #1		3.0	RIVER GAS CO
8106674		3416723855	108	R HENTHORN #3		6.0	RIVER GAS CO
8106672		3416723536	108	W PETTIT #1		2.0	RIVER GAS CO
8106655		3416724081	108	W PETTIT #2		2.0	RIVER GAS CO
-WITCO CHEMICAL CORP				RECEIVED: 11/25/80 JA: DH			
8106760		3409921181	103	HANCOCK UNIT #1	DAMASCUS	3.6	DAMASCUS GAS CO
8106761		3409921182	103	HANCOCK UNIT #2	DAMASCUS	3.6	DAMASCUS GAS CO
8106763		3409921250	103	HANCOCK UNIT #3	DAMASCUS	3.6	DAMASCUS GAS CO

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JO NO    JA DKT        API NO      SEC D WELL NAME                          FIELD NAME                PROD     PURCHASER
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8106770                3409921026 103   HOMESTEAD FARMS INC #1A            DAMASCUS                   3.6 DAMASCUS GAS CO
8106756                3409921108 103   HOMESTEAD FARMS INC #2             DAMASCUS                   3.6 DAMASCUS GAS CO
8106759                3409921176 103   N & C KARLEN #1                    DAMASCUS                   3.6 DAMASCUS GAS CO
8106757                3409921119 103   WILES UNIT #1                      DAMASCUS                   3.6 DAMASCUS GAS CO
8106758                3409921170 103   WILES UNIT #2                      DAMASCUS                   3.6 DAMASCUS GAS CO
=HOA INC & HELLENCO INC                RECEIVED: 11/25/80  JA: OH
8106765                3410322334 103   BRAINARD-LEATHERMAN #3                                       20.0
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   VIRGINIA DEPARTMENT OF LABOR & INDUSTRY
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=COLUMBIA GAS TRANSMISSION CORP        RECEIVED: 11/25/80  JA: VA
8106623                4502720267 108   PITTSTON CO NO 51 820469           HAYSI FIELD                2.8 COLUMBIA GAS TRANS C
8106622                4502720298 108   PITTSTON CO 820554                 HAYSI FIELD               14.6 COLUMBIA GAS TRANS C
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** U.S. GEOLOGICAL SURVEY - CASPER,WY
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=MIDLANDS GAS CORPORATION              RECEIVED: 11/25/80  JA: MT  5
8106647   M 346-0      2507121647 102   1760 FEDERAL 1                                               30.0 KANSAS-NEBRASKA NATU
8106648   ND 347-0     2507121623 103   2313 FEDERAL 1                     BOWDOIN                   65.0 KANSAS-NEBRASKA NATU
=ALAQUITAINE EXPLORATION LTD           RECEIVED: 11/25/80  JA: ND  5
8106627   ND 391-0     3300700325 102   US 2-14                            TR                        35.0
8106639   ND 390-0     3300700361 102   US 2-22                            WHISKEY JOE               10.0
8106640   ND 392-0     3300700484 102   US 3-22                            WHISKEY JOE               60.0
=DOME PETROLEUM CORP                   RECEIVED: 11/25/80  JA: ND  5
8106635   ND 384-0     3305301033 102   DOME FEDERAL 1-26                  MON-OAK                   32.1 SHELL OIL CO
=TENNECO OIL COMPANY                   RECEIVED: 11/25/80  JA: ND  5
8106649   ND 353-0     3305300972 102   FEDERAL 1-4                        MONDAK                     8.0
=TEXACO INC                            RECEIVED: 11/25/80  JA: ND  5
8106633   ND 382-0     3305300912 102   SILURIAN UNIT 11 NU 1              CHARLSON                 270.0 MONTANA DAKOTA UTILI
=AMOCO PRODUCTION CO.                  RECEIVED: 11/25/80  JA: WY  5
8106637   W-386-0      4904120164 102   RYCKMAN CREEK UNIT #15             RYCKMAN CREEK            135.0 NORTHWEST PIPELINE C
8106638   W-387-0      4904120283 102   RYCKMAN CREEK UNIT #32             RYCKMAN CREEK            259.0 NORTHWEST PIPELINE C
=BELCO PETROLEUM CORPORATION           RECEIVED: 11/25/80  JA: WY  5
8106644   W 277-0      4903520494 103   JOHNSON RIDGE 8-29-27 20494        JOHNSON RIDGE              0.0 NORTHWEST PIPELINE C
=CHEVRON U S A INC                     RECEIVED: 11/25/80  JA: WY  5
8106636   W 385-0      4904120184 102   PAINTER RESERVOIR UNIT 35-48       PAINTER RESERVOIR        343.0
=CIG EXPLORATION INC                   RECEIVED: 11/25/80  JA: WY  5
8106645   W 288-0      4901320712 103   LYSITE #1-12                       LYSITE #1-12            3000.0 COLORADO INTERSTATE
=DAVIS OIL COMPANY                     RECEIVED: 11/25/80  JA: WY  5
8106630   W-362-0      4903721537 102   GREAT DIVIDE UNIT #5               HAY RESERVOIR            198.6 PANHANDLE EASTERN PI
8106628   W-360-0      4901920530 102   HELDT DRAW UNIT #66                TABLE MOUNTAIN             8.0 PHILLIPS PETROLEUM C
8106642   W 358-0      4901920542 102   HELDT DRAW UNIT 57P                TABLE MOUNTAIN             2.4 PHILLIPS PETROLEUM C
8106643   W 359-0      4901920541 102   HELDT DRAW UNIT 58P                TABLE MOUNTAIN             2.4 PHILLIPS PETROLEUM C
8106629   W-361-0      4900525255 103   JAM FEDERAL #1                     HINES                    119.8 PHILLIPS PETROLEUM C
8106632   W-375-0      4900921646 102   WAGNER-FEDERAL 4-6                 SCOTT                     11.8 PHILLIPS PETROLEUM C
=MARATHON OIL COMPANY                  RECEIVED: 11/25/80  JA: WY  5
8106625   W393-0       4900720450 102   ECHO SPRINGS #2-4                  ECHO SPRINGS             307.0 COLORADO INTERSTATE
=PACIFIC TRANSMISSION SUPPLY COMPANY   RECEIVED: 11/25/80  JA: WY  5
8106634   W-378-0      4902320221 108 O PTS 13-9 FEDERAL                   FONTENELLE                20.0 PACIFIC GAS TRANSMIS
8106631   W 371-0      4900720492 102   PTS 3-14 FEDERAL                   ECHO SPRINGS               0.0 PACIFIC GAS AND ELEC
8106626   W-376-0      4902320276 108   PTS 43-11 FEDERAL                  FONTENELLE                18.2 PACIFIC GAS TRANSMIS
=SINCLAIR OIL CORPORATION              RECEIVED: 11/25/80  JA: WY  5
8106650   W 354-0      4900720457 103   SINCLAIR FEDERAL 1-12              STANDARD DRAW            290.0 COLORADO INTERSTATE
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JC NO     JA DKT        API NO      SEC U WELL NAME                          FIELD NAME                PROD     PURCHASER
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TEXACO INC                                RECEIVED:  11/25/80  JA: WY  5
6106646   W 290-0       4902320357 103    GOVT W G MCNAMARA (NCT-1) NO 1     BRUFF                     950.0 MOUNTAIN FUEL SUPPLY
NOODS PETROLEUM CORPORATION               RECEIVED:  11/25/80  JA: WY  5

6106641   W 356-0       4900921521 102    BUSTARD FEDERAL #24-1              POWELL                    182.0 MOUNTAIN FUEL SUPPLY
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* U.S. GEOLOGICAL SURVEY - TULSA,OK
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BARUCH-FORTER CORP                        RECEIVED:  11/26/80  JA: OK  6
6106624   OK-70-0       3511921173 102    SADIE TYNER #1                     RAVENDALE                 180.0 CITIES SERVICE GAS C
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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 30, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38801 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 333]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 9, 1980.

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JD NO     JA DKT        API NO      SEC D WELL NAME                          FIELD NAME                PROD     PURCHASER
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*****************************************************************************
  OKLAHOMA CORPORATION COMMISSION
*****************************************************************************
=ANDOVER OIL COMPANY                  RECEIVED:  11/12/80  JA: OK
 8106864   06163        3501721369 103   JENSEN #35-2                                                185.0 DELMI GAS PIPELINE C
 8106872   06163        3501721369 102   JENSEN #35-2                                                185.0 DELMI GAS PIPELINE C
=COTTON PETROLEUM CORPORATION         RECEIVED:  11/12/80  JA: OK
 8106873   09086        3505120967 107   UNRUH NO 1                 SOUTH VERDEN                     630.0 UNITED GAS PIPE LINE
=DALCO PETROLEUM INC                  RECEIVED:  11/12/80  JA: OK
 8106887   06089        3507322450 103   FISHER #1                  SOONER TREND                      91.2 CITIES SERVICE GAS C
=FERGUSON OIL & GAS COMPANY INC       RECEIVED:  11/12/80  JA: OK
*8106882   06093        3509321776 103   EMMA NO 1                  N W OKEENE                       300.0 PHILLIPS PETROLEUM C
=FUNK EXPLORATION INC                 RECEIVED:  11/12/80  JA: OK
 8106883   06092        3505920848 103   PETTY #1                                                     182.0 NORTHERN NATURAL GAS
=GETTY OIL COMPANY                    RECEIVED:  11/12/80  JA: OK
 8106880   06035        3513722009 103   MCCLANAHAN-MARTIN #4       SHO-VEL-TUM                      165.0 GETTY OIL COMPANY NA
=GULFSTREAM PETROLEUM CORP            RECEIVED:  11/12/80  JA: OK
 8106852   05952        3506120291 102   L B BURRIS NO 1            UNALLOCATED POOL                 365.0 ARKANSAS LOUISIANA G
 8106851   05953        3506120266 102   MUNCY GAS UNIT             UNALLOCATED POOL                 365.0 ARKANSAS LOUISIANA G
 8106853                3506120313 102   W W BONHAM NO 1            UNALLOCATED POOL                 365.0 ARKANSAS LOUISIANA G
=HAMM PRODUCTION CO                   RECEIVED:  11/12/80  JA: OK
 8106879   06096        3507322329 103   CONLEY #1                  SOONER TREND                      36.5 PHILLIPS PETROLEUM C
=HENRY H GUNDOLL                      RECEIVED:  11/12/80  JA: OK
 8106854   05340        3504721908 103   BUTLER #2-29               N W ENID                           0.0
=HUNT ENERGY CORPORATION ET AL        RECEIVED:  11/12/80  JA: OK
 8106871   09001        3500900000 107   FUCHS #1-35                N E MAYFIELD                     819.0
=JI CO EXPLORATION INC                RECEIVED:  11/12/80  JA: OK
 8106876   06101        3507322201 103   JICO FARRISH #1            SOONER TREND                      16.0 CITIES SERVICE CO
=JOHN A TAYLOR                        RECEIVED:  11/12/80  JA: OK
 8106862   06232        3504520806 102   FARREL WILSON 1-9          S W ARNETT FIELD                   0.0 PRODUCERS GAS CO
=JONES & PELLOW OIL CO                RECEIVED:  11/12/80  JA: OK
 8106846   06145        3504721809 103   CUNNINGHAM #2-2                                              60.0 CHAMPLIN PETROLEUM C
 8106847   06144        3504721811 103   STATE #33-1                                                  60.0 CHAMPLIN PETROLEUM C
=KENNEDY & MITCHELL INC               RECEIVED:  11/12/80  JA: OK
 8106885   06070        3515300000 102   PROSPECT #17-197                                              0.1 MICHIGAN WISCONSIN P
=KERR-MCGEE CORPORATION               RECEIVED:  11/12/80  JA: OK
 8106892   05855        3500721780 103   THOMPSON 2-36              MOCANE-LAVERNE                     0.0 COLORADO INTERSTATE
=KETAL OIL PRODUCING CO               RECEIVED:  11/12/80  JA: OK
 8106874   06102        3513120859 103   HEINEN #1                  OOLOGAH                            3.0 DIAMOND S GAS SYSTEM
 8106875   06103        3504722052 103   SIMMERING #2               N E GARGER                       219.0 ARKANSAS LOUISIANA G
=LOBAR OIL CO INC                     RECEIVED:  11/12/80  JA: OK
 8106889   06090        3508321216 103   J T HOKE NO 1              LOVELL                           100.0 EASON OIL CO
 8106884   06091        3508321106 103   MCDANIEL NO 1              LOVELL                            50.0 EASON OIL CO
=LPCX CORPORATION                     RECEIVED:  11/12/80  JA: OK
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8106849	06107	3507322069	103		JEFFRIES	NORTHEAST OMEGA	365.0	PHILLIPS PETROLEUM C
*M R W INC					RECEIVED: 11/12/80 JA: OK			
8106888	06033	3510320909	103		BLESSING #1	BLESSING #1	108.0	CITIES SERVICE GAS C
*OKLAHOMA PLAINS PETROLEUM INC					RECEIVED: 11/12/80 JA: OK			
8106894	04681	3509321644	103		HOBSON 22-1	RINGWOOD	36.0	PIONEER GAS PRODUCTS
*P-T III LTD					RECEIVED: 11/12/80 JA: OK			
8106850	06105	3504700000	103		WALTERS #13-1	SOONER TREND	91.3	WELLHEAD ENTERPRISES
8106870	06104	3504700000	103		WEHLING #24-1	SOONER TREND	91.2	WELLHEAD ENTERPRISES
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 11/12/80 JA: OK			
8106856	05114	3501720939	103		EVANS D #1	NW RICHLAND	0.0	TRANSOK PIPELINE
*PRIME ENERGY CO					RECEIVED: 11/12/80 JA: OK			
8106886	05379	3507322111	103		HARRIS 1-9	SOONER TREND	15.0	EASON OIL CO
*SAMEDAN OIL CORPORATION					RECEIVED: 11/12/80 JA: OK			
8106863	06224	3505120851	102		SCHUTTEN NO 1	WEST MINCO	365.0	TRANSOK PIPELINE CO
*SENECA OIL COMPANY					RECEIVED: 11/12/80 JA: OK			
8106859	06264	3509321477	102		DAVIDSON NO 1	DANE	500.0	PANHANDLE EASTERN PI
8106861	06262	3513920955	102		HAMILTON NO 1	WEST DUMBEY	107.0	PANHANDLE EASTERN PI
8106858	06266	3513921030	102		PAUL BLASER NO 1	WEST DUMBEY	55.0	PANHANDLE EASTERN PI
8106860	06263	3513921063	102		SWARTZ NO 1	WEST DUMBEY	107.0	PANHANDLE EASTERN PI
8106857	06267	3513920989	102		VAN HYNING NO 1	WEST DUMBEY	134.0	PANHANDLE EASTERN PI
*TEXAS OIL & GAS CORP					RECEIVED: 11/12/80 JA: OK			
8106878	06098	3506120340	103		HARTINDALE #1	KINTA	256.0	DELHI GAS PIPELINE C
8106877	06099	3512120673	103		WARD F #1	WILDCAT	33.0	
*TEXAS OIL & GAS CORP					RECEIVED: 11/25/80 JA: OK			
8106893	05037	3515121001	103		CASEY #2	N E WAYNOKA	254.0	
*TRIDON OIL INC					RECEIVED: 11/12/80 JA: OK			
8106869	06132	3506300000	108		CRAWFORD #2 063-21579	GREASY CREEK	7.4	TRANSOK PIPE LINE CO
8106868	06133	3506300000	108		CRAWFORD-PETCO #1 063-27438	GREASY CREEK	1.6	TRANSOK PIPE LINE CO
8106866	06135	3506300000	108		DARKS #1 063-21574	GREASY CREEK	4.4	TRANSOK PIPE LINE CO
8106867	06134	3506300000	108		DARKS #2 063-21575	GREASY CREEK	2.9	TRANSOK PIPE LINE CO
*UNION OIL COMPANY OF CALIF					RECEIVED: 11/12/80 JA: OK			
8106865	06136	3505120829	103		YOUNT #1-32	SOUTH TABLER	70.0	
*UNION TEXAS PETROLEUM					RECEIVED: 11/12/80 JA: OK			
8106848	06141	3509321747	103		L THOMAS NO 2	E CHANEY DELL - SEC 33	36.0	PANHANDLE EASTERN PI
*WILLIAM FULLER					RECEIVED: 11/12/80 JA: OK			
8106881	06094	3507321978	103		L E DROKE NO 1		30.0	PHILLIPS PETROLEUM C
*WESTERN CONTINENT OIL CORP					RECEIVED: 11/12/80 JA: OK			
8106891	05931	3507121141	103		SMITH 24-1	PERMIAN	35.0	CORONADO TRANSMISSIO
8106890	05932	3507121143	103		SMITH 24-2	PERMIAN	35.0	CORONADO TRANSMISSIO
*WM J OCONNOR					RECEIVED: 11/12/80 JA: OK			
8106855	05162	3515120978	103		EARL #1	WEST ALINE	185.0	

OTHER PURCHASERS VOLUME NO 1333

8106882 DELHI GAS PIPELINE CO

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 (*) preceeding 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, NE., 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 30, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38802 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-12-000]

Distrigas Corp. and Distrigas of Massachusetts Corp.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

December 9, 1980.

Take notice that Distrigas Corporation (Distrigas) on November 28, 1980 tendered for filing Sixth Revised Sheet No. 1 to its FERC Gas Tariff and Distrigas of Massachusetts Corporation (DOMAC) on the above date tendered for filing Sixth Revised Sheet No. 3A.

Sixth Revised Sheet No. 1 and Sixth Revised Sheet No. 3A are being filed pursuant to Distrigas' and DOMAC's purchased LNG cost adjustment provision set forth in their respective tariffs. The Distrigas rate change is being filed to reflect in its sales rate to DOMAC a redetermination (increase) of the price paid for the purchase of LNG from its supplier SONATRACH in accordance with the Distrigas-SONATRACH Agreement for Sale and Purchase of Liquefied Natural Gas together with demurrage and the amortization over the six-month period, January 1, 1981 through June 30, 1981, of the balance in the unrecovered purchased LNG cost account.

The DOMAC rate change is being filed to reflect the Distrigas rate change in DOMAC's rates for resale to its distribution customer companies and the amortization over the six-month period, January 1, 1981 through June 30, 1981, of the balance in DOMAC's unrecovered purchased LNG cost account and the GRI Surcharge.

Distrigas and DOMAC request that the proposed tariff sheets become effective January 1, 1981 to coincide with the change in LNG costs from SONATRACH.

A copy of this filing is being served on all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proeeding. Any person wishing to become a party must file a petition to invervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38772 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-2-000 (PGA81-1, IPR81-1, DCA81-1)]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 9, 1980.

Take notice that on December 1, 1980, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Thirty-Fourth Revised Sheet No. 4 and Second Revised Sheet Nos. 4A and 4B of Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1981.

East Tennessee states that the sole purpose of these tariff sheets is to reflect various rate adjustments pursuant to the General Terms and Conditions of its tariff as follows:

(1) A PGA Rate Adjustment pursuant to Section 22;

(2) A Curtailment Credit Rate Adjustment pursuant to Section 24;

(3) A GRI rate adjustment pursuant to Section 25; and

(4) Estimated Incremental Pricing Surcharges pursuant to Section 26

East Tennessee also states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38773 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-33-000]

El Paso Natural Gas Co.; Change in Rate

December 10, 1980.

Take notice that on November 28, 1980, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:

Tariff volume	Tariff sheet
Original Volume No. 1	Third Substitute Twenty-seventh Revised Sheet No. 3-B.
Third Revised Volume No.2.	Third Substitute Eighteenth Revised Sheet No. 1-D. First Substitute Ninth Revised Sheet No. 1-D.2.
Original Volume No. 2A	Third Substitute Nineteenth Revised Sheet No. 1-C. Second Substitute Fourteenth Revised Sheet No. 1-D.

El Paso states that on June 2, 1980, the Gas Research Institute ("GRI") filed, at

Docket No. RP80-108, its fourth annual application setting forth its calendar year 1981 research, development and demonstration ("R&D") program and a related five-year plan for the period 1981-1985. By Opinion No. 96 and accompanying order issued September 30, 1980, at Docket No. RP80-108, the Commission approved said GRI application and a related calendar year 1981 funding unit of 0.56¢ per Mcf to be collected from GRI members for each Mcf sold under specified GRI funding services commencing January 1, 1981. Accordingly, El Paso states that the purpose of the subject filing is to give notice of a change in the GRI Funding Adjustment unit rate from the currently effective 0.48¢ per Mcf to said approved rate of 0.56¢ per Mcf, commencing on January 1, 1981, which will be applied as an adjustment to the jurisdictional rates applicable under the rate schedule services provided by El Paso which are subject to said GRI Funding Unit.

The Commission, in ordering paragraph (B) of its Opinion No. 96, permitted the affected jurisdictional members to collect the general funding unit of 0.56¢ per Mcf commencing January 1, 1981. Accordingly, El Paso has requested that the tendered tariff sheets be made effective January 1, 1981.

El Paso also states that copies of the filing have been served upon all of El Paso's interstate system customers and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before December 16, 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). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38774 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-34-001]

Florida Gas Transmission Co.; Proposed Changes in Rates and Charges Under the Gas Research Institute Charge Adjustment

December 9, 1980.

Take notice that on November 28, 1980, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing the following tariff sheets to its F.E.R.C. Gas Tariff.

Original Volume No. 1

Substitute 26th Revised Sheet No. 3-A.
Substitute 25th Revised Sheet No. 3-A.

The aforementioned tariff sheets contain changes in the resale rates in rate schedules G and I resulting from Section 19 (Gas Research Institute Charge Adjustment Provision) in the Company's F.E.R.C. Gas Tariff and the Commission's Opinion No. 96 issued on September 30, 1980, in Docket No. RP 80-109. FGT proposes to make the rate changes effective January 1, 1981.

FGT further requests that should the Commission permit the rates filed in Docket No. RP 81-7-000 to become effective as proposed on December 1, 1980, that the Commission approve Substitute 26th Revised Sheet No. 3-A to be effective January 1, 1981. Should the Commission suspend the rates filed in Docket No. RP 81-7-000, FGT requests that the Commission approve Substitute 25th Revised Sheet No. 3-A to be effective January 1, 1981.

According to FGT, the changes contained in the above identified tariff sheets are made in accordance with the Gas Research Institute Charge Adjustment Provision in its tariff (Section 19, General Terms and Conditions) and Opinion No. 96 (Docket No. RP 80-108) approved by the Commission on September 30, 1980.

The effect of the above mentioned adjustment for Rate Schedules G and I is to increase the GRI charge from .048¢/Therm to .056¢/Therm, or an increase of .008¢/Therm. The annual effect on Rate Schedule G and I is an increase of approximately $69,000.

FGT states that a copy of its filing has been served on all customers affected by the rate change and the Florida Public Service Commission and is being posted.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commissions Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38775 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-13-000 (PGA81-1)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

December 9, 1980.

Take notice that Gas Gathering Corporation (GGC), on December 1, 1980, tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would increase the rate charged Transco by 37.40468 cents per Mcf from those rates presently in effect. The proposed changes are proposed to be made effective Janaury 1, 1981. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost Account as of September 30, 1980, through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38776 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP66-111-001, etc.]

Great Lakes Gas Transmission Co.; Application

December 9, 1980.

Take notice that on November 19, 1980, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP66-111-001, *et al.*, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 0204-55 to amend its permit to allow construction, operation, maintenance, and connection of minor facilities at the international boundary between Minnesota and Manitoba Providence, Canada, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Applicant was authorized by order dated November 5, 1980, in Docket No. CP80-512 to construct and operate 0.7 mile of 36-inch pipeline loop on its existing pipeline system between mile post 0.1 near the United States-Canadian international boundary and mile post 0.7 at Applicant's Compressor Station No. 1 near St. Vincent, Minnesota. Applicant states that it has now received a commitment from TransCanada Pipe Lines Limited (TransCanada) concerning facilities built near the Emerson, Manitoba, International Boundary. Therefore, it is stated, the valve section between TransCanada's Emerson Meter Station and the St. Vincent Compressor Station could be completed.

Applicant proposes to construct and operate the U.S. portion of the valve section under an amendment to Applicant's permit issued June 23, 1967, as amended October 1, 1976, in Docket No. CP66-111, *et al.* The looping pipeline authorized under Docket No. CP80-512 would not be put into service until the requested amended permit is issued, it is stated.

Applicant asserts that the valve is necessary to allow pipeline maintenance without the total loss of throughput at the international boundary.

Applicant states that the cost of construction would be covered by funds from previously authorized cost estimates saved due to a decision not to construct a hot tap. Construction on the Canadian portion would be performed and paid for by TransCanada at an estimated cost of $230,000 (1980 Canadian dollars).

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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. 80-38777 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-18-000]

High Island Offshore System; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that on December 1, 1980, High Island Offshore System (HIOS) tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional transportation services by approximately $11.6 million based on the 12-month period ending August 31, 1980, as adjusted, compared with the revenues generated through the presently effective rates.

HIOS states that the principal reasons for the rate changes filed herein are as follows:

(a) Increased levels of operation and maintenance expenses, including those due to continuing inflationary pressures;

(b) Change in the method of computing depreciation to a unit of production method;

(c) Increased costs of capital which result in an overall rate of return of 10.98% which is required to afford HIOS the opportunity to earn a fair and reasonable return; and

(d) A reduction in the charge applicable to separation facilities.

HIOS requests an effective date of January 1, 1981, for the proposed Revised Sheets. HIOS states that it served copies of this filing upon all of its shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38778 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-147-000]

Holyoke Power and Electric Co.; Filing

December 9, 1980.

The filing Company submits the following:

Take notice that Holyoke Power and Electric Company (the "Company") on December 1, 1980, tendered for filing an Amendment No. 9 to its Electric Service Agreement with the Town of South Hadley, Massachusetts (the Company's FPC No. 4). The Company proposes that the amendment become effective on January 1, 1981.

The Company states that the rate schedule amendment provides for (1) increased demand charges which would result in an increase of approximately $385,407 in test year revenues, and (2) a provision synchronizing charges in fuel costs and fuel adjustment clause revenues. The Company further states that South Hadley has agreed to the rate schedule amendment.

The Company states that it is a weakened financial condition and the proposed rate increase is essential to maintain its ability to provide service.

The amendment provides for an initial effective date of January 1, 1981 and has been executed by South Hadley. The Company has requested waiver of the requirements of Section 35.3 of the Commission's regulations to permit its filing to be made less than 60 days prior to the proposed effective date of January 1, 1981.

The Company states that copies of the filing were served upon South Hadley and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1980. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 80-38779 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-148-000]

Holyoke Water Power Co.; Filing

December 9, 1980.

The filing Company submits the following:

Take notice that Holyoke Water Power Company (the "Company") on December 1, 1980, tendered for filing an Agreement Amending its Resale Rate CD-1 with the City of Chicopee Municipal Lighting Plant. The Company proposes that the amendment become effective on January 1, 1981.

The Company states that the rate schedule amendment provides for (1) increased demand charges which would result in an increase of approximately $612,720 in test year revenues, and (2) a provision synchronizing charges in fuel costs and fuel adjustment clause revenues. The Company further states that Chicopee has agreed to the rate schedule amendment.

The Company states that it is in a financially weakened condition and the proposed rate increase is essential to maintain its ability to provide service.

The amendment provides for an initial effective date of January 1, 1981, and has been executed by Chicopee. The Company has requested waiver of the requirements of Section 35.3 of the Commissions' regulations to permit its filing to be made less than 60 days prior to the proposed effective date of January 1, 1981.

The Company states that copies of the filing were served upon Chicopee and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38780 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M.

[Docket No. RP80-114-001]

Inter-City Minnesota Pipelines Ltd., Inc.; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that on November 20, 1980, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City") tendered for filing proposed Fourteenth Revised Sheet No. 4, Original Volume No. 1 of its FERC Gas Tariff superseding Thirteenth Revised Sheet No. 4, Original Volume No. 1.

As required by Section 154.38(d)(4)(vi)(a) of the Commission's Regulations, the filing restates Inter-City's base tariff rates so as to include the results of prior PGA adjustments. There are no changes in existing rate levels charged to Inter-City's customers.

Inter-City further states that copies of this filing have been served upon its customers and the Public Service Commission of Minnesota.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38781 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-7-001]

Kentucky West Virginia Gas Co.; Change in Rates

December 10, 1980.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on November 20, 1980, tendered for filing with the Commission the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, required by Commission's Order issued October 30, 1980, in settlement of its rate proceeding in Docket No. RP80-7:

a. Sixteenth Revised Sheet No. 27, Superseding Fifteenth Revised Sheet No. 27
b. Seventeenth Revised Sheet No. 27, Superseding Sixteenth Revised Sheet No. 27
c. Original Sheet No. 29
d. Original Sheet No. 30
e. Original Sheets No. 31-37
f. Eighteenth Revised Sheet No. 27, Superseding Seventeenth Revised Sheet No. 27
g. Nineteenth Revised Sheet No. 27, Superseding Eighteenth Revised Sheet No. 27
h. Twenty-First Revised Sheet No. 27, Superseding Twentieth Revised Sheet No. 27

Kentucky West states that a copy of its filing has been made upon all parties to this proceeding and any additional parties required to be served by Section 1.18(e)(i)(iv) of the Commission's Rules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38782 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in Tariff Sheets

December 10, 1980.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on November 28, 1980, tendered for filing with the Commission the following revised tariff sheets to Kentucky West's FERC Gas Tariff, First Revised Volume No. 1, to become effective January 1, 1981.

Fourth Revised Sheet No. 8

Fourth Revised Sheet No. 10

The revised tariff sheets amend Kentucky West's Gas Research Institute (GRI) Funding charge to place in effect the new GRI funding unit of 5.6 mils per dth as approved by FERC in Opinion No. 96, issued September 30, 1980, under Docket No. RP80-108.

Kentucky West states that copy of its filing has been served upon Kentucky West's jurisdictional customers and the Kentucky Energy Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before Dec. 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38783 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3485]

Kittitas County Public Utility District No. 1 and City of Ellensburg; Application for Preliminary Permit

December 9, 1980.

Take notice that Kittitas County Public Utility District No. 1 and City of Ellensburg (Applicants) filed on September 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3485 to be known as the Cle Elum Hydroelectric Project to be located at the toe of the existing U.S. Water and Power Resources Service's (WPRS) Cle Elum Dam located on the Cle Elum River in Kittitas County, near the town of Cle Elum, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Floyd M. Weir, Manager, Kittitas County Public Utility District No. 1, 1400 East Vantage Highway, Ellensburg, Washington 98926 and Mr. Robert H. Walker, City Manager, City of Ellensburg, P.O. Box 1087, Ellensburg, Washington 98926, with copies to: CH2M HILL, Attention: Mr. John Mayo, 1800 Rainier Place, Yakima, Washington 98903. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 900-foot long, 13-foot diameter steel penstock (to be inserted in the existing outlet conduit) serving; (2) a powerhouse to contain a vertical Kaplan-type turbine-generator, operating under a head of 122 feet with rated capacity of 20 MW; and (3) approximately 0.7 mile of transmission line to connect to an existing Puget Sound Power and Light Company's distribution system.

The Applicant estimates that the average annual energy output would be 79,000,000 kWhs.

Purpose of Project—The power generated at the project would be used to offset power purchases now being made by the Applicant to supply its customers. Any surplus power would be offered for sale to northwestern utilities.

Proposed Scope and Cost of Studies Under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $105,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or §1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intevene, in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices or intent, competing applications, protests, or petitions to intevene must bear in all capital letters the title "Comments," "Notice of Intent to File Competing Application," "Competing Application", "Protest," or "Petition to Intervene", as applicable. Any of the filings must also state that it is make in response to this notice of application for preliminary permit for Project No 3485. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street,

N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38784 Filed 12-12-80; 8:45]

BILLING CODE 6450-85-M

[Project No. 3486]

Kittitas County Public Utility District No. 1; Application for Preliminary Permit

December 9, 1980.

Take notice that Kittitas County Public Utility District No. 1 (Applicant) filed on September 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3486 to be known as the Easton Hydroelectric Project to be located at the base of the existing U.S. Water and Power Resources Service's (WPRS) Easton Dam located on the Yakima River in Kittitas County, near the town of Easton, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Floyd M. Weir, Manager, Kittitas County Public Utility District No. 1, 1400 East Vantage Highway, Ellensburg, Washington 98926, with copies to: CH2M HILL, Attention: Mr. John Mayo, 1800 Rainier Place, Yakima, Washington 98903. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) two 50-foot long, 8-foot diameter steel penstocks (to be fitted into the two existing sluceways at each end of the dam) serving; (2) two powerhouses each containing one turbine-generator unit, to operate under a head of 40 feet, with total rated capacity, for both powerhouses, of 3 MW; and (3) an approximately 1,000-foot long, 69-kV transmission line to connect to an existing Puget Sound Power and Light Company line.

The Applicant estimates that the average annual energy output would be 11.3 million kWhs.

Purpose of Project—The power generated at the project would be used to offset power purchases now being made by the Applicant to supply its customers. Any surplus power would be offered for sale to northwestern utilities.

Proposed Scope and Cost of Studies Under Permit. The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies; and preparation of an FERC license application is estimated by the Applicant to be about $80,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3486. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 285 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38785 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3488]

Kittitas County Public Utility District No. 1 and City of Ellensburg; Application for Preliminary Permit

December 9, 1980.

Take notice that Kittitas County Public Utility District No. 1 and City of Ellensburg (Applicants) jointly filed on September 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3488 to

be known as the Keechelus Hydroelectric Project to be located at the toe of the existing U.S. Water and Power Resource Service's (WPRS) Keechelus Dam located on the Yakima River in Kittitas County, near the town of Easton, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Floyd M. Weir, Manager, Kittitas County Public Utility District No. 1, 1400 East Vantage Highway, Ellensburg, Washington 98926, and Mr. Robert H. Walker, City Manager, City of Ellensburg, P.O. Box 1087, Ellensburg, Washington 98926, with copies to: CH2M HILL, Attention: Mr. John Mayo, 1800 Rainier Place, Yakima, Washington 98903. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) a 300-foot long, 10-foot diameter steel penstock (to be inserted into the existing outlet tunnel) serving; (2) a powerhouse to contain a turbine-generator unit, operating under a head of 68 feet, with a rated capacity of 4.4 MW; and (3) an existing Puget Sound Power and Light Company's (Puget Sound) 12.5-kV transmission line to transmit project power to a tie point on Puget Sound's distribution system.

The Applicant estimates that the average annual energy output would be 16.2 million kWhs.

Purpose of Project.—The power generated at the project would be used to offset power purchases now being made by the Applicant to supply its customers. Any surplus power would be offered for sale to northwestern utilities.

Proposed Scope and Cost of Studies Under Permit.—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $90,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3488. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-39703 Filed 12-12-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3489]

Kittitas County Public Utility District No. 1; Application for Preliminary Permit

December 9, 1980.

Take notice that Kittitas County Public Utility District No. 1 (Applicant) filed on September 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3489 to be known as the Roza Hydroelectric Project to be located at the base of the existing U.S. Water and Power Resources Service's (WPRS) Roza Diversion Dam located on the Yakima River in Kittitas County, near the town of Yakima, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Floyd M. Weir, Manager, Kittitas County Public Utility District No. 1, 1400 East Vantage Highway, Ellensburg, Washington 98926, with copies to: CH2M HILL, Attention: Mr. John Mayo, 1800 Rainier Place, Yakima, Washington 98903. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: a powerhouse,

to be located at the base of the existing dam and using the existing outlet works, to contain a propeller-type, turbine-generator to operate under a head of 30 feet with a rated capacity of 6 MW. An existing WPRS transmission line would be used to transmit project power to the Selah Substation.

Purpose of Project—The power generated at the project would be used to offset power purchases now being made by the Applicant to supply its customers. Any surplus power would be offered for sale to the northwestern utilities. It is estimated that the proposed project would be capable of producing an annual output of about 11.3 million kWhs.

Proposed Scope and Cost of Studies Under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an evironmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $113,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3489. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-38787 Filed 12-12-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3487]

Kittitas County Public Utility District No. 1 and City of Ellensburg; Application for Preliminary Permit

December 9, 1980.

Take notice that Kittitas County Public Utility District No. 1 and City of Ellensburg (Applicants) filed on September 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3487 to be known as the Kachess Hydroelectric Project to be located at the toe of an existing U.S. Water and Power Resource Service's (WPRS) Kachess Lake located on the Kachess River in Kittitas County, near the towns of Easton and Cle Elum, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Floyd M. Weir, Manager, Kittitas County Public Utility District No. 1, 1400 East Vantage Highway, Ellensburg, Washington 98926, and Mr. Robert H. Walker, City Manager, City of Ellensburg, P.O. Box 1087, Ellensburg, Washington 98926, with copies to: CH2M HILL, Attention: Mr. John Mayo, 1800 Rainier Place, Yakima, Washington 98903. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a 200-foot long, 11-foot diameter steel penstock (to be inserted into the existing outlet pipe) serving; (2) a powerhouse to contain a turbine-generator unit, to operate under a head of 59 feet, with a rated capacity of 3.2 MW; and (3) a 1,000-foot long, 12.5-kV transmission line to connect the existing line.

The Applicant estimates that the average annual energy output would be 10.75 million kWhs.

Purpose of Project—The power generated at the project would be used to offset power purchases now being made by the Applicant to supply its customers. Any surplus power would be offered for sale to northwestern utilities.

Proposed Scope and Cost of Studies Under Permit—The Applicant has conducted some reconnaissance studies

of the site. The Applicant now seeks issuance of a preliminary permit for a period of 36 months during which it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $90,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 10.0 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition to intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3487. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-39703 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-141-001]

Locust Ridge Gas Co.; Revised Interim Rate Increase

December 10, 1980.

Take notice that on November 19, 1980, Locust Ridge Gas Company (Locust Ridge) filed Substitute Fourth Revised Sheet No. 1-A (Interim) to its FERC Gas Tariff, Original Volume No. 3, reducing its interim rates to reflect the reduced PGA rates. Said tariff sheets are proposed to become effective on October 10, 1980, to coincide with the effective date the interim rates become effective.

Pursuant to order dated October 28, 1980, at Docket No. TA80-2-60, Locust Ridge reduced its surcharge from 18.41¢ per MMBtu to 14.38¢ per MMBtu.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-39709 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-60-001 (PGA80-2a)]

Locust Ridge Gas Co.; Rate Reduction Pursuant To Commission Order

December 10, 1980.

Take notice that on November 9, 1980, Locust Ridge Gas Company (Locust Ridge) filed Fourth Revised Sheet No. 1A to FERC Gas Tariff, Original Volume No. 3, reflecting a reduced deferred account surcharge. Said tariff sheets are proposed to become effective September 1, 1980. Additionally, Locust Ridge has filed Substitute Second Revised Sheet No. 21B to FERC Gas Tariff, Original Volume No. 3, its Purchased Gas Adjustment Clause (PGAC), to reflect a consistent methodology as to the use of sales volumes and costs or purchased volumes and costs when computing PGA's. The adjustments are made pursuant to OPPR letter order dated October 28, 1980, in Docket No. TA80-2-60 (PGA80-2).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this filing

are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38790 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-80-000

Louisiana Intrastate Gas Corp.; Application for Approval of Rates

December 8, 1980.

Take notice that on November 24, 1980, Louisiana Intrastate Gas Corporation, (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81-80-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement with Transco dated November 17, 1980, it has agreed to transport gas owned by Transco.

Applicant proposes a transportation charge of 20.0 cents per million Btu delivered by Applicant to Transco. The transportation service is for a term of two years from the date of initial delivery, it is stated. Applicant states that in determining thermal content, it would base its determination upon the premise that the gas transported would be saturated with water vapor, i.e., the water vapor content of the gas for purposes of determining thermal content would not be adjusted to an as delivered condition with gas redelivered satisfying the water vapor quality specifications contained in the transportation agreement assumed dry.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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. 80-38791 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-54.000]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

December 9, 1980.

Take notice that Louisiana-Nevada Transit Company on November 13, 1980 tendered for filing proposed changes in its FERC Gas Tariff, Volume 1. The proposed changes are to reflect changes in purchased gas cost as provided in the Company's Purchase Gas Adjustment Clause applicable to its Rate Schedule No. G-1. The change provides for a total adjustment of 12.11¢ per mcf including a deferred gas cost adjustment of 0.85¢ per mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 11.26¢ per mcf.

Copies of the filing were served upon the Company's jurisdictional customer and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commissions Rules of Practice and Procedure (18 CFR 1.8 1.10). All such petitions or protests should be filed on or before Dec. 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38792 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 9, 1980.

Take notice that on December 1, 1980, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Twenty-Ninth Revised Sheet No. 5, Substitute Fifteenth Revised Sheet No. 5A, and Second Revised Sheet Nos. 5B and 5C to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective January 1, 1981. Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions of the General Terms and Conditions of its tariff as follows:

(1) PGA Rate Adjustments for the Southern System pursuant to Article XVII;

(2) a PGA Rate Admustment for the Northern System pursuant to Article XVIII;

(3) a Curtailment Credit Rate Adjustment for the Southern System pursuant to Article XIX;

(4) a GRI Rate Adjustment for both the Northern and Southern System pursuant to Article XXI; and

(5) Estimated Incremental Pricing Surcharges for both the Southern System pursuant to Article XXII; and

(6) Estimated Incremental Pricing Surcharges for the Northern System pursuant to Article XXIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38793 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-17-000]

Midwestern Gas Transmission Co.; Filing of Changes in Rates

December 10, 1980.

Take notice that on December 2, 1980, Midwestern Gas Transmission Company (Midwestern) tendered for filing changes in its FERC Gas Tariff to be effective on January 1, 1981, consisting of the following revised tariff sheets:

Third Revised Volume No. 1

Twenty-Ninth Revised Sheet No. 5
Fifteenth Revised Sheet No. 5A

Original Volume No. 2

Fourth Revised Sheet No. 37
First Revised Sheet No. 64F
First Revised Sheet No. 64G

The changes would increase revenues from jurisdictional sales and services by $4,870,087 for the Southern System and decrease revenues from jurisdictional sales and services by $1,094,557 for the Northern System, based on the test period consisting of the twelve months ended August 31, 1980, adjusted for known and measurable changes through May 31, 1981.

Midwestern states that the changed rates are required to reflect an increase in rate of return and changes in the cost of materials, supplies, wages and services, taxes, and other costs required to operate and maintain its pipeline systems.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38794 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-25-00]

Mississippi River Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 9, 1980.

Take notice that on November 25, 1980 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Third Revised Sheet No. 3C and Second Revised Sheet No. 27L to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of January 1, 1981 is proposed.

Third Revised Sheet No. 3C sets forth, in accordance with Section 18 of Mississippi's tariff, the revised GRI surcharge of $.0056 per Mcf to be effective January 1, 1981, authorized by Opinion No. 96 at Docket No. RP80-108, issued September 30, 1980.

Mississippi states that by order dated April 18, 1980, as amended October 24, 1980, a certificate of public convenience and necessity was issued to Mississippi in Docket No. RP79-457 authorizing sales of natural gas by Mississippi to Laclede Gas Company, a gas distributor, under a new Rate Schedule X-19. Accordingly, the list of rate schedules to which the GRI surcharge applies has been expanded on Second Revised Sheet No. 27L to include such rate schedule.

A copy of this filing has been mailed to each of Mississippi's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38795 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-16-000]

National Fuel Gas Supply Corp.; Proposed GRI Rate Adjustment

December 10, 1980.

Take notice that on Dec. 1, 1980, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Thirty-Fourth Revised Sheet No. 4 proposed to be effective January 1, 1981.

National states that the purpose of this revised tariff sheet is to adjust National's rates pursuant to Article 18 (GRI) of the General Terms and Conditions. National further states that Thirty-Fourth Revised Sheet No. 4 reflects an increase in National's rates of .08¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commissions Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Dec. 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38796 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-1-146-000]

New England Power Co.; Filing

December 9, 1980.

The filing Company submits the following:

Take notice that New England Power Company ("NEP") on Dec. 2, 1980, tendered for filing amendments to its FERC Electric Tariff, Original Volume No. 2, and Power Contracts between NEP and 24 of its Customers. The proposed effective date is February 1, 1981.

NEP states that the proposed amendment will increase the Rate for the sale of System Power-Unreserved from a settlement level of $56.21 per KW-year to $65.99 per KW-year.

NEP states further that the proposed Rate is predicated upon a collateral filing made October 31, 1980 and designated as Rate W-3. For this reason, NEP requests consolidation of the two matters in the event of further Commission investigation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38797 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP79-68-003]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that North Penn Gas Company (North Penn) on November 26, 1980, tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Sheet	Effective date
Revised Substitute Sixty-First Revised Sheet No. PGA-1.	Nov. 1, 1979.
Substitute Sixty-Third Revised Sheet No. PGA-1.	Jan. 21, 1980.
Revised Substitute Sixty-Fourth Revised Sheet No. PGA-1.	Mar. 1, 1980.
Substitute Sixty-Fifth Revised Sheet No. PGA-1.	Sept. 1, 1980.

Revised Substitute Sixty-First Revised Sheet No. PGA-1 is being filed pursuant to Article VII of the Stipulation and Agreement filed on August 12, 1980 and the Federal Energy Regulatory Commission (Commission) letter ordered dated October 21, 1980 at Docket No. RP79-68, and reflects a base tariff rate of $2.50862 as provided for in Appendix C of the Stipulation and Agreement filed on August 12, 1980 and results in a decrease of 9.745¢ per Mcf from the base tariff rate filed for effectiveness November 1, 1979.

Substitute Sixty-Third, Revised Substitute Sixty-Fourth and Substitute Sixty-Fifth Revised Sheet No. PGA-1 which represent all of the intervening approved tariff sheets are also being filed to reflect the base tariff rate of $2.50862 as stated above.

Pursuant to Article VIII of the Stipulation and Agreement filed on August 12, 1980 and the Commission's letter ordered dated October 21, 1980 at Docket No. RP79-68, North Penn states that it will make refunds to its jurisdictional customers for the period November 1, 1979 through October 31, 1980 with interest from the date of payment to the date of refund in accordance with the Commission's regulations relating thereto.

North Penn believes no waiver of the Commission's Rules and Regulations are required in order to permit the tariff sheets to become effective as proposed. However, North Penn respectfully requests that the Commission grant such waivers as it may deem necessary for the acceptance of this filing.

Copies of this filing were served on each person designated on the official service list in this proceeding, each of North Penn's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules and Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38798 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-19-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Proposed Tariff Changes

December 10, 1980.

Take notice that Northern Natural Gas Company (Northern) on December 1, 1980, filed the following tariff sheets to its F.E.R.C. Gas Tariff, Original Volume No. 2.

Third Revised Sheet Nos. 313 and 317
First Revised Sheet Nos. 318 and 319

The above listed tariff sheets contain revisions to Northern's Rate Schedule X-22. This Rate Schedule contains a contract between Northern and Southern Union Gas Company (Southern) dated July 21, 1970. Under this Contract, natural gas service is available to Southern on a firm and interruptible basis for general distribution by Southern and ultimate consumption in and about the community of Skellytown, Texas.

The tariff sheets enclosed herein reflect (1) a change in the penalty rate to five dollars ($5.00) per Mcf, (2) an extension of the contract term until October 26, 1981 and year-to-year thereafter until cancelled upon six months notice prior to termination, and (3) a new address for Southern.

Northern has respectfully requested the Commission to waive the Notice Requirements of the Commission's Regulations to allow these revised tariff sheets to become effective October 26, 1980. The original term of this Agreement ended on October 25, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38799 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-64-000]

Northern Natural Gas Company, Division of InterNorth, Inc., Natural Gas Pipeline Company of America; Application

December 9, 1980.

Take notice that on November 20, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-64-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas pursuant to a gas exchange agreement between the parties dated May 5, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that prior to June 1, 1973, Northern, operating as Peoples Natural Gas Division (Peoples), served four farm tap customers using natural gas from its 16-inch pipeline located in Mills County, Iowa, which interconnects Northern's main pipeline facilities with those of Natural. It is further stated that metering facilities at the point of delivery to Natural in Mills County were relocated in May 1973 which caused transfer of title to the natural gas from Northern to Natural prior to delivery to the farm tap

customers. Applicant asserts that due to an oversight Natural has caused delivery of natural gas totaling 3,630 Mcf during the period, June 1, 1973, through December 31, 1979, from its own system supply while Peoples billed the customers as if the gas delivered was owned by Northern.

Pursuant to the May 5, 1980, agreement, Natural would continue to deliver on Northern's behalf up to 1,000 Mcf of natural gas to the farm tap customers for a twelve-consecutive-month period and in return Northern would replace the gas which Natural delivered to the customers.

Applicants state that the agreement further provides for Northern to replace the 3,630 Mcf of natural gas delivered during the period, June 1, 1973, through December 31, 1979. Thereafter, Northern would make annual replacement deliveries to Natural no later than June 1 of each year following the date set for redelivery, it is stated.

Applicants aver that no monetary consideration would be given by either party for the proposed exchange of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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, furher 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 be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38600 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-149-000]

Oklahoma Gas and Electric Co.; Filing

December 9, 1980.

The filing Company submits the following:

Take notice that on December 1, 1980, Oklahoma Gas and Electric (Oklahoma) tendered for filing notice of termination of its Rate Schedule FPC No. 95 between Oklahoma Gas and Electric Company and City of Kingfisher, Oklahoma, effective December 31, 1980 and furthermore filed a new Electric Service Agreement with the City whereby electric service will be supplied to the City effective January 1, 1981 under the Company's FERC Electric Tariff, 1st Revised Volume No. 1.

Oklahoma requests an effective date of December 31, 1980 for termination of the existing agreement pursuant to letter of notification to the City dated November 24, 1976, and an effective date of January 1, 1981 for service to commence under the new Electric Service Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38603 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-15-000]

Pacific Gas Transmission Co.; Change in GRI Adjustment Charge

December 9, 1980.

Take notice that on November 12, 1980, Pacific Gas Transmission Company (PGT) tendered for filing the following sheet to its FERC Gas Tariff:

Original Volume No. 1

Fourth Revised Sheet No. 16.

An effective date of January 1, 1981 is proposed, in accordance with the Commission's Opinion No. 96 in Docket No. RP80-108.

PGT states that this filing is made under its filed Gas Research Institute (GRI) Charge Adjustment Provision and pursuant to the Commission's Opinion No. 96 issued September 30, 1980 in docket No. RP80-108. That Opinion authorizes members of the Gas Research Institute (GRI) to collect a general R&D funding unit of 5.6 mills per Mcf of Program Funding Services for payment to GRI. PGT further states that the change in rates will affect only charges for natural gas service rendered to Pacific Gas and Electric Company under Rate Schedule PL-1.

PGT states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commissions Rules of Practice and Procedure (18 CFR 1.8 1.10). All such petitions or protests should be filed on or before Dec. 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38604 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3484]

Roza Irrigation District and City of Ellensburg; Application for Preliminary Permit

December 9, 1980.

Take notice that Roza Irrigation District and City of Ellensburg

(Applicants) filed on September 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3484 to be known as the Swauk Hydroelectric Project located on the Swauk Creek in Kittitas County, Wasington. The application is on file with the Commission and is available for public inspection. Correspondence with the applicant should be directed to: Mr. Frank F. Vancik, Roza Irrigation District, P.O. Box 810, Sunnyside, Washington 98944 and Mr. Robert H. Walker, City Manager, City of Ellensburg, P.O. Box 1087, Ellensburg, Washington 98926, with copies to: CH2M HILL, Attention: Mr. John Mayo, 1800 Rainier Place, Yakima, Washington 98903. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would consist of: (1) a new 320-foot high, 1,100-foot long rockfilled dam, coupled with an ungated concrete ogee spillway creating; (2) a reservoir with storage capacity of 80,000 acre-feet and surface area of 650 acres; (3) a 1,600-foot long, 10-foot diameter above-ground steel penstock serving; (4) a powerhouse to contain a vertical Francis-type, turbine generator, to be operated under a head of 310 feet with a rated capacity of 16.8 MW; (5) a tailrace channel; and (6) an 8,000-long, 115-kV transmission line to transmit power to an existing Puget Sound Power and Light Company's transmission line.

The Applicant estimates that the average annual energy output would be 68 million kWh.

Purpose of Project.—The power generated at the project would be used to offset power purchases now being made by the applicant to supply its customers. Any surplus power would be offered for sale to northwestern utilities.

Proposed Scope and Cost of Studies under Permit.—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit period for a period of 36 months, during which time it would prepare a definitive project report that would include engineering, economic, and environmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $120,000. A detailed work plan and schedule was submitted as part of the application. Some ground disturbing activities, including field tests, and borings, will be undertaken during the permit period. All disturbances will be kept at a minimal and will be restored to their original condition as close as possible. No new road construction would be required to conduct the field studies under the proposed permit.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Application.—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene musts be received on or before January 21, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3484. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38805 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1854]

Samuel Huntington; Filing

December 9, 1980.

Take notice that on November 7, 1980, Samuel Huntington submitted an application, pursuant to Section 305(b) of the Federal Power Act, to hold the following positions:

Clerk, Massachusetts Electric Company, Public Utility.
Secretary and Director, The Narragansett Electric Company, Public Utility.
Director and Vice President, New England Power Company, Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules

of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38806 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-6-000]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

December 10, 1980.

Take notice that on December 2, 1980, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 2, Substitute Revised Ninth Revised Sheet Nos. 127-D and 135-C to become effective January 1, 1981. These revised tariff sheets reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning January 1, 1981, and are being filed 30 days prior to the effective date pursuant to Section 4 of Sea Robin's Tariff.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38807 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-7-000 (PGA81-1)]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 9, 1980.

Take notice that Southern Natural Gas Company (Southern), on December 1, 1980, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective January 1, 1981. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes would increase Southern's rates as a result of the following items.

(1) A Current Adjustment pursuant to Section 17.3 of the General Terms and Conditions of Southern's Tariff, reflecting an annual increase in cost of purchased gas to jurisdictional customers of $348,740,983 or approximately 65.852¢ per Mcf.

(2) A Surcharge Adjustment, pursuant to Section 17.4 of the General Terms and Conditions of Southern's Tariff, for Unrecovered Purchased Gas Costs of (21.764¢) per Mcf which is an increase of 4.580¢ from the present negative Surcharge Adjustment and is, therefore, a decrease of 4.580¢ in rates. The Surcharge Adjustment will amortize the ($61,431,476) balance in the Deferred Account over the estimated sales for the six month period commencing January 1, 1981.

(3) A Surcharge Adjustment for estimated Demand Charge Credits pursuant to Section 9.6(3) of the General Terms and Conditions of Southern's Tariff of .443¢ per Mcf which is an increase of .841¢ above the present Surcharge Adjustment.

(4) A GRI Surcharge Adjustment of .560¢ per Mcf approved by FERC order dated September 30, 1980, Opinion No. 96 (Docket No. RP80-108), which is an increase of .080¢ above the present GRI Surcharge Adjustment.

(5) A Use Tax Adjustment Rate for the recovery of Louisiana First Use Tax pursuant to Section 21 of the General Terms and Conditions of Southern's FPC Gas Tariff of 1.913¢ per Mcf which is a decrease of .280¢ below the present Use Tax Adjustment Rate.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38808 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

Southern Natural Gas Co.; Application

[Docket No. CP81-68-000]

December 9, 1980.

Take notice that on November 25, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. Cp81-68-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for Amoco Production Company (Amoco), al as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an August 20, 1980, gas purchase contract it and United Gas Pipe Line Company (United) have agreed to purchase in equal proportion 50 percent of Amoco's natural gas reserved produced from Ship Shoal Block 84, offshore Louisiana. It is stated that Applicant and Amoco entered into a September 30, 1980, transportation agreement whereby Applicant along with United would transport Amoco's remaining 50 percent of the reserves for sale and delivery to either or both Florida Gas Transmission Company (Florida Gas) and Florida Power and Light Company.

Applicant states that Amoco would deliver to it a quantity of Amoco's reserved gas of up to 25 percent of Amoco's daily deliverability from Ship Shoal at a point on the pipeline owned jointly by Applicant, United and Northern Natural Gas Comapny, Division of InterNorth, Inc. It is asserted that Applicant's obligation to transport Amoco's gas is subject to Applicant's own capacity requirements and the ability of Transcontinental Gas Pipe Line Corporation (Transco) to transport gas for Applicant. In addition, Applicant states that pursuant to the term of a letter agreement between Applicant, United and Amoco, Applicant has the right to take quantities of gas produced from Block 84 in addition to the gas purchase contract quantity during such months as its requirements are high, but Applicant would transport additional quantities of Amoco's uncommitted gas

during such months as Amoco requires additional gas.

Applicant maintains that it would transport Amoco's gas to a point of interconnection with the facilities owned and operated by Transco in Ship Shoal Blocks 70 and 72, offshore Louisiana. It is stated that at this point, Transco would, on Applicant's behalf, redeliver the gas at a point of redelivery at the existing interconnection between Transco's and Florida Gas' pipeline facilities in Vermilion Parish, Louisiana, or other mutually agreeable points onshore in southern Louisiana.

Applicant states it would charge Amoco 2.0 cent per Mcf for gas transported from the point of delivery to the point of interconnection with Transco's facilities. It is further stated that Amoco has agreed to bear its *pro rata* share of (1) any gas utilized by Applicant to offset compressor fuel, unaccounted for losses, any gas which may be vented or lost for any reason other than Applicant's gross negligence and any other uses of gas attributable to the transportation service through Applicant's facilities, (2) any gas required to offset compressor fuel and unaccounted for losses in Transco's facilities and (3) the portion of gas used, lost or consumed in the processing of gas by Amoco and attributable to gas transported by Applicant or Transco. Applicant asserts that in addition, Amoco has agreed to reimburse Applicant for those charges made by Transco to Applicant for transporting the gas to the point of redelivery.

Applicant avers that the proposed transportation agreement would have no adverse effect on any of its presently rendered services and the quantites of natural gas made available would aid it in providing adequate and reliable gas service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 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 Commissions' 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 apporpirate 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. 80-38809 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-133-000]

South Carolina Electric & Gas Co.; Cancellation

December 9, 1980.

Take notice that South Carolina Electric and Gas Company (SCE&G) tendered for filing a Notice of Cancellation of the contract between SCE&G and Duke Power Company (Duke Power), designated Rate Schedule FPC No. 3, and Carolina Power & Light Company (CP&L), designated Rate Schedule FPC No. 2.

SCE&G states that the contract between SCE&G and Duke Power involved the purchase by Duke Power of 21,000 Kw from SG&E. This contract expires at midnight on November 30, 1980.

SCE&G further states that the contract between SCE&G and CP&L involved the purchase by CP&L of 53,000 Kw from SCE&G. This contract expires at midnight, December 14, 1980. SCE&G notified CP&L by letter on May 2, 1977, as required by the terms of the contract, that it wished to terminate this contract at the expiration date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38810 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-97-003]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Tariff Filing

December 10, 1980.

Take notice that on November 17, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 2, consisting of the following: Second Substitute Ninth Revised Sheet No. 141.

Tennessee states that the purpose of this tariff sheet is to correct a typographical error contained in the sheet as originally filed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38811 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-9-000 (PGA81-1) (IPR81-1) (DCA81-1) (R&D81-1) (LFUT81-1)]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Rate Change Under Tariff Rate Adjustment Provisions

December 10, 1980.

Take notice that on December 1, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Thirty-First Revised Sheet Nos. 12A and 12B and Second Revised Sheet Nos. 12C through 12J to Ninth Revised Volume No. 1 of its FERC Gas Tariff to be effective on January 1, 1981.

Tennessee states that the purposes of the revised tariff sheets are to adjust Tennessee's rates pursuant to Articles XXIII, XXIV, XXV, XXVII, XXVIII and XXIX of the General Terms and Conditions of its FERC Gas Tariff, consisting of a PGA rate adjustment, a rate adjustment to reflect curtailment credits, an R&D rate adjustment, a GRI rate adjustment, a First Use Tax rate adjustment, and Estimated Incremental Pricing Surcharges.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 80-38812 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-10-000 (PGA81-1)]

Tennessee Natural Gas Lines, Inc.; PGA Tariff Filing

December 10, 1980.

Take notice that, on December 2, 1980, Tennessee Natural Gas Lines, Inc. ("TNGL") tendered for filing a rate change, pursuant to the purchased gas cost adjustment ("PGA") provisions of its FERC Gas Tariff, First Revised Volume No. 1, and pursuant to Section 282.602(a)(ii) of the Commission's Regulations under the Natural Gas Policy Act of 1978 ("NGPA"), consisting of the following sheets to its said FERC Gas Tariff:

Thirty-Fifth Revised Sheet No. PGA-1, and Second Revised Sheet No. PGA 1-A.

TNGL states that the purposes of its filing are: to reflect in its rates the changed rates of its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. ("TGP"), which will become effective January 1, 1981; and, to comply with Section 282.602(a)(ii) of the Commission's Regulations under the NGPA by setting forth the estimated MSACs of its jurisdictional and direct customers, separately and in total, for the period January 1 through June 30, 1981.

TNGL requests an effective date of January 1, 1981.

TNGL states that copies of its filing were served upon its jurisdictional customer, upon the affected state commission (the Tennessee Public Service Commission), and are available for public inspection at its offices in Nashville, Tennessee.

Any person desiring to be heard with respect to or to protest said filing should file a petition to intervene or protest with the Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the subject filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38813 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-58-000]

Texas Gas Pipe Line Corp.; Tariff Sheet Filing

December 9, 1980.

Take notice that on December 1, 1980, Texas Gas Pipe Line Corporation, pursuant to § 154.38 of the Commission Regulations under the Natural Gas Act, filed a Second Revised Sheet No. 4a and Original Sheet No. 4b to its FERC Gas Tariff, Second Revised Volume No. 1.

Texas Gas states that the filed Tariff Sheets relate to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision contained in Section 12 and the Incremental Pricing Surcharge Provision contained in Section 13 of the General Terms and Conditions of the Tariff. More specifically, Second Revised Sheet No. 4a reflects a net increase under that currently being collected to 34.30¢ per Mcf (at 14.65 psia) to be effective December 1, 1980. Original Sheet No. 4b reflects incremental pricing surcharges for the period December 1, 1980 through May 31, 1981 totalling $69.00.

Any person desiring to be heard and to make any protest with reference to said filing should on or before December 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with 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 but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. Texas Gas' Tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38814 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-18-000]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheet

December 10, 1980.

Take notice that on November 26, 1980, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Thirtieth Revised Sheet No. 7 to its FERC Gas Tariff, Third Revised Volume No. 1.

The revised tariff sheet is being filed to reflect the elimination of the surcharge for deferred demand charges of .29¢ included in Second Substitute Twenty-Ninth Revised Sheet No. 7. Texas Gas eliminated curtailment on its pipeline system on April 1, 1980, and is no longer incurring the liability of demand charge credits. It is estimated that the collection of the presently effective surcharge will result in overcollections of $260,000 by October 31, 1980. Therefore, Texas Gas proposes to eliminate the surcharge from its rates and reflect the credit balance in

Account No. 186.70 as a credit to Account 191.

Copies of the revised tariff sheet are being mailed to Texas Gas' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38815 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-18-001]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheet

December 10, 1980.

Take notice that on December 1, 1980, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Thirty-First Revised Sheet No. 7 to its FERC Gas Tariff, Third Revised Volume No. 1.

The revised tariff sheet is being filed to reflect the 1981 General RD&D Funding Unit of .56¢ per Mcf as authorized by Opinion No. 96, issued by the Commission on September 30, 1980 in Docket No. RP80-108, and being filed pursuant to Section 24 of Texas Gas' tariff.

Copies of the revised tariff sheet are being mailed to Texas Gas' jurisdictional customers and interested state commisions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38816 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP78-94-012]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheets

December 9, 1980.

Take notice that on November 25, 1980, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets:

Third Revised Volume No. 1

Second Substitute *Third* Revised Sheet No. 7-A and

Second Substitute *Twenty-Ninth* Revised Sheet No. 7.

Original Volume No. 2

Second Substitute *Second* Revised Sheet Nos. 82 and 982;

Second Substitute *Third* Revised Sheet Nos. 547 and 959;

Second Substitute *Fourth* Revised Sheet No. 643;

Second Substitute *Thirteenth* Revised Sheet Nos. 362 and 365;

Second Substitute *Fourteenth* Revised Sheet No. 363; and

Second Substitute *Fifteenth* Revised Sheet No. 333.

The revised tariff sheets are being filed to reflect the reduced depreciation rates contained in the Supplement to Stipulation and Agreement filed on September 11, 1980 in Docket No. RP78-94 and approved by Commission Order issued on November 14, 1980.

Copies of the revised tariff sheets are being mailed to Texas Gas' jurisdictional customers, interested state commisisions and parties to Docket No. RP78-94.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 10426, in accordance with Sections 1.8 and 1.10 of the Commisison's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commision and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38817 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 1, 1980, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet: Revised Fifty-fifth Revised Sheet No. 14.

The above tariff sheet is being filed pursuant to Section 25 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff to include in Texas Eastern's rates the GRI funding Unit of 0.56¢ per Mcf, approved by the Commission in Opinion No. 96 issued on September 30, 1980 in Docket No. RP80-108. Texas Eastern has converted the Funding Unit to its billing basis, dry dekatherms.

The proposed effective date of the above tariff sheet is January 1, 1981.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 16, 1980. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38818 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-29-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

December 9, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on

December 1, 1980 tendered for filing to be effective January 1, 1981 certain revised tariff sheets as enumerated in Appendix A attached thereto.

Transco states that the purpose of this filing is to reflect an increase of 0.07¢ per dt in the Gas Research Institute (GRI) charge applicale to sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI and to ultimate consumers.

Transco states that on September 30, 1980, the Commission issued Opinion No. 96 in Docket No. RP80-108. The Opinion provides that, as a member of GRI, Transco may file under its Gas Research Institute Charge Adjustment Provision to collect in advance of payments to GRI, 0.56¢ per Mcf (which on transco's system equates to 0.54¢ per dt) on sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI and to ultimate consumers. This adjustment charge will replace the currently effective charge of 0.47¢ per dt. All amounts collected under this provision will be remitted to GRI, less any applicable taxes.

The Company also states that this rate adjustment is being applied to those rates which are currently in effect. However, Transco will make effective on the same date its general rate increase in Docket No. RP80-117, adjusted in accordance with the Commission's suspension order of July 31, 1980. Consequently, the tariff sheets submitted will be later revised to apply the GRI rate adjustment to the rates made effective in Docket No. RP80-117.

The Company states that copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before December 16, 1980. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38819 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that Transwestern Pipeline Company (Transwestern) on December 1, 1980, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet: Revised Substitute Sixteenth Revised Sheet No. 5.

The above tariff sheet is being filed pursuant to Section 21 of the General Terms and Conditions of Transwestern's FERC Gas Tariff to include in Transwestern's rates the GRI Funding Unit of 0.56¢ per Mcf, approved by the Commission in Opinion No. 96 issued on September 30, 1980 in Docket No. RP80-108. Transwestern has converted the GRI Funding Unit to its billing basis, dekatherms.

The proposed effective date of the above tariff sheet is January 1, 1981.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38320 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER77-614]

Union Electric Co.; Compliance Filing

December 9, 1980.

Take notice that Union Electric on November 17, 1980, tendered for filing pursuant Opinion No. 94, issued September 2, 1980.

(1) Revised tariff sheets for the company's W-3 Tariff, Tariff No. 88 and Tariff No. 49.

(2) A revised cost of service for the W-3 rate.

(3) A revised cost of service for Missouri Power & Light, Tariff No. 49.

(4) A revised cost of service for Missouri Utilities, Tariff No. 88.

(5) Annualized retail primary service revenues, and rate of return analysis, based on the retail sales taking effect February 1978, October 1979 and June 1980.

Any person desiring to be heard or to protest this filing should file comments with Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 24, 1980. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38321 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-11-000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

December 10, 1980.

Take Notice that on December 1, 1980, United Gas Pipe Line Company (United) tendered for filing Substitute Revised Fifty-Second Revised Sheet No. 4 and Second Revised Sheet Nos. 4-A and 4-B and Substitute First Revised Sheet No. 4-C, to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed pursuant to the Purchased Gas Adjustment Provisions set out in Sections 19, 22 and 23 of United's tariff and the rate adjustment provisions in Docket No. RP78-68, as approved by FERC Order issued May 30, 1980. In addition, the filing reflects the Gas Research Institite adjustment charge of 5.6 mills ($0.0056) per Mcf approved by Federal Energy Regulatory Commission Opinion No. 96 issued on September 30, 1980.

United states that the current adjustment reflects rates payable to United's suppliers for the six (6) months commencing January 1, 1981.

Second Revised Sheet Nos. 4-A and 4-B are being filed to reflect the estimated incremental pricing surcharges as required by Commission Order No. 49, issued September 28, 1979. Substitute First Revised Sheet No. 4-C is being filed to reflect adjustments for transportation, compression and ANR

storage of gas pursuant to rate adjustment provisions in Docket No. RP78-68, as approved by FERC Order issued May 30, 1980.

Copies of the proposed tariff sheets will be mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38822 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-20-000]

U-T Offshore System; Proposed Changes in FERC Gas Tariff

December 10, 1980.

Take notice that on December 1, 1980, U-T Offshore System (U-TOS) tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1. The proposed changes would decrease revenues from jurisdictional transportation services by approximately $610,000 based on the 12-month period ending August 31, 1980, as adjusted, compared with the revenues generated through the presently effective rates.

U-TOS states that the principal reasons for the rate changes filed herein are as follows:

(a) Change in the method of computing depreciation to a unit of production method;

(b) Increased costs of capital which result in an overall rate of return of 11.5% which is required to afford U-TOS the opportunity to earn a fair and reasonable return; and

(c) Reduction in rate base due to increase in reserve for depreciation.

U-TOS requests an effective date of January 1, 1981, for the proposed Revised Sheets. U-TOS states that it served copies of this filing upon all of its shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38823 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3628-000]

Vass Hydro; Application for Preliminary Permit

December 9, 1980.

Take notice that Vass Hydro (Applicant) filed on October 30, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3628 to be known as the Keystone Project located on the San Miguel River near the Town of Telluride in San Miguel County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jerome R. Vass, P.O. Box 457, Telluride, Colorado 81435. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—The proposed project would affect lands of the United States within the Uncompahgre National Forest and would consist of: (1) a small diversion structure located about 3.5 miles west (downstream) of Telluride; (2) a 6,300-foot long water conveyance structure along the right (north) side of the river valley; (3) a 1,400-foot long penstock; (4) a powerhouse containing two turbines operated at a 540-foot head utilizing a 40 cfs flow, both connected to a single generator rated at 1,500-kW; (5) a short tail-race; (6) a switchyard; (7) a 200-foot long 44-kV transmission line; and (8) appurtenant facilities. Project energy would be transmitted to an existing San Miguel Power Association 44-kV transmission line. The Applicant estimates that the average annual energy output would be 10,000,000 kWh.

Purpose of Project.—Applicant intends to sell project power to a public or private utility.

Proposed Scope and Cost of Studies under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project, would consult with Federal, State and local agencies, and would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $200,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before February 9, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 10, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure; 18 CFR § 1.8 or § 1.10 (1980).

Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 9, 1981.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3628. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 38824 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EC81-3-000]

Virginia Electric and Power Co.; Notice of Filing

December 9, 1980.

The filing company submits the following:

Take notice that on November 28, 1980, Virginia Electric and Power Company (Applicant) filed an application pursuant to § 203 of the Federal Power Act with the Federal Energy Regulatory Commission for authorization to enter into a Bill of Sale with the Prince William Electric Cooperative (PWEC) by which Applicant will sell and PWEC will purchase distribution substation facilities in the Catharpin, Johnson, Minnieville, Smoketown and Willington Delivery Points. The purchase price is $402,356.

Applicant is incorporated under the laws of the State of Virginia with its principal business office at Richmond, Virginia, and is qualified to transact business in the states of Virginia, North Carolina and West Virginia. Applicant is engaged, among other things, in the business of generation, distribution and sale of electric energy in substantial portions of the State of Virginia

Applicant represents that the proposed sale of these facilities will facilitate the efficiency and economy of operation and service to the public by allowing PWEC to utilize the substations, now owned by Applicant, to provide electric service to PWEC's residential and industrial customers.

Any person desiring to be heard or to make any protest with reference to said Applicant should, on or before December 29, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C 20426, Petition to intervene or protest in accordance with 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 Protestant's parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file Petitions to Intervene in accordance with the Commission's rules. This Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38325 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP—35000/1; PH-FRC 1702-5]

Determination not To Initiate a Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Triallate; Availability of Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination not to initiate an RPAR.

SUMMARY: The EPA has concluded not to issue a rebuttable presumption against registration for triallate, a herbicide currently registered by EPA to control wild oats in small grains and certain field crops. The Agency has determined to return triallate to the registration process and require from registrants additional data to support existing registrations pursuant to section 3(c)92)(B) of the Federal Insecticide, Fungicide, amd Rodenticide Act (FIFRA), as amended.

ADDRESS: Copies of the Decision Document on Triallate are available from: Juanita Wills, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Room 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Juanita Wills (703-557-7420).

SUPPLEMENTARY INFORMATION:

I. Introduction

Triallate is a pre-emergent selective herbicide used to control wild oats in small grains (barley and wheat) and in field crops (lentils and peas). EPA has reviewed the risks associated with the use of triallate to determine whether a Rebuttable Presumption Against Registration (RDAR) should be issued for triallate. The Agency submitted triallate to the Special Pesticide Review Division (SPRD) as a candidate for the RPAR process because of its structural similarity to diallate, an RPAR chemical which had been found to induce oncogenic effects in test animals. In addition to oncogenicity, the Agency was concerned that use of triallate had the potential to cause the following effects: mutagenicity, teratogenicity, fetotoxicity and neurotoxicity. This Notice sets forth the Agency's determinations with regard to the potential of triallate to produce these adverse effects of concern. The Agency has concluded that the available toxicity data, when considered in conjunction with data demonstrating insignificant human exposure potential from the current use patterns of triallate, do not warrant the issuance of a rebuttable presumption agains registration for triallate at this time. Accordingly, the Agency has determined to return triallate to the registration process, and to require the submission of additional data to support the existing registrations, pursuant to section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

This Notice is organized into four sections. Unit I is this Introduction. Unit II, entitled "Legal Background", sets

forth a general discussion of the regulatory framework within which these actions are taken. Unit III, and the accompanying Position Document, set forth the determinations which the Agency has reached and the bases for these determinations. Unit IV, entitled "Procedural Matters", provides a brief discussion of the procedures which will be followed in implementing the determinations announced in this Notice.

II. The RPAR Process—Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (section 3(c)(5)). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide (section 2(bb)0. In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practices. The burden of proving that a pesticide satisfies the registration standard is on the proponent of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11. In broad summary, these regulations set forth certain criteria of risk and provide that an RPAR shall arise against a pesticide if the Agency determines that the ingredient(s), metabolite(s), or degradation product(s) of the pesticide in question meet or exceed any of these risk criteria.

In administering the RPAR process, the Agency adheres to the standard for initiating the RPAR process established by Section 3(c)(8), one of the 1978 Amendments to FIFRA, which provides that the Agency may not start an RPAR unless it has "a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment". In determining whether a particular pesticide raises "prudent concerns", the Agency examines the degree of toxicity of the pesticide, as well as the likelihood of human and environmental exposure. The Agency applies this approach to all its risk triggers, including oncogenicity which do not on their face take exposure into account. This approach allows the Agency to avoid the burdensome consequences of an RPAR proceeding in those situations in which the use of the pesticide at current levels of exposure does not pose an unreasonable risk to man or the environment.

The Agency generally announces that an RPAR has arisen by publishing a notice in the Federal Register. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to animals or plants of concern with regard to the adverse effects in question. See 40 CFR 162.11(a)(4). Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that a presumption is not rebutted, it will then consider information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide's uses, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration pursuant to FIFRA section 6(b)(1) and section 3(c)(6) or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registration should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benfits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions of use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA section 3(d).

III. Determinations and Regulatory Conclusions

A. Determinations on Risk

The Agency has considered information on the potential of triallate to produce oncogenicity, mutagenicity, teratogenicity and fetotoxicity, and neurotoxicity. The data considered by the Agency and the Agency's conclusions regarding these potential effects are summarized below. The Agency's evaluation of potential human exposure to triallate is presented in Unit III B.

1. Oncogenicity. 40 CFR 162.11 (a)(3)(ii)(A) provides that a rebuttable presumption against registration shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) "induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure."

For oncogenicity, as well as mutagenicity, the regulations do not require the Agency to consider exposure potential prior to the issuance of a rebuttable presumption against registration because an oncogenic and/or mutagenic pesticide poses some finite risk even at low levels of exposure since there is no "threshold" for the risk effect. However, in accordance with section 3(c)(8), the Agency will take exposure into account in determining whether the available information raises prudent concerns of unreasonable risk to man or to the environment.

The only available study in this area is a negative 2-year feeding study in Charles River albino rates performed by IBT for Monsanto Company (IBT No. 622-052511, Calandra, 1976, 1977 (with addendum)). This study is only valid as an oncogenic screening test because of deficiencies in experimental design which preclude the use of this study to satisfy registration requirements. However, the Agency believes that the negative results of this screening study, in conjunction with the low human exposure potential associated with current use patterns, indicate that the

use of triallate does not pose a human health risk for oncogenic effects. Hence, the Agency has concluded that the issuance of a rebuttable presumption against registration for triallate on the basis of oncogenicity is not warranted.

2. Mutagenicity. 40 CFR 162.11 (a)(3)(ii)(A) states that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) "induces mutagenic effects, as determined by multi-test evidence." Triallate has been tested for mutagenicity in a number of different system, including bacteria, yeast, mouse lymphoma cells and a mouse dominant lethal test. In a study performed by Sikka and Florczyk in 1978 using *Salmonella typhimurium*, triallate gave positive results for base pair conversions with metabolic activation in the Ames strains TA 100 and TA 1535. In the absence of metabolic activation, negative results were obtained for strains TA 100, TA 1535, TA 98 and TA 1538 by these investigators. Positive results for base pair conversions with metabolic activation were also obtained in *Salmonella typhimurium* by a number of other investigators. (DeLorenzo et al., 1978, Brusick, 1977, and Simon et al., 1978.) In the absence of metabolic activation, negative results were obtained by Anderson et al., 1972, in the *S. typhimurium* system; negative results were also obtained in an *E. coli* test performed by Simon et al., 1978. In addition, in a study which is currently under review by the Agency, Carere et al. (1978) reported that triallate was positive for base pair conversions in strain TA 1535 of *S. typhimurium* and positive for base pair conversions in the bacteria *Streptomyces caelicolor*.

With the yeast *Saccharomyces Cerevisiae*, triallate was positive for mitotic recombinations in strain D3 (Simon et al., 1978) and negative for gene conversion in strain D4 (Brusick, 1977). The mouse lymphoma cell system has produced both positive results for forward mutations at the TK^+ locus (Mitchell, 1980) and negative results (Brusick, 1977) at this locus.

Positive mutagenic effects have also been reported in *Aspergillus* and *Pelargonium Zonale*. Negative results were obtained in a dominant lethal test with Charles River mice which were administered single intraperitoneal injections of either 200 or 400 mg/kg triallate (Calandra, 1974a).

Although there is some variance in the reported results in similar test systems, the test data cited above is adequate to meet or exceed the multitest evidence criterion for mutagenic risks. (40 CFR 162.4(a)(3)(ii)(B).) However, in the absence of data demonstrating mutagenic effects in mammalian *in vivo* systems or evidence indicating the potential of triallate to reach the mammalian gonad, there is no basis for characterizing the mutagenic potential of triallate for humans. In view of the low level of exposure and the lack of data indicating a strong mutagenic potential, the Agency has concluded that the potential for triallate to produce mutagenic events in humans is very low. Hence, the Agency has determined that the issuance of a rebuttable presumption against registration for triallate on the basis of mutagenicity is not warranted at this time. In essence, the Agency has made a determination in accordance with 40 CFR 162.11(a)(4)(ii) that the RPAR which has technically been raised has been rebutted by the exposure information available to the Agency, and that the "pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects." The Agency has in effect rebutted its own presumption. The Agency will, however, require additional tests in the area of mutagenicity to enable a better characterization of the mutagenic potential of the compound.

3. Fetotoxic and Teratogenic Effects. 40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption against registration shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) "produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed taking into account ample margins of safety". The information pertaining to the fetotoxic and teratogenic potential of triallate is limited to a single study performed by Industrial Bio-Test Laboratories (IBT Report No. 651–05255, Calandra, 1974b) and submitted to the Agency by the Monsanto Company. Two groups of New Zealand albino rabbits were administered triallate (AVADEX BW technical) at doses of 3 mg/kg/day and 10 mg/kg/day for 12 days during gestation. IBT reported that "no dose or test material related" fetotoxic or teratogenic effects were observed which could be attributed to treatment with triallate. A no observable effect level (NOEL) was not established. An Agency review of this study indicated that (1) the number of resorption sites/100 implantation sites was greater in both experimental groups compared to the control, and (2) a significant (p less than 0.05) dose-related reduction in fetal weight occurred in treated litters in both dose groups.

Although this study was declared invalid for registration purposes in an Agency audit because of the absence of certain raw data, it does indicate a possible effect on fecundity as well as a potential fetotoxic effect for triallate. The Agency has used the data from this study, in conjunction with applicator and dietary exposure data, to provide a rough assessment of the potential of triallate to produce fetotoxic effects.

Based on applicator exposure data submitted by the Monsanto Company (Arras, 1980) and evaluated by the Agency, the total absorbed body doses for applicators working with emulsifiable concentrates of triallate during tank fill and application procedures, and during the process of incorporating the herbicide in the soil, have been estimated at roughly 1/500th and 1/1100th, respectively, of the level of exposure at which fetotoxic effects were observed in rabbits (3 mg/kg/day). The total body doses for applicators working with granular formulations during hopper fill and application procedures, and during the process of incorporating granular triallate into the soil, have been estimated at 1/900th and 1/500th, respectively, of the level at which fetotoxic effects were observed in rabbits. Based on tolerances for triallate, worst-case dietary exposure to the general public has been estimated at roughly 1/900th of the level at which fetotoxic effects were observed in rabbits.

Although this analysis is based on limited toxicological evidence, it indicates that the risk of fetotoxic effects resulting from the low levels of exposure associated with triallate under current use patterns is extremely small. Consequently, the Agency has determined that a rebuttable presumption against registration for triallate on the basis of fetotoxic and teratogenic effects is not warranted from the currently available data.

4. Delayed Neurotoxicity. 40 CFR 162.11(a)(3)(ii)(B), which was cited in the previous section provides the risk criterion for delayed neurotoxicity. With regard to delayed neurotoxicity as a potential adverse effect resulting from exposure to triallate, the Agency has determined, in view of currently available evidence from studies with hens (IBT Studies, Nos. 8580–09120 and 8580–10814, Keplinger, 1976, 1978), that the pesticide does not display delayed neurotoxicity in this species. (Hens are the test animal of choice for delayed neurotoxicity studies.)

However, the possibility that triallate might be associated with a type of

neurotoxicity in rats has been raised by a recent study reported to the Agency by the Monsanto Company. In this study, rats were treated with a mixture of chemicals, one of which was triallate. Treatment resulted in symptoms including circling behavior, head tremors, and head tilt to one side (these symptoms were exacerbated by external stimulation). These symptoms were reportedly also observed in quail which had been treated with triallate alone, suggesting that the effects observed in rats might have been due to triallate. Further testing in rats is required to clarify the nature of this potential hazard and to determine a no observable effect level.

Taking all currently available evidence into account, the Agency has determined that a rebuttable presumption against triallate is not warranted on the basis of neurotoxicity at this time.

B. Determinations on Exposure

The Agency has identified human populations which are subject to triallate exposure and has examined the type and extent of their exposure. Three routes of exposure are at issue: dietary (oral), dermal, and respiratory. Dietary exposure resulting from triallate residues on food affects the general population, including pesticide applicators. In addition, applicators can be subject to dermal and respiratory exposure to triallate during application, and during the re-entry into treated fields for purposes of incorporating the herbicide into the soil.

The Agency's estimate regarding dietary exposure is based upon the worst case assumption that triallate is present in the crops in question at tolerance levels. Based upon that assumption, the total daily intake of triallate (based on the average daily consumption of the crops in question and assuming a 60 kg person) would be 0.16 ug/kg/day, an insignificant amount.

The Agency's estimate for applicator (dermal and respiratory) exposure is based upon a study by Arras et. al. performed for the Monsanto Company in 1980. Based upon this study, the Agency has calculated exposure and absorbed body doses for applicators working with both formulations of triallate (emulsifiable concentrate and granular). An applicator working with the emulsifiable concentrate formulation would be subject to an estimated body dose of 5.6 ug/kg/ of body weight per day during tank fill and applications procedures (day 1), and an additional estimated body dose of 2.5 ug/kg/day during the process of incorporating the herbicide into the soil (day 2). An applicator working with the granular formulation would be subject to an estimated body dose of 3.1 ug/kg/day during hopper fill and application procedures (day 1) and an additional estimated body dose of 1.8 ug/kg/day during the process of incorporating triallate into the soil (day 2). Hence, applicator exposure is very low.

C. Regulatory Determinations

As discussed in the preceding units, the Agency has considered all available information on the risks posed by the use of triallate, and has concluded that the currently available toxicological data base, when considered in conjunction with the low exposure potential for triallate, indicates that the potential risks of oncogenicity, mutagenicity, fetotoxicity, teratogenicity, and neurotoxicity are very low for triallate. Consequently, the Agency has determined that the issuance of a rebuttable presumption against registration for triallate is not warranted at this time. Accordingly, the Agency has determined to return triallate to the registration process. The reasons which form the basis for this determination are set forth in detail in the accompanying Position Document. Should information become available which calls these determinations into question, the Agency will reevaluate its conclusions and, if warranted, initiate an RPAR proceeding or take other appropriate regulatory actions.

D. Other Determinations

During the review of triallate to determine if the available data indicated that the pesticide met or exceeded the RPAR risks criteria, the Agency discovered significant gaps in the data pertaining to the possible toxic effects of triallate. The Agency has therefore determined that it will request additional data, under the authority of section 3(c)(2)(B) of FIFRA, to maintain the registrations of triallate products in effect. The request for this data is independent of the Agency's determination not to initiate a rebuttable presumption against registration for triallate pesticide products. The data requirements imposed by the Agency pursuant to section 3(c)(2)(B) will be formally communicated to the registrants in the near future.

The additional studies which the Agency will require are summarized below.

1. Oncogenicity studies, in accordance with the requirements specified in the Proposed guidelines for Registering Pesticides in the U.S., 40 CFR 163.83-1 and 40 CFR 163.83-2, published in the Federal Register of August 22, 1978 (43 FR 37346).

2. Mutagenicity tests, including (1) gene mutation studies in mammalian cell culture systems; (2) tests to detect chromosomal effects with *in vitro* cytogenetics using mammalian cells or sister chromatid exchange in mammalian cells; and (3) tests to detect DNA damage, including *in vitro* repair assays in either bacterial or mammalian systems, *in vivo* cytogenetics in rats and a dominant lethal study in rats or mice.

3. Reproductive, fetotoxic and teratogenicity studies, in accordance with the requirements in the Proposed Guidelines for Registering Pesticides in the U.S., 40 CFR 163.83-3 and 40 CFR 163.83-4, published in the Federal Register of August 22, 1978 (43 FR 37382).

4. Delayed neurotoxicity testing in rats to clarify the nature of this potential hazard and to determine a no observable effect level.

5. A general metabolism study to determine absorption, distribution, metabolism and excretion of triallate in mammals. The study protocol published in the Proposed guidelines for Registering Pesticides in the U.S., 40 CFR 163.85-1, published in the Federal Register of August 22, 1978 (43 FR 37394), should be utilized in designing this study. Blood kinetics and tissue binding tests, however, will not be required.

IV. Procedural Matters

In accordance with the determinations announced in Unit III of this Notice, the Agency will not initiate a rebuttable presumption against registration for pesticide products containing triallate at this time, but will return triallate to the registration process. Copies of this Notice and the accompanying Decision Document will also be transmitted to the affected registrants and applicants. Other interested persons may obtain a copy of the Decision Document by contacting Juanita Wills at the address or telephone number given in this Notice.

Upon receipt of the 3(c)(2)(B) data, and any other data which provides information about the potential of triallate to produce adverse effects in man and the environment, the Agency will review the triallate data base to determine if the initiation of an RPAR proceeding, or other appropriate regulatory action, is warranted.

Dated: December 10, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-38717 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-32-M

[A-10-FRC 1702-3]

Issuance of PSD Permit to Puget Sound Power and Light Company

Notice is hereby given that on September 25, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Puget Sound Power and Light Company for approval to construct two combustion turbine electric generators near Spanaway, Washington. This permit has been issued under EPA's Prevention of Significant Air Qualtity Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxide (NO_x) and sulfur dioxide (SO_2) shall not exceed the following:

Emission Limitations

Pollutant	Concentration (% by volume at 15% O_2 dry basis)	Per Turbine lb/hr	Total of Two Tons/year
NO_x	$[.0075\ (\frac{14.4}{Y}) + F]$*	388	580
SO_2	.009 or a maximum fuel sulfur content of 0.5% by weight	480	720

* Y = manufacturer's rated heat rate at peak load in kilojoules per watt hour can not exceed 14.4 kilojoules/watt hour.

N (fuel bound nitrogen by percent weight)	F
$N \leq 0.015$	0
$0.015 < N \leq 0.1$	0.04N
$0.1 < N \leq 0.25$	0.004 + 0.0067 (N − 0.1)
$N > 0.25$	0.005

2. With the exception of NO_x and SO_2, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this construction will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Pemit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals 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.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 8, 1980.

Donald P. Dubois,

Regional Adminstrator.

[FR Doc. 80-38718 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-38-M

[A-10-FRC 1702-4]

Issuance of PSD Permit to Ash Grove Cement Company

On October 26, 1977, EPA issued a Prevention of Significant Deterioration (PSD) permit to Ash Grove Cement Company to construct a calcining lime kiln at the existing Portland, Oregon facility. Compliance tests on this kiln indicated that emissions were significantly higher than expected and higher than originally permitted. The reason for higher than anticipated emissions was not due to failure of the control equipment to operate as efficiently as expected. Rather, inlet pollution concentrations to the control equipment was higher than expected resulting in higher outlet emissions.

Notice is hereby given that on September 22, 1980, the Environmental Protection Agency modified Ash Grove Cement Company's PSD permit to reflect the results of compliance testing conducted on the new lime kiln. This modification has been issued under EPA's Prevention of Significant Air Qualify Deterioration (40 CFR 52.21) regulations subject to certain conditions, including:

1. Emissions of total suspended particulates (TSP) and sulfur dioxide (SO_2) shall not exceed the following:

Emission Limitations

Facility	Pollutant	Tons per year	Concentrations or emission factor
Third Lime Kiln	TSP	37.8	0.03 gr/dscf
	SO_2	32.9	

2. With the exception of TSP and SO_2, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this modification will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals 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.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: December 8, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-38719 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-38-M

[WH-FRL 1702-2]

Municipal Wastewater Treatment Works: Construction Grants, Consolidated Guidance for Facility Planning

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability for comment.

SUMMARY: The Office of Water Program Operations, Facility Requirements Division, is preparing a bound volume containing relevant quidance for preparation of facility plans receiving an EPA Step 1 grant in fiscal year 1981. It will contain a copy of the regulations and summaries of all the Program Requirements and Program Operations Memoranda applicable to Step 1 grants awarded in fiscal year 1981; it will not add new requirements; and it will not apply retroactively to Step 1 grants awarded prior to issuance.

The document (known as Facility Planning 1981) is intended to be a complete reference for consultants and grantees, defining requirements clearly in one place. We do not anticipate changes to the requirements for facility planning started in fiscal year 1981 after issuance of Facility planning 1981. The document is planned to be updated and renamed for fiscal year 1982 and annually thereafter. Changes in requirements will be incorporated in Facility planning 82 and apply to facility planning started in fiscal year 1982 only. A draft has been sent to the EPA Regional Offices and to delegated states; additional copies are available from the address given below. Facility Planning 81 is scheduled to be produced in final form by March 1981; subsequent updates will be available at the start of each fiscal year.

DATE: Comments on the draft must be submitted on or before January 29, 1981.

ADDRESS: Facility Requirements Division (WH 595), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Elaine Stanley (202-426-9404).

Dated: December 5, 1980.

Henry L. Longest,

Deputy Assistant Administrator for Water and Program Operations (WH 546).

[FR Doc. 38858 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-29-M

[OPP-30000/7C PH-FRL 1702-1]

Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products Containing Strychnine; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Correction.

SUMMARY: This document corrects a preliminary notice of determination concluding the rebuttable presumption against registration of certain pesticide products containing strychnine that appeared in the Federal Register of November 5, 1980 (45 FR 73602). In that notice, FR Doc. 80-34431, the proposed regulatory actions for the use of strychnine products to control jackrabbits on rangeland, pasture, and cropland and porcupines in forests, reforestation areas, and tree plantations were inadvertently misstated.

DATE: Written comments must be received on or before December 5, 1980.

ADDRESS: Comments should be sent to, Document Control Office (TS-793), Office of Pesticides and Toxic Substances, Rm. E-447, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Three copies of comments should be sent to the Document Control Office at the EPA Headquarters address given above. The comments should bear the identifying notation OPP-30000/7C.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, Section Head, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Rm. 711, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, 703-557-7400.

SUPPLEMENTARY INFORMATION: 1. On page 73606, column 3, paragraph three under item (6), lines 1-10 are corrected to read as follows:

Active Ingredient (Grain Bait) Strychnine (expressed as alkaloid)—0.28%
Inactive Ingredient—99.72%
Use one tablespoon.
Active Ingredient (Green Bait) Strychnine (expressed as alkaloid)—0.10%
Inactive Ingredient—99.90%
Use the equivalent of 4 to 5 alfalfa shoots.

2. On page 73607, between the second and third paragraph under item (7), the following is inserted: "Use salt blocks with a strychnine concentration of 5.8 percent, expressed as alkaloid, nailed at least ten feet above the ground."

Dated: December 9, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-38832 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 80-752, 80-753; File Nos. 4371-CM-P-80, 4594-CM-P-80]

Randi E. Beeler and Leonard R. Davis; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: Nvember 28, 1980.

Released: December 9, 1980.

In re applications of Randi E. Beeler and Leonard R. Davis, CC Docket No. 80-752, File No. 4371-CM-P-80; and Unimel, Inc., CC Docket No. 80-753, File No. 4594-CM-P-80; for Construction Permits in the Multipoint Distribution Service for a New Station at Ottumwa, Iowa.

1. The Commission has before it the above-referenced application of Randi E. Beeler and Leonard R. Davis, filed on March 4, 1980 (accepted on Public Notice of April 1, 1980) and the application of Unimel, Inc., filed on March 7, 1980 (accepted on Public Notice of March 25, 1980). These applications are for a construction permit in the Multipoint Distribution Service and they propose operations on Channel 1 in Ottumwa, Iowa. The applications are therefore mutually exclusive under present procedures and require comparative consideration. There are no petitions to deny or objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 CFR 309(e) and 0.291 of the Commission's Rules 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine on a comparative basis, which of the above-captioned applications should be granted order to best serve the public interest, convenience and necessity. In making

such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of sevice as set forth in issues (a) and (b).

4. It is further ordered, That Randi E. Beeler and Leonard R. Davis, Unimel, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-38726 Filed 12-12-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

[CC Docket Nos. 80-750, 80-751; File Nos. 477-CM-P-80, 3360-CM-P-80]

UNIMEL, Inc. and Microband Corporation of America; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 28, 1980.

Released: December 9, 1980.

In re applications of UNIMEL, Inc., CC Docket No. 80-750, File No. 477-CM-P-80; and Microband Corporation of America, CC Docket No. 80-751, File No. 3360-CM-P-80; For Construction Permits in the Multipoint Distribution Service for a New Station at Quincy, Illinois.

1. The Commission has before it the above-referenced application of Unimel, Inc., filed on October 26, 1979 (accepted on Public Notice of November 13, 1979) and the application of Microband Corporation of America, filed on January 14, 1980 (accepted on Public Notice of January 22, 1980). These applications are for a construction permit in the Multipoint Distribution Service and they propose to operate on Channel 1 in Quincy, Illinois. The applications are therefore mutually exclusive under present procedures and require comparative consideration. There are no petitions to deny or objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 CFR 309(e) and Section 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Unimel, Inc., Microband Corporation of America and the Chief Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-38725 Filed 12-12-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

FEDERAL RESERVE SYSTEM

Anchor Bancorporation, Inc.; Formation of Bank Holding Company

Anchor Bancorporation, Inc., Farmer City, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Anchor State Bank, Anchor, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38735 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Financial Services of Winger, Inc.; Formation of Bank Holding Company

Financial Services of Winger, Inc., Winger, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.6 percent or more of the voting shares of Farmers State Bank of Winger, Winger, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38737 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

First Citizens Bancshares, Inc.; Formation of Bank Holding Company

First Citizens Bancshares, Inc., Waxahachie, Texas has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens National Bank in Waxahachie, Waxahachie, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38698 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

First United, Inc.; Formation of Bank Holding Company

First United, Inc., Central City, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Central City, Central City, Kentucky. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38696 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Hardin County Bancorporation; Formation of Bank Holding Company

Hardin County Bancorporation, Eldora, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Hardin County Savings Bank of Eldora, Iowa, Eldora, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38699 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Independent Bank Corporation; Acquisition of Bank

Independent Bank Corporation, Ionia, Michigan, has applied for the Board's approval under section 3 (a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 100 per cent of the voting shares of the successor by consolidation to The Old State Bank of Fremont, Fremont, Michigan. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38702 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

United Banks of Colorado, Inc.; Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colorado, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Bank of Ignacio, Ignacio, Colorado. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38701 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Commerce Southwest, Inc.; Acquisition of Bank

Commerce Southwest, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 100 percent of the voting shares less directors' qualifying shares of White Rock Bank of Dallas, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the

application should submit views in writing to the Reserve Bank to be received not later than January 9, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38739 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Commerce Southwest Inc.; Acquisition of Bank

Commerce Southwest, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares of Central National Bank of McKinney, McKinney, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 9, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38740 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Jersey Village Bancshares, Inc.; Formation of Bank Holding Company

Jersey Village Bancshares, Inc., Houston, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of Jersey Village Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 9, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38741 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Marine Midland Interamerican Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Marine Midland Interamerican Bank, Miami, Florida, a corporation organized under § 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Houston, Texas, and Los Angeles, California. Marine Midland Interamerican Bank operates as a subsidiary of Marine Midland Bank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. 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 January 9, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38742 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Metro Bancshares, Inc.; Formation of Bank Holding Company

Metro Bancshares, Inc., Alvarado, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares Alvarado State Bank, Alvarado, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 9, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 9, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38743 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

Metropolitan Bancorporation; Acquisition of Bank

Metropolitan Bancorporation, Tampa, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 88 percent or more of the voting shares of First Bank and Trust Company, Belleair Bluffs, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 8, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38744 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

United Bank Corporation of New York; Acquisition of Bank

United Bank Corporation of New York, Albany, New York, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Sullivan County National Bank of Liberty, Liberty, New York. 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 New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 9, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 9, 1980.

Jefferson A Walker,

Assistant Secretary of the Board.

[FR Doc. 80-38745 Filed 12-12-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 9, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 2, 1981, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests an extension-without-change clearance of Form 2, Application for Source Material License. Form NRC-2 provides an applicant's proposed program for possession or use of source material. The NRC uses this information to determine if the applicant is qualified by training and experience and has equipment, facilities, and procedures to use the source material in such a manner as to protect health and minimize danger to life or property. The NRC estimates that approximately 60 applications for renewal and 15 new applications will be filed annually and that preparation time for each application will average 8 hours.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-38734 Filed 12-12-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Board of Scientific Counselors, Division of Resources, Centers, and Community Activities Subcommittee on Chemoprevention; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities Subcommittee on Chemoprevention, National Cancer Institute, January 28, 1981, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland. The entire meeting will be open to the public from 9:00 a.m. to adjournment, for the discussion of current research in chemoprevention. Attendance by the public will be limited to space available.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meetings and rosters of committee members, upon request.

Dr. Mary Ann Sestili, Executive Secretary, National Cancer Institute, Blair Building, Room 6A07, National Institutes of Health, Bethesda, Maryland (301/427-8663) will furnish substantive program information.

Dated: December 4, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-38659 Filed 12-12-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Council on Aging; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on January 29-30, 1981 in Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. until adjournment on January 29, and from 9:00 a.m. until approximately 1:00 p.m. on January 30. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 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 30, 1981 from approximately 1:00 p.m. until adjournment for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary, National Institute on Aging, Building 31, Room 2C-08, National Institutes of Health, Bethesda, Maryland 20205 (Area Code 301, 496-5898), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, 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: December 4, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 80-38687 Filed 12-12-80; 8:45 am]

BILLING CODE 4110-08-M

National Arthritis, Metabolism, and Digestive Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on January 14, 15, 16, 1980 in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on January 15 at 8:30 a.m. to approximately 12:00 Noon, to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, on January 14 the Subcommittee meetings will be closed to the public. The full Council meeting will be closed to the public for approximately the last four hours on January 15 and for approximately four hours on January 16. It is estimated that this will occur from 1:00 p.m. on January 15 and from 8:30 a.m. until noon on Friday, January 16, for 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 materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Metabolism, and Digestive Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the office of the Committee Management Assistant, NIAMDD, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases, Diabetes, Endocrine and Metabolism, Digestive Diseases and Nutrition, and Kidney Diseases, Urology and Hematology Research, 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: December 4, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-38688 Filed 12-12-80; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

Consumer Affairs Council; Meeting

SUMMARY: This notice announces the date and time of the next regular HHS Consumer Affairs Council meeting. All are welcome to attend as observers and participate in an open discussion period that will be held during the last half hour of the meeting. If you would like an agenda, please contact Susan L. Randolph.

DATE: Thursday, December 18, 1980, 1-3 p.m.

ADDRESS: 200 Independence Avenue S.W., Rooms 403A-425A, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Susan L. Randolph, Assistant, Office of Consumer Affairs, 200 Independence Ave., S.W., Rm. 622E, Washington, D.C. 20201, (202) 245-0409.

Dated: December 9, 1980.

Belle B. O'Brien,

Assistant to the Secretary for Consumer Affairs.

[FR Doc. 80-38737 Filed 12-12-80; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services; public Health Service.

ACTION: Notification of new system of records: Professional Development program Registries of the National Training System for Substance Abuse Services, HHS/ADAMHA/NIDA, 09-30-0034.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposal to initiate a new system of records, the professional Development Program Registries of the National Training System (NTS) for Substance Abuse Services, HHS/ADAMHA/NIDA, in the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), National Institute on Drug Abuse (NIDA). The Manpower and Training Branch, NIDA, has constructed the NTS network to serve as the instrument for providing substance abuse services training. The purpose of this system of records is retrival of data on persons providing or receiving drug abuse-related training. This system of records will enable individuals to obtain verfication of their participation in training events for purposes of academic credit and certification for employment, as well as provide aggregate data for analysis of training needs and trends. PHS invites interested persons to submit comments on the proposed routine uses on or before January 14, 1981.

EFFECTIVE DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget (OMB) on December 3, 1980. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. If this waiver is granted, PHS will publish a notice to that effect in the Federal Register.

ADDRESS: Comments should be addressed to the Privacy Act Officer, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, Room 10A-22, 5600 Fishers Lane, Rockville, Maryland 20857. Comments received will be available for inspection in Room 10A-22 at the address above from 8:15 a.m. to 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sol J. Silverman, Program Development Coordinator, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Room 10A-46, Rockville, Maryland 20857; (301) 443-6720.

SUPPLEMENTARY INFORMATION: NTS is a comprehensive network of national, regional, State, and local training human resources development services contractors, grantees, and affiliates to NIDA. The Professional Development Program (PDP), a support function managed by a representative committee of the NTS component members, was established by NTS to set standards for drug abuse-related training, provide recognition of qualified trainees, and provide for a registry for participants in NTS component-sponsored training. All of these representatives are employed by non-Federal organizations except for one member from the Manpower and Training Branch. Other Federal employees may serve as advisors to the Professional Development program, without voting privileges. The registry system is explained in the publication "Professional Development Program,

revised edition, July 1980," available from the system manager. The registration forms illustrated on pages 16–18 are replicas of the forms developed by the incumbent grantee, and similar OMB-approved forms revised to the requirements of the Privacy Act will be used under the contract. The essential forms are (1) Trainee Registration form, (2) Batch Control Sheet, (3) Trainer Registration form, and (4) Certificate of Course Completion.

A contractor registrar will collect data from service providers, including personal identifiers needed to assure the absolute matching of data from each training event with the correct participants within the NTS components and voluntary affiliates. This data will be routinely processed by NIDA to support the development of trainer/instructor and trainee registries, and will constitute a Privacy Act system of records.

Records are kept in premises with limited accessibility. For computerized records, safeguards established in accordance with Department standards will be used, limiting access to authorized personnel. Premises will be secured in accordance with existing security systems at the Parklawn Computer Center for safeguarding records. Security personnel patrol the premises 24 hours a day. Computer systems are secured through locked magnetic tape and disc libraries as well a lockword-password computer access system. Individually identificable information on original forms will be stored in locked cabinets. Confidentiality of records and privacy considerations will be balanced in providing accurate information to system participants.

NIDA proposes to establish routine uses for this system of records which are compatible with the purpose of the system. Routine uses will permit release of information to contractors performing agency functions in accordance with the Privacy Act, to Congressional offices at the subject's request, to the Professional Development Program Standards Committee to enable them to carry out their functions, to the Department of Justice under certain circumstances as documentation for the defense in the event of litigation, and to other Federal agencies that have been affiliated with NTS. The registries will provide a data base for use in determining and evaluating the trends in and extent of drug abuse services training.

The NIDA Manpower and Training Branch will maintain records in the registries for a three-year period after completion of credential documentation requirements to permit persons access to their records to verify their training accomplishments.

Dated: December 3, 1980.

Jack N. Markowitz,

Acting Director, Office of Management.

09-30-0034

SYSTEM NAME:

Professional Development Program Registries of the National Training System for Substance Abuse Services. HHS/ADAMHA/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Manpower and Training Branch, Division of Resource Development, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, Room 10A–46, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. In addition, records in the future may be located at contractor sites. For notification of contractor site(s), write to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have participated in National Training System courses either as trainees or as instructor/trainers. Voluntary registrants for other drug abuse-related courses and training activities will be entered in the registry by NTS components and other Federal agencies that voluntarily affiliate with the system.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Name, birthdate, sex, address, employment, length of time employed in the field of substance abuse services training, name and version of course, course completion records, date of course, name of trainer or trainees as appropriate, and training sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

Drug Abuse Office and Treatment Act of 1972 as amended, Sections 410 and 501 (21 U.S.C. 1177 and 1191); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 as amended, Sections 101, 311 (42 U.S.C. 4551, 4577): Public Health Service Act, Section 455.

PURPOSE(S):

The system will record training delivery information for validation of credential documentation requests by trainees and for verification of the credentials of trainers. Individually identifiable information will not be available to persons or organizations either within or outside the Department of Health and Human Services except as provided by Section 3(b) of the Privacy Act (5 U.S.C. 552a), by the routine uses set forth below, or by the express consent of the individual. The nonindividually identified aggregate data to be generated will be available to the interested public for purposes of identifying human resource developments and training trends.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To a Federal agency outside the Department of Health and Human Services that has affiliated with NTS.

2. To a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the written request of that individual.

3. To non-Federal members of the Professional Development Program Standards Committee in conjunction with their responsibilities for certification of training and instructor/trainers.

4. To contractors for the purpose of collating, analyzing, aggregating, or otherwise refining the records in this system, and who are required to maintain Privacy Act safeguards with respect to such records.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Batch control sheets, individual registration forms (automated and nonautomated), keypunch cards, computer tapes and discs will be utilized.

RETRIEVABILITY:

The system is filed by the name of the trainee or trainer/instructor.

SAFEGUARDS:

Records are kept in premises with limited accessibility. For computerized records, safeguards established in accordance with the National Bureau of Standards guidelines and HHS's Sytem Manual, Part 6, ADP System Security, will be utilized. Specifically, premises will be secured in accordance with existing security systems at the Parklawn Computer Center for safeguarding records. Security personnel patrol the premises 24 hours a day. Computer systems are secured through locked magnetic and disc libraries as well as lockword-password computer access system. Individually identifiable information on original forms will be stored in locked cabinets.

Note.—Contracts with non-Federal parties shall stipulate agreement to the above procedures on the part of the contractor.

RETENTION AND DISPOSAL:

Most information necessary for continuing activity on each file will be retained for three years following credential documentation. Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing to the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Professional Development Program, Manpower and Training Branch, Division of Resource Development, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Room 10A-46, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists about yourself, write to the System Manager at the address above. The following information should be provided:

Full name at the time of training
Location and date when training was provided (if known)
Course name (if known)
Name of trainer or sponsor (if known)

Your Social Security number would be helpful for record locating purposes but it is not required.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedure, above, and reasonably identify the record, specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

For both trainers and trainees, the routine reporting forms for training delivered within NTS shall be the primary source of system records. Training delivery information will be supplied on OMB-approved forms. Each trainee will fill out an event registration form which the instructor/trainer incorporates onto a "batch control" roster. The trainer registers the event in order to record the delivery of training services. The Professional Development Program then issues a "Certificate of Course Completion" for each trainee. Voluntary participants such as schools, treatment agencies, and others who are not members of the National Training System but are allowed to use the registries, will be furnished with the necessary forms to participate in the System.

For instructors/trainers, sources are reports from national, state, and regional certification authorities, NTS national workshop recommendations, and approvable equivalency documentation as required by the Professional Development Program Standards Committee policies in effect.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-38577 Filed 12-12-80; 8:45 am]
BILLING CODE 4110-88-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N-80-1048]

Announcement of Small Multifamily Rental Property Rehabilitation Demonstration Program

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of solicitation of proposals from eligible applicants to participate in a Small Multifamily Rental Property Rehabilitation Demonstration Program.

SUMMARY: HUD is soliciting proposals from grantees of CDBG Entitlement and Small Cities Comprehensive Grants to participate in a Small Multifamily Rental Property Rehabilitation Demonstration Program. This Demonstration will encourage local governments to develop effective small multifamily rental property rehabilitation programs as part of their Community Development Block Grant strategies. Participating cities will utilize their Community Development Block Grant (CDBG) funds as well as a special allocation of Section 8 Existing units and Section 312 multifamily funds to implement the Demonstration. The Program is jointly administered by the Assistant Secretary for Housing and the Assistant Secretary for Community Planning and Development. This Notice affects the following Federal Programs listed in the Catalog of Federal Domestic Assistance at the specified numbers: Community Development Block Grant in Entitlement Cities (14.218), Community Development Block Grants/Small Cities (14.219), Section 312 Rehabilitation Loan (14.220), and Low Income Housing Assistance Program (Section 8) (14.156).

FOR FURTHER INFORMATION CONTACT: Robert I. Dodge, III, Director, Office of Urban Rehabilitation and Community Reinvestment, Room 7168, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-5685. This is not a toll free number.

PROPOSAL DUE DATE: An original and three copies of the preliminary applications must be received by 5:00 p.m. on March 6, 1981.

The address is: Rental Rehabilitation Demonstration, Office of Urban Rehabilitation, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7168, Washington, D.C. 20410.

The reporting requirements contained in this notice will be submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. This notice will become effective on March 6, 1981 provided that approval of OMB is received by that date. If OMB does not approve, as submitted, the reporting requirements contained in this notice, HUD will revise the notice as necessary to comply with the decision of OMB. HUD will publish a notice in a future issue of the Federal Register concerning OMB's decision on these requirements.

SUPPLEMENTARY INFORMATION:

1. Background

Since the late 1970's, local governments have been actively involved in property rehabilitation programs. Although more than $1.5 billion has been budgeted for publicly financed rehabilitation programs in 1979, virtually all of the financing has been directed to owner occupied, 1-4

unit properties. Small rental properties of approximately 5 to 30 units have received little assistance despite the fact that they represent a significant portion of the deteriorating housing stock.

This Demonstration is designed to stimulate long term investment in this neglected sector of the private real estate market. A central aspect of the Demonstration is the *separation of financial subsidies to buildings* from *subsidies to tenants.*

Subsidies to projects financed through the Demonstration must be structured so that operating costs, amortization and reasonable profit can be achieved at *market rentals.* For the purposes of this Demonstration, the term "market rent" means the highest rents that an owner can reasonably expect to get or does in fact receive from an unassisted family for a unit in a given location, market and time.

Subsidies to tenants (available through the Section 8 Existing Housing Program) are provided so that lower income persons can remain in or occupy rehabilitated buildings subject to Section 8 Regulations. The tenant subsidies *cannot* be used to justify cash flows and/or make a project feasible.

2. Purpose of Demonstration

The purpose of the Small Multifamily Rental Property Rehabilitation Program is to demonstrate:

That with the appropriate subsidized financing it is feasible, practical and cost effective to rehabilitate small multifamily property for rental at market rates;

That local CDBG funds can be used to leverage private monies to subsidize financing for rehabilitation of small multifamily rental properties;

That it is possible to build into publicly sponsored rehabilitation programs incentives for strong management and long term maintenance of rental property; and

That with appropriate use of Section 8 Existing Housing Certificates of Family Participation, eligible lower income residents can, if they choose, remain in rehabilitated buildings.

3. Financial resources for Financing Rehabilitation: CDBG and Section 312

Two sources of subsidized financing, Community Development Block Grant funds and Section 312 Rehabilitation loan funds, will be used in Demonstration Programs. The amount, mix, and type of subsidized financing provided to each project with these resources will be dependent upon the economics of a specific project and the structure of each local Demonstration Program. For example, one project may require a CDBG grant combined with a market rate private loan in order to achieve the necessary rehabilitation which can be repaid at market rents and provide a reasonable return to the owner. Another may utilize a Section 312 loan for a portion of the financing and a private loan for the rest.

3.1 Each participating unit of general local government must budget community Development Block Grant (CDBG) funds to the Demonstration to *finance* rehabilitation. the principal use of CDBG funds will be to subsidize the cost of private rehabilitation financing to the level required to make a project feasible at market rents. Any form of rehabilitation financial assistance allowed under 24 CFR 570.202(c) or 570.204 is allowed under this Demonstration.

3.2 Priority will be given to Demonstration program participants in the allocation of Section 312 multifamily funds. For budget purposes, proposers should not expect more than one dollar of Section 312 funds for each dollar of CDBG funds budgeted for rehabilitation financing as part of this Demonstration. Since this is a project to promote rental rehabilitation and *not* a grantsmanship program, interested proposers should not necessarily expect a significantly larger allocation of Section 312 funds than they might otherwise receive, although demonstration participants will receive priority consideration. with respect to fund allocations for multifamily Section 312, this notice supplements the fiscal year 1981 funding notice to be published in the Federal Register.

4. Financial Resources for Assisting Tenants: Section 8 Existing Housing

4.1 Special contract and budget authority for approximately 1,000 Section 8 Existing Housing Certificates are available for the Demonstration. Each unit of general local government selected will be allocated section 8 units based upon (1) the number of units to be rehabilitated through the Demonstration, and (2) the estimated need for tenant assistance based on an analysis of the tenant incomes and anticipated rents of the properties to be rehabilitated.

4.2 In order to allow targeting of Section 8 Existing Certificates to tenants residing in specific properties assisted through this Demonstration, the Department intends to issue an Interim rule modifying § 882.209(a)(3) of the Existing housing Regulations. In addition, the public notice requirments of § 882.207(a) will be modified since general notice is not appropriate where only a small class of families will be eligible for the Section 8 units made available through this Demonstration. The Interim rule will apply only to the special allocation of Section 8 Existing Housing funds available for this Demonstration. The Section 8 assistance will not be applicable until the regulation amendments go into effect.

5. Local Program Design

It is expected that each Demonstration will have unique characteristics designed to meet local needs, priorities and management structures. The Department, however, has some specific program concepts which it wishes to test through this Demonstration and, therefore, all selected localities are required to follow certain common design concepts. These design characteristics are outlined in the following paragraphs.

5.1 *Neighborhood Selection.* All applicants must designate one or more neighborhoods for participation in the demonstration.

Eligible neighborhoods are those in which Community Development Block Grant assisted activities are being carried out in a concentrated manner. In addition, all neighborhoods must meet the standards for an eligible area specified at 45 FR 59715, September 10, 1980 (to be codified at 24 CFR 510.22(a)(1)) for the Section 312 Rehabilitation Loan Program.

Priority will be given to demonstration projects in designated Section 8–NSA neighborhoods.

5.2 *Property Selection.*

Size. Small multifamily rental properties of approximately five (5) to thirty (30) units per building are the focus of this Demonstration. Properties smaller than five units may *not* be assisted through the Demonstration.

Occupancy. Occupied and partially occupied properies are the primary target of the demonstration. rehabilitation of vacant buildings and conversions from non-residential uses are allowed, but not encouraged.

5.3 *Rehabilitation Standards.* After rehabilitation, all properties assisted through the Demonstration Program regardless of the source of financing must meet the Property Rehabilitation Standards of the Section 312 Rehabilitation Loan Program, 45 FR 59716, September 10, 1980 (to be codified at 24 CFR 510.24(b)) including the Cost Effective Energy Conservation provisions of the Section 312 Program, 45 FR 59723, September 10, 1980 (to be codified at 24 CFR 510.50(n)).

5.4 *Relocation Assistance.* Relocation rules for the Section 312 program published at 45 FR 59723, September 10, 1980 (to be codified at 24 CFR 510.52), shall apply to all

rehabilitation assisted under this Demonstration.

5.5 *Other Program Requirements.* Participants in this Demonstration program must comply with the following regulations: 24 CFR Part 570 where CDBG funds are to be used; 45 FR 59702, September 10, 1980 (to be codified at 24 CFR Part 510) for Section 312 funds; 24 CFR Part 882 for the Section 8 Existing Housing.

5.6 *Affirmative Fair Housing Marketing.* All borrowers and units of general local government participating in the program must agree to the following conditions, in addition to all other requirements under applicable statutes, Executive Orders, or regulations. Specifically, all borrowers and units of general local government assisted through this program shall comply with the Affirmative Fair Housing Marketing requirements that apply to the Section 312 Program. 45 FR 59723, September 10, 1980 (to be codified at 24 CFR Part 510.50(f)(7)) provides that "The borrower shall ensure that rehabilitated units will be marketed for rental or sale in a manner to affirmatively further fair housing pursuant to 24 CFR 200.600 *et seq.* If a rehabilitated unit is advertised for rental or sale, it will be done in a manner to inform persons who would otherwise be least likely to apply for the unit. The 'Equal Opportunity' logo shall be displayed in all advertising."

5.7 *Rehabilitation Financing.* All projects financed under this Demonstration must be structured so that operating costs, amortization and reasonable profit can be achieved at *market rentals.* That is, the rents that the owner can resonably expect to achieve for the unit in the given location, time and circumstance. The appropriate subsidy to achieve these objectives is some form of write-down of the capital cost to rehabilitate the project. For example: a direct grant combined with unsubsidized rehabilitation financing; a subsidized rehabilitation loan; a write-down of acquisition costs; or some combination of the above. Subsidies in the form of guaranteed rental incomes to owners and/or public guarantees to protect an investor against market risks will *not* be permitted as part of the Demonstration.

5.8 *Rental Subsidies.* In keeping with the preceding paragraph, the underwriting of all projects must separate the subsidy of lower income tenants administratively, financially and conceptually from the subsidy of building rehabilitation. Demonstration projects must, therefore, be feasible at market rents. Rental subsidies (i.e., Section 8 Existing Certificates) are thus to be used to assist a tenant who would be displaced or could not otherwise afford the rents, and *not* to make the project feasible. When Section 8 Existing assistance is used, the rents including all utilities will be subject to Section 8 Existing Housing regulations including the Fair Market Rent and Rent Reasonableness limitations as discussed in 24 CFR 882.106 and regulations regarding the Rent Adjustments at § 882.108. Accordingly, under the Rent Reasonableness Test, Section 8 Existing rents cannot exceed the market rent, as defined in this Notice, for comparable unassisted units.

5.9 *Private Sector Participation.* Each demonstration program shall include participation by private lenders in loan underwriting and may include private lender servicing. In addition, since the leveraging by CDBG funds is a principal objective of this Demonstration, all proposals shall include a mechanism for leveraging private funds with public resources to achieve the desired effective interest rates.

5.10 *Future Assistance to Projects.* It shall be made clear to all owners/borrowers that no additional public assistance will be provided to projects that develop financial difficulties in the future. Failure to comply with the note and mortgage commitments may lead to prompt foreclosure in accordance with applicable state and local law.

5.11 *Requirements for Property Owners/Borrowers.* All proposals shall include a certification assuring that participating property owners/borrowers adhere to the following conditions:

A. Owners/Borrowers shall not refuse to rent to tenants holding Section 8 Existing Certificates except for good cause such as tenants who previously failed to pay their rents, maintain their apartment or otherwise were in violation of the terms and conditions of the tenancy.

B. Owners renting to Section 8 Existing tenants shall allow their building to be inspected annually for compliance with Section 8 Existing Housing Quality Standards. Failure to maintain the building in decent, safe and sanitary condition will make the owner subject to sanctions, including reduction, suspension, and termination of payments applicable to the Section 8 Existing Housing Program.

C. All loan underwriting shall require an equity investment of at least ten percent cash or cash equivalant based on the value of the real estate at immediately achievable market value before rehabilitation.

D. Owners shall sign a statement indicating that they are aware that the property must be rented at market rates as required in paragraph 1. That is, the rents the owner can reasonably expect to achieve for the unit in the given location, time and circumstance.

6. Approval Procedures

6.1 All applicants must submit preliminary applications. The preliminary applications will be reviewed, rated and ranked by a selection board of senior HUD staff according to the criteria set forth in 8 below. Selection of finalists will be made by the Assistant Secretaries for Community Planning and Development and Housing based on staff recommendations.

6.2 Finalists will be required to develop complete, final applications. It is expected that most if not all final applications will be funded; however, the Department may elect not to fund some or all proposals if they are deemed inadequate to achieve the purposes of the Demonstration.

6.3 To facilitate preparation of preliminary applications, a workshop will be held by the Department in January. The workshop will provide further information on the concepts to be explored through the Demonstration and information to include in preliminary applications.

Those interested in attending the workshop and others who wish additional information on the Demonstration should promptly contact Mr. Robert I. Dodge, III, Director, Office of Urban Rehabilitation and Community Reinvestment, at 451 Seventh Street, SW., Room 7170, Washington, D.C. 20410, telephone (202) 755-5685. This is not a toll free number.

7. Application Requirements

The preliminary application shall utilize Standard Form 424 (sample attached). In addition, preliminary applications should provide a narrative including the following information:

7.1 A one-page abstract, specifically summarizing the proposed demonstration program, purpose, activities and budget.

7.2 A description of each proposed neighborhood which includes:

The demographic characteristics

The rental market characteristics

An estimate of rehabilitation needs, particularly the needs for subsidized financing

An estimate of the need for Section 8 Existing Housing Certificates

Evidence that the neighborhood meets the criteria for neighborhoods specified in 5.1 above.

7.3 A map of the locality indicating the neighborhood(s) proposed for the Demonstration.

7.4 A preliminary plan for the selection of properties and allocation and use of Section 8 Existing Housing Certificates as part of the Demonstration.

7.5 A preliminary description of the rehabilitation financing mechanism, proposed leveraging arrangements with private lenders and the role of private lenders in project packaging, underwriting and servicing.

7.6 A management and staffing plan describing the technical skills of the program staff, particularly the skills required to underwrite loans. If investor property underwriting skills are not available on staff, then a description of proposed arrangements to make such skills available (e.g., from local lending institutions) must be provided. The plan should also describe the administrative and management relationships between the PHA and CDBG agency.

7.7 A description of the locality's and PHA's previous experience and management capacity to carry out rental property rehabilitation and housing assisance programs and/or willingness to receive training and technical assistance to assure this capacity.

7.8 The locality's proposed schedule for implementation of the Demonstration. If demonstration activities cannot start until a point well into fiscal year 1981 because of the timing of the local CDBG program year, those timing constraints shall be explicitly stated in the preliminary application.

7.9 A statement certifying the willingness of the locality, including both the CD agency and the PHA, to comply with the Demonstration guidelines set forth in Section 5, Local Program Design.

7.10 A budget for the Demonstration indicating the amount and anticipated source of funds for:

—Administrative costs;
—Relocation, as appropriate;
—Rehabilitation financing:
CDBG
312
Private lender
Other (specify)
–Section 8 Existing contract authority required;
–Other (specify).

Selection Criteria:

Preliminary applications will be rated and selected on the basis of the following criteria:

8.1 The overall quality, thoroughness and feasibility of the proposed program.

8.2 The proposed level and strength of local financial resources, especially CDBG and private financing. Although firm commitments of private funds and lender participation in packaging, underwriting, and servicing will be an important factor for approval of final applications, firm commitments are not required in the preliminary appliction.

8.3 The appropriateness of the neighborhood, with a priority to be given for approved Section 8 NSA neighborhoods.

8.4 The quality and performance of the locality's CDBG, Section 312 and Section 8 Existing, Moderate Rehabilitation and NSA and other Substantial Rehabilitation programs.

8.5 The qualifications of program staff to manage and implement the Demonstration and/or the applicant's willingness to receive training and technical assistance to assure the necessary capacity to implement a multifamily rehabilitation program.

Sec. 312 (42 U.S.C. 1452b); Title I (42 U.S.C. 5301), Title V (12 U.S.C. 1701z-1 *et seq.*)

Issued at Washington, D.C., December 9, 1980

Clyde McHenry,

Deputy Assistant Secretary for Housing–Federal Housing Commissioner

Walter G. Farr, Jr.

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 80-38678 Filed 12-12-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-37]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Columbia Farms Planned Unit Development, Columbia, Monroe County, Illinois. This Notice is required by the Council on environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. December 8, 1980.

Francis G. Haas,

Acting Director, Office of Environmental Quality.

Appendix

EIS on Columbia Farms Planned Unit Development, Columbia, Monroe County, Illinois

The Chicago Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for a subdivision known as Columbia Farms located in Columbia, Illinois, and hereby solicits comments and information for consideration in the EIS.

Description Columbia Farms is a 162 acre, 636-unit planned unit development combining residential and commercial land uses. The residential portion will consist of 246 multi-family units, 298 single-family units and 92 condominiums. The plans for the commercial area include a 200-unit motel. The project site is located on the bluffs overlooking the Mississippi river Floodplain running approximately 3,000 feet to the North and South of the point where Illinois Route 50 intersects Illinois Route 3.

Presently an application has been received by this office for 130 multi-family units. The proposed Federal action is to make available FHA mortgage insurance for these units under Section 221(d)4 of the National Housing Act. If subsequent applications for the remaining multi-family units (described above) are received they will also be considered under Section 221(d)4. Any aplications for single-family assistance will be considered for FHA mortgage insurance under Section 203(b) and 245 of the Act. Finally, if the sponsor applies for FHA mortgage insurance for the condominium units the application would fall under the provisions of Section 234 of the Act.

Need. An EIS is being prepared because the project exceeds the threshold level for EISs established by HUD and its Departmental Procedures for Protection and Enhancement of Environmental Quality (24 CFR 50). The draft EIS is expected to be completed and distributed by the summer of 1981.

Alternatives. Alternative land uses studies for this particular site include: (1) the project as proposed, (2) the

project as proposed with modifications, and (3) land uses that may result if the project is rejected.

Scoping. Response to this notice will help determine significant environmental issues and identify data which the EIS should address. At present the following issue areas have been identified: steep slopes, highway noise, proper access, and a sanitary sewer extension.

Comments. Comments should be sent within 21 days following publication of this notice in the Federal Register to Mr. Eugene Goldfarb, the Acting Environmental Officer, Department of Housing and Urban Development, Chicago Area Office, 1 North Dearborn, Chicago, Illinois 60602. The telephone number is (312) 886-5312, (FTS) 886-5312.

[FR Doc. 80-38704 Filed 12-12-80; 8:45 am]
BILLING CODE 4201-10-M

Office of the Secretary

[Docket No. N-80-1049]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective January 14, 1981, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The system, Intergovernmental Personnel Act Assignment Records, is used to formally document the temporary assignment of an employee between two agencies under the Intergovernmental Personnel Act. These records establish the legal basis for personnel and financial transactions which facilitate these temporary assignments, and assure proper administration of the program within HUD. Appendix A, which lists the addresses of HUD's field offices, was published at 45 FR 67628 (October 10, 1980). A new system report was filed with the Speaker of the House, the President of the Senate, and the Director of the Office of Management and Budget on October 27, 1980.

HUD/DEPT-69

SYSTEM NAME:

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees of State or local governments, educational institutions, Indian tribal governments, or other eligible organizations who are presently on or have completed a detail with the Department of Housing and Urban Development (HUD) under the provisions of the Intergovernmental Personnel Act (IPA).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of the assignee's IPA agreement between HUD and a State or local government, educational institution, Indian tribal government, or other eligible organization; resume, personal qualifications statement, and background information about the assignee(s); records of interviews with assignee(s) and any required assignment evaluations and reports; and any documents which affect the status of the assignment such as extensions, amendments and terminations of contracts. The following data will be included in the records: Name of employee, social security number, date of birth, home address, agency employed by, job title, name and title of immediate supervisor, office telephone number, annual salary, date employed by agency, position to which assignment will be made, type of assignment, and period of assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 3371-3376, and E.O. 11589.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Merit Systems Protection Board, Federal Labor Relations Authority, and the Equal Employment Opportunity Commission when requested in performance of authorized duties. To Office of Personnel Management for personnel inspections of the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

Files are kept in a secured area, with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2228.2.

SYSTEM MANAGER(S), AND ADDRESS:

Director, Employment Planning and Standards Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Participating individual; individual's permanent employing organization; Department personnel files and records.

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-38694 Filed 12-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S567, S487, S856, S572, S857]

California; Classification of Public Lands for Multiple Use Management: Termination of Mineral Segregation

Correction

In FR Doc. 80-35554 appearing on page 75331 in the issue of Friday, November 14, 1980 make the following corrections:

1. On page 75332, first column, the twenty-third line now reading "SW¼, and NE¼SE¼;" should have read "SW¼SW¼, and NE¼SE¼;".
2. On page 75332, first column, the forty-sixth line now reading "SE¼NE¼." should have read "SE¼NW¼."
3. On page 75332, second column, the twenty-second line reading "Sec. 34, SNE¼SW¼, S½SW¼, and should have read "Sec. 34, NE¼SW¼, S½SW¼, and".

BILLING CODE 1505-01

Rock Springs District Advisory Council; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Rock Springs District Advisory Council. Notice of this meeting is required under Pub. L. 94-579 and 43 CFR Part 1780.

DATE: January 8, 1981, 9:30 a.m., until 4 p.m.

ADDRESS: Conference Room of Mountain Fuel Supply Company, 625 Connecticut Avenue, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901 (307/382-5350).

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Organization of the Council.
2. Discussion and Formulation of Operating Procedures for the Council.
3. Salt Wells and Big Sandy Resource Areas Management Framework Plans.
4. Public Comment Period.
5. Arrangements for the Next Meeting.

The Council, at its November 19, 1980 meeting, recommended that future meetings be scheduled on a bi-monthly interval with tentative schedules established well in advance to facilitate planned attendance of members. Therefore, tentative plans are for the Council to meet on the first Thursday of odd numbered months. Formal announcement of dates, times, places, and agendas will be provided before each meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:30-3:30 p.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by January 3, 1981. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Donald H. Sweep,

District Manager.

[FR Doc. 80-38665 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Capital Memorial Advisory Committee; Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the National Capital Memorial Advisory Committee is necessary and in the public interest.

The purpose of the committee is to prepare and recommend to the Secretary of the Interior broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital region through the media of monuments, memorials, and statues.

The General Services Administration concurred in the renewal of this committee on December 5, 1980.

Further information regarding this renewal may be obtained from Shirley Luikens, Advisory Boards and Commissions, National Park Service, Department of the Interior, Washington, D.C. 20240, telephone 202-343-2012.

Dated: December 9, 1980.

Jean C. Henderer,

Chief, Office of Cooperative Activities National Park Service.

[FR Doc. 80-38724 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-70-M

Appalachian Power Co.; Intent To Prepare an Environment Impact Statement

The Appalachian Power Company proposes to construct a 765-kV transmission line in a corridor extending from the company's existing Jackson's Ferry Substation near Wytheville, Virginia, to a proposed new substation near Axton, Virginia, a distance of approximately seventy two (72) miles. Such a corridor would necessarily cross the Blue Ridge Parkway and the applicant proposes to do so near milepost 160 in Floyd County, Virginia.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, will prepare an environmental impact statement on the applicant's request for right-of-way. In addition to studying the proposed corridor, the EIS will consider alternatives including the Giles routes which would cross the Parkway near milepost 164 in Floyd County, Virginia, the Whalen route which would cross the Parkway near milepost 183 in Carroll County, Virginia, and No Action, which would be the denial of a right-of-way permit. The EIS will examine the environmental and aesthetic consequences of each alternative on the Blue Ridge Parkway and the significant environmental impacts along the entire seventy two (72) mile route. It is not anticipated that the EIS will re-examine the question of need which was determined by the Virginia State Corporation Commission.

The National proposes a scoping period which will open on the date of this notice. Comments on the proposed scope of the Environmental Impact Statement are invited from all interested parties and should be forwarded to the following official no later than twenty-one (21) days from the date of this notice: Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303. In addition to the comments received during this period, the National Park Service will also consider all comments previously submitted in response to the Environmental Assessment which was prepared in 1980.

If any person or organization needs additional information or wishes to provide information for consideration during preparation of the statement, please advise the Regional Director, Southeast Region, National Park Service, 75 Spring St., SW, Atlanta, Georgia 30303.

Dated: November 26, 1980.

Nancy C. Garrett,

Director.

[FR Doc. 80-38723 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-70-M

Transcontinental Gas Pipe Line Corp., Padre Island Pipeline System, Padre Island National Seashore, Texas; Availability of Plan of Operations

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Transcontinental Gas Pipe Line Corporation, a subsidiary of Transco Companies, Incorporated, a plan of operations for construction of a 24-inch gas pipeline across Padre Island National Seashore, Kenedy County, Texas.

This plan is available for public review and comment for a period of 30 days in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $4.30 per copy, pursuant to the Freedom of Information Act. The plan is 82 pages in length.

Dated: December 4, 1980.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 80-38721 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[516 DM 6, Appendix 5]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised instructions for the Bureau of Land Management.

SUMMARY: This notice proposes an appendix to the Department's NEPA procedures for the Bureau of Land Management. The Departmental procedures were published in the Federal Register on April 23, 1980 (45 FR 27541).

DATE: Comments due by January 12, 1980.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891. For Bureau of Land Management, contact Brude Bandurski, Telephone: 343-7417.

SUPPLEMENTAL INFORMATION: This proposed appendix to the Departmental Manual (516 DM 6, Appendix 5) provides more specific NEPA compliance guidance to the Bureau of Land Management. In particular, it provides information about organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an environmenal statement, and categorical exclusions. The appendix should be taken in conjunction with the Departmental procedures (516 DM 1-6) which were published in the Federal Register on April 23, 1980 (45 FR 27541). In addition the bureau will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Previously published proposed appendices include:

2. Geological Survey, November 24, 1980 (45 FR 75336).

4. Bureau of Indian Affairs, July 24, 1980 (45 FR 49368).

6. Bureau of Mines, February 14, 1980 (45 FR 10043).

7. National Park Service, May 15, 1980 (45 FR 32126).

8. Office of Surface Mining, February 14, 1980 (45 FR 10043).

Final appendices have been published for:

1. Fish and Wildlife Service (45 FR 47941).

3. Heritage Conservation and Recreation Service (45 FR 76801).

9. Water and Power resources Service (45 FR 47944).

Comments on the proposed appendix are invited. To be considered in the preparation of the final appendix, comments must be received by January 12, 1980.

Dated: December 10, 1980.

James H. Rathlesberger,

Special Assistant to Secretary of the Interior

Bureau of Land Management

5.1 NEPA Responsibility

A. The *Director/Associate Director* are responsible for NEPA compliance for Bureau of Land Management (BLM) activities.

B. The *Deputy Director for Lands and Resources* is responsible for policy interpretation, program direction, leadership, and line management for BLM environmental policy, coordination, and procedures.

(1) *Office of Planning, Inventory, and Environmental Coordination.* Although this Office reports to the Deputy Director for Lands and Resources, it has Bureauwide NEPA responsibilities. These include providing program direction and procedures for implementing NEPA, and insuring the incorporation and integration of the NEPA process into BLM management systems and decision processes.

(2) The *Branch of Environmental Coordination,* within the Office of Planning, Inventory, and Environmental Coordination, serves as the BLM focal point for all NEPA matters and provides advice to the Director and other BLM decisionmakers on NEPA related activities. It is responsible for oversight of BLM's compliance with NEPA, monitoring the preparation and satus of NEPA documents, and coordinating the review of non-BLM environmental documents. Information about BLM NEPA documents or the NEPA process can be obtained by contacting this branch.

C. The *Deputy Directors for Policy, Program, and Budget and for Services* are responsible for cooperating with the Deputy Director for Lands and Resources to insure that the NEPA process operates as prescribed within their areas of responsibility. This includes managing and insuring the quality of environmental analyses, environmental documents, and records of decision.

D. *State Directors* are responsible to the Director/Associate Director for overall direction and integration of the NEPA process into their activities and for NEPA compliance in their States. The Planning and Environmental Coordination (P&EC) staff (or Division) Chiefs provide major staff support and are the key focal points for NEPA matters at the State level.

(1) *District Managers* are responsible for implementing the NEPA process at the District level. The staff (or Division) of P&EC provides major support and is

the key focal point for NEPA matters at the District level.

(2) *Area Managers* are responsible for implementing the NEPA process at the Resource Area level.

E. *Outer Continental Shelf Managers* are responsible to the Assistant Director for Energy and Mineral Resources for insuring that the NEPA process operates as prescribed within their areas of responsibility. This includes managing and insuring the quality of environmental analyses, environmental documents, and assigned environmental reviews.

F. *Office of Coal Management,* which reports to the Director/Associate Director, is responsible for insuring that the NEPA process operates as prescribed in its area of responsibility. This includes managing and insuring the quality of environmental analyses, environmental documents, and assigned environmental reviews.

G. *Office of Special Projects,* which reports to the Director/Associate Director, is responsible for insuring that the NEPA process operates as prescribed in its area of responsibility. This includes the organization for and preparation of environmental documents for major inter-State, non-BLM initiated development proposals and other major projects in accordance with established procedures or as assigned.

5.2 Guidance to Applicants

A. *General.*

(1) The primary contact point for applicants is the State Director or OCS Office Manager within whose jurisdiction the involved Federal lands are located.

(2) If the application will affect responsibilities of more than one State Director (or OCS Office Manager) an applicant may contact any State Director (or OCS Office Manager) whose jurisdiction is involved. In such cases, the Director may assign responsibility either to the Headquarters Office (e.g., Office of Special Projects) or to one of the State Offices (or OCS Offices) at his discretion. From the point, the applicant will deal with the designated lead office.

(3) Potential applicants may secure from State Directors and OCS Office Managers a list of program regulations or other directives/guidance, providing advice or requirements for submission of environmental information. The purpose of making these requirements known to potential applicants, in advance, is to assist them in presenting a detailed, adequate, and accurate description of the proposal and alternatives when they file their application and to minimize the need to request additional information. This is a minimum list and additional requirements may be identified after detailed review of the formal submission and during scoping.

(4) Since much of an applicant's planning may take place outside of BLM's Planning System, it is important for potential applicants to advice BLM of their planning at the earliest possible stage. Early communication is necessary to conduct properly our stewardship role on the public lands and to seek solutions to situations where private development decisions may conflict with public land use decisions. Early contact will also allow the determination of basic data needs concerning environmental amenities and values, potential data gaps that could be filled by the applicant, and a modification of the list of requirements to fit unique local situations. Scheduling of the environmental analysis process can also be discussed, as well as various ways of preparing any environmental documents.

B. *Regulations.* The following partial list of program regulations provides guidance to applicants, of which several may apply to a particular application. Many other regulations deal with proposals affecting public lands, some of which are specific to BLM while others are applicable across a broad range of Federal programs (e.g., Protection of Historic and Cultural Properties, 36 CFR Part 800).

(1) Management of Rights-of-Way and Related Facilities on Public Lands and Reimbursement of Costs (43 CFR Part 2800).

(2) Roads and Highways (43 CFR Part 2820).

(3) Rights-of-Way Under the Mineral Leasing Act (43 CFR Part 2880).

(4) Surface Management Requirements (43 CFR Part 3109).

(5) Surface Management Requirements; Special Requirements (43 CFR Part 3204).

(6) Outer Continental Shelf Mineral and Rights-of-Way Management; General (43 CFR Part 3300).

(7) Coal Management, Federally Owned Coal 43 CFR Part 3400).

(8) Leasing of Minerals Other than Oil and Gas; General (43 CFR Part 3500).

(9) Exploration and Mining, Wilderness Review Program (43 CFR Part 3802) (see 45 FR 13968).

(10) Surface Management of Public Lands Under the U.S. Mining Laws (43 CFR Part 3809) (see 45 FR 78902).

5.3 Major Actions Normally Requiring an EIS

A. The following types of BLM proposals will normally require the preparation of an EIS:

(1) Approval of Resource Management Plans.

Note.—BLM land use plans, termed Management Framework Plans (MFP), for which EISs are not normally prepared, are based on a set of procedures being phased out during the 1979–1983 period. During this same period, land use plans prescribed by the Federal Land Policy and Management Act (FLPMA), termed Resource Management Plans (RMP), are being phased in.

(2) Approval of major activity plans, within MFPs, for grazing and timber management in accordance with the criteria and schedule established in decrees and court orders.

Note.—To the extent practicable, these activity plans will be phased into RMPs in the future and their associated impacts will be included in the EISs under paragraph (1) above. This should substantially reduce or eliminate the need for separate EISs for activity plans.

(3) Recommendation of wilderness proposals to the Congress.

(4) Approval of regional coal lease sales schedules in a coal production region.

(5) Approval of OCS oil and gas lease sales.

(6) Approval of applications to BLM for major actions in the following categories:

(a) Sites for major steam-electric powerplants, petroleum refineries, synfuels plants, and industrial facilities.

(b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways, and railroads.

(7) Withdrawals from mineral entry under U.S. Mining Laws of 5000 acres or more of public lands where evidence indicates minerals of more than nominal value are present or high interest in mineral development exists.

B. If, for any of these proposals, it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2).

5.4 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Bureau also performs, the following BLM actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. *General.*

(1) Program guidance decisions that:

(a) Are purely administrative and by themselves have no discernible inpact on the human environment, or

(b) Are in the nature of general policy direction which, when implemented, might have impact on the human environment; *but* the impact cannot be defined at the time of issuance, since major discretion exists for application of the direction at field level, *and* there is provision for the impact of alternatives to be analyzed at later points in the decision process.

(2) Inventory, data, and information collection.

(3) Placing of monitoring equipment (e.g., stream gages).

B. *Realty.*

(1) Withdrawal continuations or extensions which would merely establish a life term and where there would be essentially no change in use and continuation would not lead to environmental degredation.

(2) Withdrawal continuations or extensions where the withdrawn area does not exceed in the aggregate 160 acres.

(3) Withdrawal continuation or extensions for Forest Service administrative sites, location of facilities, other proprietary purposes, and roadside buffer zone areas.

(4) Withdrawal continuations or extensions where an adequate mineral report has been prepared which determined the land to contain minerals of no more than nominal value and there has been no interest in mineral development expressed, and no new uses would be permitted and existing uses would not lead to environmental degradation under the continuation.

(5) Withdrawal terminations, modifications, or revocations; if, because of other withdrawals, classifications, management decisions or administrative determinations that will survive the action, the status of the land, insofar as its availability for appropriation under the general land laws, will not be changed.

(6) Withdrawal terminations, modifications, or revocations that, because of overlying withdrawals or statutory provisions, involve merely a record clearing procedure principally to convey the rights to the surface owner only.

(7) Withdrawal revocations and opening orders for stock driveways.

(8) Withdrawal terminations, modifications, or revocations and classification cancellations and opening orders where the land was withdrawn or segregated only from mineral leasing, or from any discretionary sale, or other discretionary disposal law and where such future discretionary actions will be subject to the NEPA process.

(9) Withdrawal terminations, modifications, or revocations and classification cancellations and opening orders where the land was withdrawn or segregated only from the operation of the mining laws; if the land does not contain minerals of more than nominal value, as determined in accordance with the established practice and procedures of BLM, and there has not been any interest in mineral development expressed.

(10) Withdrawal terminations, modifications, or revocations and opening orders that by law the Secretary of the Interior is under a mandatory duty to execute.

(11) All non-discretionary land actions in Alaska pursuant to the Alaska Native Claims Settlement Act (ANCSA), Alaska Statehood Act, and other statutes including:

(a) ANCSA grants
(b) Native allotments
(c) Trade and manufacturing sites
(d) Homesites
(e) Headquarters sites
(f) Homesteads
(g) State selections

(12) Administrative conveyances and leases to the State of Alaska to accommodate airports for which property rights existed prior to the enactment of NEPA.

(13) Continuations of Recreation and Public Purpose Act lands, small tract lands, or other land disposal classifications where the surface has been patented and the locatable minerals are reserved to the U.S.

(14) Minor actions taken in connection with Section 209(b) of FLPMA.

(15) Color of Title cases (Class one).

(16) Recordable disclaimers of interest under Section 315 of FLPMA.

(17) Corrections of patents and other conveyance documents under Section 316 of FLPMA and other applicable statutes.

(18) Assignment of land use authorization (to another party) where the assignment conveys no additional rights beyond those granted in the original authorization.

(19) Transfer of use authorization from one agency to another when an action such as a boundary adjustment necessitates changing a right-of-way from one agency to another (e.g., Forest Service Special Land Use Permit to a BLM Title V right-of-way).

(20) Conversion of existing rights-of-way grants to Title V of FLPMA grants where no new facilities or other changes are needed.

(21) Rights-of-way inside another right-of-way or amendments to rights-of-way where no deviation from or addition to the original right-of-way are involved and where there is an existing environmental document covering the same or similar impacts in the right-of-way area.

(22) Buried telephone line in an existing right-of-way using the split trench method.

(23) Upgrading or adding new lines (power or telephone) to existing pole(s) when there is no change in pole configuration.

(24) Right-of-way for a single-poled power distribtuion line to a private residence or to a well from an existing line where installation of the line will involve no clearance of vegetation from the right-of-way other than for placement of the poles.

(25) Rights-of-way for overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(26) Right-of-way which would add another radio transmitter to an approved communication site.

C. *Transportation.*

(1) Placing of existing road in BLM road net where no new facilities or other changes are needed.

(2) Installation of routine signs, markers, or cattleguards on or adjacent to existing roads.

(3) Temporary road closures.

D. *Minerals.*

(1) Issuance of mineral patents.

(2) Actions taken in connection with 43 CFR Part 3809 which do not require an EA, pursuant to § 3809.2-1.

(3) Approval of permits for geologic and paleontologic mapping, inventory, reconnaissance, and surface collecting when existing roads and trails are used.

(4) Issuance of individual upland oil and gas leases.

(5) Conversion of an abandoned oil well to a water well if water facilities are established at well site only.

(6) Establishment of performance conditions in notices of intent to conduct for seismic and geophysical exploration for oil and gas.

(7) Approval of notices of intent to conduct seismic and geophysical exploration for geothermal resources.

E. *Other.*

(1) Minor routine or preventive operation and maintenance activities on BLM transmission, transportation, and recreation facilities and range and forestry developments.

(2) Small sales of sand and gravel, wood products, or other materials from an authorized sale area.

(3) Dispersed non-commercial recreation activities such as rock collection, Christmas tree cutting, and pine nut gathering.

(4) Land cultivation activities in forest tree nurseries.

(5) Cadastral surveys.

(6) Non-manipulative research.

(7) Issuance of special use or short term permits not entailing environmental disturbance.

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BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

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

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

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152992 (Sub-1-1TA), filed December 3, 1980. Applicant: J. D. CARTAGE CO., INC., R.D. 1, Elbow Lane, Burlington, NJ 08016. Representative: Thomas F. McGuire, 300 Kings Highway East, Haddonfield, NJ 08033. *Contract carrier:* irregular routes: *Steel articles* from Wierton, WV and Sparrows Point, MD to Water and Moore Street, Philadelphia, PA and 1202 Airport Road, North Brunswick, NJ. Supporting shipper(s): United Nesco Container Company, Water and Moore St., Philadelphia, PA 19148; United Nesco Container Company, 1202 Airport Rd., North Brunswick, NJ 08902.

MC 135009 (Sub-1-1TA), filed December 4, 1980. Applicant: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, NJ 07866. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Prerecorded Cassette Tapes, moving in plastic display racks* between Stamford, CT, on the one hand, and, on the other, points in OK and TX. Supporting shipper: Nabisco, Inc., E. Hanover, NJ 07936.

MC 152997 (Sub-1-1TA), filed December 4, 1980. Applicant: AMTRUK TRANSPORT, INC., P.O. Box 4327, Bergen Station, Jersey City, NJ 07304. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Contract carrier;* irregular: *general commodities (except Classes A and B explosives and household goods as defined by the Commission),* between points in the US, under continuing contract(s) with Celanese Chemical Company, Inc. Supporting shipper: Celanese Chemical Company, Inc., 1250 W. Mockingbird Lane, P.O. Box 47320, Dallas, TX 75247.

MC 152946 (Sub-1-1TA), filed December 1, 1980. Applicant: ALBERT FARMS, INC., St. David Road, Madawaska, ME 04756. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier;* irregular routes: *general commodities* between points in the US (except AK and HI) under continuing contract(s) with Fraser Paper Limited. Supporting shipper: Fraser Paper Limited, Madawaska, ME 04756.

MC 152944 (Sub-1-1TA), filed December 1, 1980. Applicant: THEODORE W. PATSKIN TRUCKING, 1140 Military Road, Kenmore, NY 14217. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Waste paper (secondary fiber), paper, paperboard and ground cellulose insulation* between points in CT, MA, MI, NJ, NY, PA, and OH. Supporting shipper(s): National Waste Paper & Rag Co., 105 Skillen Street, Buffalo, NY; M. L. Cellulose Products, Inc., 105 Skillen Street, Buffalo, NY; Ramcol Fibres, Inc., 374 Delaware Avenue, Buffalo, NY 14202.

MC 134833 (Sub-1-1TA), filed November 28, 1980. Applicant: PRICE TRUCKING CORP., 67 Beacon Street, Buffalo, NY 14220. Representative: Robert D. Gunderman, Suite 710 Statler Building, Buffalo, NY 14202. *Hazardous materials, in containers (including Class 1 organic residue, inorganic residue, and organic and inorganic sludge),* (1) from Braintree, MA to Emelle, AL, Williansburg, OH, Pinewood, SC and Niagara Falls and Model City, NY; (2) and between Model City, NY on the one hand, and, on the other, Emelle, AL, Williamsburg, OH, Pinewood, SC, and Braintree, MA under a continuing contract or contracts with Recycling Industries—SCA Chemical Services. Supporting shipper: Recycling Industries—SCA Chemical Services, 385 Quincy Ave., Braintree, MA 02184.

MC 6252 (Sub-1-2TA), filed December 1, 1980. Applicant: TEAL'S EXPRESS, INC., 36 Laura Street, Lyons Falls, NY 13368. Representative: Roy D. Pinsky, Esq., Suite 1020, State Tower Building, Syracuse, NY 13202. *General commodities (except Classes A and B explosives and household goods as defined by the Commission),* between all points in the NY counties of Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga and Oswego on the one hand, and, on the other, all points in the NY Counties of Albany, Columbia, Fulton, Greene, Montgomery, Rennselaer, Saratoga, Schenectady and Schoharie. Supporting shipper(s): Branch Motor Express Company, 114 Fifth Avenue, New York, NY 10011; Springmeier Shipping Co., Inc., 225 Johnson Street, East Syracuse, NY 13057; Georgia-Pacific Corporation, Center Street, Lyons Falls, NY 13368; AMF Incorporated, Bowling Pin Division, Utica Boulevard, Lowville, NY 13367.

MC 136250 (Sub-1-2TA), filed December 3, 1980. Applicant: ROBERT A. LIDDYCOAT, 142 Elgin Street, Thorold, Ontario, CD. Representative: Robert D. Gunderman, Suite 710 Statler Building, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Concrete poles,* between ports of entry on the International Boundary line between the US and CD located in MI on the one hand, and, on the other, Davenport, IA and Evansville, IN under an existing contract or contracts with Barratt Spun Concrete Poles Ltd. Supporting shipper: Barratt Spun Concrete Poles Ltd., 4536 Montrose Road, P.O. Box 372, Niagara Falls, Ontario CD L2E 6T8.

MC 146718 (Sub-1-1TA), filed November 26, 1980. Applicant: MILNE

ENTERPRISES, INC., 72 Littleworth Road, Dover, NH 03820. Representative: David E. McCabe, Route 1 By-Pass, P.O. Box 402, Kittery, ME 03904. *Coal, Petroleum products, gas, gasoline, kerosine, fuel oil, lubricants and solvents, in bulk, in tank vehicles and with bulk equipment,* between points in the state of CT, ME, MA, NH, NJ, NY, RI, and VT. Supporting shipper: Grimes Oil Company, 165 Norfolk St., Dorchester, MA 02024.

MC 148387 (Sub-1-5TA), filed November 28, 1980. Applicant: S. M. P., INC., 166 Sitgreaves Street, Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Concrete, concrete decks and precast and prestressed concrete products; and (2) materials, equipment and supplies used in the manufacture, sale, or installation of the commodities named in (1) above (except in bulk),* between points in Lehigh and Northampton Counties, PA, on the one hand, and, on the other, points in NJ, NY, PA, DE, MD, VA, MA, CT, RI, and DC. Supporting shipper(s): Concrete Deck Systems, Inc., Brodhead Road, RD#2, Bethlehem, PA 18017.

MC 152947 (Sub-1-1TA), filed December 1, 1980. Applicant: IDEAL TRANSPORTATION CO., INC., 2 Dooling Circle, Peabody, MA 01960. Representative: Mary E. Kelley, Esq., 22 Stearns Avenue, Medford, MA 02155. *General Commodities (except Classes A & B explosives and household goods as defined by the Commission)* (1) between points in MA, RI, CT, NY and (2) between points in MA, RI, CT, NY and NJ, on the one hand, and, on the other, points in ME, NH and VT. Applicant intends to interline in NY and NJ on traffic to points south and west. Supporting shipper(s): Essex Office Associates, Inc., 10 Boston St., Salem, MA 01970; Martignetti Grocery & Liquor Co., 12 Mooney St., Cambridge, MA 02138; U.S. Polmers, Inc., 56 Gardner Parkway, Peabody, MA 01960; A & M Custom Brokers, Inc., 126 State St., Boston, MA.

MC 152943 (Sub-1-1TA), filed December 1, 1980. Applicant: NEW DIMENSION DISTRIBUTION TRUCKING INC., P.O. Box 353, Florham Park, NJ 07932. Representative: JoAnn Granato, 14 Elmwood Road, Florham Park, NJ 07932. *Contract carrier:* irregular routes: *Vending Machines, Coin Operated Phonographs, Change Making Equipment, Coin Operated Amusement Games and Equipment, Materials, Equipment and Supplies (except commodities in bulk) used in the manufacturing, installation, sale, and distribution of the commodities named* between points in the US, under a continuing contract with Rowe International Inc., located at Whippany, NJ. Supporting shipper: Rowe International, 75 Troy Hills Road, Whippany, NJ 07981.

MC 142974 (Sub-1-2TA), filed November 26, 1980. Applicant: SURE TRANSPORT, INC., Industrial Center, P.O. Box G, Lincoln, RI 02865. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Contract carrier:* irregular routes: *Such commodities as are dealt in by a manufacturer of polystyrene and polystyrene products,* between the facilities of W. R. Grace & Co., Construction Products Division, Fallsington, PA on the one hand, and, on the other, points in VA, WV, MD, DE, DC, NJ, NY, CT, RI, MA, VT, NH, and ME, under continuing contract(s) with W. R. Grace & Co., Construction Products Division. Supporting shipper: W. R. Grace & Co., Construction Products Division, 62 Whittemore Avenue, Cambridge, MA 02140.

MC 59720 (Sub-1-2TA), filed December 4, 1980. Applicant: KENMORE TRANSPORTATION COMPANY, 22 Eskow Rd., Worcester, MA 01604. Representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602. (1) *Containers,* from Dover, NH, Taunton, Worcester and Leominster, MA, Chicago, IL, and New York, NY to points in AL, NC, OH, IL, CT, MD, PA, NY, WV, ME, NH, VT, MI, WI, AZ, GA, FL, AR, DC, MA, RI, NJ, MO, IN, VA, DE, KY, TN, and SC; and (2) *Materials, equipment and supplies used in the manufacture, sale and distribution of containers,* from points in AL, NC, OH, IL, CT, MD, PA, NY, WV, ME, NH, VT, MI, WI, AZ, GA, FL, AR, DC, MA, RI, NJ, MO, IN, VA, DE, KY, TN, and SC to Dover, NH, Taunton, Worcester and Leominster, MA, Chicago, IL, and New York, NY. Supporting shippers: Rand Whitney Packaging Corporation, 248 Industrial Rd., Leominster, MA 01453; North American Container Corporation, 11 Jytek Park, Leominster, MA 01453.

MC 151356 (Sub-1-2TA), filed December 4, 1980. Applicant: THE BIRGE COMPANY, INC., 431 E. 16th Street, Paterson, NJ 07514. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Chemicals, anti-freeze and oil, except in bulk* between New York, NY Commercial Zone, on the one hand, and, on the other, points in the U.S. east of the Mississippi River. Supporting shipper: Custom Oil Company, 627 River Drive, Garfield, NJ 07026.

MC 151486 (Sub-1-1TA), filed August 7, 1980. Applicant: RICH-HIL TRANSPORTATION, INC., R.D. 5, Box 64, Flemington, NJ 08822. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Fuel, in bulk,* from Newark and Perth Amboy, NJ to W. Hazelton, PA. Supporting shipper(s): Tenneco Chemicals, Inc., division of Tenneco, Inc., W. 100 Century Road, Paramus, NJ 07652.

MC 103490 (Sub-1-4TA), filed December 3, 1980. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Acetonitrile, in bulk,* from Baytown, TX to Stony Point, NY. Supporting shipper(s): Kay-Fries Chemicals, Inc., Stony Point, NY 10980.

MC 147811 (Sub-1-2TA), filed November 28, 1980. Applicant: FLO-JO CONTRACTING, INC., P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson, P.O. Box 283, Belgrade Lakes, ME 04918. *Contract carrier:* irregular routes: *Flour and bakery related commodities,* between points in the U.S., under continuing contracts with (1) J. L. Hayes Co., of Lewiston, ME, (2) Bakers Supply of Auburn, ME, (3) Lepage Baking Co., of Lewistown, ME, and (4) Mallett & Co., of Carnegie, PA. Supporting shipper(s): J. L. Hayes Co., 280 Main St., Lewiston, ME 04240; Bakers Supply, P.O. Box 406, Auburn, ME 04210; Lepage Baking Co., 60 Second St., Lewiston, ME 04240; Mallett & Co., P.O. Box 474, Carnegie, PA 15106.

Republication

MC 150295 (Sub-1-2TA), filed November 12, 1980. Applicant: K & M DIESEL SERVICE, INC., 10-12 East Maple Avenue, Cedarville, NJ 08311. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Electric Wire and Cable and Steel Wire Rope* between NJ, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, ME, MD, MA, NH, NJ, NY, NC, OH, PA, SC, TX, VT, and VA. Supporting shipper(s): Bridgeton Transfer Point, Inscon Cable Co., Manhattan Electric Corp., and Petro Cable Corp., P.O. Box 440, Bridgeton, NJ 08303.

MC 149233 (Sub-1-5TA), filed December 2, 1980. Applicant: EDGAR SERVICE COMPANY, INC., P.O. Box 562, Avon, MA 02322. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403. *(1) Paper and paper products, and (2) materials and*

supplies used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Great Northern Paper a company of Great Northern Nekoosa Corporation at East Millinocket and Millinocket, ME, on the one hand, and, on the other, points in CT, DE, IL, IN, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC. Supporting shipper: Great Northern Paper a company of Great Northern Nekoosa Corporation, Millinocket, ME 04462.

MC 152585 (Sub-1-1TA), filed December 2, 1980. Applicant: MEDFIELD TRANSPORT, P.O. Box 529, Milford, MA 01757. Representative: Peter G. Baker, 304-A Oakwoods, Bellingham, MA 02019. *Auto parts,* between Teterboro, NJ and Hopedale, MA. Supporting shipper: Real Warehousing, 1494 Main St., Millis, MA 02054.

MC 150699 (Sub-1-2TA), filed December 3, 1980. Applicant: RST INDUSTRIES, LTD., 225 Thorne Avenue, P.O. Box 1316, Saint John, New Brunswick, Canada E2L 4H8. Representative: Fritz R. Kahn, Esq., Suite 1100, 1660 L Street, NW., Washington, DC 20036. *Contract carrier:* irregular routes: *Chemical by-products of the petroleum refining process, in bulk, in tank trailers* between points on the US-CD boundary line at Calais, Houlton, and Vanceboro, ME, on the one hand, and Everett and Boston, MA on the other hand, under continuing contract(s) with Irving Oil Limited. Supporting shipper: Irving Oil Limited, 10 Sydney Street, Saint John, New Brunswick, CD E2L 4M3.

MC 124004 (Sub-1-4TA), filed December 3, 1980. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper, paper products, plastics, and plastic products (except commodities in bulk in tank vehicles); and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above (except commodities in bulk in tank vehicles),* between Alsip, IL, Martinsburg, WV, Ashland, Doswell, and Norfolk, VA, Philadelphia, PA, Flint and Detroit, MI, Carrollton, Columbus, and Cincinnati, OH, Jersey City and Mountainside, NJ, Kingsport, TN, Kansas City, MO, and Hagerstown, MD, on the one hand, and, on the other, points in the states of IL, WI, VA, PA, MI, WV, NJ, TN, MO, MD, and OH. Supporting shipper(s): Hal-Rose, Inc., P.O. Box 1069, Benjamin Fox Pavilion, Jenkintown, PA 19046.

MC 146961 (Sub-1-1TA), filed December 3, 1980. Applicant: INTERLAKE SYSTEMS, INC., 601 Hilltop Road, Cinnaminson, NJ 08077. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Iron powder and iron powder by-products; and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above (except commodities in bulk in tank vehicles),* between points in the US, restricted to traffic originating at or destined to the facilities utilized by the Hoeganaes Corporation. Supporting shipper(s): Hoeganaes Corporation, River Road and Taylors Lane, Riverton, NJ 08077.

MC 152977 (Sub-1-1TA), filed December 2, 1980. Applicant: FULTONVILLE PLASTICS, INC., 1 Union Street, Fultonville, NY 12072. Representative: Robert Dorfman, Comrie Ave., Johnston, NY 12072. *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between, on the one hand, points in NY, NJ, PA, OH and MA, and on the other, Fultonville and Duanesburg, NY. Supporting shipper: The Golub Corporation, P.O. Box 1074, Schenectady, NY 12301.

MC 148387 (Sub-1-6TA), filed November 28, 1980. Applicant: S.M.P., INC., 166 Sitgreaves St., Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Dragline track or parts, carriers or conveyors, machine parts, and structural steel forms; and (2) materials, equipment, and supplies used in the manufacture, sale, or installation of the commodities named in (1) above (except commodities in bulk),* between Easton, PA, on the one hand, and, on the other, points in NJ, NY, PA, DE, MD, VA, MA, CT, RI, and DC. Supporting shipper(s): S. I. Handling Systems, Inc., P.O. Box 70, Easton, PA 18042.

MC 146026 (Sub-1-1TA), filed November 28, 1980. Applicant: CROSS COUNTRY FARMING COOPERATIVE, INC., P.O. Box 134, Pine Island, NY 10969. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper and paper articles; and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between San Antonio, TX, on the hand, and, on the other, Atlanta, GA; Baton Rouge and Shreveport, LA; Birmingham and Mobile, AL; Charlotte, NC; and Louisville, KY. Supporting shipper(s): Clarke Printing Company, 5101 S. Zarzamora, San Antonio, TX.

MC 151631 (Sub-1-3TA), filed November 28, 1980. Applicant: AMERICAN MESSENGER SERVICE, INC., 160 Lake Avenue, Machester, NH 03105. Representative: Susan M. Vercillo, Esq., Devine, Millimet, Stahl & Branch, Professional Association, 1850 Elm Street, Manchester, NH 03105. *Contract carrier:* irregular routes: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between points in NH, ME and MA. Supporting shipper(s): There are 143 statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 148811 (Sub-1-1TA), filed December 1, 1980. Applicant: SURGICAL CENTER OF VERMONT, INC., 207 North Street, Bennington, VT 05201. Representative: Philip J. O'Neill, c/o Surgical Center of Vermont, Inc., 207 North Street, Bennington, VT 05201. *Intravenous solutions and fluids, sets, plastics also pharmaceutical and biological products, drugs, kits, syringes, expendable administration sets including urological and suction disposable products,* from Bennington, VT to points in NH, VT, Berkshire, Franklin, Hampshire, Hampden and Worcester Counties, MA, and Hartford, Middlesex, New Haven Counties, CT, and Essex, Franklin, Washington, Rensselaer, Columbia, Schenectady, Saratoga and Clinton Counties, NY. Supporting shipper: Cutter Laboratories, Inc., 2200 Powell Street, Emeryville, CA 94608.

MC 145044 (Sub-1-2TA), filed November 25, 1980. Applicant: FOREDECK TRANSPORATION CO., INC., P.O. Box 142, Oak Ridge, NJ 07438. Representative: George A. Olsen, P.O. Box 357, Gladston, NJ 07934. *(1) Paper, Paper Products, and Packaging Materials; and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between Pacific, MO, on the one hand, and, on the other, points in the US. Supporting shipper(s): Alton Box Board Co., Pacific, MO 63069.

MC 138758 (Sub-1-1TA), filed December 4, 1980. Applicant: NORTHERN GAS, INC., P.O. Box 66, Lydonville, VT 05851. Representative: John P. Monte, P.O. Box 568, Barre, VT 05641. *Propane* from Selkirk, NY to points in NH, and Vt. Supporting shipper: North American Utilities Construction Corp., 660 Madison Ave., New York, NY 10021.

MC 152998 (Sub-1-1TA), filed December 4, 1980. Applicant: STEVEN W. FLEISCHER, d.b.a. LYNWAY TRUCKING CO., 147-61 77th Avenue, Flushing, NJ 11376. Representative: Ronald Podolsky, Esq., 15 Park Row, New York, NY 10038. *General commodities, with the usual exceptions,* between New York, NY, and its commercial zone, on the one hand, and, on the other, points in ME, NH, VT, CT, MA, RI, NY, NJ, PA, DE, MD, VA, FL, and DC, restricted to a prior or subsequent movement by water. Supporting shipper: Euramex International Fowarding, Inc., Hook Creek Blvd., Valley Stream, NY 11581.

MC 153001 (Sub-1-1TA), filed December 5, 1980. Applicant: HISKO TRUCKING CO. INC., 100 Lister Avenue, Newark, NJ 07105. Representative: Lawrence Hisko, 100 Lister Avenue, Newark, NJ 07107. *Chemical waste material* between points in the U.S. Supporting shipper: SCA Chemical Services Co., 197 Albert Street, Newark, NJ 07105.

MC 73081 (Sub-1-1TA), (correction), October 15, 1980. In Federal Register MC 73081 (Sub-1-1TA) appearing in the issue of Monday, November 3, 1980, on page 72802, last column, fourth paragraph, starting MC 73081 (Sub-1-1TA), Applicant: ANYTIME DELIVERY SYSTEMS, line 12, reading CT, DE, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC should be corrected to add *ME.*

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 149400 (Sub-II-3TA), filed December 1, 1980. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 N. First St., Ft. Recovery, OH 45846. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. *Building hardware and materials, equipment, and supplies used in the manufacturing of building hardware,* between Grand Rapids, MI, and Auburn, AL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dexter Lock, Division of Kysor, 1601 Madison Ave., SE., Grand Rapids, MI 49507.

MC 110659 (Sub-II-5TA), filed November 28, 1980. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia St., West, Charleston, WV 25302. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Beer and malt beverages and materials and supplies used in their distribution,* between Hancock and Seneca Co., OH, on the one hand, and, on the other, points in Cabell and Kanawha Co. WV for 270 days, Underlying ETA seeks 120 days authority. Supporting shipper(s) Central Enterprises, Inc., 905 7th Ave., Charleston, WV 255302.

MC 138000 (Sub-2-23TA), filed November 28, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Bakery products and materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Richmond, VA, including its commercial zone, on the one hand, and, on the other, points in and east of MN, IA, KS, OK, and TX, for 270 days. Supporting shipper(s): Nabisco, Inc., River Road and DeForrest, East Hanover, NJ 07936.

MC 119968 (Sub-II-3TA), filed November 24, 1980. Applicant: A. J. WEIGAND, INC., 1046 N. Tuscarawas Ave., Dover OH 44622. Representative: Michael Spurlock, 275 E. State St., Columbus OH 43215. *Animal and poultry feed and feed ingredients,* in bulk, in tank vehicles, from the facilities of American Cyanamid Company at Willow Island, WV to Hannibal, MO, and its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Cyanamid Company, Wayne NJ 07470.

MC 63838 (Sub-II-2TA), filed November 21, 1980. Applicant: BOLUS MOTOR LINES, INC., 700 N. Keyser Ave., Scranton, PA 18508. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *(1) Confectionery and candy (2) materials, supplies & equipment used in the manufacture, sale & distribution of the above commodities,* (1) From Scranton and Duryea, PA to points in the US (except AK & HI); (2) on return for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Topps Chewing Gum, Inc., York Ave., Duryea, PA 18641.

MC 134271 (Sub-II-1TA), filed December 1, 1980. Applicant: PRUITT MOVING AND STORAGE CO., 800 W. Hardin St., Findlay, OH. 45840. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Such commodities as are manufactured, distributed or dealt in by retail food stores (except commodities in bulk)* between Seneca County, OH, on the one hand, and on the other IN, KY, WV, PA, IL and the lower peninsula of MI for 270 days. Supporting shipper: Fostoria Distribution Warehouse, P.O. Box D, Fostoria, OH 44830.

MC 13267 (Sub-II-2TA), filed November 17, 1980. Applicant: MOUNTAINSIDE TRANSPORT, INC., 4828 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. *Contract; irregular: Such commodities as are used by or dealt in by wholesale, retail and chain business food houses, and materials, supplies and equipment used in the manufacture, sale and distribution of such commodities,* between points in DE, MD, NJ, PA, VA, and DC for 270 days. An underlying ETA seeks 120 days authority Supporting shipper(s): Plus Discount Foods, Inc., 2 Paragon Dr., Montvale, NJ 07645.

MC 148393 (Sub-II-1TA), filed December 1, 1980. Applicant: J. L. McCOY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Steel sheets, coils and plates, materials, supplies and equipment used in their manufacture,* between points in New Castle Co., DE and Cuyahoga, Co., OH, on the one hand, and, on the other, points in AL, ME, MD, MA, NH, NJ, NY, NC, OH, PA, VA and WV for 270 days. Supporting shipper(s): Feralloy Corp., Eastern Division, Davidson Lane, New Castle, DE 19720.

MC 143374 (Sub-II-6TA), filed December 3, 1980. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Dr., Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030. Contract, irregular; *Beverage Sweeteners, Sugars, Fructose Syrup, in bulk,* in tank vehicles, from points in GA, IA, IN, IL, LA, NY, OH, and WI to points in MI, PA, and OH under continuing contract for Beverage Management, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Beverage Management, Inc., 1001 Kingsmill Pky., Columbus, OH 43216.

MC 140889 (Sub-II-6TA), filed December 3, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract Carrier, Irregular route: General commodities* (except those of unusaul value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (1) between Cleveland, OH, on the one hand, and, on the other, Los Anegles, CA, Indianapolis, IN and Atlanta, GA; and, (2) between Indianapolis, IN, on the one hand, and, on the other, Los Angeles, CA and Atlanta, GA, under continuing contract(s) with Premier Industrial Corporation for 270 days. An underlying ETA seeks 120 days authority.

Supporting shipper: Premier Industrial Corporation, 4415 Euclid Ave., Cleveland, OH 44103.

MC 140889 (Sub-II-7TA), filed December 5, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Contract, irregular, *Frozen baked goods* from facilities of Abel's Bagels, Inc. located in Erie County, NY and Orange County, Ct to pts. within OH, PA, IN, IL, MI, WI, CA, AZ, OR, WA, TX, MO, KS, MN, NY, CT, FL, GA for 270 days. an underlying ETA seeks 120 days. Supporting shippers: Abel's Bagels, Inc., 75 Empirt Dr., W. Seneca, NY 14224.

MC 123405 (Sub-II-3TA), filed December 5, 1980. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Paper and paper products* (except commodities in bulk), from the facilities of Scott Paper Co. at or near Mobile, AL, to points in FL, VA, MD, DE, NJ, PA, NY, CT and DC, for 270 days. Supporting shipper(s): Scott Paper Co., Scott Plaza II, Philadelphia, PA 19113.

MC 152723 (Sub-II-1TA), filed November 28, 1980. Applicant: HARRY A. SCARPIELLO AND CHESTER W. SOBOLEWSKI, d.b.a. S & S TRUCKING CO., 1208 Magnolia Avenue, Croydon, PA 19020. Representative: Guy T. Matthews, Esq., P.O. Box 336, 111 W. Maple Ave., Langhorne, PA 19047. *Contract Carrier; Irregular routes:* Sanitation Products (in drums), from Bensalem, PA to the following points: New York, NY, Newark, NJ, Boston, MA, New Haven, CT, Chicago, IL, Denver, CO, New Orleans, LA, Atlanta, GA, Huntsville, AL, Houston, TX, Corpus Christi, TX, Santa Maria, CA, Portland, OR, Vancouver B.C. CAN. Restriction: Limited to transportation service to be performed under continuing contract(s) with H.D.S. Specialty Products, Inc. Authority sought for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: H.D.S. Specialty Products, Inc., 5861 Hulmeville Rd., Bensalem, PA 19020.

MC 65941 (Sub-II-5TA), filed December 3, 1980. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: James R. Stevick (same as applicant). *General Commodities* Except those of unsual value Classes A and B explosives, household goods, as defined by the Commission in bulk). Between points in the United States in and east of MN, IA, MO, AR, and TX—Restricted to shipments originating at or destined to the facilities of Borg-Warner Chemials, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Borg-Warner Chemicals, International Center, Parkersburg, WV 26101.

MC 152985 (Sub-II-1TA), filed December 3, 1980. Applicant: SOVEREIGN SANITATION, INC., 575 Baldridge Ave., North Braddock, PA 15104. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract Carrier, Irregular Route: Sludge,* from points in the commerical zones of Lorain, Steubenville, Warren and Youngstown, OH and Follensbee, WV to points at or near Meyersdale, PA under contract(s) with World Pipe Service Company of Coraopolis, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: World Pipe Service Company, Casteel Dr., Coraopolis, PA 15108.

MC 142113 (Sub-II-1TA), filed December 3, 1980. Applicant: CHESTER RICHMOND, d.b.a. RICHMOND CARTAGE, Box 337, Craigsville, WV 26205. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Inflatable field hospitals,* from Richwood, WV to Tobyhanna, PA for 270 days, Underlying ETA seeks 120 days authority. Supporting shipper(s): B. F. Goodrich Co., 500 So. Main St., Akron, OH 44318.

MC 152754 (Sub-II-1TA), filed December 3, 1980. Applicant: CARL SHERMER d.b.a. C. L. SHERMER TRUCK LINES, 3282 Independence Street, Grove City, OH 43123. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Contract: Irregular: (1) *Internal combustion engines and parts,* from the facilities of Detroit Diesel Allison at Detroit, MI an Indianapolis, IN, and points in their Commerical Zones, to Baltimore, MD and Mt. Laurel, NJ, under continuing contract(s) with Johnson & Towers, Inc. of Mt. Laurel, NJ; and (2) *flooring compounds,* from Maple Shade, NJ to Ft. Wayne, IN and Pittsburgh, PA and points in their Commerical Zones, under continuing contract(s) with Stonhard, Inc. of Maple Shade, NJ. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Johnson & Towers, Inc., P.O. Box 38, Moorestown, NJ 08057. Stonhard, Inc., Rt. 73 & Park Avenue, Maple Shade, NJ 08052.

MC 45764 (Sub-II-6-TA), filed December 5, 1980. Applicant: ROBBINS MOTOR TRANSPORTATION INC., Industrial Highway & Saville Ave., Eddystone, PA 19013. Representative: Edward Kells (same as applicant). *Electrical generating equipment and parts thereof, and articles which because of size or weight requires special handling or equipment,* on American trailers to final destination in Mexico, between El Segundo, CA; Farmington, Hardford and Windsor, CT; Wilmington, DE; W. Palm Beach, FL; Louisville, KY; Baltimore, MD; Minneapolis and St. Cloud, MN; New York, NY; Berwick, Phila., and Pittsburgh, PA; Houston, TX; and Neilsville, WI; on the one hand, and on the other, points in Mexico via ports of entry at Nogales, AR; Del Rio, Eagle Pass, El Paso, Hedalgo and Presidio, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Technologies, 10 Farm Springs, Farmington, CT 06032.

MC 140895 (Sub-II-1-TA), filed December 4, 1980. Applicant: TANK LINES, INCORPORATED, 1357 Diamond Springs Rd., Virginia Beach, VA 23455. Representative: Charles Moran, 80 First Ave., Nyack, NY 10960. *Salt and cement* from Chesapeake and Norfolk, VA to points in NC for 270 days. Supporting shipper: Atlantic Cement Co., Inc., P.O. Box 30, Stamfort, CT 06904; Southern Salt Company Inc., PO Box 3417, Norfolk, VA 23514.

MC 114569 (Sub-II-34-TA), filed December 4, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *Boxed Meat Products,* From Seward County, KS to points in IA, MN, WI, IL, IN, MI, AR, OH, PA, VA, NY, NJ, MA, RI, CT, DC, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: National Beef Company, Liberal, KS 67901.

MC 129086 (Sub-II-6-TA), filed December 4, 1980. Applicant: SPENCER TRUCKING CORPORATION, Rt. 2, Box 254A, Keyser, WV 26726. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Silica sand in pneumatic tank vehicles,* between Frederick County, VA on the one hand, and, on the other, points in MD, WV, TN, PA and OH, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper(s): Unimim Corporation, 50 Locust Ave., New Canaan, CT 06840.

MC 151991 (Sub-II-1-TA), filed November 24, 1980. Applicant: J & R CARRIER'S 619 Vining St., Celina, OH 45822. Representative: Robert C. Meiring (same address as applicant). Contract; irregular—*canned food products,* from Ohio City, OH to Tyler, TX. Supporting

shipper(s): Sharp Canning Co., Inc., 150 Hockory St., Rockford, OH 45882.

MC 147570 (Sub-II-3TA), filed December 1, 1980. Applicant: KABAT EXPRESS, INC., 1944 Scranton, Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254. *Machinery parts, pipe fittings and other materials, equipment and supplies used in the manufacture of earth moving and off-road equipment,* between Cuyahoga, Portage and Summit Counties, OH, on the one hand, and, on the other, points in IL, IN, KY, MI (Lower Peninsula), MO, OH, WV and those points in NY on and west of SR-14, those points in PA on and west of US 220, SR-147, and I-83, and those points in WI on and east of SR-57 and US 151. Supporting shipper(s): Terex Division, GMC 5405 Darrow Rd., Hudson, OH 44236.

MC 124821 (Sub-II-28TA), filed November 21, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. *Wood, wood products and materials and supplies,* between Watsontown, PA and points in IL, IN, NY, NJ, CT and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Masonite Corp., 12th & Matthew Sts., Watsontown, PA 17777.

MC 125335 (Sub-2-21TA), filed November 21, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *General commodities* (Except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment), Between points in NJ, PA, and NY, on the one hand, and, on the other, points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Northeastern Pennsylvania Shippers' Cooperative Association, Inc., or its members. An underlying ETA seeks 120 days authority. Supporting shipper: Northeastern Pennsylvania Shippers' Cooperative Association, Inc., 1212 O'Neil Highway, Dunmore, PA 18512.

MC 107006 (Sub-II-4TA), filed November 21, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Paper, paper products and scrap paper, plastic articles; and materials, equipment and supplies used in their manufacture and distribution, except commodities in bulk,* between Coshocton and Franklin, OH, Florence, SC and Kansas City, MO, on the one hand, and, on the other, points in DC, IL, IN, MD, MO, NJ, NY, OH, PA and VA, for 270 days. Supporting shipper: Stone Container Corp., 360 N. Michigan Ave., Chicago, IL 60606.

MC 113440 (Sub-II-1TA), filed November 21, 1980. Applicant: HOWE TRANSPORTATION CO., 7830 Southern Blvd., Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Institutional and business furniture, equipment, fixtures, supplies, accessories and parts, data processing equipment cabinets, frames, accessories and parts thereof, printed forms and advertising matter, and plastic articles,* except in bulk, between the facilities of The GF Business Equipment, Inc. (1) at Sturgis, MI; Forest City, NC; Gallatin, TN; City of Commerce, CA: and Rochester, MN on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) at Youngstown, OH on the one hand, and, on the other, points in the U.S. (except AK, HI, IL, IN, KY, MD, NJ, NY, PA, TN, VA, WV, DC) for 270 days. Supporting shipper: GF Business Equipment, Inc., E. Dennick Ave., Youngstown, OH 44501.

MC 115703 (Sub-II-10TA), filed November 26, 1980. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 6331, Wyomissing, PA 19610. Representative: Bernard L. Quaglia (same as applicant). *Contractor's equipment, heavy and bulky articles, machinery, machinery parts, metal and metal articles and articles which because of size or weight require special handling or rigging,* between points in GA on the one hand, and on the other, points in the U.S. except AK, CA, CO, HI, ID, MT, NV, NM, UT, WA and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The statements of all supporting shippers may be reviewed at the offices of the Interstate Commerce Commission at 101 N. 7th St., Rm 620, Philadelphia, PA.

MC 141925 (Sub-II-7TA), filed November 26, 1980. Applicant: KOHN BEVERAGE, INC., d.b.a. KOHN TRANSPORT, 4850 Southway, S.W., Canton, OH 44706. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular: Such commodities as are dealt in or used by printers* (except commodities in bulk) from the facilities of Danner Press Corporation at or near Canton, OH to points in CT, for 270 days. An underlying ETA seeks 120 days authority.

MC 152875 (Sub-II-1TA), filed November 26, 1980. Applicant: CHARLES D. GALLAGHER, d.b.a. LEPRECHAUN EXPRESS, P.O. Box 56, Brisbin, PA 16620. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Scrap metal,* between pts. in NY, OH, and PA, under contract with advance Metals Recycling, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: American Operations of Intermetco Ltd of Canada, P.O. Box 1131, Buffalo, NY 14240.

MC 128290 (Sub-II-4TA), filed November 28, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. (1) *Printing paper* from Luke and Biggs, MD to points in CT, MA, and RI and (2) *Materials, equipment and supplies used in the manufacture, sale, and distribution of printing paper,* from CT, MA, and RI to Luke and Biggs, MD for 270 days. Supporting shipper: Westvaco, Luke, MD 21540. An underlying ETA seeks authority for 120 days.

MC 127579 (Sub-II-9TA), filed December 3, 1980. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *General commodities* (except household goods, commodities in bulk and class A and B explosives) between the facilities of H. R. Simon & Co., Inc., Baltimore, MD, on the one hand, and, on the other, points in the states of AL, CT, FL, GA, IN, KS, LA, MA, MI, MO, MN, NH, NJ, NY, NC, OH, PA, SC, TN, TX, VA, and DC for 180 days. An underlying ETA seeks 90 days authority. Shipper(s): H. R. Simon & Co., Inc., 7 Azar Industrial Center, Baltimore, MD 21227.

MC 129124 (Sub-II-4TA), filed December 1, 1980. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. *Salt and salt products* from the facilities of International Salt Company at or near Retsof, NY, to points in Schuylkill County, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Salt Company, Clarks Summit, PA 18411.

MC 152877 (Sub-II-1TA), filed November 24, 1980. Applicant: KEATING ASSOCIATED TRANSPORT, 310 Genet St. Dunmore, PA 18512. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. (1) *Gravel and stone;* (2) *Anthracite coal.* (1) From Harmony, NJ to points in PA

east of Hwy. No. 15; (2) From Lackawanna, Luzerne & Schuylkill Counties, PA to MA, CT, RI, NY, NJ, OH, MD, NH, & ME for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Phoenix Roofing Supply Co., Inc., P.O. Box 128, Dunmore, PA 18512; Lehigh Valley Coal Sales Co., P.O. Box 450, Pittston, PA 18640.

MC 65475 (Sub-II-1TA), filed December 1, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22304. *Aluminum and aluminum articles and equipment, materials, and supplies used in the manufacture of aluminum,* between Phoenix, AZ, New Brunswick and Parlin, NJ, and Burlington and Winton, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: New Jersey Aluminum Co., 1007 Jersey Ave., New Brunswick NJ 08902.

MC 56388 (Sub-II-6TA), filed December 1, 1980. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Limestone, in bulk, in pneumatic vehicles,* from Thomasville, PA to Frederick MD. An underlying ETA seeks 120 days authority. Supporting shipper: Tamko Corporation, P.O. Box H, Frederick, MD 21701.

MC 152945 (Sub-II-1TA), filed November 28, 1980. Applicant: KINEMATICS, INC., P.O. Box 147, White Plains, MD 20695. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Screen or screening* between Hanover, PA, including its commercial zone, on the one hand, and, on the other, points in TX, WA, OR, CA, NM and AZ, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Keystone Seneca Wire Cloth Co., Factory Street, Hanover, PA 17331.

MC 152949 (Sub-II-1TA), filed December 1, 1980. Applicant: McKINLEY GUNTER, JR., d.b.a. G TRANSPORTATION COMPANY, 610 Lickinghole Rd., Ashland, VA 23005. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *(1) foil, aluminum, aluminum products, boxes, plastic or rubber articles, paper and paper articles, metals, metal products and (2) materials, equipment and supplies used in the manufacture, distribution and storage of commodities in (1) above,* between Richmond, VA (and points in the commercial zone thereof), points in Orange County, NY, Middlesex County, NJ and Rowan County, NC, on the one hand, and, on the other, points in CT, DE, MA, MD, NC, NJ, NY, PA, RI, VA, WV and DC for 270 days. Supporting shipper: Reynolds Metals Company, P.O. Box 27003, Richmond, VA 23261.

MC 152553 (Sub-II-1TA), filed November 26, 1980. Applicant: M. L. KREDOVSKI, d.b.a. LONE TRAIL KENNELS P.O. Box 46, Friedensburg, PA 17933. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Contract: Irregular: *Hazardous waste material* from generators in ME, NH, MA, RI, CT, NY, NJ, PA, MD, VA, WV, NC, SC, GA, FL, LA, MS, MO, TN, KY, OH, IN, MI and IL to approved disposal sites in Emelle, AL; Roebuck, SC; Vickery, OH; Deepwater, NJ; and Kearny, NJ. An underlying ETA seeks 120 days authority. Supporting shipper: Applied Technology, Inc., 25 S. Shore Dr., Toms River, NJ 08753.

MC 67646 (Sub-II-5TA), filed November 26, 1980. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). Authority sought: Regular routes, *General commodities,* except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, (1) Between Richmond, VA and Charleston, WV: (a) From Richmond over Interstate Hwy 64 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Charleston, and return over the same routes, (b) from Richmond over U.S. Hwy 60 to Charleston, and return over the same route; (2) Between Charleston, WV and Chicago, IL: From Charleston over Interstate Hwy 64 to Louisville, KY, then over Interstate Hwy 65 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Chicago, and return over the same routes; (3) Between Cincinnati, OH and Danville, KY, serving points in Boyle County, KY as intermediate of off-route points: (a) From Cincinnati over Interstate Hwy 75 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Danville, and return over the same route, (b) from Cincinnati over Interstate Hwy 75 to junction KY Hwy 922, then over KY Hwy 922 to junction KY Hwy 4, then over KY Hwy 4 to junction U.S. Hwy 68, then over U.S. Hwy 68 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Danville, and return over the same routes; serving for purpose of joinder only the junctions of Interstate Hwys 75 and 64, Interstate Hwy 64 and U.S. Hwy 127, and Interstate Hwys 64/75 and KY Hwy 922, for 270 days. Supporting shipper: Thom McAn Shoe Company, 67 Millbrook St., Worcester, MA 01606

Note.—Applicant intends to tack the requested routes with one another, with its present authority, and with any authority it may acquire in the future, and to interline with other carriers.

MC 107102 (Sub-II-113TA), filed December 2, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *General commodities,* from the facilities of Chinook Freight Systems, Inc. at or near Seattle, WA to points in and east of ND, SD, CO, OK, and TX for 270 days. An underlying ETA is seeking authority for 120 days. Supporting shipper: Chinook Freight Systems, Inc., 12855 48th Ave., Seattle, WA 98166.

Note.—Common control may be involved.

MC 50493 (Sub-II-1TA), filed December 4, 1980. Applicant: P.C.M. TRUCKING, INC., P.O. Box 249, Kernsville Rd., Orefield, PA 18069. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Feed, feed ingredients and feed grade phosphate,* from Waverly, NY to points in CT, MD, OH, PA and VA for 270 days. Supporting shippers: Occidental Chemical Co., Subsidiary of Hooker Chemical Corp., 1980 South Post Oak Rd., P.O. Box 4289, Houston, TX 77210.

MC 135902 (Sub-2-1TA), filed December 4, 1980. Applicant: ESTATE OF KENNETH M. MOODY d.b.a. K.M. MOODY, 3100 Dogwood St., NW., Washington, DC 20015. Representative: David C. Venable, Suite 805, 666 11th St. NW., Washington, DC 20001. *Contract; irregular* tires and tubes and accessories for tires and tubes between Oklahoma City, OK and pts in its commerical zone, on the one hand, and, on the other, pts. in DE, MD, PA, VA, and DC for 270 days under continuing contract(s) with Friend's Tire & Fleet Service, Inc., Bladensburg, MD. Supporting shipper: Friend's Tire & Fleet Service, Inc., 4600 Lawrence St., Bladensburg, MD.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 47171 (Sub-3-12TA), filed October 29, 1980, Rupublication—originally published in Federal Register of November 17, 1980. page 75796, Volume 45, No. 223. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same as above). *Textile and textile products (except in bulk)* between points in Spartanburg County, SC, on the one hand, and, on the

other, points in AR. Supporting shipper: Hoechst Fibers Industries, Div. American Hoechst Corp., Spartanburg, SC 29304.

MC 148423 (Sub-3-8TA), filed December 2, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Building, Macon, GA 31201. *Road building materials and aggregates* from points in FL to points in GA. Supporting shippers: The Scruggs Company, Inc., P.O. Box 2065, Valdosta, GA, 31601; and Reames & Sons Construction Co., Inc., 415 Leone Street, Valdosta, GA, 31601.

MC 144922 (Sub-3-3TA), filed December 2, 1980. Applicant: ATF TRUCKING CO., INC., Rt. 11, Box 507-B, Birmingham, Al 35210. Representative: John W. Cooper, P.O. Box 56, Mentone, AL 35984. (1) Citrus products from Shenadoah, GA and points in FL to points in U.S. except AK and HI and (2) *Materials, supplies, equipment* and *machinery* from said destination to said origin. Supporting shipper: Nature's Best Food Products, Inc.

MC 119777 (Sub-3-25TA), filed December 2, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *(1) Sealant, fireproofing, acoustical, and insulating products, (2) Building and construction materials, and (3) Materials, equipment, and supplies used in the manufacture or distribution of (1) and (2) above,* between the facilities of United States Mineral Products Company, Inc. at or near Fredericksburg, VA and points in Sussex County, NJ; Jefferson County, AL; Orange County, CA; and Huntington County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: United States Mineral Products Company, Stanhope, NJ 07874.

MC 144082 (Sub-3-14TA), filed November 21, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EPXRESS, INC., 1333 Nevada Boulevard, P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same address as above). *Contract Carrier,* irregular routes: *Malt liquors, ale, beers, wine NOI, liquors, alcoholic beverages NOI,* from points in the states of MN and MI to points in the states of GA, NC, SC, TN, VA, MA, and DC, restricted to service performed under a continuing contract or contracts with Fred Amon. Supporting shipper: Fred Amon of Charlotte, NC.

MC 115841 (Sub-3-29TA), filed December 2, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same address as above). *Lard, shortening, vegetable oil, cooking or salad oil, margarine, edible tallow, pallets, labels, container ends, containers, machinery boxes and other supplies (except commodities in bulk, in tank vehicles),* between Fort Worth, TX on the one hand, and, on the other, points in CA, WA, OR, NV, CO, AZ, NM, UT, ID, MO, KS, SC, and NC. Supporting shipper: Bunge Edible Oil Corporation, Box 192, Kankakee, IL 60901.

MC 115841 (Sub-3-30TA), filed December 2, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same address as above). *Printed Matter such as magazines, magazine sections, books and catalogs,* from the facilities of Dayton Press, Inc., located at or near Dayton, OH, to points in the U.S. (except AK and HI). Supporting shipper: Dayton Press, Inc., 2219 McCall Street, Dayton, OH 45401.

MC 152916 (Sub-3-1TA), filed December 2, 1980. Applicant: BARTON PUMPING & SEWER SERVICE, INC., 1029 Forest Parkway, P.O. Box 1403, Forest Park, GA 30050. Representatives: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Caustic, flammable, toxic, hazardous or non-hazardous waste materials, recyclable solvents and contaminated petroleum products,* between points in GA, on the one hand, and on the other, points in AL, FL, NC, SC and TN, restricted to traffic destined to a disposal site authorized or recognized by the U.S. Environmental Protection Agency or by the appropriate state agency having jurisdiction over such waste disposal, or to traffic destined to a reclamation point. There are six supporting shippers to this application which may be reviewed at the Regional Authority Center, Interstate Commerce Commission, 1776 Peachtree Street, Atlanta, GA 30309.

MC 106644 (Sub-3-4TA), filed December 2, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, Georgia 30301. Representative: Louis C. Parker III (same as applicant). (1) *Mining, dredging, earth moving and contractor equipment parts and attachments and, (2) Materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above* between points in the United States in and east of WI, IA, NE, MO, OK and TX, on the one hand, and, on the other, points in the United States in and west of MN, SD, WY, CO, KS, and NM. supporting shipper: Esco Corporation, 2141 N.W. 25th Avenue, Portland, OR 97210.

MC 146451 (Sub-3-26TA), filed December 2, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: William K. Martin, P.O. Box 2069, Montgomery, AL 36195. *(1) Charcoal, charcoal briquets, vermiculite, hickory chips, fireplace logs, lighter fluid, and spices and sauces used in outdoor cooking,* from the plant sites of Fox Constructors and Engineers, Inc., and Retorco, Incorporated at or near Dothan and Boligee, AL, respectively, to all points in the U.S., and *(2) materials, equipment and supplies used in the manufacture, processing and distribution of the commodities in (1), (3) damaged, rejected, or returned shipments of the commodities in (1) and (2), and (4) wooden pallets,* from all points in the U.S. to the plant sites of Fox Constructors and Engineers, Inc. and Retorco, Incorporated at or near Dothan and Boligee, AL, respectively, Supporting shippers: Fox Constructors and Engineers, Inc., 106 Eastgate Drive, Dothan, AL 36302; Retorco, Incorporated, 1825 C Morris Avenue, Birmingham, Alabama 35201.

MC 114604 (Sub-3-15AT), filed December 2, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Jean E. Kesinger (address same as applicant). *Materials, equipment and supplies incidental to health care,* from Rocky Mt., NC and North Chicago, IL to New Orleans (Harahan), LA. Supporting shipper: Abbott Laboratories, Inc., International Division, 14th Street and Sheridan Road, N. Chicago, IL 60064.

MC 114604 (Sub-3-16TA), filed December 2, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Jean E. Kesinger (address same as applicant). *Non-exempt food or kindred products,* from Gulfport, MS and Galveston, TX to points in and east of ND, SD, NE, KS, OK and TX (except ME, VT, NH, MA, CT, RI, NY and NJ). Supporting shipper: Castle & Cooke Foods, 2900 Veterans Blvd., Metairie, LA 70002.

MC 114604 (Sub-3-17TA), filed December 2, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA

30050. Representative: Jean E. Kesinger (address same as applicant). *Plumbing fixtures and fittings and accessory parts and supplies,* from Trenton, NJ and Plainfield, CT to points in AL, FL, GA, LA, MS, NC, SC and TN. Supporting shipper: American Standard, P.O. Box 2003, New Brunswick, NJ 08903.

MC 109708 (Sub-3-16TA), filed December 2, 1980. Applicant: INDIAN RIVER TRANSPORT COMPANY, INC., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Liquid Corn Products and By Products in Bulk in Tank Vehicles,* Between Memphis, TN, on the one hand and on the other, Points in MS, AL, GA, NC, SC, KY, FL, TX, LA, AR, and MO. Supporting shipper: Cargill Incorporated, 2330 Buoy Ave., Memphis, TN 38113.

MC 118831 (Sub-3-11TA), filed December 2, 1980. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller III (same address as applicant). *Solvents, Fatty Amines, Fatty Alcohol, Alcohols, Tall Oils, Fatty Acids, Acids, Cleaning Compounds, in bulk, in tank vehicles,* from Texas City, Port Neches, Baytown, Houston, Pasadena and Beaumont, TX; Baton Rouge, Covington and Geismar, LA; Lock Port and Chicago, IL; Philadelphia, PA; Institute, WV; Cateret, NJ; Baltimore, MD; Charleston, SC and Mulberry, FL to Winder, GA. Supporting shipper: Westvaco Corporation, P.O. Box 643, Winder, GA 30680.

MC 116254 (Sub-2-24TA), filed December 3, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Phosphorous Acid,* from Mt. Pleasant, TN to St. Louis, MO. Supporting shipper: Stauffer Chemical, Westport, CT 06880.

MC 144827 (Sub-3-24TA), filed December 2, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Synthetic rubber, plastic resin and carbon black* from points in LA and TX on and south of Interstate Hwy. 10 to points in the United States. Supporting shipper: Peter Heard & Associates, Inc., 9800 Northwest Freeway, Houston, TX 77092.

MC 152544 (Sub-3-4TA), filed December 1, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Furniture Parts, Iron and Steel Articles and Materials and Supplies used in the manufacture and distribution of these commodities,* from Jacksonville, FL, to points in AL, FL, GA, SC, NC, TN and MS and from Atlanta and Social Circle, GA, to points in FL. Supporting shipper: Leggett & Platt, Incorporated, P.O. Box 757, Carthage, MO 64836.

MC 75840 (Sub-3-18TA), filed December 1, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham; AL 35222. *Chemicals or Allied Products,* between points in the states of NY and NJ, on the one hand, and, on the other, points in Campbell County, VA. Supporting shipper: Southchem, Inc., P.O. Box 886, Durham, NC 27702.

MC 121654 (Sub-3-22TA), filed October 30, 1980. Republication—originally published in Federal Register of November 17, 1980, page 75796, volume 45, No. 223. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd. NE., 5th Floor-Lenox Towers, S., Atlanta, GA 30326. *Bakery products:* (1) From the facilities of Nabisco, Inc. in Fairlawn, NJ; Philadelphia and Pittsburgh, PA to Mobile and Montgomery, AL; Baton Rouge, Monroe, New Orleans, and Shreveport, LA; Dallas, Fort Worth, and Houston, TX, Richmond, VA and points in GA, NC, and SC. (2) From the facilities of Nabisco, Inc. in Atlanta, GA to Baton Rouge, Monroe, New Orleans, and Shreveport, LA; Dallas, Fort Worth and Houston, TX; Richmond, VA and points in CT, DE, MD, MA, NJ, NY, PA, RI, SC, and DC. and (3) From the facilities of Nabisco, Inc. in Richmond, VA to Mobile and Montgomery, AL; Baton Rouge, Monroe, New Orleans and Shreveport, LA; Dallas, Forth Worth, and Houston, TX; Baltimore, MD; Albany, Buffalo, New York, Rochester and Syracuse, NY, and points in CT, DE, GA, MA, NJ, NC, PA, RI, SC and DC. Supporting shipper: Nabisco, Inc., East Hanover, NJ 07936.

MC 146891 (Sub-3-2TA), filed December 3, 1980. Applicant: A & G EXPRESS, INC., 4807 Millbrooke Road, Albany, GA 31701. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract carrier,* irregular routes, *aluminum Shreds, Aluminum Bales and Copper,* from Albany, GA, to Jacksonville and Tallahasee, FL and Birmingham, AL. Supporting shipper: Southeastern Aluminum Recycling, Inc., 452 Cordele Road, Albany, GA 31705.

MC 152427 (Sub-3-2TA), filed October 28, 1980. Republication—originally published in Federal Register of November 17, 1980, page 75792, volume 45, No. 223. Applicant: NASHVILLE & ASHLAND CITY TRUCK LINE, INC., 2500 Heiman St., Nashville, TN 37208. Representative: William Prentice Cooper, Cornelius, Collins, Higgins & White, 18th Fl., Third National Bank Bldg., Nashville, TN 37219. *General commodities, with usual exceptions, in containers and trailers, having a prior or subsequent movement by rail,* between Memphis, Nashville, and Knoxville, TN. Supporting shipper: Sunbelt Consolidators, Inc., P.O. Box 201044, Dallas, TX 75220.

Note.—Applicant intends to interline with other carriers at Nashville, Memphis and Knoxville, TN.

MC 144964 (Sub-3-4TA), filed November 24, 1980. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano Beach, FL 33060. Representative: Don A. Allen, Patton, Boggs, & Blow, 2550 M St., N.W., Washington, DC 200037. *Frozen bakery goods* from points in CT and NY to points in GA and FL. Supporting shipper: Lender's Bagels, Post Road, West Haven, CT 06516.

MC 121699 (Sub-3-5TA), filed November 25, 1980. Applicant: VOLUNTEER EXPRESS, INC., 404 Arlington Avenue, P.O. Box 100886, Nashville, TN 37210. Representative: Douglas R. Tate, (same address as applicant). *Books with paper or paper back covers, and materials, equipment, and supplies used in the printing and manufacture and distribution thereof (except commodities in bulk)* between Dresden, TN on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: W. F. Hall Printing, Inc., Dresden, TN.

MC 140010 (Sub-3-5TA), filed November 25, 1980. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S., 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract carrier:* Irregular: *Catalog store merchandise,* from Sharonville, OH, to points in KY and TN, under continuing contract(s) with Montgomery Ward & Company. Supporting shipper: Montgomery Ward & Company, Midwestern Distribution Center, 2101 Kemper Rd., Sharonville, OH 45241.

MC 143059 (Sub-3-27TA), filed November 24, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore

(same as applicant). *Iron and Steel articles,* from Allegheny County, PA to points in the United States. Supporting shipper: Edison Pipe & Tubing, Inc., 721 Olive St., St. Louis, MO 63101.

MC 144082 (Sub-3-13TA), filed November 21, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as above). *Contract Carrier,* irregular routes *Such commodities as are dealt in by fabric stores and the materials, equipment and supplies used by fabric stores,* between points in that part of the US in and east of TX, AR, MO, IA, and MN, restricted to service performed under a continuing contract or contracts with Minnesota Fabrics, Inc. Supporting shipper: Minnesota Fabrics, Inc., of Charlotte, North Carolina.

MC 107912 (Sub-3-3TA), filed December 4, 1980. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood Road, Memphis, TN 38118. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Common carrier,* regular: *General Commodities, with the usual exceptions,* (a) between Memphis, TN and Tutwiler, MS; from Memphis over U.S. Hwy. 51 and Interstate Hwy. 55 to Batesville, MS, then over MS Hwy. 6 to Clarksdale, MS, then over U.S. Hwy. 49 to Tutwiler, MS, and return over the same route, serving the off-route points of Marvell, Lakeview and Elaine, AR; (b) between Marks, MS and Greenville, MS; from Marks over MS Hwy. 3 to Tutwiler, MS then over U.S. Hwy. 49W to Indianola, MS, then over U.S. Hwy. 82 to Greenville, and return over the same route; (c) between Ruleville, MS and Rosedale, MS; over MS Hwy. 8, return over the same route; (d) between Jackson, MS and Mobile, AL; from Jackson, over U.S. Hwy. 49 to junction U.S. Hwy. 98, then over U.S. Hwy. 98 to Mobile, and return over the same route; (e) between Hattiesburg, MS, and Landon, MS; over U.S. Hwy. 49 and return over the same route; (f) between Hattiesburg, MS and Slidell, LA over Interstate Hwy. 59 and U.S. Hwy. 11 and return over the same route; (g) between Lafayette, LA and Mobile, AL; from Lafayette over Interstate Hwy. 10 to Baton Rouge, LA then over Interstate Hwy. 12 to Slidell, LA, then over Interstate Hwy. 10 Mobile, AL, and return over the same route, serving as off-route points those in Lafayette, St. Martin and Iberia Parishes, LA and McIntosh, AL; (h) between junction Interstate Hwy. 10 and LA Hwy. 607, near Slidell, LA, and Mobile, AL; from junction over LA Hwy. 607 to junction U.S. Hwy. 90, then over U.S. Hwy. 90 to Mobile, and return over the same route. Applicant proposes to serve all intermediate points in paragraphs (a) through (f) and the commercial zones of all points. Supporting shippers: There are 90 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant will interline at Baton Rouge, LA; Gulfport, Biloxi, Hattiesburg, Jackson, Greenville, MS; Memphis, TN and Mobile, AL. Applicant intends to tack with existing authority.

MC 144740 (Sub-3-4TA), filed December 1, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty, (same as applicant). *Contract carrier,* irregular routes, *Industrial staples and materials and supplies used in the manufacture or distribution thereof, except in bulk,* From: Hamlet, NC, To: West Orange, NJ, Memphis, TN, and Los Angeles, CA, under a continuing contract with BeA Fasteners, Inc. Supporting shipper: BeA Fasteners, Inc., Route 177 South, Hamlet, NC 28345.

MC 152845 (Sub-3-1TA), filed December 4, 1980. Applicant: SUNNYLAND FOODS, INC., Albany Rd., Thomasville, GA 31792. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract Carrier:* Irregular: (1) *Feedstuff ingredients, medicines, vitamins and materials and supplies used in raising livestock* between Thomasville, GA, on the one hand, and, on the other hand, pts. in AL, FL, SC, TN, and WI under continuing contract with Red Barn Milling Company, division of Win Sales, Inc., County Line Rd., Thomasville, GA 31792; (2) *Foodstuffs, janitorial supplies and restaurant materials and supplies (except in bulk)* between Dothan, AL and Thomasville, GA, on the one hand, and, on the other hand, points in AR, FL, GA, ID, IN, ME, MI, MS, NE, OH, OK, PA, SC, TN, TX, and VA under continuing contract with W. J. Powell Company, Inc., P.O. Box 939, Thomasville, GA 31792; and (3) *Janitorial and maintenance material, supplies and accessories (except in bulk)* between Thomasville, GA, on the one hand, and, on the other, points in CA, FL, IL, MI, MN, MO, NJ, SC, TX, VA, and WI under continuing contract with Georgia Chemical Company, Inc., 303 South Madison, Thomasville, GA 31792.

MC 129537 (Sub-3-6TA), filed December 4, 1980. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N, Morgan Street, Tampa, FL 33602. *Plastic or Rubber Articles (except in bulk)* between Shelby County, TN and AL, FL, GA, NC, OK, and SC. Supporting shipper: Huntsman Container Corporation, 5837 Distribution Drive, Memphis, TN 38115.

MC 144190 (Sub-3-2TA), filed December 4, 1980. Applicant: STORY, INC., Route No.1, Box 122, Henagar, AL 35978. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between the facilities of Ohio Valley Shippers Association and its members facilities in OH, KY and IN on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Ohio Valley Shippers Association; 1428 Dalton Street; Cincinnati, 45214.

MC 128555 (Sub-3-14TA), filed December 4, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, Florida 33561. Representative: William L. Beasley (same as above). *Contract carrier, irregular route,* transporting (1) *clothing, knitted piece goods and (2) materials, supplies and equipment used in the manufacture, sale or distribution of (1) above,* between the facilities of Health-Tex Corporation located at or near Cumberland, RI, and points in AL, GA, VA, and ME, under continuing contract(s) with Health-Tex Corporation of Cumberland, RI. Supporting shipper: Health-Tex Corp., 88 Martin Street, Cumberland, RI 02864.

MC 150865 (Sub-3-3TA), filed December 5, 1980. Applicant: ATLANTIC & WESTERN TRANSPORTATION CO., INC., 3934 Thurman Road, Forest Park, GA 30051. Representative: Ronald J. Turner, (same as above). *Contract carrier;* irregular routes; *Lead dross, lead scrap, scrap batteries and plates, pig lead, antimonial lead, solder, sheet lead, lead pipe and lead shot,* from Granite City, IL; Chicago, IL; St. Louis Park, MN; and Atlanta, GA to all points in the U.S. in and east of ND, SD, NE, KS, OK and TX under a continuous contract with Taracorp, Inc., Atlanta, GA. Supporting shipper: Taracorp, Inc., 1401 W. Paces Ferry Road, Atlanta, GA.

MC 141619 (Sub-3-1TA), filed October 31, 1980. Republication—originally published in Federal Register of November 17, 1980, page 75795, volume 45 No. 223. Applicant: LOY E. SIGMON, SR., d.b.a., NEW WAY TRANSPORTATION, Route 1, Box 392, Statesville, NC 28677. Loy E. Sigmon, Sr. (same as above). *New furniture,*

furniture parts and materials and supplies used in the manufacture of new furniture, between points in Grayson and Carroll Counties, VA and Iredell, Alexander and Catawba Counties, NC, on the one hand, and points in OH, IN, MI, WI, IL, MN, LA, MO, AR, LA, ND, SD, NE, KS, OK, TX, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NV, CA, SC, GA, AL, MS and FL, on the other. Supporting shipper: Lewittes Furniture Company, Inc., P.O. Box 1027, Taylorsville, NC 28681; Southern Furniture Company of Conover, Inc., P.O. Box 5438, Statesville, NC 28677; Vaughan Furniture Company, P.O. Box 330, Galax, VA 24333; and Shaver Bros. Stool Company, Inc., Rt. 10, Box 395, Statesville, NC 28677.

MC 152987 (Sub-3-1TA), filed December 3, 1980. Applicant: MAGANN EQUIPMENT, INCORPORATED, P.O. Box 1694, Highway 17-A North, Summerville, SC 29483. Representative: W. F. Magann, Jr. (same address as applicant). *Contract carrier:* Irregular: *construction equipment, construction, materials, and supplies* between points in Berkeley, Dorchester, Charleston, and Georgetown Counties, SC and GA, AL, NC, SC, FL, VA, KY, and TN. Supporting shipper: Misener Marine Construction, Inc., P.O. Box 705, Mount Pleasant, SC 29464.

MC 147657 (Sub-3-1TA), filed December 2, 1980. Applicant: FLEETCO, INC., 801 N. Interstate 85, Charlotte, NC 28216. Representative: W. G. Reese, 623 E. Artesia Blvd., Carson, CA 90746. *General commodities, usual exceptions,* between the facilities of Pic'N Pay Stores Inc. located at Mecklenburg Cy., NC on the one hand, and, on the other points and places in the U.S. Supporting shipper: Pic'N Pay Stores, Inc., P.O. Box 745, Matthews, NC 28105.

MC 106644 (Sub-3-5TA), filed December 4, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker III (same as applicant). *Lumber and Lumber products* from Fredonia, AZ; Payson, AZ; Whiteriver, AZ; Panquitch, UT, and Craig, CO to points in the U.S. in and east of WI, IA, NE, MO, OK, and TX. Supporting shipper: Kaibab Industries, Inc., P.O. Box 20506, Phoenix, AZ 85036.

MC 116254 (Sub-3-25TA), filed December 3, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Hazardous and non-harzardous waste* from points in and east of ND, SD, WY, CO, AZ, to Sumpter County, AL. Supporting shipper: Chemical Waste Management, Inc., P.O. Box 55, Emelle, AL 35459.

MC 114334 (Sub-3-17TA), filed December 1, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel—hot roll wire rod unfinished material for further processing.* From Beaumont, TX to plant site of Davis Walker Steel & Wire Corporation in Greenville, MS. Supporting shipper: Davis Walker Steel & Wire Corporation, 6315 Bandini Blvd., Los Angeles, CA 90040.

MC 99208 (Sub-3-3TA), filed December 3, 1980. Applicant: SKYLINE TRANSPORTATION, INC., 131 Quincy Avenue, P.O. Box 3569, Knoxville, TN 37917. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. *Textiles and textile products and materials, equipment and supplies used in the manufacture and distribution of textiles and textile products* between the facilities of Cherokee Textile Mills at or near Sevierville, TN and of Spindale Mills at or near Spindale, NC on the one hand, and, on the other, points in AL, GA, NC, SC, and TN. Supporting shippers: Cherokee Textile Mills, Middle Creek Road, Sevierville, TN 37862 and Spindale Mills, Spindale, NC.

MC 128720 (Sub-3-13TA), filed October 27, 1980. Republication—originally published in Federal Register of November 17, 1980, page 75796 volume 45, No. 223. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Dr., Nashville, TN 37210. Representative: Henry E. Seaton, 429 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Common carrier,* regular route; *General commodities (except Classes A & B explosives, household goods as defined by the Commission and commodities in bulk),* between Chattanooga, TN and Valdosta, GA; from Chattanooga, TN, over Interstate Hwy 75 to Valdosta, GA and return, serving Chattanooga, TN for the purpose of joinder only, and, all points in GA as intermediate and off route points. Supporting shippers: There are 41 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack with docket number MC-128720 and subs at Chattanooga and to interline at Knoxville, Nashville, Memphis, and Cookeville, TN and Atlanta, Macon, Columbus, Augusta and Savannah, GA.

MC 149563 (Sub-3-6TA), filed December 1, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Avenue, Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Aluminum pipe, plastic pipe, fittings, valves, and accessories, and materials, equipment and supplies,* used in the manufacture, installation and sale thereof, between the facilities of Kroy Industries, Inc. at or near York, NE, and the facilities of Peerless Plastics at or near Garden City, KS, on the one hand, and, on the other, all points in the U.S. Supporting shipper: Kroy Industries, Inc., Industrial Site, Box 309, York, NE 68467.

MC 2900 (Sub-3-26TA), filed December 3, 1980. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Ferro-Alloys, Silicon Metal, and Scrap Steel,* between Calvert City, KY, on the one hand, and on the other, AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, and WI. Supporting shipper: SKW Alloys, Inc., P.O. Box 366, Niagara Falls, NY 14302.

MC 138882 (Sub-3-32TA), filed December 1, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as above). (1) *Automotive Service Parts and Equipment, and (2) Materials, Equipment and Supplies used in the manufacture and distribution of commodities in (1) above,* between Warren County, KY and Davidson County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Chicago Pneumatic Auto Tool Company, Inc., P.O. Box 2030, Bowling Green, Kentucky 42101.

MC 56679 (Sub-3-24TA), filed December 1, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps, P.O. Box 6985, Atlanta, GA 30315. *Paper and paper products and materials, equipment and supplies used in the manufacture of paper and paper products* (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Hammermill Paper Company, at or near Erie, PA; Lockhaven, PA; and Oswego, NY, on the one hand, and, on the other, points in CT, DC, DE, IL, IN, KY, MA, MD, ME, MI, MS, NH, NJ, NY, OH, PA, RI, VA, VT, WI and WV. Supporting shipper: Hammermill Paper Company, P.O. Box 1440, 1540 East Lake Road, Erie, PA 16533.

Note.—Applicant intends to tack with existing authority in MC 56679.

MC 149140 (Sub-3-4TA), filed December 3, 1980. Applicant: OVER LAND, INC., 4121 Augusta Road, Garden City, GA 31408. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Sand and gravel* between Effingham County, GA and points in the U.S. *Cement* between Chatham County, GA on the one hand, and on the other, points in SC and FL. Supporting shippers: Dawes Mining Company, P.O. Drawer 175, Eden, GA 31307; Atlantic Cement Company, 25 Crescent Street, P.O. Box 30, Stamford, CT 06904.

MC 151427 (Sub-3-3TA), filed December 2, 1980. Applicant: SABRE TRANSPORT, INC., P.O. Box 12288, Atlanta, Ga. 30305. Representative: H. L. Walsh (same address as applicant). *#300 Finished Metal containers and Processed cat and dog food (canned),* from Atlanta, GA to all points south and east of MN, WI, IA, KS, and NW. Supporting shipper: Allied Foods, Inc., 1450 Hills Place N.W., Atlanta, GA 30318.

MC 146646 (Sub-3-35TA), filed December 3, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355-A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *(1) Canned and bottled foodstuffs, (2) Materials, equipment, and supplies used in the manufacture, sale and distribution of the commodities in (1) above,* Between the facilities of Bruce Foods and points in the U.S. (except AK and HI). Supporting shipper: Bruce Foods, Inc., P.O. Box 1030, New Iberia, LA 70560.

MC 109708 (Sub-3-15TA), filed December 2, 1980. Applicant: INDIAN RIVER TRANSPORT CO., INC., 2580 Executive Rd., Winter Haven, FL 33830. Representative: Russell E. Hass (same address as applicant). *Citrus concentrates, frozen, in bulk, in tank vehicles,* from San Antonio and Laredo, TX to Bartow, Bradenton, Cape Canaveral, Dunedin, Highland City, Lakeland, Orlando and Tampa, FL. Supporting shipper: Citro Florida, Inc., P.O. Box 398, Frostproof, FL 33843.

MC 115311 (Sub-3-13TA), filed December 2, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. *Beverages, and materials equipment and supplies utilized in the manufacture and distribution of beverages* from Ft. Worth, TX, to Harahan, LA, restricted to traffic destined to the facilities of Crescent Distributing Company. Supporting shipper: Crescent Distributing Company, 201 Evans Road, Harahan, LA 70123.

MC 144225 (Sub-3-3TA), filed December 2, 1980. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Rd., Tamarac, FL 33321. Representative: Raymond P. Keigher, Esq., 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract;* irregular routes; *lumber, lumber products and building materials, (except commodities in bulk),* from points in AL, CA, FL, GA, ID, MT, NC, OR, SC, VA and WA, to these points in the U.S. in or east of AR, IA, LA, MN and MO, under continuing contract(s) with Lynmar Lumber Industries, Inc. Supporting shipper(s): Lynmar Lumber Industries, Inc., P.O. Box 26238, Tamarac, FL 33320.

MC 129537 (Sub-3-5TA), filed December 2, 1980. Applicant: REEVES TRANSPORTATION CO., Route 5 Dews Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Carpeting, floor covering, carpet padding, materials, supplies and equipment used in the installation and manufacture thereof* (except in bulk); (1) Between all points in the states of SC, NC, GA, and VA; (2) Between all points in the states of SC, NC, GA, and VA on the one hand, and point in the U.S. (except AK and HI), on the other hand. Supporting shipper(s): There are 12 supporting shipper statements attached to this application which may be examined at the Atlanta, GA Regional office.

MC 144303 (Sub-3-6TA), filed December 2, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, N.C. 28732. Representative: Henry B. Stockinger (same address as above). *Contract Carrier:* irregular; (1) *Insulated copper wire, including scrap wire; in boxes, coils, reels or bales; and (2) Materials, equipment and supplies used in the manufacture or distribution of the commodities in (1),* between points in the U.S. under continuing contract(s) with Brand-Rex Company. Supporting shipper(s): Brand-Rex Company, A Division of Akzona, Inc., Enka, NC 28728.

MC 71772 (Sub-3-3TA), filed December 2, 1980. Applicant: MT. PLEASANT TRANSFER, INC., P.O. Box 267, Mt. Pleasant, TN 38474. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *General Commodities* between points in Maury County, TN, on the one hand, and on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MI, MO, NC, OH, SC, VA and WV. Applicant intends to tack with existing authority and interline at Columbia and Mt. Pleasant, TN. There are 9 supporting shippers. There statements may be reviewed at the ICC Regional office in Atlanta, GA.

MC 151873 (Sub-3-2TA), filed December 2, 1980. Applicant: PRIDE CARGO CARRIERS, INC., 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, Esquire, P.O. Box 213, Winston-Salem, NC 27102. *Contract Carrier:* Irregular: *Such commodities as are dealt in by a manufacturer of power tools, labor saving devices and supplies used in the conduct of such business,* between points in the United States, under a continuing contract or contracts with Black & Decker (U.S.), Towson, MD. Supporting shipper(s): Black & Decker (U.S.), Inc., 2721 Millbrook Road, Raleigh, NC 27658.

MC 152952 (Sub-3-1TA), filed December 2, 1980. Applicant: WAYNE SMITH d.b.a. WAYNE SMITH TRUCKING COMPANY, Route 2, Box 462, Jacksonville, AL 36265. Representatives: Archie B. Culbreath, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Lumber, lumber products and forest products,* from points in Etowah, Calhoun and Talladega Counties, AL to points in FL, GA, IA, IL, IN, KS, KY, MI, MN, MO, MS, NY, OH, PA, TN, and WI. Supporting shippers: Gerald Willis Lumber Co., Route 3, Box 467, Piedmont, AL 36272; Read Brothers Lumber Co., Route 9, Gadsden, AL.

MC 114334 (Sub-3-16TA), filed December 2, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Steel pipe* from Counce, TN to all points in KS. Supporting shipper: Republic Steel, 224 E. 131st Street, Cleveland, OH 44108.

MC 140389 (Sub-3-20TA), filed December 2, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Seattle, WA, and points in its commercial zone, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, SC, and TN. There are 5 statements of support which may be examined at the ICC Regional Office in Atlanta, GA.

MC 75840 (Sub-3-17TA), filed December 2, 1980. Applicant: MALONE

FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Such commodities as are dealt in, utilized or distributed by a manufacturer or distributor of chemicals or chemical products,* between St. Charles Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, DE, GA, KY, MD, MS, NJ, NY, NC, PA, OH, SC, TN, VA, and WV. Supporting shipper: Witco Chemical Corporation, Post Office Box 308, Gretna, LA 70054.

MC 2253 (Sub-3-6TA), filed December 2, 1980. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). *Books* from Fairfield, PA to Paterson and Totowa, NJ. Supporting shipper: The Book Warehouse, Inc., Vreeland Avenue, Totowa, NJ 07512.

MC 108651 (Sub-3-5TA) filed December 2, 1980. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). *Such commodities as are dealt in by grocery and food business houses,* between Winchester, VA, and Atlanta, GA, Charlotte and Raleigh, NC, and Greenville, and Spartanburg, SC., including the commercial zones of the points named. Supporting shipper: The Shenandoah Apple Co-Operative, Inc., P.O. Box 435, Winchester, VA 22601.

MC 135895 (Sub-19TA), filed December 2, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. *(1) Outdoor recreational equipment and home heating and air conditioning equipment, and (2) materials, equipment and supplies used in the manufacture, sale, distribution and assembly of commodities described in (1) above (except commodities in bulk and those requiring special equipment)* between points in the United States (except AK and HI): Restricted to the transportation of traffic originating at or destined to facilities of The Coleman Company, Inc., supporting shipper(s): the Coleman Company, Inc., 250 North St. Francis, Wichita, KS 67201

MC 152951 (Sub-3-1), filed December 2, 1980. Applicant: OILFIELD MAINTENANCE & REPAIR, INC., Hiway 29 South, Post Office Box 836, Immokalee, FL 33934. Representative: A. M. Downey, Jr., 218 W. Adams St., Jacksonville, FL 32202. *Oil field commodities and fluids. (Drilling rigs, pumps, engines, drill pipe, core barrels, mud tanks, test tanks, and pipe racks. Crude oil, fresh and salt water.),* between points in the states of AR, OK, TX, LA, MS, AL on the one hand and points in FL, LA and MS on the other. Supporting shipper: Challenger Drilling, Inc., P.O. Box 1528 Ft. Myers, FL 33902.

MC 152950 (Sub-3-1TA), filed December 2, 1980. Applicant: CENTURY TRANSPORTATION CORPORATION, P.O. Box 207, Columbus, MS 39701. Representative: Lloyd R. Pate (same as applicant). *Contract carrier;* irregular route; *general commodities with usual exceptions* between Columbus, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Universal Industries Corporation. Supporting shipper: Universal Industries Corporation, P.O. Box 192, Columbus, MS 39701.

MC 129063 (Sub-3-3TA), filed December 2, 1980. Applicant: Jimmy T. Wood, d.b.a. JIMMY T. WOOD TRUCKING, P.O. Box 248, Ripley, TN 38063. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Commodities designated as hazardous waste by the Environmental Protection Agency, in bulk,* between points in AR, AL, KY, MS and TN, on the one hand, and, on the other Emelle, AL. Supporting shipper: Earth Industrial Waste Management, Inc., 1570 One Commerce Square, Memphis, TN 38103.

MC 140334 (Sub-3-1TA), filed December 2, 1980. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O.B. 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: (1) *woven fiberglass and synthetic fabrics* and (2) *materials, supplies and equipment* used in the production and distribution of the commodities named in (1) above, between Anderson, SC on the one hand, and, on the other, points in CT, DE, GA, MA, ME, NC, NH, NJ, NY, PA, RI and VA, under continuing contract(s) with Clark-Schwebel Fiber Glass Corp. of Anderson, SC. Supporting shipper: Clark-Schwebel Fiber Glass Corp., P.O.B. 2626, Anderson, SC 29622.

MC 118370 (Sub-3-2TA), filed December 2, 1980. Applicant: BANANA TRANSPORT, INC., 12712 North Oregon Avenue, Tampa, Florida 33612. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, Tennessee 37219. *Central heating and air conditioning units, component parts and materials and supplies used in the manufacture or distribution of these commodities* between Nashville, TN, on the one hand, and, points in GA, on the other. Supporting shipper: Heil-Quaker Corporation, Lavergne TN 37086.

MC 144069 (Sub-3-16TA), filed December 2, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, N.C. 28225. Representative: W. T. Trowbridge (same address as applicant). *Building materials, and iron and steel articles* between Mecklenburg County NC and Union County NC on the one hand and on the other points in and east of MS, TN, KY, IL, and WI. There are ten statements of support attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 148780 (Sub-3-2), filed December 2, 1980. Applicant: ENGINEERED TRANSPORT SERVICES, INC., 3001 Ponce de Leon Boulevard, Suite 201, Coral Gables, FL 33134. Representative: Charles R. Stiller, Esq., 3001 Ponce de Leon Boulevard, Suite 201, Coral Gables, FL 33134. *Contract carrier:* irregular routes: *chemicals, chemical products, raw materials and supplies, including chemicals in bulk,* between points in the continental U.S., under a continuing contract with Ferro Corporation. Supporting shipper, Ferro Corporation, One Erieview Plaza, Cleveland, OH 44114.

MC 147851 (Sub-3-1TA), filed December 2, 1980. Applicant: KWESVA, INC., Route 10, Benson Valley Road, Frankfort, NY. 40601. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY. 40602. *Adhesives, in drums, and empty drums* on return trips: 1. Between Blue Ash, (Cincinnati), OH, on the one hand, and all points in KY, on the other hand. 2. Between Louisville, KY and Evansville, IN. Supporting shipper: H. B. Fuller Company, Blue Ash, OH.

MC 75840 (Sub-3-16TA), filed December 2, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Royce Glass, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham, AL 35222. *Nonexempt Food or Kindred Products,* (1) between points in Allegheny County, PA, on the one hand, and, on the other, points in the state of FL; (2) between Sandusky and Lucas Counties, OH; Johnson and Muscatine Counties, IA, and Ottawa County, MI, on the one hand, and, on the other, points in FL and SC. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 138687 (Sub-3-2TA), filed December 2, 1980. Applicant: BYNUM TRANSPORT, INC., 4609 Highway 92 East, Lakeland, Florida 33801. Representative: Thomas F. Panebianco,

Post Office Box 1200, Tallahassee, FL 32302. *Feed ingredients*, from the facilities of Southern Materials Corporation in Marion County, FL to points in GA, AL, LA, MS, NC, SC, TN and MO. Supporting shipper: Southern Materials Corporation, P.O. Box 218, Ocala, FL 32670.

MC 138882 (Sub-3-31TA), filed December 2, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). (1) *Lumber and Composition Board, and (2) Materials, Equipment and Supplies used in the manufacture and distribution of commodities in (1) above, (except in bulk, in tank vehicles)* between Ports of Entry on the International Boundary Line between the US and Canada located at Detroit, MI on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: MacMillan Bloedel Building Materials, Suite 200, 6540 Ferry Road, Atlanta, GA 30339.

MC 146293 (Sub-3-28TA), filed December 2, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Mineral fillers*, in bags, from Talladega County, AL and Bartow County, GA, to AZ, AR, CA, LA, NM, OK and TX. Supporting shipper: Thompson Wineman Co., Old Mill Road, Cartersville, GA 30120.

MC 139207 (Sub-3-4TA), filed December 2, 1980. Applicant: MCNABB-WADSWORTH TRUCKING CO., 305 S. Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Glass and materials, supplies and equipment used in the manufacture of same*, between the facilities of Guardian Industries Corp., at or near Corsicana, TX, on the one hand, and, on, the other, points in FL, SC, GA, AL, TN, MO, MS, AR, LA, NC, KY, OH and PA. Supporting shipper(s): Guardian Industries Corp., P.O. Box 1001, Corsicana, TX 75110.

MC 134716 (Sub-3-1TA), filed December 2, 1980. Applicant: RUSH TRUCKING, INC., 200 Southwest 19th St., Ft. Lauderdale, FL 33315. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301 *Contract; irregular: General commodities (except household goods and classes A and B explosives)* between Orlando, Tampa, Sarasota and Ft. Myers, FL (and their respective commercial zones) on the one hand, and, on the other, points in Brevard, Citrus, Flagler, Hernando, Indian River, Lake, Okeechobee, Osceola, Orange, Polk, Seminole, St. Lucie, Sumter, Volusia, Charlotte, Collier, De Soto, Hardee, Lee, Sarasota, Highlands, Glades and Hendry Counties, FL, having a prior or subsequent movement in interstate commerce, under a continuing contract(s) with Avon Products, Inc. Supporting shipper: Avon Products, Inc., 2200 Cotillion Dr., Atlanta, GA 30302.

MC 111485 (Sub-3-6TA), filed December 2, 1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *(1) Electrical fuses, fuse plugs, cutouts, fuse holders, and (2) related materials used in the manufacture and distribution of the commodities named in (1)*, between the facilities of Bussman Manufacturing Company at or near St. Louis, MO, on the one hand, and, on the other, Elizabethtown, KY, Bristol, CT, Detroit, MI, and Cleveland, OH, and commercial zones thereof. Supporting shipper: Bussman Manufacturing Company, Division of McGraw Edison Corp., 2300 Locust Street, St. Louis, MO 63103. Applicant seeks ETA.

MC 112520 (Sub-3-11TA), filed December 2, 1980. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Petroleum Products, in bulk*, from Bay County, FL, to points in SC and NC. Supporting shipper: Whitaker Oil Company, P.O. Box 93487, Atlanta, GA 30318.

MC 144964 (Sub-3-2TA), filed October 21, 1980. Applicant: ESSEX EXPRESS INCORPORATED, 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: Don A. Allen, Esq., Patton, Boggs & Blow, 2550 M Street NW., Washington, DC 20037. *General commodities*, from the facility of Delaware Valley Shippers' Association, Bristol, PA, to Atlanta, GA, and points in FL. Supporting shipper: Delaware Valley Shippers' Association, 2209 E. Farragut Avenue, Bristol, PA 19007.

MC 114604 (Sub-3-18TA), filed December 5, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Jean E. Kesinger (same address as applicant). *Such merchandise as is dealt in by food business houses, and materials, ingredients and supplies used in their manufacture and distribution*, between points in OH and SC, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX. Restricted to traffic originating at or destined to the facilities utilized by the Stouffer Foods Corporation. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 147547 (Sub-3-4TA), filed December 5, 1980. Applicant: R & D TRUCKING COMPANY, INC., Church Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37217. *Charcoal, chacoal products, materials supplies and equipment used in manufacturing and distribution thereof* between Lunenburg County, VA and Denton county, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Cupples Company manufacturers, 1034 S. Brentwood Blvd., St. Louis, MO 63117; Imperial Briquet, Suite 1660, 1034 S. Brentwood Blvd., St Louis, MO 63117.

MC 151375 (Sub-3-1TA), filed December 5, 1980. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 3914 Shirley Dr., S.W., Atlanta, GA 30336. Representative: John C. Fudesco, 1333 New Hampshire Ave., N.W., Suite 960, Washington, DC 20036. *Duplicating machines, computers, typewriters, x-ray equipment, and similar instruments, and parts and supplies used in connection with the foregoing commodities*, between points in OH, PA, WV and KY. Supporting shipper: Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018 and Addressograph Miltigraph International, 1834 Waldon Office, Schaumburg, IL.

MC 144027 (Sub-3-6TA), filed December 5, 1980. Applicant: WARD CARTAGE & WAREHOUSING, INC., Route 4, Glasgow, KY 42141 Representative: Henery E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Textiles and textile products, and materials, equipment and supplies used in the manufacture and distribution of such products* between points in the US, restricted to the transportation of traffic moving from or to facilities of Union Underwear Company, Inc. Supporting shipper(s): Union Underwear Company Inc.; #1 Fruit of the Loom Drive; P.O. Box 780; Bowling Green; KY 42101.

MC 2934 (Sub-3-25TA), filed December 5, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Indianapolis, IN 46032. Representative: W. G. Lowry (same as above). *New furniture, new kitchen cabinets and parts thereof*, from Red Lion and Stewartstown, PA to: AL, AR, IA, KS, KY, LA, MI, MN, MS, MO, OH, OK, TN,

TX and WI. Supporting shipper: Yorktowne Kitchens, Division of Wickes Corporation, P.O. Box 231, Red Lion, PA 37456.

MC 2900 (Sub-3-25TA), filed December 3, 1980. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: S.E. Somers, Jr. (same address as applicant). *Conveyers, Elevators, and parts thereof,* from Grand Rapids, MI, to Canton, MS. Supporting shipper: LSI Rapistan, INC., 507 Plymouth Ave., NE, Grand Rapids, MI 49505.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 149145 (Sub-4-2TA), filed December 2, 1980. Applicant: NATIONAL TRANSPORTATION SYSTEMS, INC., 1315 Directors Row, Suite 10A, Fort Wayne, IN 46808. Representative: Matthew J. Reid, P.O. Box 2298, Green Bay, WI 54306. *Contract irregular general commodities (except articles of unusual value, Class A and B explosives, household goods, and commodities requiring special handling or equipment)* between points in the U.S. (except between St. Louis, MO and Louisville, KY and points in MN, IA, WI, IL, MI, IN, OH, WV, PA, NY, NJ, DE, MD, VT, NH, ME, VA, MA, CT, RI, and DC) under a continuing contract with ITOFCA, Inc. Supporting shipper: ITOFCA, Inc., 2 Walker Ave., Clarendon Hills, IL 60514.

MC 128205 (Sub-4-12TA), filed December 2, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty St., Chicago, IL 60628. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. *Fluorspar, in bulk,* from the facilities of Seaforth Mineral and Ore Co., in Columbiana County, OH and Hardin County, IL to points in the U.S. (except AK and HI). Supporting shipper: Seaforth Mineral & Ore Co., Inc., 29525 Chagrin Blvd., Pepper Pike, OH 44122.

MC 134604 (Sub-4-2TA), filed December 2, 1980. Applicant: HOWARD DULLUM, Gardner, ND 58036. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Feed ingredients,* between points in ND, SD, MN, MT, IA and NE. Supporting shipper: Peavey Company, 750 2nd Avenue South, Minneapolis, MN 55402.

MC 145742 (Sub-4-2), filed November 28, 1980. Applicant: BOLES TRUCKING, INC., R. R. #1, Ina, IL 62846. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. *Contract,* irregular: *Steel oil field pipe and tubing,* from Clinton, IA to points in AZ, AR, AL, CO, ID, IN, IL, KS, LA, MT, MN, MO, MS, NV, NM, NE, ND, OK, OH, PA, SD, TX, UT, and WY, under continuing contracts with Intercontinental Pipe & Steel, Inc. An underlying E/T/A seeks 120 days authority. Supporting shipper: Intercontinental Pipe & Steel, Inc., of Suite 134, 8340 Meadow Rd., Dallas, TX 75231.

MC 133689 (Sub-4-51), filed December 2, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack; P.O. Box 601, West St. Paul, MN 55118. *Paper and paper products and equipment and supplies used in the manufacture and distribution of paper and paper products,* Between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to shipments originating at or destined to the facilities of Moore Business Forms, Inc. Supporting shipper: Moore Business Forms, Inc., 2215 Sanders Road, Suite 400, Northbrook, IL 60062.

MC 133689 (Sub-4-52), filed December 2, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *(1) Power generating equipment, parts and accessories and (2) materials, supplies and equipment used in the manufacture of commodities named in (1) above,* Between the facilities of Onan Corporation at Minneapolis, MN and Huntsville, AL on the one the hand, and, points in and east of ND, SD, NE, KS, OK, and TX on the other hand. Supporting shipper: Onan Corporation, 1400 73rd Ave. Northeast, Minneapolis, MN 55432.

MC 16499 (Sub-4-2), filed December 2, 1980. Applicant: ROHDE CARTAGE, INC., P.O. Box 475, Mundelein, IL 60060. Representative: D. R. Beeler, 1261 Columbia Avenue, Franklin, TN 37064. *Plastic articles (except in bulk) and materials and supplies used in the manufacture, sales, and distribution of the aforementioned* between the facilities of Colonial Bag Corporation at Elk Grove Village, IL and Exxon Chemical Americas at Lake Zurich, IL on the one hand and points in IN, IA, KY, MI, MO, TN, and WI on the other. Supporting shippers: Colonial Bag Corporation, 1251 Mark Street, Elk Grove Village, IL 60007 and Exxon Chemical Americas, 351 N. Oakwood Road, Lake Zurich, IL 60047.

MC 140549 (Sub-4-2), filed December 2, 1980. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Frozen citrus juices and frozen citrus juice concentrates* from Bradenton and Frostproof, FL, to Minneapolis, MN, and its commercial zone. Supporting shippers: Country Club Market, Inc., St. Louis Park, MN.

MC 152903 (Sub-4-1TA), filed December 2, 1980. Applicant: P & H TRUCKING, INC., 3600 W. 127th St., Alsip, IL 60406. Representative: Wulf Petersen, 43W225 Blue Larkspur Ln., Elburn, IL 60119. *Contract* regular: *Steel and manufactured Steel Products,* from Blue Island, IL to points in MI, IN, and WI. Supporting shipper(s): Gary Steel Supply Co., 3600 W. 127th St., Alsip, IL 60406.

MC 80430 (Sub-4-13), filed December 1, 1980. Applicant: GATEWAY TRANSPORTATION CO, INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Keith Margelowsky, 455 Park Plaza Drive, La Crosse, WI 54601. *General Commodities,* except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between the facilities of Piper Industries at or near New Albany, MS and the facilities of the Olin Corporation Plant at or near Marion, IL. An underlying ETA seeks 120 days authority. Supporting shipper: Piper Industries, Inc., P.O. Box 726, New Albany, MS 38652.

MC 118202 (Sub-4-14TA), filed December 1, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Meat, meat products, meat by products and articles distributed by meat packing houses,* between points in CO, IN, KS, MN, MO, NE, SD and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Agmar, Inc., P.O. Box 30068, St. Paul, MN 55165.

MC 15975 (Sub-4-19TA), filed December 1, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Animal and poultry feed, and materials, supplies and ingredients used in the manufacture and distribution of feed and feed ingredients* (except commodities in bulk), between Webb City, MO and Portland, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: International Multifoods, 1200 Multifoods Bldg., Minneapolis, MN 55402.

MC 140744 (Sub-4-4TA), filed December 1, 1980. Applicant: ARCTIC AIR TRANSPORT, INC., 853 W. Main Street, Mondovi, WI 54755. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. *Scrap paper* from Columbus, OH to Eau Claire and Ladysmith, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Pope & Talbot, Inc., P.O. Box 330, Eau Claire, WI 54701.

MC 128205 (Sub-4-11TA), filed December 1, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty St., Chicago, IL 60628. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street N.W., Washington, DC 20001. *Sodium Phosphates, in bulk, in pneumatic tank vehicles,* from Bedford Park, IL to Fort Worth, TX. Supporting shipper: FMC Corporation, 2000 Market St., Philadelphia, PA 19103.

MC 129974 (Sub-4-2TA), filed December 1, 1980. Applicant: THOMPSON BROS., INC., P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract* irregular. *Liquid fertilizer and liquid fertilizer ingredients,* in bulk, in tank vehicles, (1) from Borger, TX and McCook, NE to Garretson, SD; and (2) from Garretson, SD, to points in CO, IL, IN, IA, MN, MO, MT, NE, ND, OH, WI, and WY, under contract(s) with Farmers' Plant Food, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Farmers' Plant Food, Inc., Box J., Garretson, SD 57030.

MC 136635 (Sub-4-11TA), filed December 1, 1980. Applicant: WHITEFORD TRUCK LINE, INC., 640 W. Ireland Road, South Bend, IN 46686. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Foodstuffs and edible foodstuffs, and materials equipment and supplies used in the manufacture, sale and distribution of edible foodstuffs and foodstuffs* between the facilities of Stokely Van Camp, Inc. at Tipton, IN, Indianapolis, IN and Newport, TN on the one hand, and on the other, points in the U.S. Supporting shipper: Stokely-Van Camp, Inc., N Meridian St. Indianapolis, IN.

MC 145574 (Sub-4-2TA), filed December 1, 1980. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 Lake Street, Melrose Park, Illinois 60160. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Illinois 60601. *Automobile parts and components, having a prior or subsequent movement via rail or water,* between Chicago, IL, on the one hand, and, on the other, points in Franklin and Hamilton Counties, OH,. An underlying ETA seeks 120 days authority. Supporting shipper: Seatrain Pacific Services, Inc., 121 S. Wilke Rd., Arlington Hts., IL; and Toyota Motor Sales Corp., 2055 W. 19th St., Torrance, CA 90504.

MC 135874 (Sub-4-1TA), filed November 26, 1980. Applicant: LTL PERISHABLES, INC., 550 East 5th Street So., South St. Paul, MN 55075. Representative: Randy Busse, 550 East 5th Street So., South St. Paul, MN 55075. *Such commodities as are sold by retail stores and materials, equipment and supplies used in the manufacture of such commodities (except in bulk),* Between Minneapolis-St. Paul, MN commercial zone and points in IL, IA, MO, MI, NE, KS, ND, SD, MT, and MN (interstate traffic only). Supporting shippers: Space Center of Minneapolis, Inc., 3310 No. 2nd St., Minneapolis, MN; North Star Warehouse, 109 Portland Ave., Minneapolis, MN 55401; Feinberg Distributing Company, 2201 Kennedy St. N.E., Minneapolis, MN 55413; Minnetonka, Inc., Box 1A, Minnetonka, MN 55343; Central Warehouse Company, 739 Vandalia, St. Paul, MN 55104; Gourmet Foods, Inc., 860 Vandalia, St. Paul, MN 55114; Midwest Kaets, Inc., 711 Vandalia, St. Paul, MN 55114; Golden Valley Foods, Inc., 1710 Douglas Drive No., Minneapolis, MN 55422.

MC 152711 (Sub-4-1), filed December 1, 1980. Applicant: COWBOY EXPRESS, INC., 309 South Yale, Addison, IL 60101. Representative: Martin J. Kennedy, 120 West Madison St., Suite 718, Chicago, IL 60602. *Newspaper supplements* and *printed matters* from points in IL to points in IN, IA, MN, MO, KY, OH, MI, WI, ND, SD, and TX. Supporting shipper: Williamsburg Press, Inc., Addison, IL 60101.

MC 105501 (Sub-4-4), filed December 1, 1980. Applicant: TERMINAL WAREHOUSE COMPANY, 1851 Raddison Rd., N.E., Blaine, MN 55434. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Liquor and materials and supplies used in the distribution and sale of liquor,* between the facilities of Ed Phillips and Sons, located at St. Paul/Minneapolis, MN, on the one hand, and on the other hand, Fargo and Bismarck, ND. Supporting shipper: Ed Phillips & Sons Company, Fargo, ND.

MC 70557 (Sub-4-8TA), filed December 1, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. *(1) Containers, container ends and closures; (2) Commodities manufactured or distributed by manufacturers or distributors of containers when moving in mixed loads; and (3) materials, equipment and supplies used in the manufacture and distribution of containers, container ends and closures (except in bulk)* between points in and East of MN, IA, MO, OK, and TX. Restricted to traffic originating at or destined to the facilities of Brockway Glass Company. Supporting shipper: Brockway Glass Co., Inc., MCullough Ave., Brockway, PA 15824.

MC 152930 (Sub-54-1TA), filed December 1, 1980. Applicant: BOTTAMILLER ENTERPRISES, INC., 12121 N. Springmill Road, Carmel, IN 46032. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Extension cords, electrical wire, battery jumper cables, drop lights, speaker wire, and trouble lights, and parts, materials, and supplies used in the distribution and sale of the foregoing commodities,* from Carmel, IN, to Sparks, NV, San Francisco and Los Angeles, CA. Supporting shipper: Wood Wire Products, Inc. 510 3rd Avenue, S.W., P.O. Box 675, Carmel, IN 46032.

MC 117370 (Sub-4-2TA), filed November 28, 1980. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. *Candy, confectionery and display and advertising materials relating thereto.* From the facilities of Tootsie Roll Industries, Inc., at or near Chicago, IL to Milwaukee, WI, Indianapolis, IN, Minneapolis, MN, Cleveland, Cincinnati and Columbus, OH, Des Moines, IA, Grand Rapids and Detroit, MI, and Omaha, NE, and points in their respective Commercial Zones. ETA seeking up to 120 days authority. Supporting shipper: Tootsie Roll Industries, Inc., 7401 South Cicero Avenue, Chicago, IL 60629.

MC 144630 (Sub-4-14TA), filed November 28, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Frozen foodstuffs, materials, equipment and supplies used in the manufacture and distribution of foodstuffs,* between the facilities of Stouffer Foods Corporation in Cuyahoga County, OH on the one hand, and on the other, points in WA, OR, CA, AZ, NE, ID, MT, WY, UT, CO, and NM. Supporting shipper: Stouffer Foods Corporation, Harper Road, Solon, OH 44139.

MC 111812 (Sub-419TA), filed November 24, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *(1) Such commodities as are dealt in by wholesale and retail grocery store outlets (except commodities in bulk); and (2) Materials, equipment and supplies used in the manufacture and distribution of commodities named in (1) above,* between Cook, Du Page and Lake Counties, IL on the one hand, and, on the other, King County, WA. An underlying ETA seeks 120 days authority. Supporting shipper: Continental Arctic, 601 S.W. 7th Street, Renton, WA. 98055.

MC 111812 (Sub-4-20TA), filed November 21, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same address as applicant). *Non-exempt food and kindred products,* between points in FL on the one hand, and, on the other, points in the U.S. There are 6 supporting shippers.

MC 138569 (Sub-4-1TA), filed November 28, 1980. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Drive, Rapid City, SD 57701. Representative: David Stanton, 2040 West Main, Suite 202, Rapid City, SD 57701. *Crushed rock products* from points in Pennington and Fall River Counties SD to points in Scottsbluff and Morrill Counties, NE, and return to points in Pennington and Fall River Counties, SD. Supporting shipper: Great Western Sugar Company, Transportation and Traffic, P.O. Box 5308 Terminal Annex, Denver, CO 80217.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 29910 (Sub-5-67TA), filed December 3, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Paper, paper products, supplies, and materials used in the manufacture and distribution thereof,* Between Berks County, PA; Baltimore and Ann Arundel Counties, MD, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Reading White Hall Paper Board Co., P.O. Box 8, White Hall, MD 21161.

MC 29910 (Sub-5-68TA), filed December 3, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Rough steel castings, power pumps, railway car adapters, railway car/locomotive wheels, axles, brake shoes, railway car or locomotive,* between Quemahoning, PA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Abex Corporation, 530 Fifth Avenue, New York, NY 10036.

MC 52460 (Sub-5-20TA), filed December 3, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga, 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. *Textiles,* From points in the state of N.C. on the one hand, to points in the states of AL, AR, CO, FL, GA, IL, IA, KS, LA, MS, MO, NM, NE, OK, SC, TN, and TX, on the other. Supporting shipper: Southern Textiles, Inc., 11448 Reeder Rd., Gallas, TX 75229.

MC 105463 (Sub-5-1TA), filed December 2, 1980. Applicant: C. E. HORNBACK, INC., 2nd & Siegil Streets, Tama, IA 52339. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract irregular *Paper and paper articles, and materials, supplies, and equipment used in the manufacture of paper and paper articles,* (1) From Tama, IA to points within the Grand Rapids, MI commercial zone, and (2) from Chicago, IL to Tama, IA, under continuing contract(s) with Packaging Corporation of America. Supporting shipper(s): Packaging Corporation of America, P.O. Box 1408, Evanston, IL 60204.

MC 111401 (Sub-5-22TA), filed December 2, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Arsenic acid, in bulk, in tank vehicles,* from Brownsville, TX to Bryan, TX, in foreign commerce only. Supporting shipper: Pennwalt Corporation, P.O. Box 3608, Bryan, TX 77801.

MC 119700 (Sub-5-10TA), filed December 3, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Iron and steel article* between Harris, Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, SD, TN and WI. Supporting shipper: There are nine supporting shippers.

MC 121661 (Sub-5-1TA), filed December 3, 1980. Applicant: VAN WYK FREIGHT LINES, INC., Box 70, Grinnell, IA 50112. Representative: Mr. Russell H. Wilson, 4400 Merle Hay Road, Des Moines, IA. 50310. *General commodities (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, commodities requiring special equipment.)* between Moline, IL., and Iowa City, Cedar Rapids, Newton, Marshalltown, Oskaloosa, Waterloo, and Kellogg, IA. Supporting shippers: 13.

Note.—Applicant intends to tack and interline.

MC 124174 (Sub-5-31TA), filed December 3, 1980. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 "L" Street, Omaha, NE 68137. *General commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the U.S., restricted to traffic originating at or destined to the facilities of or used by Ardan, Inc. Supporting shipper(s): Ardan, Inc., 2320 Euclid Avenue, Des Moines, IA 50310.

MC 126118 (Sub-5-39TA), filed December 3, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in and used by wholesale grocery and general merchandise stores (except in bulk),* between Omaha, NE, on the one hand, and, on the other, pts in the US (except AK, HI and NE). Supporting shipper: Hinky Dinky Supermarkets, 4206 South 108 Street, Omaha, NE 68137.

MC 133494 (Sub-5-1TA), filed December 3, 1980. Applicant: E. W. BELCHER TRUCKING, INC., Rt. 1, Box 757-M, Sanger, TX 76266. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Soybean meal (except in bulk in tank vehicles)* from points in KS to points in TX. Supporting shippers: Nathan Segal & Co., 2100 W Loop S, Suite 610, Houston, TX 77027; J. Paul Smith Co., 518 Fort Worth Club Bldg., Fort Worth, TX 76102.

MC 134134 (Sub-5-6TA), filed December 3, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, P.O. Box 7439, Omaha, NE 68107. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are dealt in by food, grocery, and drug stores (except in bulk),* between the facilities of Federal Warehouse Company, at or near East Peoria, IL, on the one hand, and, on the other, points in NY, NJ, MA, PA, MD, KY, OH, MI, IN.

Supporting shipper: Federal Warehouse Company, 200 National Road, East Peroria, IL 61611.

MC 135861 (Sub-5-17TA), filed December 3, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, Irregular. *Foodstuffs, and materials, equipment and supplies used in the manufacture and distribution of foodstuffs,* between points in the U.S. Supporting shipper: Mrs. Smith's Frozen Foods Co., P.O. Box 298, Pottstown, PA 19464.

MC 143701 (Sub-5-10TA), filed December 3, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Chemicals and cleaning supplies and sanitation materials,* From Atlanta, GA, to Los Angeles and Santa Clara, CA; Denver, CO; Miami and Orlando, FL; Chicago, IL; Edmonston, MD; Boston, MA; Detroit, MI; St. Paul, MN; Kansas City and St. Louis, MO; Springfield, NJ; Albuquerque, NM; Cleveland, OH; Pittsburgh, PA; Dallas and Houston, TX; and Seattle, WA. Supporting shipper(s): ZEP Manufacturing Company, 1310 Seaboard Industrial Blvd.; Atlanta, GA 30318.

MC 144603 (Sub-5-31TA), filed December 1, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Lumber or wood products; except furniture,* from Amarillo, TX, and its commercial zone, to AZ, UT, CO, NM; and points in and east of WI, IA, MO, AR and LA (except FL) (restricted to traffic from or to the facilities of Maywood Incorporated, or its customers). Supporting shipper: Maywood Incorporated, P.O. Box 30550, Amarillo, TX 79120.

MC 144622 (Sub-5-62TA), filed December 3, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76201. *General Commodities (except household goods as defined by the Commission and Classes A and B explosives),* from the facilities of Ohio Valley Shippers Association and its members facilities in OH, KY, and IN to points in the United States (except AK & HI). Supporting shipper: Ohio Valley Shippers Association, 1428 Dalton St., Cincinnati, OH 45214.

MC 146553 (Sub-5-7TA), filed December 3, 1980. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Malt beverages, wine and liquor (except in bulk),* from points in KY, NJ, NY and OH to ponts in IA and IL. Supporting shipper(s): Saelens Beverages, Inc., 7819 42nd Street, West, Rock Island, IL 61201; Flynn Beverage Company, Inc., 909 Floral Lane, Davenport, IA 52802; D & B Sales Co., 2335 East 2nd, Galesburg, IL 61401; Standard Wine & Liquor Co., 1620 W. Chanute Rd., Peoria, IL 61615.

MC 152707 (Sub-5-1TA), filed December 2, 1980. Applicant: S.O.O. TRUCKING CO., (James Osmus, Kenneth R. Spaeth and Ron Osmus, d.b.a.) a partnership, P.O. Box 528, Okeene, OK 73763. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Contract, Irregular, *Bulk Flour, in shipper owned trailers,* from Okeene, OK to points in NM and TX. Supporting shipper: Okeene Milling Co., P.O. Drawer D, Okeene, OK 73763.

MC 152982 (Sub-5-1TA), filed December 3, 1980. Applicant: CLEVELAND TRANSPORTATION CORP. 3rd & Hubbard Sts., Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Contract Irregular; General Commodities (Except Classes A & B Explosives, household goods, commodities requiring Special Equipment),* Between points in CO, FL, IA, IL, IN, KS, MI, MN, MO, ND, NE, NM, OK, SD, TN, UT, WI and WY. Supporting shippers: Mix-Rite, Inc., RR 1 Sioux Center, IA 51250; Cleveland Distributing Co., 3rd & Hubbard Sts., Sheldon, IA 51201; Henning Distributing Co., 3rd & Hubbard Sts., Sheldon, IA 51201.

MC 200 (Sub-5-68TA), filed December 5 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *General Commodities, (except Household Goods as defined by the Commission, and classes A & B explosives),* between all points in the U.S. Supporting shippers: There are 32.

MC 8544 (Sub-5-1TA), filed December 5, 1980. Applicant: GALVESTON TRUCK LINES CORP., 7415 Wingate, Houston, TX 77011. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Freight in steamship containers,* between Houston and Galveston, TX (and points within the commercial zones thereof on the one hand, and, on the other, points in AR, KS, LA, MO, OK, and TX. Supporting shipper: Lykes Bros. Steamship Co., Inc., 300 Poydras St., New Orleans, LA 70130.

MC 35320 (Sub-5-40TA), filed December 5, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX. 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Amarillo, TX. and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations. Supporting shippers: Nine.

Note.—Applicant intends to tack and interline.

MC 41116 (Sub-5-28TA), filed December 4, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. Contract, Irregular; *(1) Paper and paper products (except in bulk), (2) Materials and supplies used in manufacture, distribution or sale of (1) (except in bulk),* between the facilities of Westvaco (1) New Orleans, LA on the one hand and on the other points in the US (except AL, AK, AR, HI, IA, IL, IN, KY, KS, MI, MO, MS, NE, OK, TN, and TX) and (2) Wellsburg, WV on the one hand and on the other points in the U.S. (except AK and HI). Supporting shipper: Westvaco, 1400 Annunciation, New Orleans, LA 70160.

MC 88380 (Sub-5-4TA), filed December 5, 1980. Applicant: REB TRANSPORTATION CO., INC., 2400 Cold Springs Road, Fort Worth, TX 76106. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. *Prefabricated or knocked-down buildings and materials and supplies used in the manufacture or installation thereof,* from Los Angeles, CA to Arthur, TX. Supporting shipper: MBM International, Inc., 1103 W. Poly Webb Rd., Arlington, TX.

MC 99427 (Sub-5-7TA), filed December 5, 1980. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Naptha, in bulk,* from Los Angeles County, CA to Inspiration, AZ. Supporting shipper: Inspiration Consolidated Copper Company, P.O. Box 4444 Claypool, AZ 85532.

MC 101186 (Sub-5-1TA), filed December 5, 1980. Applicant: ARLEDGE TRANSFER, INC., Highway 34 West, P.O. Box 157, Burlington, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Common; Regular. *General commodities, except Classes A and B explosives, household goods, and*

commodities in bulk, between Burlington, IA, and Kansas City, MO, and points in their commerical zones, from Burlington over U.S. Highway 34 to junction Interstate Highway 35, thence over Interstate Highway 35 to Kansas City, and return over the same route, serving no intermediate points. Supporting shipper: There are 12 shipper support statements.

Note.—Applicant intends to tack with its existing authority and to interline with other carriers.

MC 106398 (Sub-5-51), filed December 5, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, Director of Traffic, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *Metal Products,* from Ports of Houston, TX and Baltimore, MD, to Points in IA, IL, OH, IN, MN, KY, NE, MO, KS, WI, MI, ND, SD, PA and WV. Supporting shipper: Wilmod Company, 21 West Lake Street, Northlake, IL 60164.

MC 107496 (Sub-5-40TA), filed December 5, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Acids & chemicals, in bulk,* between points in UT, WY, ID & NV. Supporting shipper: Van Waters & Rogers, P.O. Box 2369, 650 West 8th South, Salt Lake City, UT 84110.

MC 114274 (Sub-5-7TA), filed December 5, 1980. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Pl., P.O. Box 1703, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Suite 3520, Chicago, IL 60601, Phone 312-332-5106. *Carbonated and Noncarbonated Beverages and Packaging Materials.* From the facilities used by Mid-Continent Bottlers, Inc. at Cedar Rapids and Des Moines, IA, Flint, MI, Kansas City and St. Louis, MO, and Omaha, NE to Points in AR, CO, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, OK, TN, & WI. Supporting shipper: Mid Continent Bottlers, 1679 N. E. 51st Ave., Des Moines, IA 50304.

MC 119700 (Sub-5-11TA), filed December 5, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Iron and steel articles,* between points in Shawnee County, KS, on the one hand, and, on the other, points in AR, IL, IN, IA, KY, LA, MI, MN, MS, MO, NE, OH, OK, SD, TN, TX AND WI. Supporting shipper: The Capital Iron Works Co., 7th & Adams, P.O. Box 2098, Topeka, KS 66601.

MC 119700 (Sub-5-12TA), filed December 5, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Iron and steel articles,* from Madison County, NE to points in KY, OH, PA and TN. Supporting shipper: Nucor Steel Division, P.O. Box 309, Norfolk, NE 68701.

MC 120770 (Sub-5-2TA), filed December 5, 1980. Applicant: KANSAS CARTAGE CO., P.O. Box 15277, 712 Sunshine Rd., Kansas City, KS 66115. Representative: Bruce C. Harrington, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Part (1) Concrete pipe, concrete manholes, prestressed concrete and prestressed concrete accessories; equipment, materials and supplies used in the manufacture and installation of the above,* from the Commercial Zone of Kansas City, KS to points and places in MO; IA; NE; AR and OK. *Part (2) Boom sections, counterweights, tools, equipment, supplies and materials used in the installation and erection of concrete forming material,* from the Commercial Zone of Kansas City, KS to points and places in MO; IA; NE; AR and OK. *Part (3) Steel windows, steel buildings, steel rebar, steel joists, steel mesh, lumber, concrete form material and the equipment, materials and supplies used in the installation of concrete forming material,* from the Commercial Zone of Kansas City, KS to points and places in MO. Supporting shippers: Omega Concrete Systems, Inc., P.O. Box 11247, Kansas City, KS 66111, Lift, Inc., P.O. Box 11247, Kansas City, KS 66111, The Ceco Corporation, 1400 Kensington Rd., Oakbrook, IL 60521.

MC 120952 (Sub-5-1TA) filed December 5, 1980. Applicant: REX TRUCK LINE, INC., P.O. Box 1106, New Iberia, LA 70560. Representative: Ronald Marchand, Route 1, Box 321-B, Lafayette, LA 70505. *Oilfield drillings rigs, drill strings when moving with drilling rigs, and related drilling rig component parts,* between all points in LA and all points in TX. Supporting shippers: National Supply Co., P.O. Box 1265, New Iberia, LA. Resource Drilling Co., P.O. Box 52177, Lafayette, LA. Loffland Bros. Co., P.O. Box 459, New Iberia, LA.

MC 121805 (Sub-5-1TA) filed December 5, 1980. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Avenue, North Little Rock, AR 72114. Representative: James M. Duckett, 221 West Second, Suite 411, Little Rock, AR 72201. Common, Regular: *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),* (1) Between Little Rock, AR and the Arkansas-Missouri State Line over U.S. Highway 67, serving all intermediate points. (2) Between Memphis, TN and Henderson, AR. From Memphis over Interstate Highway 40 to its junction with U.S. Highway 61, then over U.S. Highway 61 to its junction with U.S. Highway 63, then over U.S. Highway 63 to its junction with U.S. Highway 62, then over U.S. Highway 62 to Henderson, and return over the same route, serving all intermediate points between Memphis TN and Hoxie, AR (3) Between Jonesboro, AR and the Arkansas-Missouri State Line. From Jonesboro over U.S. Highway 49 to its junction with U.S. Highway 62, then over U.S. Highway 62 to the Arkansas-Missouri State Line, and return over the same route, serving all intermediate points. (4) Between Corning, AR and Piggott, AR over U.S. Highway 62, serving all intermediate points. (5) Between Walnut Ridge, AR and Paragould, AR over Arkansas Highway 25, serving all intermediate points. (6) Between Jonesboro, AR and Wynne, AR over Arkansas Highway 1, serving all intermediate points. (7) Between Jonesboro, AR and Blytheville, AR over Arkansas Highway 18, serving all intermediate points. (8) Between Marked Tree, AR and Osceola, AR over Arkansas Highway 140, serving all intermediate points. (9) Between Memphis, TN and Blytheville, AR. From Memphis over Interstate Highway 40 to its junction with U.S. Highway 61, then over U.S. Highway 61 to Blytheville, and return over the same route, serving all intermediate points. All routes to be tacked at common points of joinder and with existing authority. There are 38 supporting shippers.

Note.—Applicant intends to interline at Memphis, TN, Little Rock and Fort Smith, AR.

MC 126822 (Sub-5-38TA), filed December 5, 1980 Applicant: WESTPORT TRUCKING COMPANY, 15580) South 169 Highway, Olathe, KS 66061. Representative. John T. Pruitt (same as applicant). *Foodstuffs* between points in CA and WA on the one hand, and points in the U.S. on the other. Supporting shipper: Martin Sales Company, Inc., P.O. Box 6358, San Jose, CA 95150.

MC 134142 (Sub-5-4Ta), filed December 5, 1980. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601

Northwest Expressway, Oklahoma City, OK 73112. Contract; Irregular. *Foodstuffs,* between Carthage, MO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Mid-America Farms, Inc., P.O. Box 1837 SSS, 800 W. Tampa, Springfield, MO 65805.

MC 135678 (Sub-5-15TA), filed December 5, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Licensed Practitioner, Room 248 Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. (1) *Steel Door Frames, Window Frames, set up and knocked down,* and (2) *Materials and Supplies used in the manufacture and distribution thereof* in (1) above, between Burns Flat, OK and points in AZ, NV and CA. Supporting shipper: Elco Metal Products Corp., Bldg. 220, Box 100, Burns Flat, OK 73624.

MC 135678 (Sub-5-16TA), filed December 5, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Wooden Jams,* between points in AR and CA. Supporting shipper: Sigma Manufacturing Company, 3003 Industrial Park Road, Van Buren, AR.

MC 142731 (Sub-5-2TA), filed December 5, 1980. Applicant: WOODARD TRUCKING, 602 West Coldren, Oberlin, KS 67749, Representative: Wesley J. Woodard, 602 West Coldren, Oberlin, KS 67749. *Dry Processed Feed and Feed Ingredients bags and bulk,* between the facilities of Cargill, Inc. in NE on the one hand and points in WY on the other. Supporting shipper: Cargill Inc., 103 West 3rd Street, McCook, NE 69001

MC 144595 (Sub-5-1TA), filed December 5, 1980. Applicant: ROBERT D. ANTHOLZ, d.b.a. PAWNEE GRAIN COMPANY, Route 3, Box 42, Pawnee City, NE 68420. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular: *Lumber, lumber mill products and wooden products,* between points in the US (except AK and HI) under a continuing contract(s) with Braun, Ray Bros. & Finley Co. Supporting shipper: Braun, Ray Bros. & Finley Co., 400 Executive Building, Omaha, NE 68102.

MC 144603 (Sub-5-32TA), filed December 5, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *(1) Furniture or fixtures; fabricated metal products, except ordnance; lumber or wood products; textile mill products; and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities named in (1)* between St. Louis, MO; Lewisville, AR; Philadelphia, PA; El Paso, TX and their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Falcon Products, Inc., 9387 Dielman Industrial Dr., St. Louis, MO 63132.

MC 145441, (Sub-5-35TA), filed December 5, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130; North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *General commodities, (except in bulk),* between the facilities of Mid South Shippers Association, Inc., on the one hand, and on the other, points in the United States. Supporting shipper: Mid South Shippers Association, Inc., 230 Willow Street, Nashville, TN 37210.

MC 145441, (Sub-5-36TA), filed December 5, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *Foodstuffs, (except in bulk),* between the facilities of Century and Associates, Inc., on the one hand, and on the other, points in the United States. Supporting shipper: Century and Associates, Inc., 12607 Hiddencreek Way, Cerritos, CA 90701.

MC 145441, (Sub-5-37TA), filed December 5, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *Aluminum Extrusion Billets,* from Trenton, OH, to points in the States of CA, LA, MD, NY, TX, VA, and WA; restricted to traffic originating at the facilities of Dart Metals, Inc. and destined to points in the above mentioned States. Supporting shipper: Dart Metals, Inc., P.O. Box 2251, Youngstown, Ohio 44504.

MC 146776 (Sub-5-1TA), filed December 5, 1980. Applicant: QUAD CITY SPOTTING SERVICE, INC., 1607 West River Drive, P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract; irregular: Materials, equipment and supplies used in the manufacture and distribution of industrial, construction and agricultural machinery and equipment,* from the facilities of The B. F. Goodrich Company at Frankling Park, IL to Davenport, IA and its Commercial Zone, under continuing contract(s) with The B. F. Goodrich Company, of Akron, OH. Supportin shipper(s): The B. F. Goodrich Company, 500 South Main Street, Akron, OH 44318.

MC 149035 (Sub-5-2TA), filed December 5, 1980. Applicant: HARLAN RUDD, P.O. Box 57, Drakesville, IA 52552. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Contract irregular (1) *Pasta,* from the Ports of Entry on the International Boundary Line between the U.S. and Canada to pts in CA, IL, MN, OR and WA; (2) *Soybean Meal and Beet Pulp Pellets,* from pts in IA, MN and SD to pts in CA, OR and WA and pts on the International boundary Line between the U.S. and Canada; and (3) *Frozen Foods,* from pts in MN to pts in CA, OR, and WA and pts on the International Boundary Line between the U.S. and Canada, and from pts in WA to pts on the International Boundary Line between the U.S. and Canada, under continuing contracts with D.W. Henderson Products, Ltd. Supporting shipper: D. W. Henderson Products, Ltd.; 119 Fairview Drive S.E.; Calgary, Alberta, Canada T2H 1B4.

MC 149244 (Sub-1TA), filed December 5, 1980. Applicant: PEAKE, INC., 2022 Ave. "A", Kearney, NE 68447. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Flyash,* (A) Lincoln County, NE to WY, CO, KS and SD (B) from WY to NE, CO, KS and SD (C) from Council Bluffs, IA to NE. Supporting shipper: Plains Pozzolanic, P.O. Box 80268, Lincoln, NE 68501.

MC 150004 (Sub-5-2TA), filed December 5, 1980. Applicant: FRANK D. JAMES, d.b.a. F & J LEASING, 713 Campbell, P.O. Box 13806, St. Louis, MO 63147. Representative: Joseph E. Rebman, 314 North Broadway, 13th Floor, St. Louis, MO 63102. *CTN tubes, cathode ray, television picture receiving or CTN televisions or vision receiving sets, radio receiving sets, phonographs, talking machines, tape or wire recorders, and parts, material, equipment and supplies used in the manufacture or assemply thereof,* between Chicago, IL and Springfield, MO. Supporting shipper: Zenith Radio Corporation, 1900 North Austin Avenue, Chicago, IL 60639.

MC 151661 (Sub-5-2TA), filed December 5, 1980. Applicant: PROFESSIONAL CARGO SERVICES, INC., P.O. Box 9244, Wichita, KS 67277. Representative: Duane L. Zogleman, P.O. Box 9244, Wichita, KS 67277. *General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in practices of motor common carriers of household goods, 17 M.C.C. 147, commodities in bulk, commodities requiring special equipment, and those*

injurious or contaminating to other lading. Between points in Sedgwick county, KS on the one hand and points in Russel county, KS; Ellis county, KS; and Trego county, KS, on the other hand. Supporting shippers: There are 38. Applicant intends to interline.

MC 151819 (Sub-5-4TA), filed December 5, 1980. Applicant: CARGO MASTER, INC., 917 S. Harwood St., Dallas, TX 75201. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Periodicals;* from the facilities of Texas Color Printers, Inc. located at or near Dallas, TX to points in AZ, CA, WA, GA, PA, VA, NJ, NY, MI, KY, IL, TN, OH, and MA. Supporting shipper(s): Texas Color Printers, Inc., 4800 Spring Valley Rd., Dallas, TX 75240.

MC 152171 (Sub-5-13TA), filed December 5, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Contract Irregular. (1) *Chemicals, toilet preparations, soaps (except in bulk),* (2) *such commodities as are dealt in and sold by department stores, supermarkets, hardware stores and drug stores (except in bulk)* and (3) *equipment, materials and supplies used in the manufacture, sale and distribution of (1) and (2) (except in bulk)* (a) between Clifton and Mays Landing, NJ, West Springfield, MA and Memphis, TN on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MA, MI, MN, MO, NE, NJ, OH, TN, WV, WI, NV, UT, CO, CA, WA and OR, and (b) between Sparks, NV, on the one hand, and, on the other, CA, CO, OR, WA and UT, under continuing contract with American Cyanamid Company. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 152745 (Sub-5-1TA), filed December 5, 1980. Applicant: LYLE OIL CO., 111 South Fairway, Fairfield, TX 75840. Representative: Larry G. Berkman, 900 Washington, Waco, TX 76703. Contract: Irregular. *General commodities (except classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) having a prior or subsequent interstate movement* from and to the facilities of Texas Utilities Generating Company near Fairfield, TX, and points within Dallas, Tarrant, and Harris Counties, TX. Supporting shipper: Texas Utilities Generating Company, P.O. Box 948, Fairfield, TX 75840.

MC 152959 (Sub-5-1TA), filed December 5, 1980. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, 6000 Sum Springs Road, Longview, TX 75607. Representative: Robert Nieman (same as applicant). Contract: Irregular; *Modular homes, recreational vehicles, mobile homes, park model mobile homes and all related component parts thereof,* between the facilities of Hairgrove Industries, Inc., Sundowner Travel Homes Division, on the one hand, and all points in the continental U.S., on the other. Supporting shipper: Hairgrove Industries, Inc., Sundowner Travel Homes Division, P.O. Box 6195, Longview, TX 75604.

MC 153004 (Sub-5-1TA), filed December 5, 1980. Applicant: DAVE DAVENPORT AND SONS, INC., P.O. Box 41, Angleton, TX 77515. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Commodities the transportation of which, because of size or weight, require the use of special equipment and of related machinery parts and related materials and supplies when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment;* between points in TX, on the one hand, and on the other, points in NM, OK, AR, LA, MS, TX and CO. Supporting shipper(s): There are thirteen (13) supporting shippers supporting this application. Their statements may be examined in the Ft. Worth, TX regional office.

MC 153007 (Sub-5-1TA), filed December 5, 1980. Applicant: T.N.T. III, INC., 4606 Chicago Street, Omaha, NE 68132. Representative: Robert K. Frisch, Brown & Walker, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. *Passengers, baggage and athletic supplies,* between points in NE on the one hand and points in IA, MO, KS OK, CO, TX, and SD on the other hand, in charter operations only. (Restricted to transportation of 32 or less passengers in sleeper equipped buses.) Supporting shippers: 8.

MC 153009 (Sub-5-1TA), filed December 5, 1980. Applicant: SPUR TRUCK LINE, INC., 5211 Allen, Houston, TX 77007. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. *(1) Machinery, equipment, materials and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and machinery, equipment, materials and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, (2) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells,* between points in Arkansas, Brazoria, Calhoun, Galveston, Harris, Jefferson, Jim Wells, Nueces, and San Patricio Counties, TX, on the one hand, and, on the other, points in LA. Supporting shipper: There are 38 supporting shippers.

MC 153012 (Sub-5-1TA), filed December 5, 1980. Applicant: CAMPBELL TRUCKING AND HEAVY HAULERS, INC., 5905 East Ute, Tulsa, OK 74115. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Machinery, equipment, materials and supplies used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* between Tulsa County, OK, on the one hand, and on the other, points in AL, AR, CO, FL, IL, KS, KY, LA, MI, MS, MT, NM, OH, PA, TX, UT and WY. Supporting shippers: Energy Exchanger Company, 1844 North Garnett Road, Tulsa, OK 74116; Western Supply Division, P.O. Box 2739, Tulsa, OK 74101; Superior Hard-Surfacing Co., Inc., P.O. Box 9397, Tulsa, OK 74107; Tuloka Fabricating, Inc., 28 N. Hudson, Tulsa, OK 74115.

MC 153014 (Sub-5-1TA), filed December 5, 1980. Applicant: LONE STAR COACHES, INC., P.O. Box 1074, Paris, TX 75460. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Passengers and their baggage, in the same vehicle with passengers, in charter operations,* between points in TX on, east and north of U.S. Hwy 287, on the one hand, and, on the other, points in the U.S. Supporting shippers: 23.

MC 153018 (Sub-5-1TA), filed December 5, 1980. Applicant: S & S CONSTRUCTION & EQUIPMENT COMPANY, 8734 North Troost, Kansas City, MO 64155. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068.

Contract irregular. *Iron and steel machine and earth moving equipment parts* between all point in the U.S. Supporting shipper: Wheel Industries, 6123 Deramus, Kansas City, MO 64120.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 152964 (Sub-6-1TA), filed December 2, 1980. Applicant: AGENTOURS, INC., 265 Vasquez Ave., San Francisco, CA 94127. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. *Passengers and their baggage* in special and charter operations limited to vehicles with a capacity of 19 passengers or less, beginning at San Francisco, Los Angeles, San Diego and points in Orange County, CA and at Las Vegas and Reno, NV, extending to all points in the states of CA, NV, NM, AZ and UT, for 180 days. Supporting shippers: There are seventeen (17) shippers. Their statements may be examined at the Regional office listed.

MC 152671 (Sub-6-2TA), filed December 1, 1980. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O. Box 6699, Boise, ID 83707. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Contract Carrier*, Irregular routes: *Such commodities as are dealt in or used by department, discount and catalog stores* between points in the U.S., except AK and HI, under continuing contract(s) with Modern Merchandising, Inc., for 270 days. Supporting shipper: Modern Merchandising, Inc., Box 2007, Hopkins, MN 55343.

MC 57254 (Sub-6-2TA), filed December 1, 1980. Applicant: BEST-WAY FREIGHT LINES OF ARIZONA, 1813 East Thomas Rd., Phoenix, AZ 85016. Representative: Lewis P. Ames, 111 West Monroe, 10th Fl., Phoenix, AZ 85003. *Common carrier*, regular routes, *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Los Angeles, CA and Reno, NV, serving all intermediate points, over I-Hwy 5, and U.S. Hwy 395, and return over the same routes. Authority is requested to tack, interline and serve commercial zones of all points, for 270 days. Supporting shippers: There are 23 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 11722 (Sub-6-9TA), filed November 28, 1980. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 N.E. Weidler, Portland, OR 97232. (1) *Paper cores, cones, tubes, containers and paper products*, between Pierce and Clark Counties, WA on the one hand, and on the other, points in MT, OR and ID, and (2) *paper and paper products*, between Nez Perce County, ID on the one hand, and on the other, points in MT, OR and WA. For 270 days. Supporting shippers: Sonoco Products Company, 401 Alexander Ave., Tacoma, WA 98421, Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501.

MC 152238 (Sub-6-1TA), filed October 15, 1980. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: Guy D. Dodge (same as applicant). Paper bags, woven paper fabric bags, wrapping paper, and materials and supplies used in their manufacture, between points in Multnomah County, OR and Kings County, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. An underlying ETA has been filed. Supporting shipper: Chase Bag Company, Suite 1111, 814 Commerce Drive, Oak Brook, IL 60521.

MC 147470 (Sub-6-2TA), filed December 1, 1980. Applicant: RAY COBB TRANSPORTATION COMPANY, 130 Railroad Street, Monrovia, CA 91016. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. *Contract Carrier*, irregular routes: *New or used automobiles*; In secondary truckaway service, between points in NY, PA, NJ, MD, OH, IN, IL, FL, GA, AL, KS, NB, CO, CA and AZ, on the one hand, and, on the other, points in TX; and, between points in NY, PA, NJ, MD, OH, MI, IL, FL, GA, AL, KS, NB, CO, AZ, and TX, on the one hand, and, on the other, points in CA, for the account of Lindamood Enterprises, Inc., for 270 days. An underyling ETA seeks 120 days authority. Supporting shipper: Lindamood Enterprises, Inc., P.O. Box 392, Canyon, TX 79015.

MC 143693 (Sub-6-2TA), filed November 28, 1980. Applicant: DFC TRUCKING COMPANY, 17872 Cartwright Road, Irvine, CA 92705. Representives: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631; Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. Contract Carrier Irregular Routes: *Fish*—fresh, frozen and canned, *Poultry*—fresh, frozen and canned, *Meat*—fresh, frozen and canned, *Foodstuffs*—dry, canned, packaged and frozen, *Paper products*—restricted to napkins, towels, printing in rolls, waxed and plain in boxes, cartons or on rolls, *Fruit and fruit filling*—fresh, dry, frozen or canned, *Flour, donut mix, sugar, shortening, yeast, Flavorings, coffee*—dry, packaged or canned, *Restaurant supplies*, i.e., table items such as napkins, china, glassware, flatware, silverware, carts, cloth products, utensils, cooking and serving equipment, *Maintenance and janitorial equipment and supplies*—including chemicals, cleaning powders, cleaning compounds and cleaner liquids, brooms, mops, brushes and pails, *New and used furniture, fixtures and equipment* used in the establishment of restaurants including but not limited to freezers, cooling boxes, tables, storage and display cases. Between points and places in the U.S. except AK and HI for 270 days. *Restriction:* Applicant agrees to the acceptance of restrictions against the transportation of any of the foregoing commodities in bulk or in tank trucks. Supporting shippers: (1) Delly Food Company, 17872 Cartwright Rd., Irvine, CA 92714, (2) Proficient Food Company, 17872 Cartwright Rd. Irvine, CA 92714, (3) Portion-Trol Foods, Inc., 812 So. 5th Ave. Mansfield, TX 76063, (4) Winchells Donut House, 16424 Valley View Ave., La Mirada, CA 90637, (5) Denny's Inc., 14256 E. Firestone Blvd., LaMirada, CA 90637.

MC 140193 (Sub-6-2TA), filed November 28, 1980. Applicant: RICH GRANT, INC., 910 W. 24th St., Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. *Paper and allied products*, from MN and WI to UT, WY, and ID, for 270 days. Supporting shipper: Empire Paper, Inc., P.O. Box 16266, Salt Lake City, UT 84116.

MC 152531 (Sub-6-1TA), filed December 1, 1980. Applicant: J C & G CO., INC., P.O. Box 579, Pearce, AZ 85625. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Contract* carrier, irregular route: *Silica sand*, from the Commonwealth Mine near Pearce, AZ to the Phelps Dodge Smelter site at or near Playas, NM, for the account of Duimich and Associates, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Duimich and Associates, 1647 N. Barkley, Mesa, AZ 85203.

MC 142086 (Sub-6-1TA), filed November 28, 1980. Applicant: JOY MOTOR FREIGHT, INC., 1616 East 26th, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *General commodities* (except commodities in bulk and Classes A&B explosives) between points in King, Pierce, Mason and Thurston Counties and points within the commercial zones of Tacoma and Seattle, WA for 270 days. An

underlying ETA seeks 120 days authority. Supporting shippers: There are 11 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 56664 (Sub-6-1TA), filed December 1, 1980. Applicant: C. W. KEITH TRANSFER & WAREHOUSE CO., (P.O. Box 567), Phoenix, AZ 85001. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. *General commodities,* between points in Maricopa County, AZ, on the one hand, and, on the other, points in those parts of Apache and Navajo Counties, AZ on and south of Interstate Hwy 40, and points in Gila County, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Young Public School, P.O. Box 123, Young, AZ 85554; Young Auto, Box 38, Young, AZ 85554; Boyse Mercantile, Box 286, St. Rt. 288, Young, AZ 85554; Artic Storage Company, 2440 W. Lincoln, Phoenix, AZ 85009; and Arrow Lifschultz Freight Forwarders, 2311 E. University Dr., Phoenix, AZ 85030.

MC 141668 (Sub-6-1TA), filed December 1, 1980. Applicant: LONGMONT TRANSPORTATION COMPANY, INC., 149 Kimbark St., Longmont, CO 80501. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Contract carrier,* irregular routes, *(1) Chemicals and cleaning compounds (except in bulk), (2) such commodities as are used by laundry and dry cleaning concerns and supplies thereof (except in bulk); and (3) materials, equipment and supplies used in the manufacture and distribution of commodities in Items (1) and (2) above (except in bulk)* from points in CA, KY, MI, IL, OH, NJ, NY, and CT to the facilities of Katzson Brothers, Inc. at Denver, Co., under a continuing contract with Katzson Brothers, Inc. for 270 days. Supporting shipper: Katzson Brothers, Inc. 960 Vallejo St., Denver, CO 80204.

MC 152410 (Sub-6-2TA), filed December 1, 1980. Applicant: TRANSCON LINES, P.O. 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. *Contract carrier,* irregular routes: *general commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between points in the U.S. for 270 days. Supporting shipper: Port of Seattle, P.O. Box 1209, Seattle, WA 98111.

MC 152962 (Sub-6-1TA), filed December 2, 1980. Applicant: MILMOE-MAXI ENTERPRISES, INC., d.b.a. MAXI TRANSPORTATION, 9245 Reseda Blvd., Northridge, CA 91324. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Petroleum and petroleum products* in bulk, in tank vehicles, between points in Los Angeles, Kern and Contra Costa Counties, CA, on the one hand, and points in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA and WY, on the other hand, restricted to the transportation of shipments originating at or destined to the facilities of Chevron U.S.A. Inc., for 270 days. Supporting shipper: Chevron U.S.C. Inc., 575 Market St., San Francisco, CA 94105.

MC 144572 (Sub-6-7TA), filed December 2, 1980. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. G, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. *Limestone,* in bags, from Lucerne Valley, CA to Denver and Pueblo, CO, for 270 days. Supporting shipper: Pluess-Staufer Co., P.O. 825, Lucerne Valley, CA 92356.

MC 152953 (Sub-6-1TA), filed November 25, 1980. Applicant: R-T-I, INC., 7019 S. Alameda St., Los Angeles, CA 90001. Representative: R. K. Davies (same address as applicant). *Foodstuffs and other commodities as are normally dealt with by packing houses or retail or wholesale foods stores* between Los Angeles Commercial Zone, CA and points in AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Perk Foods, Inc./Lewis Foods/CHB Foods 2849 East Pico Blvd., Los Angeles, CA 90023.

MC 152410 (Sub-6-2TA), filed December 1, 1980. Applicant: TRANSCON LINES, P.O. 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. *Contract carrier,* irregular routes: *general commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between points in the U.S. for 270 days. Supporting shipper: Port of Seattle, P.O. Box 1209, Seattle, WA 98111.

MC 111434 (Sub-6-3TA), filed December 1, 1980. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Steven E. Napper, 1700 Western Federal Savings, Denver, CO 80202. *Liquid concrete admixtures,* in bulk, from points in Seattle, WA to points in CA, OR, NV, ID, UT, WY, MT, for 270 days. Supporting shipper(s): Master Builders, Lee at Mayfield Roads, Cleveland Heights, OH 44118.

MC 144765 (Sub-6-4TA), filed December 2, 1980. Applicant: WATERVILLE-CASCADE TRUCKING, INC., P.O. Box 1686, Wenatchee, WA 98801. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *Children's furniture, camping and outdoor articles, toys and games, sporting goods and lawn and yard care goods,* between points in the state of WA and points in all states except ND, SD, NB, KS, IA, AK, HI, RI, ME and AZ, for 270 days. Supporting shippers: Sitca Corp., 18249 Olympic Ave. So., Seattle, WA 98188; Leo A. Scherrer Co., 2840 N.W. 93rd St., Seattle, WA 98117.

MC 144765 (Sub-6-5TA), filed December 1, 1980. Applicant: WATERVILLE-CASCADE TRUCKING, INC., P.O. Box 1686, Wenatchee, WA 98801. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *Alcoholic liquors, malt beverages and wine,* from points in KY and NJ to points in WA, for 270 days. Supporting shipper: Alaska Distributors Co., 4601 Sixth Ave. South, Seattle, WA 98108.

MC 147896 (Sub-6-3TA), filed December 1, 1980. Applicant: WESTERN SONTEX, INC., P.O. Box 667, Seal Beach, CA 90740. Representative: Miles L. Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Contract carrier,* Irregular routes: *cornstarch,* except in bulk, from Lafayette, IN, Upper Sandusky, OH and Fond du Lac, WI to points in CA for the account of Anheuser-Busch, Inc., Industrial Products Division, for 270 days. Supporting shipper: Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38738 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29357F]

Burlington Northern, Inc., Trackage Rights; Union Pacific Railroad Company, Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343-11346

Decided December 4, 1980.

Background

Burlington Northern, Inc. (BN) filed a petition for exemption under 49 U.S.C. 10505 on May 5, 1980. BN requested that its trackage rights agreement with Union Pacific be exempted from the requirement of obtaining prior Commission approval under 49 U.S.C. 11343-11347. In response to this petition we published a notice in the Federal Register on July 1, 1980, 45 FR 44408 (1980), requesting comments on the proposed exemption. No comments were received.

Rail Exemption Authority

As a general rule, administrative agencies apply the law in effect at the time of the decision when reaching decision in pending cases. See *Ziffrin, Inc.* v. *United States*, 318 U.S. 73, 78 (1943) and *Potomac Electric Power Co.* v. *United States*, 584 F. 2d 1058, 1066–1067 (D.C. Cir. 1978). Therefore, we will apply the law as amended by the Staggers Rail Act of 1980, (Pub. L. No. 96–448, § 213, 94 Stat. 1895; October 14, 1980). The Commission now can exempt a matter related to a rail carrier under the provisions of 49 U.S.C. 10505 when it finds that the imposition of a requirement (1) is not necessary to carry out the transportation policy of 49 U.S.C. 10101; and (2) either a) that the transaction or service is of limited scope, or b) that the application of a provision is not needed to protect shippers from an abuse of market power.

Rail Transportation Policy

The transportation policy of 49 U.S.C. 10101a enumerates 15 objectives in rail carrier regulation. Since the proposed exemptions do not violate any of the principles there stated, regulation of this matter is not necessary to carry out those objectives.

Limited Scope—No Abuse of Market Power

This transaction involves the rights over a small and limited track of railroad. If the transaction is consummated, BN would acquire trackage rights over a line owned by the Union Pacific between milepost 56.1 and milepost 56.7 at Sterling, CO, a distance of approximately 3,128 feet. The trackage rights would permit BN to operate directly between its Alliance-Bush and Sterling-Lincoln lines as well as permitting any freight movements for which the trackage forms a part of the route, replacing the former Diamond Crossing with the Union Pacific.

BN maintains that the transaction will not adversely affect shippers or other carriers. This appears to be true from the information of record.

Labor Protection. In granting an exemption under section 10505, the Commission may not relieve a carrier of its obligation to protect the interests of employees as otherwise required by 49 U.S.C., subtitle IV. See 49 U.S.C. § 10505(g)(2). We have determined that the employee protection provisions developed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978) as modified by *Medocino Coast Ry., Inc.—Leave and Operate*, 360 I.C.C. 653 (1980), satisfy the statutory requirements for protection of employees involved in trackage rights transactions under 49 U.S.C. § 11343. Accordingly, these protective provisions which are normally imposed in trackage rights transactions will be imposed here. Our policy in approving exemptions in the future will be to impose that level of employee protection normally required for the type of transaction.

Prior criteria. In addition to meeting the criteria of section 10505, as amended, this proposal also meets the criteria of former section 10505. We have already indicated that this transaction is of limited scope. Furthermore, the discussion relating to 49 U.S.C. 10101a also applies to the National Transportation Policy of 49 U.S.C. 10101. A trackage rights application requires substantial time and resource allocation to complete. Because there are no persons concerned with this transaction, as evidenced by the lack of comments, completion of an application would be an unreasonable burden. For the same reason our regulation of this transaction would serve no useful public purpose.

We find:

(1) Commission regulation of these matters is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) The transaction is of limited scope.

(3) This decision will not operate to relieve any rail carrier from an obligation either a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. § 11707 or b) to protect the interests of employees as required by 49 U.S.C. 11347.

(4) This decision is not a major federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered:

(1) The acquisition by Burlington Northern, Inc. of trackage rights over the Union Pacific line segment between milepost 56.1 and milepost 56.7 at Sterling, CO, is exempted under 49 U.S.C. § 10505 from the requirements of 49 U.S.C. 11343–11346, subject to the employee protective conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978) as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

(2) If this transaction is consummated, BN shall, within 60 days of consummation, submit three copies of a sworn statement showing all journal entries required to record the transaction.

(3) This exemption will continue in effect for one year from the effective date of this decision. BN must consummate the acquisition during that time in order to take advantage of the exemption.

(4) This decision shall be effective on December 5, 1980.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38747 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: December 9, 1980.

In our decision of December 2, 1980, a 13.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 14.1 percent. Accordingly, we are authorizing that the surcharge for this traffic may be increased to 14 percent. All owner-operators are to receive compensation at this level.

No change is authorized on the 2.4-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, the 1.4-percent surcharge for United Parcel Service, nor the 5.2-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It Is Ordered:

This decison shall become effective Friday 12:01 a.m. December 12, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam. Chairman Gaskins absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)	
Jan. 1, 1979	63.5

Appendix.—*Fuel Surcharge*—Continued

Date of current price measurment and price per gallon (including tax)

Dec. 8, 1980 ..... 116.4

	Transportation performed by—			
	Owner-operator [1]	Other [2]	Bus carriers	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	14.1	2.4	5.2	[3] 2.2
Percent surcharge allowed	14.0	2.4	5.2	[4] 1.4

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-38746 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

December 9, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 30, 1980.

No. 43880, Contract Marine Carriers, Inc. (No. 1), for rail carriers parties to Tariff ICC CMCU 300, FMC No. 8, to establish rail-water intermodal rates on commodities in containers from rail terminals in California to European ports, by way of Charleston, SC and Richmond, VA, effective January 1, 1981. Ground for relief-water competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38829 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-1 (Sub-No. 83)]

Chicago and North Western Transportation Co.—Abandonment—Near Dubuque and Oelwein, Iowa; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided November 26, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company (CNW) of the line of railroad extending between milepost 245.0 near Oelwein, and milepost 171.9 near Dubuque, a distance of 73.1 miles in Fayette, Buchanan, Delaware, and Dubuque Counties, IA, subject to the conditions for the protection of employees developed in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979), and provided that except to the extent CNW may have sooner transferred any of its rail properties to its carrier patrons or to any other persons or carriers, for the purposes of permitting continued rail service to these patrons, CNW shall keep in tact all of the right-of-way underlying the track, including all the bridges and culverts, between Dubuque, IA, and Epworth, IA, both inclusive, for a period of 180 days from the date of issuance of the certificate to permit the Dubuque Conservation Board to negotiate the acquisition for public use of all or any portion of the properties between the described points. A certificate of abandonment will be issued to the CNW based on the above-described finding of abandonment, on or before January 14, 1981, unless on or before December 30, 1980, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38873 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-93F)]

Chicago & North Western Transportation Co.—Abandonment in Codington and Clark Counties, SD; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided November 26, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of the following portion of a line of railroad known as the Watertown-Clark line: from railroad milepost 321.5 near Watertown, SD, to milepost 351.0 near Clark, SD, a distance of 29.5 miles in Codington and Clark Counties, SD, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Missouri Pacific Railroad Company based on the above-described finding of abandonment, on or before January 14, 1981, unless on or before December 30, 1980, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line,

together with a resaonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38874 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-42)F]

Seaboard Coast Line Railroad Co.—Abandonment Between Roseboro and Garland in Sampson County, North Carolina; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided December 1, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that Seaboard Coast Line Railroad Company shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period 120 days from the decided of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of its line of railroad within applicant's Fayetteville Subdivision, Rocky Mount Division entending from railroad milepost AF-232.64 near Roseboro, North Carolina, a distance of 13.36 miles, in Sampson County, North Carolina. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since the investigation has been completed, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decision in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Rm. 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than December 29, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-38872 Filed 12-12-80; 8:45 am]

BILLING CODE 7035-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21829; (70-6521)]

The Columbia Gas System, Inc.; Proposal by Registered Holding Company To Merge With an Exempt Holding Company in a Stock-for-Stock Transaction

December 8, 1980.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 12(b), 12(f) and 12(g) of the Act and Rules 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Columbia has entered into a Letter of Interest dated October 9, 1980 with Commonwealth Natural Resources In. ("CNR"), a Virginia corporation and a holding company exempt from the Act pursuant to Rule 2. The Letter of Intent calls for the merger of CNR into Columbia, with CNR's subsidiaries becoming subsidiaries of Columbia.

Columbia is engaged solely in the business of owning and holding all of the outstanding securities, with the exception of minor long-term debt and a minority interest in one company, of eighteen subsidiaries engaged in natural gas exploration, production, purchasing, gathering, transmission, storage, distribution and by-product operations; production of synthetic gas ("SG"); and importation of liquefied natural gas ("LNG"). Seven of these subsidiaries are engaged in natural gas distribution ("Columbia Distribution Companies"). Columbia and all of its subsidiaries will be referred to collectively as the Columbia System.

CNR has seven wholly-owned subsidiary companies as follows:

1. Commonwealth Gas Pipeline Corporation ("CNR Pipeline"), an intrastate natural gas transmission company which is regulated by the Virginia State Corporation Commission. CNR pipeline also produces SG from butane feedstock, liquefies natural gas for storage and performs certain services for associate companies pursuant to a management agreement which will be terminated following the merger and replaced by substitute arrangements;

2. Commonwealth Gas Services, Inc. ("CNR Distribution"), formerly Commonwealth Gas Distribution Corporation and Portsmouth Gas Company, a natural gas distribution company which is regulated by the Virginia State Corporation Commission;

3. Commonwealth Energy Company ("CNR Development"), a natural gas development company;

4. Bottled Gas Corporation of Virginia, ("Bottled Gas") Virginia Gas Industries, Inc. ("Virginia Industries") and Henrico Gas Service Corporation ("Henrico"), propane distribution companies;

5. CNG Properties ("CNG"), the owner of three parcels of real estate in three counties.

In addition, one CNR subsidiary, Bottled Gas, owns 50% of the common stock of Atlantic Energy, Inc.

("Atlantic") a company which owns a terminal for the importation of propane and stores butane, used as an SG feedstock, for the CNR Pipeline Company.

The merger terms require that Columbia issue to CNR, for distribution to CNR stockholders, 1.05 shares of Columbia common stock for each share of CNR common stock outstanding at the record date for the CNR stockholders' meeting at which approval of the merger will be sought. No fractional shares will be issued by Columbia. In lieu thereof, cash equal to the value of the fractional shares will be paid to the CNR stockholders. The agreement requires that CNR's outstanding convertible preferred stock be called for redemption prior to the record date for the meeting of stockholders, at which approval of the merger will be sought. At June 30, 1980, 25,687 shares of convertible preferred stock and 1,132,508 shares of common stock were outstanding. If all convertible preferred stock is converted (at a ratio of 1.47 shares of common stock to each share of preferred stock) rather than redeemed, 1,170,267 shares of CNR common stock will be outstanding at the time of the merger, requiring that 1,228,780 shares of Columbia common stock be issued. To the extent that preferred shares are not converted, the number of shares of Columbia common stock to be issued will be less.

Prior to the merger, the consolidation of certain CNR subsidiaries will occur. Specifically, CNG will be merged into CNR Pipeline and two of the propane companies, Bottled Gas and Virginia Industries, will be consolidated into one company. The third propane company, Henrico, may be maintained as a separate subsidiary pending resolution of certain litigation. Therefore, as a result of the merger, Columbia as the surviving corporation would acquire 100% ownership of CNR Pipeline, CNR Distribution, Bottled Gas, Henrico and CNR Development. The assets of CNR Development consist principally of an interest in a twenty-well drilling program in Texas. It is planned that following the merger CNR Development will be consolidated with Columbia Gas Development Corporation, a Columbia subsidiary, either through merger or sale of assets.

The consummation of the merger is conditioned on the prior occurrence of the following events:

1. The Letter of Intent must be approved by the Boards of Directors of the two companies.

2. The Merger Agreement must be negotiated and approved by the Boards of Directors of the respective companies.

3. The Merger Agreement must be approved by CNR stockholders.

4. The consolidation of CNR subsidiaries and redemption of preferred stock are required.

5. The Columbia common stock to be issued must be registered under the Securities Act of 1933 and listed for trading with the New York Stock Exchange upon official notice of issuance.

6. Columbia must receive the approval of the Commission under the Act.

7. CNR must receive either an IRS ruling or an opinion of counsel as to the tax-free status of the exchange of Columbia common stock for the stock in CNR's subsidiaries.

8. The filings required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 must have been made, the required waiting period elapsed and no action initiated by any government agency.

The exchange ratio of 1.05 Columbia common shares for each CNR common share resulted from arm's-length negotiations between CNR and Columbia. It is stated that among the factors considered were the recent and future earnings and cash flow potential of the respective companies, their respective assets and financial conditions and the book and market values of the respective common stocks. The following is a comparison of per share data for CNR common stock and Columbia common stock adjusted to reflect the proposed merger:

	Per Commonwealth share (actual)	Per Columbia share (actual)	Per combined share [1]	Per 1.05 combined shares [2]
Book value at Sept. 30, 1980 (fully diluted)	$33.32	$34.90	$34.78	$36.52
Cash dividends declared during 1979	1.79	2.44	NA	2.56
Net earnings (fully diluted):				
12 mo. ended Sept. 30, 1980	5.15	4.61	4.62	4.85
9 mo. ended Sept. 30, 1980	3.97	3.32	3.33	3.50
Market value on Sept. 26, 1980 [3]	27.25	35.875	NA	37.67

[1] Reflects the combining of Commonwealth and Columbia on a pooling of interests basis.

[2] 1.05 times combined per share amounts, except for cash dividends and market value which are 1.05 times Columbia actual per share amounts.

[3] Business day preceding public announcement of the proposed transaction.

NA No applicable.

Columbia states that the addition of the CNR subsidiaries to the Columbia System is a logical extension of the Columbia service area. CNR Pipeline purchases most of its natural gas supply from Columbia Gas Transmission Corporation, Columbia's wholly-owned interstate natural gas transmission subsidiary. A large part of the gas so purchased is eventually sold to CNR Distribution for sale to approximately 47,500 direct retail customers in central and southern Virginia. In central Virginia, CNR Distribution's service area is contiguous to that of Columbia Gas of Virginia, Inc., a wholly-owned subsidiary of Columbia. It is Colubmia's intent that the present CNR management will continue to manage the day-to-day operations of the CNR subsidiaries being acquired.

The propane operations of CNR's propane companies are and will continue to be integrally related to CNR Distribution's natural gas service. Propane is used by CNR Distribution to meet peak day requirements. Also, during times of curtailment when natural gas was not available and in locations where a gas pipeline might have been uneconomical, propane has effectively preserved the market for eventual service by natural gas. Some customers of CNR Distribution have contracted with Bottled Gas for propane service, when natural gas has been curtailed.

As a result of the proposed merger, Columbia will succeed to certain obligations of CNR. As of June 30, 1980, Atlantic had outstanding $1,000,000 principal amount of 9½ percent Secured Promissory Notes, Series A, due June 30, 1986. These notes were sold at private placement and CNR is a guarantor thereof. By virtue of the merger, Columbia will become the guarantor of these Notes. In addition, CNR Pipeline is the lessee of an SNG facility pursuant to a leveraged lease and CNR has guaranteed CNR Pipeline's obligations under that lease and its related obligations under a tax indemnity agreement. By virtue of the merger Columbia will become the guarantor of such obligations. Finally, the common stock of CNR Distribution owned by CNR is pledged to secure the first mortgage bonds of CNR Pipelines. When Commonwealth Natural Gas Company (a predecssor to CNR) acquired Portsmouth Gas Company (a predecessor to CNR Distribution), Commonwealth Natural Gas Company issued the fist mortgage bonds and pledged the stock of the acquired company to secure the bonds. Subsequently, the CNR System was reorganized and its debt was transferred to and assumed by CNR Pipeline. The stock in CNR Distribution renamed pledged to secure the bonds. After Columbia acquires CNR Distribution common stock as a result of the merger, the stock will remain pledged to secure the bonds of CNR Pipeline.

The stock of the five subsidiaries to be acquired is recorded on the books of CNR utilizing the equity method of accounting. The assets of subsidiaries are recorded on the books of subsidiaries at original cost, except that the 50 percent ownership of Atlantic by Bottled Gas is accounted for utilizing the equity method of accounting.

In recognition of the reservations contained in the Commission's opinion and order of November 30, 1944 (HCAR No. 5455, 17 S.E.C. 494), as to the retainability by Columbia of its interest in certain wholly-owned subsidiaries, one of which has properties in the Commonwealth of Virginia, Columbia agrees and stipulates that (1) if the Commission authorizes the proposed acquisition of the CNR subsidiaries by Columbia, the Commission's reservation of jurisdiction will be considered to extend also to Columbia's retainability of the CNR subsidiaries or their properties and it will not, nor will the CNR subsidiaries, as wholly-owned subsidiaries of Columbia, in any prior or subsequent Section 11(b)(1) proceeding instituted by the Commission, take any position or make any argument to the effect that the Commission will have prejudiced its jurisdiction, power or authority to order the divestment of any interest in the CNR subsidiaries or their properties and (2) Columbia consents to the inclusion in the Commisison's order that may be entered in this matter of a reservation of full jurisdiction, power and authority under Section 11(b)(1) of the Act.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, is required to approve the proposed transaction.

Notice is further given that any interested person may, not later than January 2, 1981, 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 the filing 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 applicant-declarant at the above-stated address, 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 application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Requlations promulgated under the act, or the Commisison 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. 80-38723 Filed 12-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11482; (812-4738)]

New York Life Fund, Ind.; Filing of Application

December 8, 1980.

Notice is hereby given that New York Life Fund, Inc. ("Fund" or "Applicant"), a diversified open-end management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to Section 6(c) of the Act for an Order amending an existing order which granted an exemption from the provisions of Section 17(f) of the Act and Rule 17f-2 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The fund was incorporated in the State of New York on December 24, 1969. Shares of the Fund are sold to separate accounts established by New York Life Insurance Company ("New York Life" or the "Company") for individual variable annuity contracts ("IVA") sold by the Company. Additionally, shares of the Fund may be sold to other separate accounts of the Company as well as to the Company itself and organizations approved by it. No shares of the Fund have yet been sold other than to the IVA separate accounts and Applicant states that there is no intention of selling Fund shares to any other purchasers.

Section 17(f)

Section 17(f) of the Act provides, in pertinent part, that every registered management company shall place and maintain its securities and similar investments in the custody of (1) a bank having the qualifications prescribed in

Paragraph 1 of Section 26(a) for trustees of unit investment trusts; (2) a company which is a member of a national securities exchange as defined in the Securities Exchange Act of 1934; or (3) such registered company, but only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors.

Rule 17f-2 provides, among other things, that such assets be placed in a bank subject to the requirements of the rule, one of which limits the persons who shall have access to such assets to only certain specific individuals.

It is proposed that the Fund will deposit with the Manufacturers Hanover Trust Company (the "Bank") publicly held stocks, notes, bonds, debentures and other similar evidence of indebtedness of private corporate and public issues now owned or subsequently purchased by the Fund, such issues to be registered in the nominee name of the Bank, or, if eligible, deposited by the Bank in the Depository Trust Company ("DTC") and registered in the latter's nominee name. The Bank is one having the qualifications prescribed in Paragraph (1) of Section 26(a) of the Act and DTC is a clearing agency registered with the Commission under Section 17A of the Securities Exchange Act of 1934.

On April 30, 1971 the Fund obtained an Order of the Commission (I.C. Rel. 6499) which, among other things, permitted the Company to act as custodian of these securities and other similar investments of the Fund and, to the extent necessary, to permit authorized representations of the Superintendent of Insurance of the State of New York, of other state insurance authorities, and of the National Association of Insurance Commissioners ("NAIC") to have access to such securities and other similar Fund investments maintained in the custody of New York Life.

The Applicant requests modification of such Order and a further exemption from Section 17(f) and Rule 17f-2 thereunder, to the extent necessary, to permit the Fund to maintain its securities and similar investments in the custody of a qualified Bank and to permit such authorized representatives of state insurance authorities and of NAIC to have access to such securities and other investments of Applicant. In addition, Applicant states that modification of such Order is requested to permit access to such securities and investments on behalf of the Fund only by two or more officers or responsible employees of the Company or Fund, acting jointly, at least one of whom would be an officer from a group of ten officers and employees of the Company or of the Fund designated by resolution(s) of the Board of Directors of the Fund.

In support of its requested exemption from Section 17(f) and Rule 17f-2 thereunder, Applicant states that the Company is an insurance company subject to extensive and detailed supervision and regulation by the Superintendent of Insurance of the State of New York as well as the insurance authorities of other states. The Applicant further states that the vault maintained by the Company is comparable to vaults maintained in most banks. In addition, access to the securities and similar investments may be had on behalf of the Fund only by two or more officers or responsible employees of New York Life or the Fund, acting jointly, at least one of whom would be an officer from a group of the officers and employees of New York Life or the Fund, designated by a resolution of the Board of Directors of the Fund. The affairs of the Fund are audited annually by independent certified public accountants who make, on a surprise basis, such checks and verifications of securities held in the vaults as they deem necessary. New York Life, as custodian for securities and similar investments of the Fund, segregates such securities and similar investments at all times from those of any other person including New York Life. Similarly, the Bank intends to hold such securities in custody for the Fund separate and apart from other securities and assets deposited with the Bank, in its capacity as custodian, or otherwise held by the Bank for its own account.

The application further states that it is contemplated that all or substantially all of the Fund's securities which are currently in the custody of New York Life will be deposited with the Bank. In certain instances, however, New York Life may maintain custody with regard to certain securities, primarily those which are ineligible for deposit by the Bank with DTC. It is anticipated that substantially all of the Fund's securities and investments will qualify for the DTC system wich accepts most public issues. It is permissible, however, for the Fund to invest in non-public issues, leasehold interests in real estate and short-term obligations which cannot be handled by DTC. Accordingly, it will be necessary for New York Life to continue to act as custodian for the Fund with regard to any securities not deposited with the Bank or any other custodian.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly indicated by the policy and provisions of the Act.

Notice is further given that any interested persom may, not later than January 5, 1981 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reason for such request and the issues of fact or law proposed to be controverted, or he or she may request that they be notified if the Commission shall order a hearing thereon. Any such communcation should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after January 5, 1981, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the applciation herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued 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 notice of further developments 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. 80-38729 Filed 12-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21831; (31-776)]

Valero Transmission Co.; Application for Exemption

December 8, 1980.

Notice is hereby given that Valero Transmission Company ("Valero"), a Delaware corporation and a subsidiary of Valero Energy Corporation ("VEC"), also a Delaware corporation, has filed with this Commission an application and an amendment thereto pursuant to Section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act")

for an order declaring Valero not to be a "gas utility company" under the Act. All interested persons are referred to the amended application, which is summarized below, for a description of the applicant and a statement as to the basis upon which the exemption is sought.

Valero is engaged in the operation of an extensive integrated intrastate pipeline system in Texas, such system consisting of approximately 5,456 miles of pipeline. Valero buys and then transports and sells natural gas, principally to gas and electric utility companies, major pipeline companies, municipalities and industrial users. VEC is engaged in gas systems operations, principally through Valero but also through other subsidiaries of VEC, and in 1980 began to be engaged in gas and oil exploration activities. At December 31, 1979, VEC reported consolidated assets of $649,242,000, and for the year then ended consolidated revenues of $1,328,969,000. At that date and for the same period, Valero reported total assets of $502,547,000, and its total revenues were $1,275,861,000.

Over the year Valero has acquired smaller gas transmission systems to compliment its own system, some of which acquired facilities had small portions which may be deemed to be distribution facilities. In addition, in connection with acquiring existing gas systems and acquiring rights of way and easements for additions to its gas system, Valero permitted certain ranchers and farmers a small sales tap off a line to provide gas for domestic use and, on occasion, permitted sales taps for irrigation sales. This practice, which was customary in the industry at the time, enabled Valero to avoid condemnation proceedings. It is stated that Valero currently makes sales to approximately 93 domestic customers and to approximately 142 irrigation customers.

Valero's sales to domestic and irrigation customers are directly regulated with respect to curtailment by the Texas Railroad Commission ("TRC"), and indirectly regulated with respect to price by the TRC in that it sets the price for other customers in Valero's system and Valero's contracts with its domestic and irrigation customers generally provide that the gas sales rate shall be that set by the TRC for Valero's other customers.

Valero's gas sales, by customer category, for the year ended December 31, 1979, are set forth below:

[Dollars in thousands]

Type of sales	Dollars	Sales in 1,000 ft³	Percent of sales	
			In dollars	In 1,000 ft³
Industrial and utility	$627,729	273,914	52.523	52.590
Municipal	99,474	43,214	8.323	8.287
Pipelines	467,215	203,930	33.032	33.121
Maximum estimated for domestic use (1)	26	11	.002	.002
Irrigation (1)	716	310	.060	.060
Total	$1,195,160	521,439	100.000	100.000

(1) There may be some unauthorized domestic use sales, but Valero does not believe such sales would exceed $35,000. Most of such sales are included in sales for irrigation.

As a result of its sales to domestic and irrigation customers, Valero may be deemed to own or operate facilities used for the distribution of natual gas at retail, and therefore may be a "gas utility company" within the meaning of Section 2(a)(4) of the Act. Valero requests that the Commission find that by reason of the small amount of such sales at retail (less than 1/10 of 1% of its total gas sales are to domestic and irrigation customers) Valero will not be deemed a "gas utility company."

Section 2(a)(4) provides, in part, that the Commission may declare a company not to be a "gas utility company" if it finds that (a) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (b) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or the for protection of investors and consumers that such company be considered a gas utility company for the purposes of [the Act]." Rule 10(a)(1) under the Act provides, futher, that a company shall be exempt from the duties, liabilities and obligations imposed under the Act upon it as a "holiday company" with respect to a subsidiary which, insofar as it is a public utility company, is declared not to be a "gas utility company" under Section 2(a)(4).

Notice is further given that any interested person may, not later than January 2, 1981, request in writing that a hearing be held on such matter, stating the nature of his interst, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, 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 ate, the application, as amended or as it may be further amended, may be granted in the manner in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it deems appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

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

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-38750 Filed 12-12-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 733]

Federal Employees Part-Time Career Employment Act of 1978: Proposed Department of State Internal Implementation Regulations

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is proposing internal regulations to implement the Federal Employees Part-Time Career Employment Act of 1978.

COMMENT DATE: Comments will be considered if received on or before January 14, 1981.

ADDRESS: Written comments should be addressed to the Deputy Assistant Secretary for Personnel, Bureau of Personnel, Room 6216, Department of State, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Gay William Mount, (202) 632-8934.

SUPPLEMENTAL INFORMATION: Pub. L. 95-437, the Federal Employees Part-time Career Employment Act of 1978, requires Federal agencies to publish proposed internal regulations in the Federal Register for public comment. After comments are received, considered, and necessary changes are made, the Department will adopt these regulations as section 129 of Volume 3, Personnel, Foreign Affairs Manual.

Accordingly, the Department of State proposes to add new section 129 to Volume 3, Personnel, Foreign Affairs Manual, as follows:

129 Part-Time Career Employment Program

129.1 Purpose

Many individuals in society posses great productive potential which goes unrealized, becasue they cannot meet the requirements of a standand workweek. Part-time permanent employment also provides benefits to other individuls in a variety of ways, such as providing older individuals with a gradual transition into retirement; providing employment opportunities to handicapped individuals or others who require a reduced workweek; providing parents opportunities to balance family responsibilities with the need for additional income; providing employment opportunities for women returning to the workforce; and providing assistance to students who must finance their own education or vocational training. In view of this, the Department of State will operate a part-time career employment program, consistent with its responsibilities and the needs of its beneficiaries.

129.2 Definitions

a. "Part-time career employment" means regularly scheduled work of from 16 to 32 hours per week performed by an employee with a probationary, career-conditional or career appointment in the Civil Service or career status in the Foreign Service. Also covered by this program are positions filled by Wage Grade and Foreign Service National employees serving under probationary, career-conditional or career appointment or with equivalent status. (However, the Department may permit an employee in the Civil Service or Foreign Service to perform regularly scheduled work of from 1 to 15 hours.)

b. "Career status in the Foreign Service" means an employee who has satisfactorily completed a probationary or career candidate program; such programs require a period of full-time service. This provision means that the Department will not hire directly into part-time career positions in the Foreign Service; such positions will be available only to Foreign Service employees with career status.

129.3 Exceptions

a. The following positions are excepted from inclusion in the Department's part-time career program:

(1) Positions for which the rate of basic pay is fixed at a rate equal to or greater than the minimum rate fixed for GS-16 of the General Schedule;

(2) Positions filled by Foreign Service employees with worldwide-available tenure codes serving under probationary or career-candidate appointments (as noted in section 129.2 b. only Foreign Service employees with career status are eligible); and

(3) Positions filled by Civil Service or Foreign Service personnel serving under reserve or time-limited appointments or otherwise serving on temporary or intermittent basis.

b. The Director General of the Foreign Service and Director of Personnel or the appropriate Deputy Assistant Secretary for Personnel also may except positions from inclusion in this program, as necessary, to carry out the mission of the Department.

c. This section and the term "part-time career employment" do not apply to career employees who work under mixed tours of duty. (A mixed tour of duty consists of annually recurring periods of full-time, part-time, or intermittent service.)

d. The Department of State does not propose to pay the travel expenses of an employee solely for the purpose of filling a part-time position. Therefore part-time career positions at overseas posts will be filled by employees whose travel would be paid by the Department for other reasons such as a spouse accompanying a Foreign Service employee assigned to an overseas post. In such case the spouse's travel expenses would be covered by that person's status as a spouse.

129.4 Review of Positions

Positions becoming vacant, unless excepted as provided in section 129.3, will be reviewed to determine the feasibility of converting them to part-time. Among the criteria which may be used when conducting this review are:

a. Mission requirements and occupational mix;

b. Workload fluctuations;

c. Potential for improving service to the public;

d. Employment ceilings and budgetary considerations;

e. Size of workforce, turnover rate and employment trends; and

f. Affirmative action.

129.5 Establishing and Converting Part-Time Positions

Position management and other internal reviews may indicate that positions may be either converted from full-time or initially established as part-time positions. Criteria listed in section 129.4 may be used during these reviews. If a decision is made to convert to or to establish a part-time position, regular position management and classification procedures will be followed.

129.6 Limitations

a. The Department shall not abolish any position occupied by an employee to make the duties of that position available to be performed on a part-time career employment basis.

b. Any person employed on a full-time basis shall not be required to accept part-time employment as a condition of continued employment.

129.7 Personnel Ceilings

In administering personnel ceilings, the Department shall count a part-time career employee as a fraction, which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek. This provision is effective on October 1, 1980.

129.8 Annual Goals and Timetables

The Bureau of Personnel will develop annually a Department-wide plan for promoting part-time employment opportunities after consultation with the operating elements. This plan will establish annual goals and set deadlines for achieving these goals.

129.9 Review and Evaluation

The part-time career employment program will be reviewed and evaluated through semi-annual reports submitted by the Director of the Office of Civil Service Career Development and Assignments and the Director of the Office of Foreign Service Career Development and Assignments to the appropriate Deputy Assistant Secretary for Personnel. Regular employment reports will be used to determine levels of part-time employment.

129.10 Publicizing Vacancies

When applicants from outside the Federal service are desired, part-time career vacancies may be publicized through various recruiting means, such as:

a. Federal job information centers;

b. State employment offices;

c. Department of State vacancy announcements; and

d. College and university placement offices.

Dated: December 6, 1980.

Harry G. Barnes, Jr.,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 80-38860 Filed 12-12-80; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF TRANSPORTATION

Coast Gurad

[CFD 80-144]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Approval notice.

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of the types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals and certifications have been granted or modified as herein described during the period from March 18, 1980 to August 14, 1980 (List No. 4-80). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

Lifeboat Winch

Approval No. 160.015/121/2, Model W2800 survival capsule launching winch; approval limited to mechanical components only and for a maximum working load of 14,000 lbs. on a single-part fall, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, effective July 17, 1980. (Supersedes Approval No. 160.015/121/1 dated October 10, 1979 to show revised drawings.)

Approval No. 160.015/124/1, Model W50000 survival capsule launching winch; approval limited to mechanical components only and for a maximum working load of 20,000 lbs. on a single-part fall, manufactured by Whitaker Corp., 5159 Baltimore Drive, La Mesa, CA 92041, effective July 22, 1980. (Supersedes Approval No. 160.015/124/0 dated March 9, 1979 to show revised drawings.)

Lifeboat Davit

Approval No. 160.032/233/0, Type 24-14 gravity davit; approved for a maximum working load of 14,000 lbs. per set (7,000 lbs. per arm) using single-part falls, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727, effective July 21, 1980.

Approval No. 160.032/238/0, Type MIR/26 gravity davit (deckhouse supported) and launching cradle; approved for a maximum working load of 16,576 lbs. per set (8,288 lbs. per davit head) using single-part falls, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032, effective June 16, 1980.

Mechanical Disengaging Apparatus (for Lifeboats)

Approval No. 160.033/42/0 Rottmer type, size 0.1 releasing gear, approved for a maximum working load of 14,000 lbs. per set (7,000 lbs. per hook), manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective June 2, 1980. (It is an extension of Approval No. 160.033/42/0 dated August 18, 1975.)

Approval No. 160.033/46/1 Rottmer type, size 0-1-C releasing gear, approved for a maximum working load of 16,500 lbs. per set (8,250 lbs. per hook), manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective June 2, 1980. (It is an extension of Approval No. 160.033/46/1 dated August 18, 1975.)

Lifeboat Hand-Propelling Gear

Approval No. 160.034/16/0, Type M-1, hand-propelling gear, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective June 2, 1980. (It is an extension of Approval No. 160.034/16/0 dated August 18, 1975.)

Marine Buoyant Vest

Approval No. 160.047/662/0, Adult, Model No. GL300, Type II PFD, manufactured by Gladding Corp., P.O. Drawer 9038, Station A, Greenville, SC 29604, effective June 19, 1980.

Inflatable Life Raft

Approval No. 160.051/87/1, 6-person SOLAS inflatable life raft (circular-type) with Givens buoy stability device, manufactured by R.P.R. Industries, Inc., P.O. Box 158, Apex, NC 27502, effective July 15, 1980. (It supersedes Approval No. 160.051/87/0 dated November 9, 1978 to show drawing revisions.)

Approval No. 160.051/104/1, 6-person SOLAS inflatable life raft (circular type) with Givens buoy stability device, manufactured by R.P.R. Industries, Inc. for Jim Givens Associates, 3196 Main Road, Tiverton, RI 02878, effective July 15, 1980. (It supersedes Approval No. 160.051/104/0 dated November 9, 1978 to show drawing revisions.)

Unicellular Plastic Foam Life Preserver

Approval No. 160.055/96/0, Adult, Model No. 62, Type I PFD, manufactured by Taylortec, Inc., 2549 Hickory Avenue, Matairie, LA 70003, effective August 4, 1980. (It is an extension of Approval No. 160.055/96/0 dated May 12, 1975.)

Approval No. 160.055/97/0, Child, Model No. 66, Type I PFD, manufactured by Taylortec, Inc., 2549 Hickory Avenue, Matairie, LA 70003, effective August 4, 1980. (It is an extension of Approval No. 160.055/97/0 dated May 12, 1975.)

Approval No. 160.055/128/0, Adult, Type V PFD, approved only for use on Boeing Jetfoil craft by persons weighing over 90 lbs., manufactured by R. Perry & Co., Ltd., Monks Ferry Works, 90 Church Street, Birkenhead L41 5EQ, England, effective July 8, 1980.

15-Minute Floating Orange Smoke Signal

Approval No. 160.057/2/0, Smith & Wesson 15-minute floating orange smoke signal, manufactured by Smith & Wesson Chemical Co., 2399 Forman Road, Rock Creek, OH 44084, effective August 5, 1980. (It supersedes Approval No. 160.057/2/0 dated August 4, 1975 to show change in manufacturer's name.)

Marine Buoyant Device

Approval No. 160.064/838/0, Adult Small, Model No. 505, Type III PFD, manufactured by America's Cup, Inc. for Maherajah Water Skis, A California Corp., Healdsburg, CA 95448, effective June 25, 1980. (it is an extension of

Approval No. 160.064/838/0 dated March 4, 1975.)

Approval No. 160.064/839/0, Adult Medium, Model No. 505, Type III PFD, manufactured by America's Cup, Inc. for Maherajah Water Skis, A California Corp., Healdsburg, CA 95448, effective June 25, 1980. (It is an extension of Approval No. 160.064/839/0 dated March 4, 1975.)

Approval No. 160.064/840/0 Adult Large, Model No. 505, Type III PFD, manufactured by America's Cup, Inc. for Maherajah Water Skis, A California Corp., Healdsburg, CA 95448, effective June 25, 1980. (It is an extension of Approval No. 160.064/840/0 dated March 4, 1975.)

Approval No. 160.064/841/0, Adult X-Large, Model No. 505, Type III PFD, manufactured by America's Cup, Inc. for Maherajah Water Skis, A California Corp., Healsdburg, CA 95448, effective June 25, 1980. (It is an extension of Approval No. 160.064/841/0 dated March 4, 1975.)

Approval No. 160.064/1004/0, Child Small, Model No. LD 100, Type III PFD, manufactured by Gladding Corp., P.O. Drawer 9038, Station A, Greenville, SC 29604, effective July 7, 1980. (It is an extension of Approval No. 160.064/1004/0 dated November 14, 1975.)

Approval No. 160.064/1005/0, Child Small, Model No. LD 200, Type III PFD, manufactured by Gladding Corp., P.O. Box 9038, Station A, Greenville, SC 29604, effective July 7, 1980. (It is an extension of Approval No. 160.064/1005/0 dated November 14, 1975.)

Red Aerial Pyrotechnic Flare

Approval No. 160.066/8/0, Sigma Scientific Model 20R8 Skyblazer Aerial Flare, 8 second meteor flare, manufactured by Sigma Scientific, Inc., 1830 South Baker Avenue, Ontario, CA 91761, effective June 25, 1980.

Fire Protective System

Approval No. 161.002/14/0, Pyrotronics High Voltage Fire Detection System, electronic horn not to be used with EPS-458, manufactured by Pyrotronics, 8 Ridgedale Avenue, Cedar Knolls, NJ 07927, effective June 25, 1980.

Sound Powered Telephone

Approval No. 161.005/70/0, Sound powered telephone, Types 178-b, 178-P, 178-H-B and 178-H-P, manufactured by Henschel Corp., Amesbury, MA 01913, effective July 7, 1980. (It is an extension of Approval No. 161.005/70/0 dated April 25, 1975.)

Approval No. 161.005/71/0, Sound powered telephone, Types 17, 17-1R and 17-2RL, manufactured by Henschel Corp., Amesbury, MA 01913, effective June 17, 1980. (It is an extension of Approval No. 161.005/71/0 dated April 25, 1975.)

Approval No. 161.005/72/0, Sound powered telephone, Types 17, 17-1R and 17-2RL, 170, 170-1R and 170-2RL, manufactured by Henschel Corp., Amesbury, MA 01913, effective June 17, 1980. (It is an extension of Approval No. 161.005/72/0 dated April 25, 1975.)

Approval No. 161.005/73/0, Sound powered telephone handset, Type C.G., for use with approved sound powered telephone station assembly, manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/74/0, Sound powered telephone station assembly, Type 76 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/75/0, Sound powered telephone station assembly, Type 76 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/76/0, Sound powered telephone station assembly, Type 70 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/77/0, Sound powered telephone station assembly, Type 71 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/78/0, Sound powered telephone station assembly, Type 77 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/79/0, Sound powered telephone station assembly with integral powered amplifier, Type P77 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/80/0, Sound powered telephone station relay, Type 87, manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/81/0, Sound powered telephone system extension howler, Type 201, manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 8, 1980.

Approval No. 161.005/82/0, Sound powered telephone extension hooter, Type 891, manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/83/0, Sound powered telephone station relay, Type 881 manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/84/0, Sound powered telephone station assembly with integral powered amplifier, Type PF76 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/85/0, Sound powered telephone station assembly with integral powered amplifier, Type P70 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/86/0, Sound powered telephone station assembly with integral powered amplifier, Type P71 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Approval No. 161.005/87/0, Sound powered telephone station assembly with integral powered amplifier, Type P76 C.G., manufactured by The Sound Powered Telephone Mfg. Corp., 1781 Ridge Road, Ontario, NY 14519, effective July 9, 1980.

Hand Electric Flashlight

Approval No. 161.008/5/7, No. 1918 waterproof flashlight, Type 1, size 2 (2-cell), manufactured by Bright Star Industries, 600 Getty Avenue, Clifton, NJ 07011, effective July 23, 1980. (It supersedes Approval No. 161.008/5/6 dated December 18, 1978 to show minor revision.)

Approval No. 161.008/6/7, No. 1925 waterproof flashlight, Type 1, size 3 (3-cell), manufactured by Bright Star Industries, 600 Getty Avenue, Clifton, NJ 07011, effective July 23, 1980. (It supersedes Approval No. 161.008/6/6 dated December 18, 1978 to show minor revision.)

Safety Valve (Powered Boilers)

Approval No. 162.001/233/1, Style HC-MS-65W carbon steel body, pop safety valve, nozzle type, 1500 p.s.i. primary service pressure rating, 675 degrees F. maximum temperature with welded, standard or optional inlet flange, manufactured by Crosby Valve and Gage Co., Wrentham, MA 02093, effective June 26, 1980. (It is an extension of Approval No. 162.001/233/0 dated December 12, 1974.)

Approval No. 162.001/234/1, Style HC-MS-66W carbon steel body, pop safety valve, nozzle type, 1500 p.s.i. primary service pressure rating, 750 degrees F. maximum temperature with welded, standard or optional inlet flange, manufactured by Crosby Valve and Gage Co., Wrentham, MA 02093, effective June 26, 1980. (It is an extension of Approval No. 162.001/234/0 dated December 12, 1979.)

Approval No. 162.001/239/1, Style HC-MS-67W alloy steel body, pop safety valve, nozzle type, 1500 p.s.i. primary service pressure rating, 900 degrees F. maximum temperature with welded, standard or optional inlet flange, manufactured by Crosby Valve and Gage Co., Wrentham, MA 02093, effective June 26, 1980. (It is an extension of Approval No. 162.001/239/0 dated December 12 1974.)

Approval No. 162.001/240/1, Style HCA-MS-68W alloy steel body, pop safety valve, nozzle type, 1300 p.s.i. primary service pressure rating, 1020 degrees F. maximum temperature with welded or standard inlet flange; 720 p.s.i. primary service pressure rating, 1020 degrees F. maximum temperature with optional inlet flange, manufactured by Crosby Valve and Gage Co., Wrentham, MA 02093, effective June 26, 1980. (It is an extension of Approval No. 162.001/240/0 dated December 12, 1974.)

Relief Valve (for Hot Water Heating Boilers)

Approval No. 162.013/12/1, McDonnell No. 230—3/4" relief valve for hot water heating boilers, relieving capacity 303,000 BTU/hour, at maximum set pressure of 30 p.s.i., manufactured by McDonnell & Miller, Inc., 3500 North Spaulding Avenue, Chicago, IL 60618, effective July 15, 1980. (It is an extension of Approval No. 162.013/12/1 dated August 25, 1975.)

Flame Arresters (For Tank Vessels)

Approval No. 162.016/37/2, 3", 4", 6" and 8" Types 495 F (Flame Arrester-B-21(356)), 10" Types 4660 F (Flame Arrester-B-21(356)), and F4960 F (all 316 S.S.) Flames Arresters, manufactured by The Protoseal Co., 225 W. Foster Avenue, Bensenville, IL 60106, effective July 8, 1980. (It supersedes Approval No. 162.016/37/1 dated September 9, 1978 to add sizes 6" and 8" and delete a misprint previously allowing size 2".)

Pressure-Vacuum Relief Values

Approval No. 162.017/116/2, Waukesha pressure-vacuum relief valve, Type FLS, relief settings of 1 to 3 p.s.i.g. pressure and 0.5 to 1.0 p.s.i.g. vacuum in sizes 2.5, 3, 4, 5, 6, 8 and 10 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 30, 1980. (It supersedes Approval No. 162.017/116/1 dated May 21, 1980 to include new size and materials of construction.)

Approval No. 162.017/118/3, Waukesha pressure-vacuum relief valve, Type HS-M, relief settings of 1 to 3 p.s.i.g. pressure and 0.5 to 1.0 p.s.i.g. vacuum in sizes 2.5, 3, 4, 6, 8 and 10 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 30, 1980. (It supersedes Approval No. 162.017/118/2 dated March 6, 1980 to include new materials of construction.)

Approval No. 162.017/123/1, Waukesha pressure-vacuum relief valve, Type DA, relief settings of 1 to 3 p.s.i.g. pressure and 0.5 to 1.0 p.s.i.g. vacuum in sizes 2.5, 3, 4, 6, 8 and 10 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 30, 1980. (It supersedes Approval No. 162.017/123/0 dated May 27, 1980 to include new materials of construction.)

Approval No. 162.017/124/1, Waukesha pressure-vacuum relief valve, Type FLF, relief settings of 1 to 3 p.s.i.g. pressure and 0.5 to 1.0 p.s.i.g. vacuum in sizes 2.5, 3, 4, 6, 8, 10, 12, 14 and 16 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 30, 1980. (It supersedes Approval No. 162.017/124/0 dated May 27, 1980 to include new materials of construction.)

Approval No. 162.017/125/0, Waukesha pressure-vacuum relief valve, Type OA, Spill valve, set pressure from 1 to 3 p.s.i.g. in sizes 3, 4, 6, 8 and 10 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 14, 1980.

Approval No. 162.017/126/0, Waukesha pressure relief valve, Type P, set pressure from 1 to 3 p.s.i.g. pressure and 0.5 to 1.0 p.s.i.g. vacuum in sizes 2.5, 3, 4, 5, 6 and 8 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 14, 1980.

Approval No. 162.017/127/0, Waukesha pressure-vacuum relief value, Type DH, set pressure from 1 to 3 p.s.i.g. pressure and 0.5 to 1.0 p.s.i.g. vacuum in sizes 2.5, 3, 4 and 6 inches, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, WI 53186, effective July 14, 1980.

Liquefied Compressed Gas Safety Relief Valve

Approval No. 162.018/71/0, Lonergan 11-W-200 BT series safety valves for pressure-temperature limitations as specified on Lonergan dwg. No. A-1884, manufactured by J.E. Lonergan Co., Red Lion Road, P.O. Box 6167, Philadelphia, PA 19115, effective June 17, 1980. (It is an extension of Approval No. 162.018/71/0 dated July 18, 1975.)

Backfire Flame Arrester for Gasoline Engines

Approval No. 162.041/189/1, Volvo-Penta flame arrester, part No. 841169, manufactured by Volvo-Penta of America, Inc., 911 Live Oak Drive, P.O. Box 1725, Chesapeake, VA 23320, effective July 24, 1980. (It supersedes Approval No. 162.041/189/0 dated April 16, 1975 to show new hose inlet connection.)

Approval No. 162.041/202/0, Barbron flame arrester, manufactured by Barbron Corp., 14580 Lesure Avenue, Detroit, MI 48227, effective July 15, 1980. (It supersedes Approval No. 162.041/202/0 dated May 5, 1980 to show additional models.)

Oily Water Separators

Approval No. 162.050/1018/0, Model SFC 0.5 BW-0.5 tons/hr. oily water separator, manufactured by Butterworth Systems/SEREP OWS, Butterworth Systems, Inc., 224 Park Avenue, P.O. Box 352, Florham Park, NJ 07932, effective July 30, 1980.

Approval No. 162.050/1019/0, Model SFC 5 BW-2 tons/hr. oily water separator, manufactured by Butterworth Systems/SEREP OWS, Butterworth Systems, Inc., 224 Park Avenue, P.O. Box 352, Florham Park, NJ 07932, effective July 31, 1980.

Approval No. 162.050/1020/0, Model SFC 8 BW-5 tons/hr. oily water separator, manufactured by Butterworth Systems/SEREP OWS, Butterworth Systems, Inc., 224 Park Avenue, P.O. Box 352, Florham Park, NJ 07932, effective July 31, 1980.

Approval No. 162.050/1021/0, Model SFC 12 BW-10 tons/hr. oily water separator, manufactured by Butterworth Systems/SEREP OWS, Butterworh System, Inc., 224 Park Avenue, P.O. Box 352, Florham Park, NJ 07932, effective July 31, 1980.

Cargo Monitors

Approval No. 162.050/5005/0 Facet Mark V Ballast Monitor, approved for crude oils and black products, manufactured by Facet Industrial Division, Facet Enterprises, Inc., P.O. Box 50096, Tulsa, OK 74150, effective July 21, 1980.

Bilge Monitors

Approval No. 162.050/9002/0, Oil Sentry-Marine Model OS100M, approved as 100 PPM bilge for fuel oil ballast monitor/15 PPM alarm, manufactured by Biospherics, Inc., 4928

Wyaconda Road, Rockville, MD 20852, effective June 26, 1980.

Deck Covering Material

Approval No. 164.006/56/0, "Insulite II", magnesite deck covering, approved for use with deck clips and without other insulating material as meeting Class A-60 requirements in a 1½" thickness and A-30 in a 1" thickness, manufactured by E.H. O'Neil Co., Inc., 5515 Belair Road, Baltimore, MD 21206, effective July 29, 1980.

Structural Insulation

Approval No. 164.007/55/0, Rockwool "Firebatts" mineral wool type structural insulation, approved for use without other insulating material to meet Class A-60 requirements in 60, 75 and 85 mm thickness, and nominal density of 6.9 lbs./cubic ft. (110 kg/cubic meter), manufactured by Rockwool A/S, DK-2640 Hedehusene, Denmark, effective August 11, 1980.

Bulkhead Panels

Approval No. 164.008/68/0, Hopeman Brothers' "Beta 100" building unit, approved as meeting Class B-15 requirements, manufactured by Hopeman Brothers, Inc., P.O. Box 820, 435 Essex Avenue, Waynesboro, VA 22980, effective June 25, 1980. (It supersedes Approval No. 164.008/68/0 dated May 14, 1980 to show new plant location and address.)

Approval No. 164.008/94/1, "Marinate M" asbestos free calcium silicate composite type panel, approved as meeting Class B-15 requirements in ¾" thickness as as a component in Class A-60 construction, manufactured by Johns-Manville Sales Corp., 1600 Wilson Blvd., Suite 705, Arlington, VA 22209, effective June 3, 1980. (It supersedes Approval No. 164.008/94/0 dated December 4, 1978 to show revision in indentifying data.)

Noncombustible Material

Approval No. 164.009/218/0, "Elevated Temperature Service Board/Marine Board" fiberglass hull board, in nominal densities of 3 to 5 lbs./cubic ft., manufactured by Knauf Fiber Glass GmbH, 240 Elizabeth Street, Shelbyville, IN 46176, effective July 31, 1980.

Approval No. 164.009/219/0, "Elevated Temperature Pipe/Marine Pipe" fiberglass pipe covering, in a nominal density of 3 lbs./cubic ft., manufactured by Knauf Fiber Glass GmbH, 240 Elizabeth Street, Shelbyville, IN 46176, effective July 31, 1980.

Approval No. 164.009/220/0, Rockwool "A-Batts" Mineral wool noncombustible material, in nominal density of 1.9 lbs./cubic ft. (30 kg/cubic meter), manufactured by Rockwool A/S, DK-2640 Hedehusene, Denmark, effective August 11, 1980.

Interior Finish

Approval No. 164.012/42/0, Style No. 3732 glass cloth with AFF No. 60 finish, in a nominal weight of 15 oz./square yd., manufactured by Shook and Fletcher Insulation Co., P.O. Box 10564, 4735 River Road, Jefferson LA 70181, effective August 4, 1980.

Marine Sanitation Devices

Certification No. 159.15/1003/32/II, FAST Model LS-1, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 5 persons, manufactured by St. Louis Ship, Div. of Pott Industries, 611 E. Marceau Street, St. Louis, MO 63111, effective July 15, 1980.

Certification No. 159.15/1003/33/II, FAST Model LS-2, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 8 persons, manufactured by St. Louis Ship, Div. of Pott Industries, 611 E. Marceau Street, St. Louis, MO 63111, effective July 15, 1980.

Certification No. 159.15/1003/34/II, Model 1680-2R, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 15,000 GPD, manufactured by St. Louis Ship, Div. of Pott Industries, 611 E. Marceau Street, St. Louis, MO 63111, effective August 5, 1980.

Certification No. 159.15/1003/35/II, Model 1100-RX, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed aboard the M.S. *Constellation*, manufactured by St. Louis Ship, Div. of Pott Industries, 611 E. Marceau Street, St. Louis, MO 63111, effective August 7, 1980.

Certification No. 159.15/1006/42/II, Model RF-750-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 750 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/43/II, Model RF-1000-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 1000 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/44/II, Model RF-1500-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 1500 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/45/II, Model RF-2000-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 2000 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/46/II, Model RF-2500-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 2500 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/47/II, Model RF-3000-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 3000 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/60/II, Model RF-350-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 350 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective August 12, 1980.

Certification No. 159.15/1006/62/II, Model RF-500-C, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 500 GPD, manufactured by Red Fox Industries, Inc., P.O. Drawer 640, Port of Iberia, New Iberia, LA 70560, effective July 2, 1980.

Certification No. 159.15/1015/26/II, Model MTT-4, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed aboard the V/L *Medofora*, manufactured by Marland Environmental Systems, Inc., P.O. Box 9, Walworth, WI 53104, effective June 2, 1980.

Certification No. 159.15/1015/27/II, Model MTT-4, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed aboard the V/L *Americal Arrow*, manufactured by Marland Environmental Systems, Inc., P.O. Box 9, Walworth, WI 53104, effective June 2, 1980.

Certification No. 159.15/1015/28/II, Model MTT-4, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed aboard the V/L *Seatrain Bunkerhill*, manufactured by Marland Environmental Systems, Inc., P.O. Box 9,

Walworth, WI 53104, effective June 2, 1980.

Certification No. 159.15/1015/29/II, Model MTT-3-3, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed in existing tankage onboard the M/V DA *Recco*, manufactured by Marland Environmental Systems, Inc., P.O. Box 9, Walworth, WI 53184, effective July 16, 1980.

Certification No. 159.15/1015/30/II, Model MTT-3-3, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed in existing tankage onboard the M/V DA *Verranzano*, manufactured by Marland Environmental Systems, Inc., P.O. Box 9, Walworth, WI 53184, effective July 16, 1980.

Certification No. 159.15/1015/31/II, Model MTT-3-3, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, installed in existing tankage onboard the M/V DA *Noli*, manufactured by Marland Environmental Systems, Inc., P.O. Box 9, Walworth, WI 53184, effective July 16, 1980.

Certification No. 159.15/1016/2/III, Model MV 340-10, certified for use on inspected small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 40 flushes/hr., manufactured by Envirovac, 1260 Turret Drive, Rockford, IL 61111, effective July 8, 1980.

Certification No. 159.15/1016/3/III, Model MV 380-20, certified for use on inspected small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 80 flushes/hr., manufactured by Envirovac, 1260 Turret Drive, Rockford, IL 61111, effective July 8, 1980.

Certification No. 159.15/1016/5/III, Model MV 680-20, certified for use on inspected small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 80 flushes/hr., manufactured by Envirovac, 1260 Turret Drive, Rockford, IL 61111, effective July 8, 1980.

Certification No. 159.15/1016/6/III, Model MV 940-10, certified for use on inspected small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 40 flushes/hr., manufactured by Envirovac, 1260 Turret Drive, Rockford, IL 61111, effective July 8, 1980.

Certification No. 159.15/1016/7/III, Model MV 980-20, certified for use on inspected small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 80 flushes/hr., manufactured by Envirovac, 1260 Turret Drive, Rockford, IL 61111, effective July 8, 1980.

Certification No. 159.15/1023/27/II, Model ST-60, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 11,110 GPD, manufactured by Hamworthy Engineering, Ltd, Pumps and Compressor Div., Fleets Corner, Poole Dorset BH17 7LA, United Kingdom, effective June 23, 1980.

Certification No. 159.15/1023/28/II, Model ST-1, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 225 GPD, manufactured by Hamworthy Engineering, Ltd., Pumps and Compressor Div., Fleets Corner, Poole Dorset BH17 7LA, United Kingdom, effective July 21 1980.

Certification No. 159.15/1030/7/II, Model NEPTUMATIC RETRO-33 MK II, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 36 m3/day, manufactured by Salen and Wicander Aktiebolag, P.O. Box 1122, S-171 22 SOLNA, Sweden, effective June 26, 1980.

Certification No. 159.15/1038/5/II, Owens Kleen Tank Small Boat Unit, Model A, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 3 persons/33 GPD, manufactured by Owens Manufacturing and Specialty Co., P.O. Box 2443, Lafayette, LA 70501, effective July 16, 1980.

Certification No. 159.15/1038/6/II, Owens Kleen Tank Small Boat Unit, Model B, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 6 persons/76 GPD, manufactured by Owens Manufacturing and Specialty Co., P.O. Box 2443, Lafayette, LA 70501, effective July 16, 1980.

Certification No. 159.15/1038/7/II, Owens Kleen Tank Small Boat Unit, Model C, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 10 persons/112 GPD, manufactured by Owens Manufacturing and Specialty Co., P.O. Box 2443, Lafayette, LA 70501, effective July 16, 1980.

Certification No. 159.15/1038/8/II, Owens Kleen Tank Small Boat Unit, Model D, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 16 persons/182 GPD, manufactured by Owens Manufacturing and Specialty Co., P.O. Box 2443, Lafayette, LA 70501, effective July 16, 1980.

Certification No. 159.15/1038/9/II, Owens Kleen Tank Small Boat Unit, Model E, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 21 persons/240 GPD, manufactured by Owens Manufacturing and Specialty Co., P.O. Box 2443, Lafayette, LA 70501, effective July 16, 1980.

Certification No. 159.15/1038/10/II, Owens Kleen Tank Small Boat Unit, Model F, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 32 persons/360 GPD, manufactured by Owens Manufacturing and Specialty Co., P.O. Box 2443, Lafayette, LA 70501, effective July 16, 1980.

Certification No. 159.15/1040/2/I, Model Delta Marine Head 24VDC, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 20 GPH, manufactured by Galley Maid Marine Products, P.O. Box 10417, Riviera Beach, FL 33404, effective February 11, 1977. (New data card issued July 2, 1980 supersedes card issued May 1, 1978.)

Certification No. 159.15/1040/3/I, Model Delta Marine Head 32VDC, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 20 GPH, manufactured by Galley Maid Marine Products, P.O. Box 10417, Riviera Beach, FL 33404, effective February 11, 1977. (New data card issued July 2, 1980 supersedes card issued May 1, 1978.)

Certification No. 159.15/1040/8/I, Model Delta Marine Head 115VAC, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 20 GPH, manufactured by Galley Maid Marine Products, P.O. Box 10417, Riviera Beach, FL 33404, effective December 15, 1977. (New data card issued 2 July 1980 supersedes card issued May 1, 1978.)

Certification No. 159.15/1040/9/II, Model Galley Maid Control Waste Treatment System, certified for use on inspected, small passenger and uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 1000 GPD, manufactured by Galley Maid Marine Products, Inc., P.O. Box 10417, Riviera Beach, FL 33404, effective June 2, 1980.

Certification No. 159.15/1046/24/II, Model BIO-STS, certified for use on

uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 500 GPD, manufactured by Sigma Treatment Systems, 2 Davis Avenue, Frazer, PA 19355, effective March 18, 1980.

Certification No. 159.15/1046/27/II, Model STS-II (A/D), certified for use on uninspected vessels, certified for use in fresh brackish and salt water, installed aboard the M/V *Laurentian Forest*, manufactured by Sigma Treatment Systems, 2 Davis Avenue, Frazer, PA 19355, effective July 16, 1980.

Certification No. 159.15/1051/17/II, Model NST-20H, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, manufactured by Nissin Refrigeration and Engineering Ltd., 12-30 Mikunihomnachi, Yodogwa-ku, Osaka, Japan, effective July 23, 1980.

Certification No. 159.15/1051/18/II, Model NST-30H, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, manufactured by Nissin Refrigeration and Engineering Ltd., 12-30 Mikunihomnachi, Yodogwa-ku, Osaka, Japan, effective July 23, 1980.

Certification No. 159.15/1051/19/II, Model NST-40H, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, manufactured by Nissin Refrigeration and Engineering Ltd., 12-30 Mikunihomnachi, Yodogwa-ku, Osaka, Japan, effective July 23, 1980.

Certification No. 159.15/1060/8/II, Model MSTP-8, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 39,270 GPD, manufactured by Format Chemie and Apparate GmbH, 2050 Hamburg 80, Ochsenwender Landstrasse 155, Federal Republic of Germany, effective July 3, 1980.

Certification No. 159.15/1060/9/II, Model MSTP-9, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 78,540 GPD, manufactured by Format Chemie and Apparate GmbH, 2050 Hamburg 80, Ochsenwender Landstrasse 155, Federal Republic of Germany, effective July 3, 1980.

Certification No. 159.15/1060/10/II, Model Quadripart-8, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 39,270 GPD, manufactured by Format Chemie and Apparate GmbH, 2050 Hamburg 80, Ochsenwender Landstrasse 155, Federal Republic of Germany, effective July 3, 1980.

Certification No. 159.15/1060/11/II, Model Quadripart-9, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 78,540 GPD, manufactured by Format Chemie and Apparate GmbH, 2050 Hamburg 80, Ochsenwendeer Landstrasse 155, Federal Republic of Germany, effective July 3, 1980.

Certification No. 159.15/1063/2/I, Model MARK 0.5, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 240 GPD, manufactured by Effluent Technology Co., Inc., 4103 Bridgeport Way West, Tacoma, WA 98466, effective July 7, 1980.

Certification No. 159.15/1074/1/II, Model Standard V, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 20 uses/day, manufactured by American Standard, Inc., 415 Hamburg Turnpike, Wayne, NJ 07470, effective July 29, 1980.

Certification No. 159.15/1091/1/III, Model Crounse Corp. Type III, certified for use on uninspected vessels, certified for use in fresh, brackish and salt water, average capacity 450 GPD, manufactured by REC, Inc., P.O. Box 447, Greenville, MS 38701, effective July 23, 1980.

Clyde T. Lusk, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 80-38749 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-14-M

[CGD80-153]

Port Access Routes; Preliminary Findings of Study

Public Notice 5-469

Federal Register Public Notice of April 16, 1979 (44 FR 22543) and the Fifth Coast Guard District Public Notice 5-430 of September 6, 1979 announced the commencement of the Fifth Coast Guard District Port Access Study and invited interested persons to comment on and make contributions to the study.

This study was initiated in response to a mandate from Congress, set forth in Section 2 of the Port and Tanker Safety Act of 1978, Pub. L. No. 95-474, 92 Stat. 1472 (to be codified in 33 U.S.C. 1223) that the Coast Guard conduct a study of the potential traffic density and the need for safe access routes for vessels operating in the approaches to U.S. ports and in the traditional routes between U.S. ports. In addition, this study was to take into account all uses of the areas under consideration and, to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the areas involved.

The Fifth Coast Guard District Port Access Study has been completed in accordance with the Congressional mandate described above. The enclosed chartlet provides a graphic view of the six areas, study areas 7 through 12, that were examined by this district. Geographically, these areas extend from the coast seaward to the 1800 meter curve, from a line bearing 122°T from Fenwick Island Light (38° 27.1′ N, 75° 03.3′ W) to a line bearing 156°T from the North Carolina-South Carolina border to 32° 50.0 N latitude, 78°W longitude, thence a line bearing 090°T.

Data for the study and information about vessel routing, possible user conflicts in the six study areas, and other possible navigational problems that might be encountered, was solicited from all parties having a maritime interest in maintaining safe access routes to the ports of the Fifth Coast Guard District. The parties contacted included State and Local Governments, other Federal agencies, fishing and pilot associations, shipping companies, Outer Continental Shelf developers, and the general public.

As part of the vessel traffic survey, hundreds of ships' masters were interviewed to ascertain whether or not their voyages had been impaired by cross traffic, fixed structures or drilling vessels, or a lack of aids to navigation. The masters were also queried as to their routes through the survey area and the reasons for their selecting those routes. Based upon the number of interviews conducted and the amount of information obtained from those interviews and from all of the other sources contacted, the Vessel Traffic Survey was very successful.

The preliminary findings of the Fifth Coast Guard District Port Access Study are:

(a) That there is only a negligible indication of any present interference with navigation on the coastal waters of the Fifth Coast Guard District.

(b) That only negligible user conflicts presently exist between the various maritime interests using the coastal waters of the Fifth Coast Guard District.

(c) That there are safe access routes to the ports of the Fifth Coast Guard District for the present and probable future potential amount of vessel traffic using those ports.

(d) That there is no need to impose new ship routing measures, such as shipping safety fairways and/or traffic separation schemes in any of the six study areas that compose the coastal waters of the Fifth Coast Guard District.

(e) That during the next five year period of time, the anticipated use and development of the natural resources found on that portion of the Outer Continental Shelf located within the coastal waters of the Fifth Coast Guard

District, will not interfere with the navigation on those waters with the following exception:

Commercial development of tracts 40 through 45, Beaufort NI 18-4, of the Bureau of Land Management's proposed Outer Continental Shelf Sale No. 56 may interfere with a large portion of vessel traffic in the southern part of study area nine (see attached chartlet). The Coast Guard will monitor the lease and later oil exploration of these tracts. Should commercial development prove feasible, the Coast Guard will evaluate any proposed development plan and, if necessary, take appropriate action to insure the safety of navigation. Should any implementing regulations be required, they will be issued in accordance with Section 2 of the Port and Tanker Safety Act of 1978, Pub. L. No. 95-474, 92 Stat. 1472 (to be codified in 33 U.S.C. 1223) and the Administrative Procedure Act. In accordance with the PTSA, the Coast Guard will consult with the Secretaries of State, Interior, Commerce, and the Army, and the Governor of the State of North Carolina, concerning this matter, as well as other parties who may be affected by the proposed actions.

(f) The survey data indicated that not only was there no interference with navigation in study areas 8, 10, and 12, but, other than the exception mentioned above, there was no interference with navigation in study areas 7, 9, and 11. Based upon this conclusion, the preliminary findings made for study areas 8, 10, and 12 also apply to areas 7, 9, and 11. For this reason and because ample data and information has been obtained for all six study areas, the Fifth Coast Guard District does not plan to conduct a separate study for areas 7, 9, and 11 as previously stated in Public Notice 5-430.

(g) Five years after this study is completed, its final findings and recommendations will be reviewed to insure their continued validity.

This notice is to announce the results of the Fifth Coast Guard District Port Access Study and to invite interested persons to comment on the preliminary findings. Comments concerning the study should be addressed to: H. A. Tawney, c/o Commander (dpl), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705, (804) 398-6276.

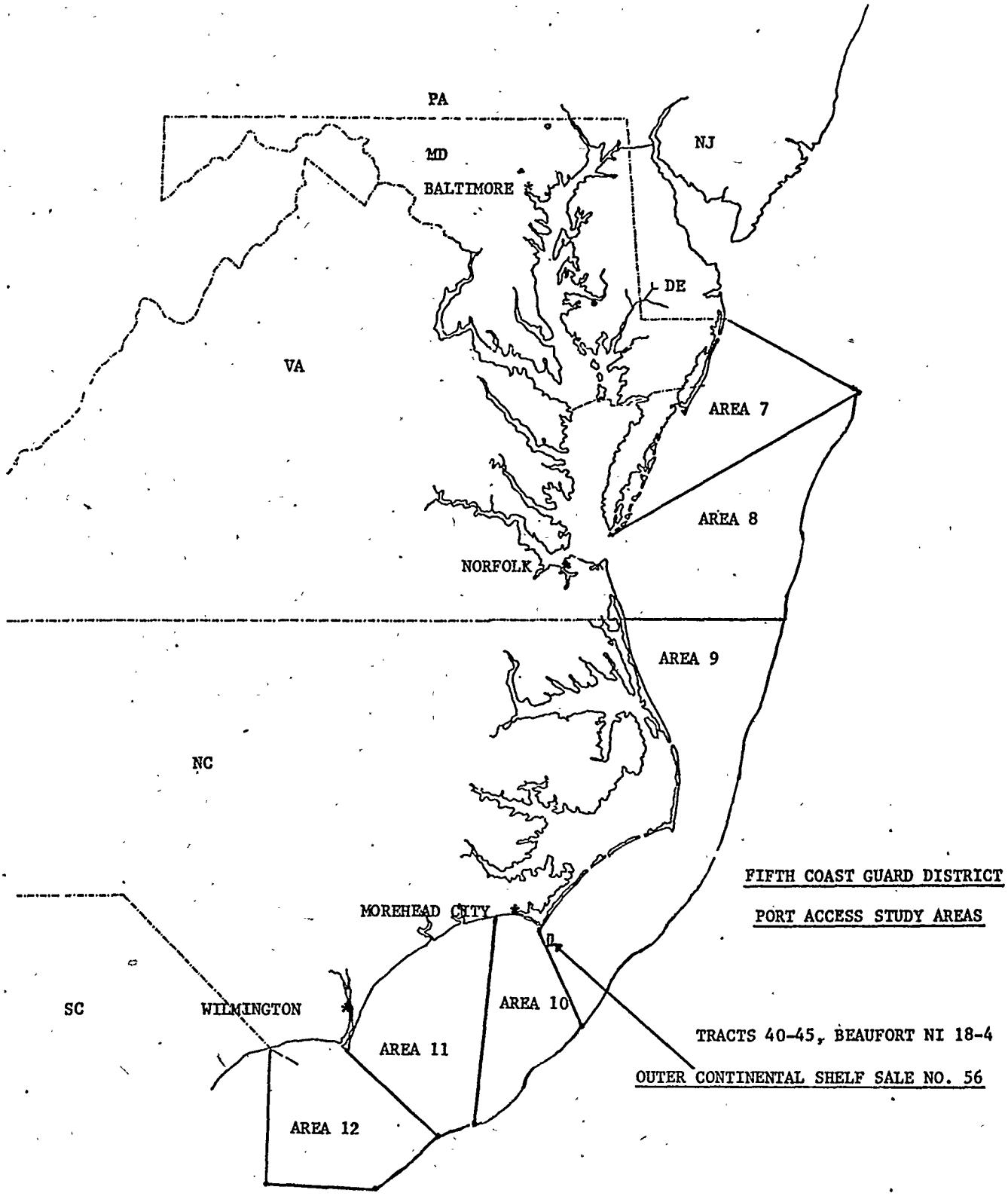
Where practicable, a commenter should identify the particular study area or areas to which his comments apply. All comments received will be considered in developing the study's final findings and recommendations, and will be available for review by the public at the address above. In order to be considered, all comments must be received by January 29, 1981.

It is requested that this information be further disseminated to any person known by you to be interested in this matter, and who did not receive a copy of this notice.

T. T. Wetmore III,

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

BILLING CODE 4910-14-M



FIFTH COAST GUARD DISTRICT

PORT ACCESS STUDY AREAS

[FR Doc. 80-38748 Filed 12-12-80; 8:45 am]
BILLING CODE 4910-14-C

[CGD 80-152]

Scoping Meeting on the Preparation of Environmental Impact Statement (EIS) for a Deepwater Port off Freeport, Tex.

AGENCY: Coast Guard, DOT.

ACTION: Announcement of public scoping meeting.

SUMMARY: A consortium made up of Dow Chemical Co., Continental Pipe Line Co., Phillips Petroleum Co., and Seaway Pipeline, Inc. plans to submit a Deepwater Port application on December 30, 1980 to construct and operate a deepwater port off Freeport, Texas, in the Gulf of Mexico. A public meeting will be held to scope and plan the range of environmental issues, alternatives and impacts to be considered in the EIS required by the Deepwater Port Act of 1974.

DATE: The scoping meeting will be held on January 16, 1981 at 9:00 a.m. local time in the Dow Chemical Auditorium, Houston Light & Power Building, 202 West Highway 332, Clute, Texas.

ADDRESS: Commandant (G-WS-1/CGHQ12), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Robert L. Evans, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 472-5239.

SUPPLEMENTARY INFORMATION: The proposed Deepwater Port will be located about 12 miles offshore from Freeport, Texas on the Gulf of Mexico with a water depth of approximately 70 feet.

The proposed Deepwater Port would be designed so that:

(a) It would have a throughput capacity of approximately 500M barrels per day.

(b) Vessels could discharge at a minimum rate of 40M barrels per hour at 100 PSI without using offshore booster pumps.

(c) One single point mooring system could be used with provisions for a second one.

(d) Only a small unmanned offshore platform would be required to accommodate metering, meter proving, scraper operations, communication equipment, multiple monobuoy manifolding, VTS radar system, sick bay and necessary quarters for occasional use by maintenance personnel.

(e) VLCC class vessels or smaller with a maximum 55 foot draft could unload at the offshore monobuoy.

(f) The existing Seaway Pipeline, Inc. facilities, including tankage, metering, booster pumps and pipelines could be used.

(g) The 56 inch diameter pipeline route from the platform to shore would follow the route proposed for the Seadock facility except it would terminate near the 70 foot contour.

The regulations for implementing the National Environmental Policy Act (NEPA) establishes guidelines for the preparation of an EIS. One basic guideline is that the EIS be short, concise and to the point and be supported by evidence that the necessary environmental analyses has been made. Compliance with NEPA guidelines requires an early scoping meeting be held with all interested parties to:

(a) Determine the range of actions, alternatives, impacts (environmental, social, economic), and the significant issues to be analyzed in depth in the EIS.

(b) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (FEIS Seadock Deepwater Port License Application and Final Supplement Deadock Environmental Impact Statement—Texas Deepwater Port Authority Application Amendment), narrowing the discussion of these issues in the EIS to a brief presentation of why they will not have significant effect on the human environment or providing a reference to their coverage elsewhere.

The following areas at a minimum will require an in depth analysis in the proposed EIS:

(a) Oil Spill Risk Analysis. The VLCC's discharging at the proposed deepwater port will be partially offloaded prior to use of the port. The VLCC's will finish unloading or smaller vessels will unload about 12 miles offshore at the proposed deepwater port as opposed to 26 miles for the original Seadock Deepwater Port or Texas Deepwater Port proposal. The risk for collision may increase due to increased lightering vessel traffic and the tanker crossing of shipping lanes nearer to shore than the original proposal. An oil spill at the proposed deepwater port may have an increased potential for impacting the shore and reach the shore line much faster due to the reduced distance it travels compared to the original proposal. New safety zone configurations and Gulf safety fairway approaches thereto will have to be designed and established for the nearer shore proposed deepwater port.

(b) Economic Analysis. The reduced level of crude oil imported through the proposed deepwater port could have an adverse impact on national security as opposed to the Seadock or Texas Deepwater Port proposals. The lesser facility will require less investment and thus may give better return at the lower throughput levels.

(c) Mitigation. The increased potential of oil spill reaching shore from the proposed deepwater port may require more emphasis on:

(1) Automatic alarm and shut-down systems.

(2) Oil spill containment and cleanup procedures.

(3) Environmental Monitoring Program.

(4) Lower threshold of maximum safe sea state operation.

(5) Safety zone and other vessel traffic routing services.

The majority of the other requirements have been covered on previous EIS's on Deepwater Ports and will be covered only briefly in the proposed EIS with appropriate references.

(Sec. 5(f) 88 Stat. 2133 (33 U.S.C. 1504(f)); 40 CFR 1501; 49 CFR 1.46)

Dated: December 9, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80-38730 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from January 12 at 1 p.m. through January 16 at 1 p.m., in the Regional directors conference Room, room 700 at the FAA Southern Regional Office, 3400 Norman Berry Drive, East Point, Georgia.

The agenda for this meeting is as follows: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

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, not later than the day before the

meeting, and information may be obtained from Mr. L. Lane Speck, Acting Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Avenue, Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on December 3, 1980.

L. Lane Speck,

Acting Executive Director, ATPAC.

[FR Doc. 80-38674 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

Avco Lycoming AL5512 Turboshaft Engine Certification and Availability of Documents

Based on a review of the entire certification process, the Director of FAA New England Region approved issuance of the AL5512 Type Certificate as recommended by New England Region staff. Type Certificate E4NE for the T5508 engine has been amended to include approval of the AL5512.

A copy of the "Decision Basis for Type Certification of the Avco Lycoming AL5512 Turboshaft Engine" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein Avco Lycoming was required to demonstrate compliance with the applicable Federal Aviation Regulations.

The text of "Decision Basis" includes delineation of the specific legal compliance required by each rule; a summary of the method by which compliance was established for each and a bibliography of the reports documenting compliance.

Detailed appendices and attachments include: (1) Minutes of Type Certification Board Meetings, (2) the applicable Federal Aviation Regulations, Orders, and Advisory Circulars, and (3) Type Certificate E4NE and the Type Certificate Data Sheet. The report is available for examination and copying at the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. Copies of the report may be obtained from the Office of the Director, FAA New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts on December 5, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-38671 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

Pratt & Whitney JT9D-74RA/7R4D Turbofan Engine Certification and Availability of Documents

Based on a review of the entire certification process, the Director of FAA New England Region approved issuance of the JT9D-7R4A/7R4D Type Certificate as recommended by New England Region staff. Type Certificate E3NE for the JT9D engine has been amended to include approval of the JT9D-7R4A/7R4D.

A copy of the "Decision Basis for Type Certification of the Pratt & Whitney JT9D-7R4A/7R4D Turbofan Engine" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein Pratt & Whitney was required to demonstrate compliance with the applicable Federal Aviation Regulations.

The text of "Decision Basis" includes delineation of the specific legal compliance required by each rule; a summary of the method by which compliance was established for each and a bibliography of the reports documenting compliance.

Detailed appendices and attachments include: (1) Minutes of Type Certification Board Meetings, (2) the applicable Federal Aviation Regulations, Orders, and Advisory Circulars, and (3) Type Certificate E3NE and the Type Certificate Date Sheet. The report is available for examination and copying at the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. Copies of the report may be obtained from the Office of the Director, FAA New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts on December 5, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-38670 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

Pratt & Whitney JT8D-217 Turbofan Engine Certification and Availability of Documents

Based on a review of the entire certification process, the Director of FAA New England Region approved issuance of the JT8D-217 Type Certificate as recommended by New England Region staff. Type Certificate E9NE for the JT8D engine has been amended to include approval of the JT8D-217.

A copy of the "Decision Basis for Type Certification of the Pratt & Whitney JT8D-217 Turbofan Engine" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein Pratt & Whitney was required to demonstrate compliance with the applicable Federal Aviation Regulations.

The text of "Decision Basis" includes delineation of the specific legal compliance required by each rule; a summary of the method by which compliance was established for each and a bibliography of the reports documenting compliance.

Detailed appendices and attachments include: (1) Minutes of Type Certification Board Meetings, (2) the applicable Federal Aviation Regulations, Orders, and Advisory Circulars, and (3) Type Certificate E9NE and the Type Certificate Data Sheet. The report is available for examination and copying at the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. Copies of the report may be obtained from the Office of the Director, FAA New England region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts on December 5, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-38672 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[Block Signal Application No. 1588]

National Railroad Passenger Corp. (Amtrak); Report and Order

The National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for authority to modify a portion of the signal system which controls train operations between Baldwin, Pennsylvania and Ragan, Delaware. The proposed modification involves the intitial installaton of the revised signal system that Amtrak intends to utilize on all portions of the Northeast Corridor trackage between Boston, Massachusetts and Washington, D.C.

The proposed signal changes are part of a comprehensive improvement program which is designed to enhance the overall performance of rail service on this line.

The Amtrak request is contained in several related proceedings which are identified as FRA Block Signal Application Number 1588 and four waiver petitions designated as RS&I Number 607, RS&I Number 608, RS&I Number 609, RS&I Number 610. All of these proceedings have been referred to the Railroad Safety Board (Board) which has been delegated the responsibility of determining whether to grant the request contained in these proceedings.

The Amtrak request was filed on June 5, 1979, and a public notice describing the request was issued on June 9, 1979. In addition the Board provided two public hearings on these proceedings. These hearings were held on October 16, 1979, in Philadelphia, Pennsylvania and on October 18, 1979, in Boston, Massachusetts.

The Board has received a considerable volume of comments on this request both during the hearings and in written responses to the proposal. The nature of these comments, their volume, the unique aspects of the proposed signal changes, and the lengthy history of this proceeding caused the Board to conclude that the normal process of issuing a simple decision letter resolving these proceedings, was not appropriate in this instance. Consequently, the Board is deviating from past practice and issuing this report and order to assist all parties in understanding the decisions reached in these proceedings.

The application made by Amtrak seeks approval of proposed modifications of the existing automatic cab and wayside signal systems to permit operation by automatic train control (speed control) between Milepost 8.4 North of Baldwin Interlocking at Baldwin, Pennsylvania and Ragan Interlocking at Milepost 30.0 South of Ragan, Delaware; to permit the installation of a new all relay interlocking at Holly Oak; and to permit modifications of existing interlocking facilities at Ragan, West Yard, Willmington, Landlith, Bell, Hook, Lamokin and Baldwin. The proposed changes basically consist of the following specific alterations:

1. Discontinue the existing automatic block and cab signal system and the wayside automatic signals between Baldwin and Ragan.

2. Installation of an automatic block signal system supplemented by automatic cab signals arranged for train movements in either direction on all main tracks and supplemented with automatic train control equipment mounted on locomotives to enforce the speed limits displayed by the continous cab signal system.

3. At Lamokin remove all interlocking facilities and change four interlocked switches to electrically locked hand operation.

4. At Baldwin remove six interlocked dwarf signals and install one interlocked crossover, four interlocked high signals and change one interlocked switch to electrically locked hand operation.

5. Relief from compliance with 49 CFR 236.23 to permit the use of a color position wayside signal displaying a "green" aspect to indicate "proceed at maximum permissable speed" instead of "proceed at authorized speed".

6. Relief from compliance with 49 CFR 236.567 to permit the use of flashing wayside signal aspects to indicate that an absolute block has been established and that a train may proceed at normal speed not exceeding 79 miles per hour.

7. Relief from compliance with 49 CFR 236.23 to permit the use of cab signal aspects of illuminating numbers or letters to indicate the maximum permissable speed in lieu of aspects shown by lights or letters.

8. Relief from compliance with 49 CFR 236.310 to permit the absence of an approach signal to certain home signals.

All of the commenters voiced strong objection to the proposed removal of wayside signals. Their objections focused on the fact that without wayside signals train engineers would lose valuable data. This data includes the loss of reference points, the loss of ability to verify the accuracy of the cab signal and the loss of data about track conditions in the event of cab signal failure. The concern over data loss was heightened for some commenters by current failure rates of existing car borne equipment and reservations about adequacy of the design features for the new equipment. One commenter noted that FRA has previously granted relief to permit the operation of commuter trains with failed cab signals in the Philadelphia area and urged that wayside signals be retained so that this practice could be continued under the new system.

The commenters, who addressed the issue, expressed concern over the cost of installing the necessary equipment and questioned the source of funding for the installation of carborne equipment. The costing issue was complicated for some commenters by the fact that their equipment was operated only occasionally or for short duration on the tracks equipped with this system. Another feature of their concern involved the choice of electrical frequencies suggested by Amtrak. The final concern about equipment involved the Amtrak proposal to include the use of carborne recording equipment to make a log of certain train operation factors.

All of the commenters expressed concern over the departure from historical signal practices involved in the use of the new signal aspects and new operating rules associated with this system. The comments included the difficulty of operating under existing railroad operating rules, as well as the proposed operating rules, the need for an extensive training effort and the perceived expansion of the number of rules associated with an increased number of aspects.

The commenters, who addressed the issue, also expressed concern over the ability of freight trains to operate safely under the proposed system. The concern in this area involved enforced braking procedures necessary to comply with the automatic speed control devices, the contemplated braking distances and the absence of wayside signal indications to aid in the braking procedures. The cost of installing the necessary equipment was also noted by two commenters.

All of these comments have been considered by the Board in reaching a decision in this matter. These comments were considered as well as the results of a very lengthy and detailed investigation by FRA staff of this entire proceeding. After considering the comments and the staff investigation the Board has decided to approve the basic application subject to a variety of conditions. In addition the Board has made several recommendations which it believes are not of such a nature as to require imposition of a condition but which it strongly urges Amtrak to adhere to in the installation of this system.

In reaching a decision in this proceeding, the issue of operating without wayside signals, which caused extensive comment, has proved to be the most difficult point. The degree of difficulty stems from the interrelationship of the loss of data and the enforced braking aspects of the automatic speed control devices proposed by Amtrak. In an effort to define this issue FRA staff, familiar with details of this proposal, examined two existing systems that currently operate significant numbers of freight trains without the use of wayside signals. Although neither installation is a totally accurate duplication of the situation in this proceeding, the facts developed during that portion of the investigation revealed that there is nothing intrinsically unsafe about the proposed

operation of freight trains without the presence of wayside signals. This portion of the investigation together with computer simulations of operations utilizing the data from the proposal did develop a basis for concern about the safe braking of freight trains. In an effort to better define this issue the Board assembled a task force to study this matter. The details of the task force efforts are contained in two reports that were distributed to all parties of record and explained in a public meeting held in Washington, D.C. on August 26, 1980. The result of the task force effort was a request by Amtrak to modify the proposed parameters of the braking responses under the automatic speed control devices to reflect the information developed by the task force.

Based on the reports from the task force the Board believes that by imposing a condition that modifies the proposed parameters for the braking responses, as stated in the Amtrak letter of September 16, 1980 and the task force report, freight trains can be braked safely under the proposed system. The specific terms of the condition imposed by the Board to address this issue are enumerated later in this report and order. It should be noted that in imposing this condition the Board is also granting a waiver of compliance with 49 CFR 236.507.

The imposition of this condition does not totally address the entire issue of loss of data involved in the absence of wayside signals. The commenters noted that without wayside signals there is a loss of reference points to accurately identify the location of a train. The Board agrees that this will occur and recommends that Amtrak provide alternate methods to aid personnel in identifying their precise wayside location. A variety of permanent wayside markers could be used for this purpose. Consequently, the Board has left this matter to Amtrak to resolve. Another loss of data can occur under the Amtrak proposal which would require deactivation of the cab signals in the event that the automatic speed control device fails in service. Although the Board agrees that operating such equipment under the "Absolute Block" provisions of the proposal is the safest course of action, the Board recommends that Amtrak not require the cab signal equipment to be deactivated under circumstances where only the automatic speed control device fails in service. The final aspect of the loss of data issue involves the absence of any method to verify the accuracy of the cab signal aspect by comparison with a wayside signal. The Board agrees with the commenters and recommends that Amtrak provide some alternate method to permit such verifications. In this instance also there are multiple methods to accomplish this goal and consequently the Board has left Amtrak with discretion in this area.

The commenters' concerns over the failure rates of existing equipment has also been noted. The Board believes that all parties are aware of the need for improved reliability of this equipment and that the failure of such equipment when operating under the proposed system, which will necessitate the use of the "Absolute Block" procedure, will intensify the need for reliable operation of this equipment. As to the commenter's suggestion, that the waiver previously granted permitting commuter operations in the Philadelphia area with failed equipment, be extended to this new system, the Board does not agree. If the car borne equipment fails, the "Absolute Block" procedure is the only alternative method of operations the Board is permitting. Consequently, the Board is terminating the relief previously granted, effective upon the installation of the proposed system.

There is a related issue raised by another commenter which involves the use of non-equipped locomotives over this system. FRA regulations (49 CFR 236.566) currently prohibit the use of non-equipped locomotives unless a waiver of compliance has been granted by the Board. The commenter making this suggestion, the Providence and Worcester, will not be directly affected by the proceeding currently before the Board. The Board, therefore, has not acted on this suggestion and will address this issue when a specific proposal involving trackage over which a railroad actually operates or intends to operate with non-equipped locomotives is presented to the Board.

In a similar manner the cost of installing the equipment needed to operate over this system and the availablity of funding to resolve those cost problems were raised by several commenters. These commenters also raised issues about alternate signal systems which would make greater use of the existing installation. The Board has not addressed these issues because they are beyond the authority of the Board to resolve.

The cost of installing the equipment needed to operate over this system and the availability of funding to resolve those cost problems were raised by several commenters. These commenters also raised issues about alternate signal systems which would make greater use of the existing installation. The Board has not addressed these issues because they are beyond the scope of the Board's authority.

The concerns expressed by the commenters about certain technological aspects of the proposed system were reviewed. These concerns included the design principels of some equipment, the choice of electrical frequencies and the use of car borne event recorders. Although the Board shares the desires of the commenters to have a total system design that fully explains all aspects of the various components available for review, the facts in this proceeding do not permit that review. The concepts and designs proposed by Amtrak all have some parallel use in various existing systems and consequently do not present any radical departure from established technology. The Board is requiring that Amtrak perform a safety analysis of the various new devices which will be utilized to determine their failure modes and thereby remove any lingering concern over equipment that is still in the design stage. As to the use of car borne event recorders the Board has not imposed any condition on their use or design features. The Board believes that this is an issue that should be resolved by Amtrak with the affected parties. However, the Board urges that event recorders be utilized on all equipment because the Board believes that effective devices can be designed and will prove helpful to all parties.

The final issue raised by the commenters concerned the operating rules Amtrak proposes to use in connection with this signal system. The proposed operating rules have been reviewed by FRA and have been found for the most part to be adaptations of the existing operating rules with the wording modified to apply to the new signal system. The Board has not found any radical departure from historical precedent or any demonstrably unsafe feature in these proposed rules. The Board agrees with the commenters who urged the need for careful training and believes that Amtrak has effective plans to deal with this matter.

The Board has decided to impose a variety of conditions to the approval of this proposal to primarily address issues that were not raised by the commenters. These conditions involve technical aspects of the proposal. The conditions are as follows:

1. That only one master code location be permitted between each interlocking home signal and its approach signal.

2. That master code locations be located so that a station stop overrun will not result in a train moving out of the block normally occupied at the station stop.

3. That an approach signal shall not display an indication more favorable than "Proceed at Restricted Speed" when the track is occupied between the approach signal and the interlocking home signal in advance.

4. That a yellow aspect, indicating that speed is to be restricted and stop may be required, shall be used at the approach signal to an interlocking home signal when the home signal displays a "Stop" indication or a "Proceed at Restricted Speed" indication.

5. That a buffer zone of zero code be provided in the approach to each block where a stop may be required.

6. That electric locks be provided for all hand operated switches where the maximum permissible speed is in excess of 20 m.p.h.

7. That centrifugal type relays presently used in the existing system are not used in the proposed system.

8. That the automatic train control device of each locomotive require recurring acknowledgement when operating under a "Restricted Speed" indication.

9. That the 100 Hz signal reference voltage and the 25 Hz propulsion current be synchronized or the frequency of the signal reference voltage be such that it is not affected by the frequency of the propulsion current or harmonics thereof.

10. That the reference and track voltages of each phase selective track circuit be supplied from the same source of power.

11. That only locomotives equipped with operative automatic train control device be allowed to enter the proposed system.

12. That a safety analysis be performed for all signal equipment to be utilized to determine the fail safe design of components under all conditions.

13. That all relief from compliance with 49 CFR Part 236 previously granted to the applicant or other parties, which is applicable to this application area, is cancelled upon installation of the proposed system.

14. That the automatic train control device of locomotives operated in freight service may be so arranged as to provide that an automatic brake application can be prevented by a reduction of between 15 and 17 pounds within 30 to 50 seconds.

The Board has also decided to grant the relief requested by Amtrak in two of the related waiver petitions indentified RS&I Number 608 and RS&I Number 609. The relief from compliance with 49 CFR 235.567 requested in RS&I Number 608 will permit Amtrak to use flashing wayside signal aspects to indicate that an absolute block has been established. The relief from compliance with 49 CFR 235.23(b) requested in RS&I Number 609 will permit Amtrak to use cab signal aspects with illuminated numbers or letters to indicate maximum permissible speed.

The Board has denied the relief requested in the related waiver petition identified as RS&I Number 607. The relief sought by Amtrak would permit the use of a color position wayside signal displaying a "green" aspect to indicate "proceed at maximum permissable speed" when the next home signal is displaying a "red" aspect and the cab signal indicator is displaying a restricting aspect between the master code location and the home signal. The Board has concluded that under appropriate circumstances this indication could provide misleading information and that granting the requested relief would reduce safety. The Board has dismissed the remaining waiver petition, identified as RS&I Number 610, as unnecessary.

This notice is issued under the authority of Section 25 of the Interstate Commerce Act as amended, 41 Stat. 498, 49 U.S.C. 26 and Section 1.49(g) of the regulations of the Office of the Secretary of Transporation, 49 CFR 1.49(g).

Issued in Washington, D.C. on December 4, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-38664 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes December 30, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
4460-X	Ethyl Corporation, Baton Rouge, LA (see footnote 1).	4460
4575-X	Pennwalt Corporation, Philadelphia, PA.	4575
5117-X	U.S. Environmental Protection Agency, Research Triangle Pk, NC.	5117
6016-X	Huber Supply Company, Mason City, IA.	6016
6762-X	Taylor Chemicals, Inc., Baltimore, MD.	6762
6834-X	FMC Corporation, Philadelphia, PA	6834
6864-X	Contrans, Hamburg, West Germany.	6864
7011-X	Advanced Chemical Technology, City of Industry, CA (see footnote 2).	7011
7207-X	Matheson Gas Products, Lyndhurst, NJ.	7207
7259-X	Stauffer Cemical Company, Westport, CT.	7259
7275-X	Express Airways, Inc., Sanford, FL	7275
7444-X	James Russell Engineering Works, Inc., Boston, MA.	7444
7505-X	Platte Chemical Company, Greeley, CO.	7505
7830-X	Sea Containers, Inc., New York, NY.	7830
7846-X	Union Carbide Corporation, Linde Division, Tarrytown, NY.	7846
7873-X	Bleiwerk Goslar KG, West Germany.	7873
7879-X	Gearhart Industries Inc., Fort Worth, TX.	7879
7881-X	FMC Corporation, Philadelphia, PA	7881
7925-X	A/S Cheminova, Lemvig, Denmark	7925
7938-X	Lowaco, S.A., Geneva, Switzerland	7938
7938-X	Bignier Schmid-Laurent, Paris, France.	7938
7938-X	Sea Containers, Inc., New York, NY.	7938
7938-X	Eurctainer, Paris, France	7938
7938-X	Compagnie Generale Maritime, Paris, France.	7938

Application No.	Applicant	Renewal of exemption
7957-X	Process Engineering Inc., Plaistow, NH.	7957
7998-X	FMC Corporation, Philadelphia, PA	7998
8002-X	Bignier Schmid-Laurent, Paris, France.	8002
8003-X	Pennwalt Corporation, Buffalo, NY	8003
8005-X	Intsel Corporation, New York, NY	8005
8046-X	Contrans, Hamburg, West Germany.	8046
8107-X	Billings Energy Corporation, Independence, MO.	8107
8109-X	SLEMI, Paris, France	8109
8109-X	Transport International Containers, SA, Paris, France.	8109
8109-X	Fauvet-Girel, Paris, France	8109
8109-X	CATU Containers, S.A., Geneva, Switzerland.	8109
8110-X	Fauvet-Girel, Paris, France	8110
8110-X	Transport International Containers, SA, Paris, France.	8110
8110-X	SLEMI, Paris, France	8110
8110-X	Eurotainer, Paris, France	8110
8116-X	U.S. Environmental Protection Agency, Cincinnati, Ohio.	8116
8120-X	Starflight Incorporated, Arlington, TN.	8120
8129-X	RAD Service, Inc., Laurel, MD (see footnote 3).	8129
8141-X	GTE Products Corporation, Needham, MA (see footnote 4).	8141
8299-X	HTL Industries, Incorporated, Duarte, CA (see footnote 5).	8299

[1]Request amendment to remove requirement for internal visual inspection of portable tanks.

[2]To authorize ammonium perchlorate granular, classed as an oxidizer as an additional commodity.

[3]To authorize flammable solids, oxidizers, and poison B liquids as additional commodities and to include a DOT 37A steel drum as additional packaging.

[4]To renew and to add rail freight, cargo vessel and to modify the exemption pertaining to individual cell packaging and supervised loading.

[5]To authorize various modifications to cylinder requirements e.g., expansion data, physical test requirements, flattening test.

Application No.	Applicant	Parties to exemption
3330-P	Western Zirconium, Inc., Ogden, UT.	3330
6765-P	Teikoku Sanso Kabushiki Kaisha, Kobe, Japan.	6765
7052-P	General Motors Corporation, Detroit, MI.	7052
8125-P	Compagnie des Containers Reservoirs, Paris, France.	8125
8217-P	Eurotainers, Paris, France	8217
8352-P	FMC Corporation, Philadelphia, PA	8352
8354-P	Comangnie des Containers Reservoirs, Paris, France.	8354
8365-P	Southeastern Waste Treatment, Inc., Dalton, GA.	8365
8375-P	Trafpak Limited, England	8375
8471-P	Hoyer S.A.G.L., Chiasso, Switzerland.	8471
8471-P	Sea Containers, Inc., New York, NY.	8471

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 8, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-38752 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in August 1980. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions		
3992-X	DOT-E 3992	Linden Chemicals & Plastics, Inc., Edison, NJ	49 CFR 173.314	To authorize the transportation of hydrogen chloride in DOT Specification 105A600W tank cars. (Mode 2.)
4612-X	DOT-E 4612	Aldrich Chemical Co., Inc., Milwaukee, WI	49 CFR 173.135, 173.122, 173.136, 173.139, 173.154, 173.206, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in 12B fiberboard boxes. (Mode 1.)
5322-X	DOT-E 5322	LNG Services, Inc., Pittsburgh, PA	49 CFR 172.101, 173.315(a)	To authorize the use of a non-DOT specification cargo tank for the transportation of certain flammable gases. (Mode 1.)
5322-X	DOT-E 5322	San Diego Gas & Electric Company, San Diego, CA.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for transportation of certain flammable gases. (Mode 1.)
5365-X	DOT-E 5365	SunOlin Chemical Company, Claymont, DE	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification polyurethane insulated cargo tanks for the transportation of a flammable cryogenic liquid. (Mode 1.)
5403-X	DOT-E 5403	Halliburton Services, Inc., Duncan, OK	49 CFR 173.245(a)(31), 173.248(a)(6), 173.249(a)(6), 173.263(a)(10), 173.264(a)(14), 173.263(b)(3), 173.272(i)(21), 173.289(a)(4), 178.343-2(b), 178.343-5(b)(1)(i), 178.343-5(b)(2)(i).	To authorize the use of cargo tanks, meeting the requirements of DOT Specification MC-312 with certain exceptions, in support of oil well acidizing and industrial cleaning operations. (Modes 1, 3.)
6154-X	DOT-E 6154	Uniroyal Chemical, Naugatuck, CT	49 CFR 173.154(a)(12), 178.205-16	To authorize the transportation of certain flammable solids in a modified DOT Specification 12B fiberboard box. (Modes 1, 2, 3.)
6472-X	DOT-E 6472	Thiokol Corporation, Brigham City, Utah	49 CFR 173.91	To authorize use of non-DOT specification polystyrene containers for certain Class B explosives. (Modes 1, 2, 3.)
6530-P	DOT-E 6530	Liquid Air Corporation, Chicago, IL	49 CFR 173.302(c)	To become a party to Exemption 6530. (Modes 1, 2.)
6530-P	DOT-E 6530	The Great Plains Welding Supply Company, Cheyenne, WY.	49 CFR 173.302(c)	To become a party to Exemption 6530. (Modes 1, 2.)
6536-X	DOT-E 6536	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6589-X	DOT-E 6589	Robertshaw Controls Company, Anaheim, CA	49 CFR 173.302(a)(1), 175.3	To authorize transportation of compressed air, a nonflammable gas, in non-DOT specification cylinders. (Modes 1, 2, 4.)
6762-P	DOT-E 6762	Lever Brothers Company, Incorporated, New York, NY.	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 4.)
6762-P	DOT-E 6762	Reliance Brooks Inc., Cleveland, OH	49 CFR 173.286(b)(2), 175,3	To become a party to Exemption 6762. (MOdes 1, 2, 4.)

Renewal and Party to Exemptions—Continued

6858-X	DOT-E 6858	Johnson ScanStar; General Steamship Corporation, San Francisco, CA.	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)
6858-X	DOT-E 6858	Bacardi International Limited, Hamilton, Bermuda.	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)
6858-X	DOT-E 6858	Eurotainer, Paris, France	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)
6859-X	DOT-E 6859	Pyronetics Devices, Incorporated, Denver, CO	49 CFR 173.302(a)(1), 173.34(d), 175.3.	To authorize non-DOT packaging for a nonflammable compressed gas. (Modes 1, 3, 4.)
6898-X	DOT-E 6898	Allied Chemical Corporation, Morristown, NJ	49 CFR 178.150-4(a)(1)	To authorize ½ inch poly-propylene type strapping instead of 1¼ inch tape for closure of containers used to transport certain corrosive liquids and an oxidizer. (Modes 1, 2, 3.)
6904-X	DOT-E 6904	Aldrich Chemical Company, Inc., Milwaukee, WI	49 CFR 173.246(a), 175.3	To authorize packagings not currently provided for in the Hazardous Materials Regulations for a corrosive material. (Modes 1, 3, 4.)
7014-X	DOT-E 7014	Eurotainer, Paris, France	49 CFR 173.125(a)	To authorize the use of non-DOT specification intermodal portable tanks for use in the transportation of ethyl alcohol (flammable liquid). (Modes 1, 2, 3.)
7052-P	DOT-E 7052	Gould, Inc., Andover, MA	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Wilson Greatbatch, Ltd., Clarence, NY	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Reach Electronics, Inc., Lexington, NE	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Raytek, Inc., Mountain View, CA	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Electrochem Industries, Inc., Clarence, NY	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Duracell International, Inc., Elmsford, NY	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Rockwell International Corporation, Anaheim, CA.	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	General Electric Company, Gainesville, FL	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Environmental Device Company, Marion, MA	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	EG&G Environmental Equipment, Herndon, VA	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Tadiran-Israel Electronics Industries, Ltd., Tel Aviv, Israel.	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Sonatech, Inc., Goleta, CA	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Matsushita Battery Industial Company, Osaka, Japan.	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Hercules, Incorporated, Wilmington, DE	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Altus Corporation, Palo, CA	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Bunker Ramo Corporation, Westlake Village, CA	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Panasonic Company, Secaucus, NJ	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Ocean Research Equipment, Inc., Falmouth, MA	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7070-X	DOT-E 7070	Engelhardt Industries, Providence, RI	49 CFR 173.365, 175.3, 175.630	To authorize the shipment of a poison B solid in a plastic jar/metal can/fiberboard box composite packaging. (Modes 4, 5.)
7070-X	DOT-E 7070	Lea-Ronal, Incorporated, Freeport, NY	49 CFR 173.365, 175.3, 175.630	To authorize the shipment of a poison B solid in a plastic jar/metal can/fiberboard box composite packaging. (Modes 4, 5.)
7070-X	DOT-E 7070	American Chemical and Refining Company, Waterbury, CT.	49 CFR 173.365, 175.3, 175.630	To authorize the shipment of a poison B solid in a plastic jar/metal can/fiberboard box composite packaging. (Modes 4, 5.)
7070-X	DOT-E 7070	Technic, Inc., Cranston, RI	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar/metal can/fiberboard box composite packaging. (Modes 4, 5.)
7070-X	DOT-E 7070	Auric Corporation, Newark, NJ	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar/metal can/fiberboard box composite packaging. (Modes 4, 5.)
7070-X	DOT-E 7070	Oxy Metal Industries Corporation, Nutley, NJ	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar/metal can/fiberboard box composite packaging. (Modes 4, 5.)
7076-P	DOT-E 7076	Reliance Brooks, Inc., Cleveland, OH	49 CFR 173.289(b)	To become a party to Exemption 7076. (Modes 1, 2, 3.)
7455-X	DOT-E 7455	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 176.177(g), 176.177(h), 176.177(n), 176.177(q), 176.177(r), 176.410(e).	To authorize handling and stowage of explosive material in an anchored and unmanned barge. (Mode 3.)

Renewal and Party to Exemptions—Continued

7494-X	DOT-E 7494	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize the transportation or shipment of certain cryogenic liquids in a non-DOT cargo tank. (Modes 1, 3.)
7495-X	DOT-E 7495	General American Transportation Corporation, Sharon, PA.	49 CFR 173.315(a)(1)	To authorize the use of a portable steel tank for the transportation of chlorine or sulfur dioxide, nonflammable gas. (Modes 1, 2, 3.)
7516-X	DOT-E 7516	Eurotainer, Paris, France	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for transportation of certain flammable, corrosive, poisonous, or combustible liquids. (Mode 3.)
7586-X	DOT-E 7586	Rockwell International, Downey, CA	49 CFR 173.88(e)(2)(ii), 173.92	To authorize the transportation of rocket motors (class B explosive) in a propulsive state and in a packaging not presently prescribed in the regulations. (Mode 1.)
7595-X	DOT-E 7595	American Cyanamid Company, Wayne, NJ	49 CFR 173.358, 173.359	To authorize the transport of certain poison B liquids in DOT Specification MC-312 cargo tanks. (Mode 1.)
7607-X	DOT-E 7607	Gulf Oil Corporation, Pittsburgh, PA	49 CFR 172.101, 175.3	To authorize shipment of hydrogen in non-DOT specification seamless steel cylinders. (Mode 5.)
7613-X	DOT-E 7613	Rexnord, Incorporated, Brookfield, WI	49 CFR 173.245(a)(17), 175.3	To authorize the use of an unlined one-gallon tin can for shipment of corrosive materials. (Modes 1, 2, 3, 4.)
7629-X	DOT-E 7629	Eurotainer, Paris, France	49 CFR 173.119, 173.245, 173.268, 173.289, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize the use of non-DOT specification portable tanks for the transportation of various flammable liquids, corrosive materials, and combustible liquids. (Modes 1, 3.)
7680-X	DOT-E 7680	Sterling Drug, Inc., New York, NY	49 CFR 173.206(a)(2)	To authorize the shipment of sodium amide, a flammable solid, in non-DOT specification reusable stainless steel drums. (Mode 1.)
7743-X	DOT-E 7743	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 173.315	To authorize the use of a DOT 51 portable tank for transportation of a certain flammable gas. (Mode 1.)
7744-X	DOT-E 7744	Dow Corning Corporation, Midland, MI	49 CFR 172.101, 173.315(a), 178.377-11(c).	To authorize the shipment of liquefied anhydrous hydrogen chloride in DOT Specification MC-331 cargo tanks. (Mode 1.)
7754-X	DOT-E 7754	Hercules, Incorporated, Wilmington, DE	49 CFR 173.103(a), 173.66, 177.835(g)(2)(i).	To authorize the transport of non-electric blasting caps in the same vehicle with Class A and Class B explosives when the caps are placed in a special container. (Mode 1.)
7768-X	DOT-E 7768	Plasti-Drum Corporation, Lockport, IL	49 CFR 173.217, 173.245b, 178.19	To authorize the shipment of oxidizers and corrosive materials in 55-gallon removable head, non-DOT specification polyethylene drums. (Modes 1, 2, 3.)
7777-P	DOT-E 7777	Lang Engineering Co., Inc., Rochester, WI	49 CFR 173.248	To become a party to Exemption 7777. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Eurotainer, Paris, France	49 CFR 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255, 46 CFR 90.05-3549.	To authorize shipment of various hazardous materials in a non-DOT specification IMCO Type 1, portable tank. (Modes 1, 2, 3.)
7819-P	DOT-E 7819	Cheminova A/S, Lemvig, Denmark	49 CFR 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255, 46 CFR 90.05-3549.	To become a party to Exemption 7819. (Modes 1, 2, 3.)
7835-P	DOT-E 7835	Liquid Carbonic Corporation, Chicago, IL	49 CFR 107 Appen. B(1), 177.848	To become a party to Exemption 7835. (Mode 1.)
7835-P	DOT-E 7835	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 107 Appen. B(1), 177.848	To become a party to Exemption 7835. (Mode 1.)
7885-X	DOT-E 7885	The Mercold Corporation, Chicago, IL	49 CFR 173.1200, 173.123, 173.347, 175.3.	To authorize the use of non-DOT packaging for the transportation of certain hazardous materials. (Modes 1, 2, 3, 4, 5.)
7888-X	DOT-E 7888	Rheem Manufacturing Co., Linden, NJ	49 CFR 173, subpart F, 178.19	To authorize the use of a modified DOT-34 drum for the transportation of certain corrosive liquids. (Modes 1, 2, 3.)
7909-X	DOT-E 7909	Dow Chemical Company, Midland, MI	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.33.	To authorize shipment of Class B poisons in inside containers overpacked in composite packaging of not over 1 liter capacity, without the Poison B label. (Modes 1, 2, 4.)
7943-X	DOT-E 7943	GPS Industries, City of Industry, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7952-X	DOT-E 7952	Albright & Wilson Inc., Norwood, NJ	49 CFR 173.270, 178.87	To authorize the shipment of phosphorus tribromide in non-DOT specification lead-lined drums. (Modes 1, 2, 3.)
8009-X	DOT-E 8009	Pressure Transport, Inc., Austin, TX	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize the transportation of natural gas in DOT 3AAX2400 cylinders made of 4130X steel. (Mode 1.)
8014-X	DOT-E 8014	Dow Chemical Company, Midland, MI	49 CFR 173.353(a)(2)	To authorize the shipment of methyl bromide or permitted methyl bromide mixtures in a DOT-12A fiberboard box. (Modes 1, 2, 3.)
8027-X	DOT-E 8027	Carrier International Corporation, Syracuse, NY	49 CFR 172.101	To authorize shipment of air-conditioning machines described as "air-conditioning machines" as an alternative to "refrigerating machine". (Modes 1, 2, 3.)
8037-X	DOT-E 8037	Mauser-Werke G.m.b.H. (Mauser Packaging, Ltd.), New York, NY.	49 CFR 173.127, 173.184, 178.224	To authorize the use of a non-DOT specification fiberboard drum for shipment of wet nitrocellulose, a flammable solid. (Modes 1, 2, 3.)
8039-X	DOT-E 8039	Connecticut Bulk Carriers, Inc., Stamford,	49 CFR 173.245a	To authorize the use of a DOT Specification portable tank for the transportation of a corrosive and poisonous B liquid. (Modes 1, 2, 3.)
8116-P	DOT-E 8116	U.S. Department of the Interior, Denver, CO	49 CFR 100-199	To become a party to Exemption 8116. (Modes 1, 2, 3, 4, 5.)
8192-X	DOT-E 8192	Grief Bros. Corporation, Springfield, NJ	49 CFR 173.346, 173.348	To authorize the shipment of arsenic acid in a DOT-34 container. (Mode 1.)
8214-X	DOT-E 8214	Thiokol Corporation, Brigham City, UT	49 CFR 173.153, 173.154, 175.3	To authorize the transportation of inflators and modules for passive restraint systems for use in automobiles. (Modes 1, 2, 3, 4.)
8226-P	DOT-E 8226	Contrans, Hamburg, West Germany	49 CFR 173.118(a), 173.119, 173.125, 173.128, 173.131, 173.132, 173.144, 173.245(a)(30), 173.346, 173.630.	To become a party to Exemption 8226. (Modes 1, 2, 3.)
8253-P	DOT-E 8447	Queen City Barrel Company, Cincinnati, OH	49 CFR 173.28(o), 178.118-10(a)	To become a party to Exemption 8447.(Modes 1, 2, 3, 4.)

Renewal and Party to Exemptions—Continued

8324-X	DOT-E 8324	Rexnord, Incorporated, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 178.131.	To authorize shipment of certain corrosive liquids, n.o.s., in a 1 gallon tin can, placed in a molded polyethylene liner, overpacked in a modified 26 gauge unlined DOT Specification 37A 5 gallon steel drum containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.
8325-P	DOT-8325	Siemi, Paris, France	49 CFR 173.119, 173.245, 173.346	To become a party to Exemption 8325. (Modes 1, 2, 3.)
8344-p	DOT-E 8344	Farwest Sports, Inc., Olympia, WA	49 CFR 173.197a	To become a party to Exemption 8344.(Mode 1.)
8417-P	DOT-E 8417	Sea Containers Atlantic, Ltd., Hamilton, Bermuda.	49 CFR 173.119, 173.125, 173.245, 173.346, 173.510.	To become a party to Exemption 8417. (Modes 1, 2, 3.
8441-P	DOT-E 8441	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)

New Exemptions

8238-N	DOT-E 8238	Asarco, Incorporated, New York, NY	49 CFR 173.308	To authorize the shipment of arsenical flue dust in non-DOT specification packaging. (Mode 2.)
8292-N	DOT-E 8292	Radian Corporation, Austin, TX	49 CFR 172(D)(E)(F)(H), 172.101, 175.3.	To authorize the transportation of small quantities of certain hazardous materials as analytical standards. (Modes 1, 2, 3, 4, 5.)
8323-N	DOT-D 8323	Westerwalder Eisenwerk, West Germany	49 CFR 173.119, 173.245, 173.249	To authorize the use of non-DOT specification intermodal portable tanks for shipment of certain hazardous materials (liquids). (Modes 1, 2, 3.)
8325-N	DOT-E 8325	Fauvet-Girel, Paris, France	49 CFR 173.119, 173.245, 173.346	To authorize the shipment of certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
8381-N	DOT-E 8381	Mobay Chemical Corporation, Kansas City, MObay Chemical Corporation, Kansas City, Mo.	49 CFR 173.3(c), 177.854(c)(2), 178.241.	To authorize the use of a DOT Specification 44P bag as an overpack for containment of and return of DOT-44D packages of certain Class B poisoncus solids damaged in transit. (Modes 1, 2.)
8388-N	DOT-E 8388	B. W. Norton Manufacturing Company, Oakland, CA.	49 CFR 173 Subpart D, 173 Subpart F, 178.19.	To authorize shipment of liquid hazardous materials in a five-gallon capacity removable head polyethylene drum. (Modes 1, 2, 3.)
8393-N	DOT-E 8393	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 172.101, 173.315, 176.76(b)	To authorize the use of non-DOT specification cargo tanks for shipment of certain hazardous materials. (Mode 3.)
8395-N	DOT-E 8395	3M Company, St. Paul, MN	49 CFR 173.124(a)(3)	To authorize shipment of ethylene oxide in inside aluminum cartridges, contents not over 138 grams each, packed in outside packagings as specified in 49 CFR 173.124(a)(3). (Modes 1, 2, 3, 4.)
8400-N	DOT-E 8400	Bard Air Corporation, Detroit, MI	49 CFR 107 Appendix B, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b).	To authorize the carriage of certain explosives by cargo-only aircraft. (Mode 4.)
8417-N	DOT-E 8417	Hugonnet, S.A., Paris, France	49 CFR 173.119, 173.125, 173.245, 173.346, 173.510.	To authorize shipment of various hazardous materials in non DOT specification IMCO portable tanks. (Modes 1, 2, 3.)
8427-N	DOT-E 8427	The Department of Defense, Washington, DC	49 CFR 173.276	To authorize use of a DOT-3A or 3E stainless steel cylinder for shipment of anhydrous hydrazine. (Mode 4.)

Emergency Exemptions

EE 6563-X	DOT-E 6563	Safety Medical Corp., Bryn Mawr, PA	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases in non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5.)
EE 8469-N	DOT-E 8469	The Federal Republic of Germany, Bonn, West Germany.	49 CFR 173.86	To authorize the shipment of a liquid propellant tentatively classed as a class B explosive. (Mode 1.)
EE 8470-N	DOT-E 8470	Thiokol Corporation, Brigham City, UT	49 CFR 173.92(a)	To authorize use of a non-DOT specification box for shipping rocket motors. (Mode 1.)

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Withdrawals			
7690-X	Prestex Products Co., St. Paul, MN	49 CFR 173.119(a), 173.119(b), 173.125	To authorize DOT Specification 34 polyethylene container for certain flammable liquids. (Mode 1.)
8392-P	Hercules, Incorporated, Wilmington, DE	49 CFR	To become a party to Exemption 8392. (Mode 1.)

Denials

8331-N—Request by Department of the Army, Washington, DC to authorize the transportation of pilots life support systems containing various Class C explosives overpacked in an aerial delivery bag as passengers checked baggage denied August 13, 1980.

8373-N—Request by Swimming Pool Chemical Manufacturers Association, Torrance, CA to authorize the transport of corrosive liquids and oxidizing materials in the same vehicle denied August 14, 1980.

8433-N—Request by Intel Corporation, Santa Clara, CA to authorize one-time reuse, without reconditioning, of DOT Specification, Series 17 steel drums, for shipment of spent solvents, classed as flammable liquids denied August 28, 1980.

8452-N—Request by Scott Environmental Technology Inc., Plumsteadville, PA to authorize shipment of various nonflammable, nonliquefied compressed gases in DOT Specification 39 cylinders without a safety relief device denied August 26, 1980.

EE-8482-N—Request by University of California, Santa Barbara, CA. to authorize a one-time shipment of a stainless steel research container of lithium metal overpacked in a plywood crate denied August 27, 1980.

Issued in Washington, D.C., on December 8, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-38753 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in July 1980. The modes of transporation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application munbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions		
2587-P	DOT-E 2587	Weldcraft Equipment and Oxygen Company, Struthers, OH.	49 CFR 173.315(a)(1)	To become a party to Exemption 2587. (Mode 1.)
2787-X	DOT-E 2787	Raytheon Co., Andover, MA	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain non-flammable compressed gas in non-DOT specification packaging. (Modes 1, 2, 3, 4.)
2787-X	DOT-E 2787	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain non-flammable compressed gas in non-DOT specification packaging. (Modes 1, 2, 3, 4.)
3004-X	DOT-E 3004	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification cylinders for the transportation of certain compressed gases. (Modes 1, 2, 4, 5.)
3004-X	DOT-E 3004	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification cylinders for the transportation of certain compressed gases. (Modes 1, 2, 4, 5.)
3004-X	DOT-E 3004	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification cylinders for the transportation of certain compressed gases. (Modes 1, 2, 4, 5.)
3004-X	DOT-E 3004	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification cylinders for certain flammable, and non-flammable compressed gases. (Modes 1, 2, 4, 5.)
3128-X	DOT-E 3128	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 173.304, 175.3	To authorize transportation of a certain Class C explosive and a liquefied nonflammable gas in non-DOT specification cylinders. (Modes 1, 2, 3, 4.)
4052-X	DOT-E 4052	The Boeing Company, Seattle, WA	49 CFR 173.305, 173.34(d), 175.3	To authorize shipment of an aerosol formulation pressurized with nitrogen in a DOT Specification 39 container. (Modes 1, 2, 4, 5.)
4453-P	DOT-E 4453	Wampum Hardware Co., New Galilee, PA	49 CFR 173.114a(h)(3), 175.182(c)	To become a party to Exemption 4453. (Mode 1.)
4850-X	DOT-E 4850	Halliburton Services, Inc., Duncan, OK	49 CFR 173.100(cc), 175.3	To authorize the shipment of flexible linear shaped charges, metal clad, in 100-ft. lengths, not more than 50 grams per lineal foot of a high explosive, classed as a class C explosive. (Modes 1, 2, 4.)
4850-X	DOT-E 4850	Ensign Bickford Company, Simsburg, CT	49 CFR 173.100(cc), 175.3	To authorize the shipment of flexible linear shaped charges, metal clad, in 100-ft. lengths, not more than 50 grams per lineal foot of a high explosive, classed as a class C explosive. (Modes 1, 2, 4.)
5243-X	DOT-E 5243	Trojan Division, IMC Chemical Group, Inc., Allentown, PA.	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To authorize specific packaging for the tailless MS connector.
5243-X	DOT-E 5243	Austin Powder Company, Cleveland, OH	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To authorize specific packaging for the tailless MS connector.
5456-X	DOT-E 5456	J. T. Baker Chemical Company, Phillipsburg, NJ	49 CFR 173.245, 173.247, 173.363, 173.268, 173.269, 173.272, 173.349.	To authorize the use of non-DOT specification packaging for certain Poison B liquids, liquid corrosive materials, and oxidizers. (Modes 1, 2, 3.)
5526-X	DOT-E 5526	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	49 CFR 173.119, 173.125, 173.127, 173.128, 173.129, 173.131, 173.132, 173.144, 173.145, 173.147, 173.221, 173.222, 173.223, 173.245, 173.247, 173.248, 173.250a, 173.253, 173.262, 173.263, 173.265, 173.266, 173.267, 173.268, 173.269, 173.272, 173.276, 173.277, 173.278, 173.291, 173.295, 173.299a, 173.348, 173.348, 173.349, 173.361, 173.362a, 173.371.	To authorize non-DOT specification polystyrene packaging for shipment of flammable liquids, liquid organic peroxides, liquid oxidizers, corrosive liquids, or poison B liquids. (Modes 1, 2.)
5652-X	DOT-E 5652	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.245(a), 173.247(a)(11), 173.315(a)(11), 173.315(a)(1) 173.315(a)(1).	To authorize use of a non-specification portable tank for shipment of a nonflammable compressed gas and a flammable liquid. (Mode 1.)
5668-X	DOT-E 5668	Atlantic Container Line, Elizabeth, NJ	49 CFR 173.119(b), 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize shipment of certain flammable combustible liquids in portable tanks. (Modes 1, 2, 3.)
5701-X	DOT-E 5701	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	49 CFR 173.268(a)(3)	To authorize use of a non-DOT cargo tank for a certain oxidizer. (Mode 1.)
5736-X	DOT-E 5736	El Paso Products Company, Odessa, TX	49 CFR 172.101, 173.314(c)	To authorize the use of non-DOT specification tank cars for the transportation of a flammable gas. (Modes 2, 3.)
5749-X	DOT-E 5749	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	49 CFR 173.315(a)	To authorize an insulated nickel steel DOT MC-331 cargo tank for a certain flammable gas. (Mode 1.)
5891-X	DOT-E 5891	U.S. Department of Energy, Washington, DC	49 CFR 173.64(a)(4)	To authorize the transport of high explosives in quantities greater than those now authorized. (Mode 1.)
6064-X	DOT-E 6064	Martin Marrietta Chemicals (Sodyeco Div), Charlotte, NC.	49 CFR 173.65(e), 178.24-4(a)	To authorize the transport of high explosive in packagings not presently prescribed. (Mode 1.)
6305-X	DOT-E 6305	Ensign Bickford Co., Simsbury, CT	49 CFR 173.113(a)(1)	To authorize the shipment of Class C explosives in DOT-23F35 fiberboard boxes. (Modes 1, 2.)
6305-X	DOT-E 6305	International Minerals & Chemical Corp., Allentown, PA.	49 CFR 173.113(a)(1)	To authorize the shipment of Class C explosives in DOT-23F35 fiberboard boxes. (Modes 1, 2.)
6305-X	DOT-E 6305	Monsanto Company, St. Louis, MO	49 CFR 173.113(a)(1)	To authorize the shipment of Class C explosives in DOT-23F35 fiberboard boxes. (Modes 1, 2.)
6309-X	DOT-E 6309	General Latex and Chemical Corporation (of Ga.), Dalton, GA.	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification portable tank to transport nonpoisonous, nonflammable compressed gases. (Modes 1, 2.)

Renewal and Party to Exemptions—Continued

6309-X	DOT-E 6309	Insta-Foam Products, Inc., Joliet, IL	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification portable tank to transport nonpoisonous, nonflammable compressed gases. (Modes 1, 2.)
6325-X	DOT-E 8458	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	49 CFR 173.114a	To authorize the use of non-DOT specification cargo tanks and DOT Specification MC-306, 307, or 312 stainless steel cargo tanks to transport blasting agents. (Mode 1.)
6397-X	DOT-E 6397	Allied Chemical Corporation, Morristown, NJ	49 CFR 173.346(a)	To authorize the shipment of certain Class B poisonous liquids in DOT-34 containers. (Modes 1, 2.)
6397-X	DOT-E 6397	Pennwalt Corporation, Philadelphia, PA	49 CFR 173.346(a)	To authorize the shipment of certain Class B poisonous liquids in DOT-34 containers. (Modes 1, 2.)
6398-X	DOT-E 6398	Puerto Rico Marine Management, Inc., Elizabeth, NJ.	49 CFR 173.119	To authorize use of non-DOT specification intermodal portable tanks for flammable liquids. (Modes 1, 3.)
6466-P	DOT-E 6466	International Minerals and Chemical Corporation, Allentown, PA.	49 CFR 173.62(a)(1), 173.87	To become a party to Exemption 6466. (Mode 1.)
6501-X	DOT-E 6501	GOEX, Inc., Cleburne, TX	49 CFR 173.62	To authorize the transport of liquid high explosives in packagings not presently authorized. (Mode 1.)
6530-X	DOT-E 6530	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in certain cylinders filled to 110% of its marked service pressure. (Modes 1, 2.)
6530-X	DOT-E 6530	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in certain cylinders filled to 110% of its marked service pressure. (Modes 1, 2.)
6530-X	DOT-E 6530	Red Ball Oxygen Co., Inc., Shreveport, LA	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in certain cylinders filled to 110% of its marked service pressure. (Modes 1, 2.)
6530-X	DOT-E 6530	Liquid Carbonic Corporation, Chicago, IL	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in certain cylinders filled to 110% of its marked service pressure. (Modes 1, 2.)
6530-X	DOT-E 6530	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in certain cylinders filled to 110% of its marked service pressure. (Modes 1, 2.)
6536-X	DOT-E 6536	The Southern Connecticut Gas Company, Bridgeport, CT.	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in cargo tanks. (Mode 1.)
6614-X	DOT-E 6614	Chem Lab Products, Inc., Anaheim, CA	49 CFR 173.263(a)(28), 173.277(a)(6).	To authorize the transportation of certain corrosive liquids in non-DOT specification polyethylene bottles, packed inside a high density polyethylene box. (Mode 1.)
6616-X	DOT-E 6616	Fenwal, Incorporated, Ashland, MA	49 CFR 173.304(a)(1), 175.3	To authorize the use of non-DOT specification pressure vessels for the transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
6758-X	DOT-E 6758	Roper Plastics, Inc., Oakbrook, IL	49 CFR	To authorize the shipment of liquid hazardous materials in five gallon capacity removable head polyethylene drums.
6759-X	DOT-E 6759	Austin Powder Co., Cleveland, OH	49 CFR 173.87, 177.835(g)(2)	To authorize shipment of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (Mode 1.)
6762-X	DOT-E 6762	Taylor Chemicals, Inc., Baltimore, MD	49 CFR 173.288(b)(2), 175.3	To authorize the transportation of certain corrosive and flammable liquids in plastic inside packaging and fiberboard outside packaging. (Modes 1, 2, 4.)
6763-X	DOT-E 6763	Purex Corporation, City of Industry, CA	49 CFR 173.217(a)(8)	To authorize use of non-DOT packaging for certain oxidizers. (Modes 1, 2, 3.)
6765-P	DOT-E 6765	Phillips Petroleum Company, Bartlesville, OK	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6765. (Modes 1, 3.)
6793-X	DOT-E 8375	Containers and Pressure Vessels, Ltd., Clones, Ireland.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize the use of non-DOT specification portable tanks, for shipment of various hazardous materials. (Modes 1, 2, 3.)
6793-X	DOT-E 6793	Containers and Pressure Vessels, Limited, Clones, Ireland.	49 CFR 173.119, 173.245, 173.247, 173.346, 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize the use of non-DOT specification portable tanks, for shipment of various hazardous materials. (Modes 1, 2, 3.)
6793-X	DOT-E 6793	Sea Containers, Inc., New York, NY	49 CFR 173.119, 173.245, 173.247, 173.346, 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize the use of non-DOT specification portable tanks, for shipment of various hazardous materials. (Modes 1, 2, 3.)
6806-X	DOT-E 6806	Dow Chemical Company, Midland, MI	49 CFR 173.302(a) 175.3	To authorize shipment of a flammable gas by passenger-carrying aircraft. (Mode 5.)
6816-X	DOT-E 6816	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 173.53(p)	To authorize shipment of a hybrid missile, described as rocket ammunition with explosive projectile in packaging prescribed in 173.57(a). (Mode 1.)
6816-P	DOT-E 6816	McDonnell Douglas Corporation, St. Louis, MO	49 CFR 173.53(p)	To become a party to Exemption 6816. (Mode 1.)
6820-X	DOT-E 6820	Chem Lab Products, Inc., Anaheim, CA	49 CFR 173.217(a)	To authorize sodium dichloroisocyanurate, dry, containing more than 39% available chlorine to be transported in 12A or 12B fiberboard boxes as an overpack. (Mode 1.)
6858-X	DOT-E 6858	Orval Tank Containers, Paris, France	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)
6858-X	DOT-E 6858	Marcevaggi S. P. A., Vignolo Borbera, Italy	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)
6858-X	DOT-E 6858	Interpool Ltd., New York, NY	49 CFR 173.119, 173.125, 173.245, 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)

Renewal and Party to Exemptions—Continued

6883-X	DOT-E 6883	Hedwin Corporation, Baltimore, MD	49 CFR 173.119, 173.221, 173.245(a)(26), 173.249(a)(1), 173.250(a)(1), 173.256(a), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(g), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 178.19.	To authorize transportation of certain hazardous materials in non-DOT specification 55-gallon polyethylene Spec. 34 type packaging. (Modes 1, 2, 3.)
6922-X	DOT-E 6922	Halocarbon Products Corporation, Hackensack, NJ.	49 CFR 173.314(c), 179.300-15	To authorize shipment of a flammable compressed gas in DOT 106A500-X multi-unit tank car tanks. (Modes 1, 2, 3.)
6922-X	DOT-E 6922	PCR Incorporated, Gainesville, FL	49 CFR 173.314(c), 179.300-15	To authorize shipment of a flammable compressed gas in DOT 106A500-X mu itl-unit tank car tanks. (Modes 1, 2, 3.)
6963-X	DOT-E 6963	I.S.C. Chemicals Limited, Bristol, England	49 CFR 173.264(a), 173.264(b)	To authorize use of non-DOT specification intermodal portable tanks for the transportation of hydrofluoric acid and anhydrous hydrofluoric acid. (Modes 1, 3.)
7026-X	DOT-E 7026	Hydraulic Research Textron, Pacoima, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize the use of a non-DOT specification pressure vessel for a compressed gas. (Modes 1, 4, 5.)
7032-X	DOT-E 7032	Polaroid Corporation, Needham Heights, MA	49 CFR 172.101, 175.3	To authorize outside packages exceeding the 100 pounds limitation to be carried aboard cargo-only aircraft. (Mode 4.)
7040-X	DOT-E 7040	Polaroid Corporation (International Division), Needham Heights, MA.	49 CFR 172.101, 175.3	To authorize the carriage of larger quantities of corrosive liquids other than presently authorized by cargo-only aircraft. (Mode 4.)
7077-X	DOT-E 7077	E.I. du Pont de Nemours & Company, Incorporated, Wilmington, De.	49 CFR 173.315(a)(1)	To authorize the use of non-DOT specification portable tanks for certain nonflammable and flammable gases. (Modes 1, 3.)
7270-X	DOT-E 7270	The Dow Chemical Company, Freeport, TX	46 CFR 98.35	To authorize use of a non-DOT specification tank for combustible liquids. (Mode 3.)
7423-P	DOT-E 7423	NL Industries, Inc., Salt Lake City, UT	49 CFR 173.154, 173.220(b)(2), 176.76(g)(5).	To become a party to Exemption 7423. (Modes 1, 2, 3.)
7498-X	DOT-E 7498	Allied Chemical Corporation, Morristown, NJ	49 CFR 173.263(a)(15), 178.210	To authorize shipment of a corrosive liquid in a non-DOT specification corrugated polypropylene box. (Modes 1, 2, 3.)
7573-X	DOT-E 7573	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 175.3, 175.30(a)(1)	To authorize the transportation of certain hazardous materials presently forbidden or in quantities greater than allowed for cargo-only aircraft. (Mode 4.)
7594-X	DOT-E 7594	Bromine Compounds Ltd., Beersheva, Israel	49 CFR 173.353	To authorize use of a non-DOT specification portable tank for transportation of a class B poison. (Modes 1, 3.)
7601-X	DOT-E 7601	Atlantic Research Corporation, Gainesville, VA	49 CFR 173.53(e), 173.62	To authorize the shipment of desensitized nitroglycerin in non-DOT specification packagings. (Mode 1.)
7611-X	DOT-E 7611	Richfood, Inc., Richmond, VA	49 CFR 173.101, 173.87	To authorize the transport of certain class C explosives in packagings not presently authorized in 49 CFR 173.101(a). (Mode 1.)
7620-X	DOT-E 7620	Eastern Mediterranean (Containers) Company, Ltd., London, England.	49 CFR 173.119, 173.154, 173.245, 173.247,173.268,173.346, 46 CFR 90.05-35.	To authorize the use of certain non-DOT specification portable tanks for use in the transportation of various hazardous materials. (Modes 1, 3.)
7633-X	DOT-E 7633	Sea Containers, Inc., New York, NY	49 CFR 173.119, 173.128(a), 173.129, 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346(a), 173.510, 173.605(a), 173.630(b), 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of various hazardous materials. (Modes 1, 2, 3.)
7633-X	DOT-E 7633	Orval Tank Containers, Paris, France	49 CFR 173.119, 173.128(a), 173.129, 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346(a), 173.510, 173.605(a), 173.630(b), 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of various hazardous materials. (Modes 1, 2, 3.)
7654-X	DOT-E 7654	Mallinckrodt, Incorporated, St. Louis, MO	49 CFR 173.119(f)	To authorize the use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transporation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7654	Texas Eastman Company, Longview, TX	49 CFR 173.119(f)	To authorize the use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transporation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7654	Fisher Scientific Company, Fair Lawn, NJ	49 CFR 173.119(f)	To authorize the use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transporation of a flammable liquid. (Modes 1, 2.)
7671-X	DOT-E 7671	Sea Containers, Inc., Hamilton, Bermuda	49 CFR 173.119, 173.125, 173.128(a), 173.129, 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346(a), 173.510, 173.605(a), 173.630(b), 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for transportation of various hazardous materials. (Modes 1, 2, 3.)
7671-X	DOT-E 7671	Hugonnet, S.A., Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.129, 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346(a), 173.510, 173.605(a), 173.630(b), 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for transportation of various hazardous materials. (Modes 1, 2, 3.)
7695-X	DOT-E 7695	Orval Tank Containers, Paris, France	49 CFR 173.119, 173.245(a), 173.249, 173.295(a), 173.346(a), 173.620, 46 CFR 90.05-35.	To authorize use of a non-DOT insulated portable tank for transportation of various hazardous materials. (Modes 1, 3.)
7695-X	DOT-E 7695	Lowaco, S.A., Geneva, Switzerland	49 CFR 173.119, 173.245(a), 173.249, 173.295(a), 173.346(a), 173.620, 46 CFR 90.05-35.	To authorize use of a non-DOT insulated portable tank for transportation of various hazardous materials. (Modes 1, 3.)
7719-X	DOT-E 7719	Turner Co., Sycamore, IL	49 CFR 173.304, 178.65	To authorize shipment of methylacetylene propadiene stabilized in a DOT specification 39 cylinder. (Modes 1, 2.)

Renewal and Party to Exemptions—Continued

7720-X	DOT-E 7720	Mitsui O.S.K. Lines, Ltd. & Sumitomo Shoji America.	49 CFR 173.119	To authorize the use of a non-DOT specification portable tank for transportation for certain flammable liquids. (Modes 1, 2, 3.)
7737-X	DOT-E 7737	Parker Hannifin Corporation, Cliff Impact Division, Eastlake, OH.	49 CFR 173.304(a)(1), 175.3, 178.42	To authorize the manufacture, marking, and sale of a non-DOT seamless aluminum cylinder for use in the transportation of a nonflammable compressed gas. (Modes 1, 2, 4.)
7741-P	DOT-E 7741	Propellant Explosive & Rocket Motors Establishment, Aylesbury, England.	49 CFR 173.276(a), 173.302(a), 173.34(d), 175.3, 175.30.	To become a party to Exemption 7741. (Modes 1, 3, 4.)
7741-X	DOT-E 7741	Bell Aerospace, Buffalo, NY	49 CFR 173.276(a), 173.302(a), 173.34(d), 175.3, 175.30.	To authorize the shipment of anhydrous hydrazine and helium in non-refillable non-DOT specification packagings. (Modes 1, 3, 4.)
7752-X	DOT-E 7752	Eurotainer, Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 176.76(g)(2), 46 CFR 90.95-35.	To authorize the use of non-DOT specification intermodal portable tanks for use in transportation of various hazardous materials. (Modes 1, 2, 3.)
7752-X	DOT-E 7752	Hugonnet, S.A., Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 176.76(g)(2), 46 CFR 90.95-35.	To authorize the use of non-DOT specification intermodal portable tanks for use in transporation of various hazardous materials. (Modes 1, 2, 3.)
7811-X	DOT-E 7811	Burdick & Jackson Laboratories, Inc., Muskegon, MI.	49 CFR 173.119(a)(23), 173.245(a)(18), 175.3, 178.210.	To authorize use of DOT Specification corrugated fiberboard box with handholes for the transportation of certain corrosive and flammable liquids. (Modes 1, 2, 3, 4.)
7820-P	DOT-E 7820	United Tank Containers, Inc., New York, NY	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To become a party to Exemption 7820. (Modes 1, 2, 3.)
7820-P	DOT-E 7820	Gentigent Leasing Inc., Geneva, Switzerland	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To become a party to Exemption 7820. (Modes 1, 2, 3.)
7828-X	DOT-E 7828	Alaska International Air, Inc., Fairbanks, AL	49 CFR 172.101, 175.3	To authorize the carriage of a larger quantity of LPG than authorized by 172.101 in a DOT-51 portable tank on cargo-only aircraft. (Mode 4.)
7887-X	DOT-E 7887	Flight System, Inc., Burns Flat, OK	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Small Rocket Sounding Systems, Mountlake Terrace, WA.	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Century Engineering Co., Inc., Phoenix, AZ	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Flight Systems, Inc., Raytown, MO	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Composite Dynamics, North Las Vegas, NV	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4, 5.)
7887-X	DOT-E 7887	Estes Industries, Incorporated, Penrose, CO	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of packages of toy propellant devices as an ORM-D material and excepted from labeling requirements. (Modes 1, 2, 3, 4, 5.)
7919-X	DOT-E 7919	Alaska Hydro-Train, Seattle, WA	49 CFR 176.83(d)(1)	To authorize stowage in the same hold or compartment of hazardous materials which normally may not be stowed together on board a vessel. (Mode 3.)
7959-X	DOT-E 7959	Woods Hole, Martha's Vineyard & Nantucket Steamshi, Woods Hole, MA.	49 CFR 172.101, 176.76(g)(3), 176.78(k).	To authorize the stowage of transport vehicles and motor vehicles containing compressed gases on the vehicle deck of ferries and passenger vessels. (Mode 3.)
7971-X	DOT-E 7971	Hydraulic Research, Textron Inc., Pacoima, CA	49 CFR 173.302, 173.304, 175.3, 178.53.	To authorize the manufacture, marking and sale of cylinders built in compliance with DOT Specification 4D except the minimum service pressure will be 700 psi, for the transportation of nonflammable compressed gas. (Modes 1, 2, 3, 4, 5.)
7972-X	DOT-E 7972	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 172.504	To authorize the transport of limited quantities of explosive in a special shipping container without placarding the vehicle. (Mode 1.)
7987-X	DOT-E 7987	Stauffer Chemical Company, Westport, CT	49 CFR 173.343, 173.377	To authorize shipment of an organic phosphate mixture, dry, which does not meet the definition of a Class B poison, as a Class B poison, in non-DOT 5-ply natural kraft multi-wall bags, with an aluminum foil barrier bearing poison labels. (Modes 1, 2.)
7998-X	DOT-E 7998	Dow Chemical USA, Midland, MI	49 CFR 173.154	To authorize the transport of sodium persulfate in non-DOT composite polyethylene paper bags. (Modes 1, 2.)
8020-X	DOT-E 8020	Benzomatic Corporation, Medina, NY	49 CFR 173.34(d), 173.357	To authorize the use of a DOT-39 cylinder for the transportation of Poison B liquid. (Modes 1, 2, 3.)
8123-X	DOT-E 8123	Texas Instruments Incorporated, Dallas, TX	49 CFR 173.119(a)(7), 173.119(b)(4), 173.125(a)(1), 173.245(a)(12), 173.263(a)(15), 173.264(a)(4), 173.266(c)(5), 173.272, 173.293(a)(1), 173.293(b), 178.210-10.	To authorize the shipment of various hazardous materials in a non-DOT specification plastic overpack containing multiple DOT-2E polyethylene bottles of one-gallon capacity or prescribed metal cans. (Mode 1.)
8156-P	DOT-E 8156	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To become a party to Exemption 8156. (Modes 1, 2.)
8251-P	DOT-E 8251	Sea Containers Inc., Hamilton, Bermuda	49 CFR 173.119, 173.245, 173.346	To become a party to Exemption 8251. (Modes 1, 2, 3.)
8372-P	DOT-E 8372	Eurotainer, Paris, France	49 CFR 173.245	To become a party to Exemption 8372. (Modes 1, 2, 3.)
8374-P	DOT-E 8374	Sea Container Atlantic Ltd., Hamilton, Bermuda	49 CFR 173.119, 173.245, 173.346	To become a party to Exemption 8374. (Modes 1, 2, 3.)
8375-P	DOT-E 8375	Hoyer S.A.G.L., Chiasso, Switzerland	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To become a party to Exemption 8375. (Modes 1, 2, 3.)

Renewal and Party to Exemptions—Continued

New Exemptions

8337-N	DOT-E 8337	Industrial and Municipal Engineering, Galva, IL	49 CFR 173.119(a)(17), 173.245(a)(30), 178.340-7, 178.343-5, 18.342-5.	To manufacture, mark and sell non-DOT specification cargo tanks for shipment of flammable or corrosive waste, liquid or semi-solids. (Mode 1.)
8346-N	DOT-E 8346	Mobay Chemical Corporation, Pittsburgh, PA	49 CFR 173.247, 173.271	To authorize the use of non-DOT specification intermodal portable tanks for the shipment of corrosive liquids. (Modes 1, 2, 3.)
8364-N	DOT-E 8364	Luxfer UK, Limited, Nottingham, England	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 173.336(a)(2), 175.3.	To authorize the use of non-DOT specification aluminum cylinders for the shipment of certain liquefied and non-liquefied compressed gases. (Modes 1, 2, 3, 4.)
8369-N	DOT-E 8369	Degussa Corporation, Teterboro, NJ	49 CFR 172.101	To authorize the transportation of glycidol at a controlled temperature and separated from certain other chemicals in non-DOT specification drums. (Modes 1, 2, 3.)
8372-N	DOT-E 8372	Fauvet-Girel, Paris, France	49 CFR 173.245	To authorize certain corrosive materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8374-N	DOT-E 8374	TSUJI Heavy Industries Co., Ltd., Sasebo, Nagasaki, Japan.	49 CFR 173.119, 173.245, 173.346	To authorize the transport of certain hazardous materials in non-DOT specification intermodal-portable tanks. (Modes 1, 2, 3.)
8387-N	DOT-E 8387	FMC Corporation, Industrial Chemical Group, Philadelphia, PA.	49 CFR 173.266(e)	To authorize the transportation of hydrogen peroxide in DOT Specification MC 312 tank motor vehicle aboard cargo vessel. (Mode 3.)
8394-N	DOT-E 8394	Tempset, Inc., St. Louis, MO	49 CFR Parts 100-177	To Authorize shipment of small quantities of sodium-potassium alloy contained in thermostats overpacked in fiberboard boxes, as non-regulated material. (Modes 1, 2, 3, 4.)
8404-N	DOT-E 8404	Minnesota Valley Engineering, New Prauge, MI	49 CFR 173.304(a)(2), 175.3	To authorize the manufacture, mark and sell and use of a DOT 4L cylinder with design pressure less than that authorized in the regulations for shipment of argon, nitrogen and oxygen. (Modes 1, 2, 3.)
8423-N	DOT-E 8423	U.S. Environmental Protection Agency, Washington, D.C.	49 CFR Parts 100-199	To ship minute quantities of a solution of 25% nitric acid and Group I through VI radionuclides in non-DOT specification composite packaging, described as "Analytical Standards". (Modes 1, 2, 3, 4, 5.)
8441-N	DOT-E 8441	Duracell International Inc., Elmsford, NY	49 CFR 172.101	To authorize shipment of used lithium-sulfur dioxide batteries, classed as ORM-E packaged in DOT Specification 12B fiberboard boxes not to exceed 65 pounds. (Mode 1.)

Emergency Exemptions

EE 8232-X	DOT-E 8232	ANF Industrie, Paris, France	49 CFR 173.315(a)	To authorize use of a non-DOT specification portable tank for the transportation of certain compressed gases. (Modes 1, 2, 3.)
EE 8448	NDOT-E 8448	Trans-Alaska Helicopters, Inc., Anchorage, AK	49 CFR 175.3, 175.310(c)(3), 175.310(d).	To authorize the carriage of fuel (flammable liquid) in DOT Specification 5B, 5L, or 34 containers, loaded in cargo compartments of passenger-carrying helicopters. (Mode 5.)
EE 8461	NDOT-E 8461	Chemical Waste Management Carrier, Emelle, AL	49 CFR 173.225	To authorize shipments of phosphorus pentasulfide layered between sand in "dump" trucks. (Mode 1.)

Application	Applicant	Regulation(s) affected	Nature of exemption thereof
Withdrawals			
6921-X	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification portable tank for a nonflammable gas. (Modes 1, 3.)
7620-P	Degussa, Frankfurt, Germany	49 CFR 1763.119, 173.154, 173.245, 173.247, 173.268, 173.346, 46 CFR 90.05-35.	To become a party of Exemption 7620. (Modes 1, 3.)
8203-P	Degussa, Frankfurt, Germany	49 CFR 173.119, 173.154, 173.245, 173.247, 173.268, 173.346, 46 CFR 90.05-35.	To become a party to Exemption 8203. (Modes 1, 3.)

Denials

6526-P—Request by Borden Inc., Columbus, OH to authorize the Transportation of Poison B liquids in unauthorized DOT specification cylinders denied July 23, 1980.

7060-P—Request by Aero America, Inc., Danvers, MA to authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation critera cannot be met denied July 16, 1980.

8229-P—Request by Independent Explosives Co., Cleveland, OH to authorize the transport vehicle containing combined shipments of nitrocarbo nitrate (oxidizer) and blasting agent, n.o.s. (blasting agent) to be placarded as blasting agent only denied July 24, 1980.

8311-N—Request by Pressed Steel Tank Co., Inc., Milwaukee, WI to authorize the shipment of liquified nad non-liquified non-flammable compressed gases in a non-DOT Specification cylinders denied July 23, 1980.

8360-N—Request by Rhem Manufacturing Co., Linden, NJ to authorize the use of a DOT-12P fiberboard box with two inner 2.5 gallon DOT 2U polyethylene containers for shipment of various hazardous materials denied July 24, 1980

8392-N—Request by Request by Gulf Oil Chemicals Company, Shawnee Mission, KS to authorize the transportation of a product identified as NCN-700 in a 10 cubic yard concrete mixer denied July 16, 1980.

Issued in Washington, D.C., on December 8, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-38754 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1980. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions		
1479-X	DOT-E 1479	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.315(a)(1)	To authorize the use of non-DOT specification cargo tanks for the transportation of a nonflammable compressed gas. (Mode 1.)
2913-X	DOT-E 2913	U.S. Department of Energy, Washington, DC	49 CFR 172.101, 173.301(d)(1), 173.301(d)(2), 173.302(a)(1), 173.34(d), 175.3.	To authorize the use of non-DOT specification cylinders for the transportation of certain flammable and nonflammable nonliquefied compressed gases. (Modes 1, 4.)
3126-X	DOT-E 3126	Hercules, Incorporated, Wilmington, DE	49 CFR 173.62, 177.821, 177.822(b), 177.835(k).	To authorize packaging not prescribed by the Hazardous Materials Regulations for the shipment of a Class A explosive. (Mode 1.)
3216-X	DOT-E 3216	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.314(c)	To authorize the use of a proposed DOT Specification tank car tank for the transportation of certain compressed gases. (Modes 1, 3.)
3941-X	DOT-E 3941	Aerojet Tactical Systems, Sacramento, CA	49 CFR 173.239a(a)(2)	To authorize the transport of ammonium perchlorate in non-DOT specification portable tanks. (Modes 1, 2.)
3941-X	DOT-E 3941	Pacific Engineering & Production Company of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize the transportation of ammonium perchlorate in non-DOT specification portable tanks. (Modes 1, 2.)
3941-X	DOT-E 3941	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	49 CFR 173.239a(a)(2)	To authorize the transportation of ammonium perchlorate in non-DOT specification portable tanks. (Modes 1, 2.)
4612-X	DOT-E 4612	MCB Manufacturing Chemists, Cincinnati, OH	49 CFR 173.135, 173.122, 173.136, 173.139, 173.154, 173.206, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize the shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in 12B fiber board boxes. (Mode 1.)
5038-X	DOT-E 5038	Synthatron Corporation, Parsippany, NJ	49 CFR 173.135(a)(6), 173.136(a)(5), 173.247(a)(1).	To authorize the shipment of dimethyldichlorosilane, trichlorosilane, and silicon tetrachloride in non-DOT specification cylinders. (Modes 1, 2.)
5414-X	DOT-E 5414	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 172.101, 173.315(a)	To authorize the use of a non-DOT specification portable tank for shipment of a flammable gas.
6045-X	DOT-E 6045	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 173.121	To authorize use of DOT Specification MC-312 cargo tanks for a flammable liquid. (Modes 1, 3.)
6080-X	DOT-E 6080	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.301(d), 173.327(a), 173.337(a)(1).	To authorize the use of manifolded cylinders for a Class A poison. (Mode 1.)
6296-X	DOT-E 6296	American Cyanamid Company, Wayne, NJ	49 CFR 173.377(g)	To authorize additional bag packagings for the transportation of certain Class B poisons in DOT 44D multi-wall paper bags. (Modes 1, 2.)
6349-X	DOT-E 6349	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3.)
6392-X	DOT-E 6392	Northern Petrochemical Company, Des Plaines, IL.	49 CFR 172.101, 173.314(c)	To authorize use of non-DOT specification vacuum insulated tank car tanks for a liquefied flammable compressed gas. (Mode 2.)
6418-X	DOT-E 6418	The Dow Chemical Company, Midland, MI	49 CFR 173.357(b)	To authorize the use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310, or MC-312 steel cargo tanks for the transportation of certain Class B poisonous liquids. (Mode 1.)
6453-X	DOT-E 6453	General Motors Corporation, Detroit, MI	49 CFR 173.302(a)(1), 175.3	To authorize the use of a non-refillable, welded, modified DOT 39 steel cylinder for the transportation of certain nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6484-X	DOT-E 6484	Dow Chemical Company, Midland, MI	49 CFR 172.101	To authorize the transportation of mixtures of nitromethane and various solvents in tank motor vehicles. (Mode 1.)
6497-X	DOT-E 6497	FMC Corporation, Philadelphia, PA	49 CFR 173.365, 174.63(c)	To authorize the use of a modified DOT Specification 56 metal portable tank for certain Class B poison solids. (Modes 1, 2.)
6538-X	DOT-E 6538	Wonder Corporation of America, Stamford, CT	49 CFR 173.304(d)(3)(ii), 178.33	To authorize the use of non-DOT specification inside nonrefillable metal container for the transportation of a flammable gas. (Modes 1, 3.)
6538-X	DOT-E 6538	Aladdin Industries Incorporated, Nashville, TN	49 CFR 173.304(d)(3)(ii), 178.33	To authorize the use of a non-DOT specification inside nonrefillable metal container for the transportation of a certain flammable gas. (Modes 1, 3.)
6569-X	DOT-E 6569	Bacardi International Limited, Hamilton, Bermuda.	49 CFR 173.119(b)	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable liquids. (Modes 1, 2, 3.)
6602-X	DOT-E 6602	Dow Chemical Company, Midland, MI	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To authorize the use of DOT MC-331 cargo tanks and DOT 105A500W or 106A500X tank car tanks for the transportation of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2.)

Renewal and Party to Exemptions—Continued

6614-P	DOT-E 6614	Esbro Chemical, Redwood City, CA	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to Exemption 6614. (Mode 1.)
6670-X	DOT-E 6670	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.301(d), 173.302	To authorize the shipment of tetrafluoromethane, a nonflammable gas, in DOT Specification 3A2400, 3AA2400, 3AX2400, and 3AAX2400 cylinders. (Mode 1.)
6691-X	DOT-E 6691	Union Carbide Corporation, Linde Division, Tarrytown, NY.	49 CFR 173.34(e)(15)(i)	To authorize the use of DOT Specification 3A or 3AA cylinders over 35 years old which may be retested every 10 years, for the trasportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
6762-P	DOT-E 6762	Oxford Chemicals, Inc., Chambles, GA	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 4.)
6762-P	DOT-E 6762	Schaefer Chemical Products Company, Saginaw, MI.	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 4.)
6793-X	DOT-E 6793	Hickson & Welch, Ltd., London, England	49 CFR 173.119, 173.245, 173.247, 173.346; 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize the use of non-DOT specification portable tanks, for shipment of various hazardous materials. (Modes 1, 2, 3.)
6806-X	DOT-E 6806	Analytical Instrument Development, Inc., Avondale, PA.	49 CFR 172.101(a), 175.3	To authorize shipment of a flammable gas by passenger-carrying aircraft. (Mode 5.)
6864-X	DOT-E 6864	Bacardi International Limited, Hamilton, Bermuda	49 CFR 173.119(b), 173.125	To authorize the use of a non-DOT specification portable tank for the transportation of alcohol and other flammable liquids. (Modes 1, 2, 3.)
6902-X	DOT-E 6902	Synthatron Corporation, Parsippany, NJ	49 CFR 173.314(c), 179.300-15	To authorize the shipment of a certain liquefied nonflammable compressed gas in a modified DOT Specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
7005-P	DOT-E 7005	United Tank Containers, Inc., New York, NY	49 CFR 173.119, 173.141(a)(10), 173.245(a)(30), 173.346, 173.620, 173.630, 46 CFR 90.05-35.	To become a party to Exemption 7005. (Modes 1, 2, 3.)
7052-P	DOT-E 7052	Plainview Electronics Corporation, Plainview, NY	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Gearhart Industries, Inc., Fort Worth, TX	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Bren-Tronics, Inc., Commack, NY	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7060-X	DOT-E 7060	Sajen Air, Inc., Jennings, MO	49 CFR 175.700(a), 175.75(a)(3)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-P	DOT-E 7060	Air Charter Services, Inc., Mansfield, MA	49 CFR 175.700(a), 175.75(a)(3)	To become a party to Exemption 7060. (Mode 4.)
7202-P	DOT-E 7202	University of Miami, Miami, FL	49 CFR 173.24(a)(1), 175.3, 175.75(a)(1), 175.85(a).	To become a party to Exemption 7202. (Mode 5.)
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Azusa, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize the use of non-DOT specification cylinders for the transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Azusa, CA.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification aluminum-lined cylinders for the transportation of certain nonflammable gases. (Modes 1, 2, 3, 4, 5.)
7413-X	DOT-E 7413	Chilton Metal Products Div. Western Industries, Inc., Chilton, WI.	49 CFR 173.304(a)(1), 175.3, 178.42	To authorize the transportation of carbon dioxide in a non-DOT specification brazed steel cylinder. (Modes 1, 2, 4.)
7454-X	DOT-E 7454	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 176.410(e)(2), 176.83	To authorize nitro carbonitrates to be stowed in proximity to certain explosives without a bulkhead separating these materials. (Mode 3.)
7483-X	DOT-E 7483	Hugonnet, S.A., Paris, France	49 CFR 173.119, 173.131(a)(1), 173.132(a)(1), 173.144(a)(1), 173.245(a), 46 CFR 90.05-35.	To authorize use of non-DOT specification intermodal portable tanks for the transportation of various hazardous materials. (Modes 1, 2, 3.)
7483-X	DOT-E 7483	Compagnie Generale Maritime, Paris, France	49 CFR 173.119, 173.131(a)(1), 173.132(a)(1), 173.144(a)(1), 173.245(a), 46 CFR 90.05-35.	To authorize use of non-DOT specification intermodal tanks for the transportation of various hazardous materials. (Modes 1, 2, 3.)
7503-X	DOT-E 7503	Lowaco, S.A., Geneva, Switzerland	49 CFR 172.101, 173.119, 173.141, 173.245(a) 173.295(a), 173.346(a) 46 CFR 90.05-35.	To authorize the use of a portable tank which has no comparable tank in the regulations for the transportation of various hazardous materials. (Modes 1, 3.)
7544-X	DOT-E 7544	Eastman Kodak Company, Rochester, NY	49 CFR 173.245, 173.249, 173.272	To authorize transportation of solutions of sodium hydroxide and certain other liquid corrosives, authorized to be packaged in a DOT Specification 2U & DOT Specification 12P, in a non-specification packaging. (Modes 1, 2, 3.)
7616-X	DOT-E 7616	The Kansas City Southern Railway Company, et al., Kansas City, MO.	49 CFR 172.204(a), 172.204(d)	To authorize the carrier to certify the shipping paper on behalf of the shipper, and affects those hazardous materials authorized for transportation by rail. (Mode 2.)
7640-X	DOT-E 7640	Mauser Packaging Ltd., New York, NY	49 CFR 173.266(a), 178.19	To authorize use of a DOT-34 polyethylene container of 15 gallon capacity for shipment of hydrogen peroxide, 60% (Modes 1, 2, 3.)
7654-X	DOT-E 7654	J. T. Baker Chemical Company, Phillipsburg, NJ	49 CFR 173.119(f)	To authorize the use of a glass bottle not exceeding 500 millimeter capacity inside a metal container overpacked in a DOT 12B fiberboard box for the transportation of a flammable liquid. (Modes 1, 2.)
7695-X	DOT-E 7695	Tankcargo Container Leasing S.A., Geneva, Switzerland.	49 CFR 173.119, 173.245(a), 173.249, 173.295(a), 173.346(a), 173.620, 46 CFR 90.05-35.	To authorize the use of a non-DOT insulated portable tank for the transportation of various hazardous materials. (Modes 1, 3.)
7701-X	DOT-E 7701	Tankcargo Container Leasing S.A., Geneva, Switzerland.	49 CFR 173.119(b), 173.125	To authorize the shipment of certain flammable liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7708-X	DOT-E 7708	HTL Industries, Incorporated, Monrovia, CA	49 CFR 173.302(a), 175.3	To authorize the use of non-DOT specification small, high pressure cylinders of welded construction for aircraft use only. (Modes 1, 2, 4, 5.)
7753-X	DOT-E 7753	Stauffer Chemical Company, Westport, CT	49 CFR 173.190(b)(2)	To authorize the shipment of yellow phosphorous in a tighthead 55 gallon DOT Specification 17C drum. (Modes 1, 2, 3.)
7753-X	DOT-E 7753	Monsanto Company, St. Louis, MO	49 CFR 173.190(b)(2)	To authorize the shipment of yellow phosphorous in a tighthead 55 gallon DOT Specification 17C drum. (Modes 1, 2, 3.)

Renewal and Party to Exemptions—Continued

7767-X	DOT-E 7767	Hydraulic Research Textron, Pacoima, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel other than that prescribed in the regulations, in the construction of a cylinder patterned after the DOT Specification 4DS cylinder for aircraft use only. (Modes 1, 2, 3, 4, 5.)
7769-X	DOT-E 7769	Brunswick Corporation, Lincoln, NE	49 CFR 173.302(a)(1), 175.3	To authorize shipment of compressed air, nitrogen, or other inert gases, in non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5.)
7791-X	DOT-E 7791	The Puerto Rico Port Authority, San Juan, PR	49 CFR 173.119(a)(17), 173.315, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize carriage of flammable and combustible fuels in non-DOT specification cargo tanks aboard cargo vessels to re-supply island municipalities in Puerto Rico. (Mode 3.)
7802-X	DOT-E 7802	Bennett Industries, Pacoima, CA	49 CFR 173 Subpart D, 173 Subpart F, 178.19.	To authorize shipment of liquid hazardous materials in 3.5-gallon or 5-gallon capacity removable head polyethylene drums. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Tankcargo Container Leasing S. A., Geneva, Switzerland.	49 CFR 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255, 46 CFR 90.05-3549.	To authorize shipment of various hazardous materials in a non-DOT specification IMCO Type 1 portable tank. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	Tankcargo Container Leasing S. A., Geneva, Switzerland.	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize the use of a non-DOT specification portable tank for the transportation of certain corrosive, flammable, poison B, and combustible liquids. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	Hugonnet, S. A., Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize the use of a non-DOT specification portable tank for the transportation of certain corrosive, flammable, and poison B liquids. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	CATU Containers, S. A., Geneva, Switzerland	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable, corrosive, poison B, and combustible liquids. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	Lowaco, S. A., Geneva, Switzerland	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable, corrosive, poison B, and combustible liquids. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	Eurotainer, Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable, corrosive, poison B, and combustible liquids. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	T. I. C., S.A., Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable, corrosive, and poison B liquids. (Modes 1, 2, 3.)
7897-X	DOT-E 7897	Tankcargo container Leasing S.A., Geneva, <Switzerland.	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 46 CFR 90.05-35.	To authorize the use of non-DOT specification portable tanks for the transportation of various hazardous materials. (Modes 1, 2, 3.)
7938-X	DOT-E 7938	Bignier Schmid-Laurent, Paris, France	49 CFR Part 173, Subpart D, F, H	To authorize shipment of flammable, corrosive, poison B, and combustible liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7938-P	DOT-E 7938	Compagnie des Containers Reservoirs, Cedex, France.	49 CFR Part 173, Subpart D, F, H	To become a party to Exemption 7938. (Modes 1, 2, 3.)
7938-P	DOT-E 7938	ABC Containerline N.V., Antwerp, Belgium	49 CFR Part 173, Subpart D, F, H	To become a party to Exemption 7938. (Modes 1; 2, 3.)
7938-X	DOT-E 7938	Sea Containers, Inc., New York, NY	49 CFR Part 173, Subpart D, F, H	To authorize shipment of flammable, corrosive, poison B, and combustible liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7940-X	DOT-E 7940	Centennial Plastics, Inc., Camden, NJ	49 CFR 178.19, Part 173, Subpart D, Subpart F.	To authorize the use of a non-DOT specification polyethylene drum for the transportation of certain corrosive liquids. (Modes 1, 2, 3.)
7991-X	DOT-E 7991	Union Pacific Railroad Company, Omaha, NE	49 CFR Parts 100-177	To authorize the transport of railway track torpedoes and fusees in flagging kits of specified construction. (Mode 1.)
8006-X	DOT-E 8006	Kilgore Corporation, Toone, TN	49 CFR 172.400(a), 172.504 Table 2	To authorize the transportation of unlabeled packages of toy paper or plastic caps complying with the requirements of 173.100(p) and 173.109, in motor vehicles without placards (1,000 pounds or more). (Mode 1.)
8006-X	DOT-E 8006	Bland Brothers Inc., New York, NY	49 CFR 172.400(a), 172.504 Table 2	To authorize the transportation of unlabeled packages of toy paper or plastic caps complying with the requirements of 173.100(p) and 173.109, in motor vehicles without placards (1,000 pounds or more). (Mode 1.)
8006-P	DOT-E 8006	Nichols-Kusan, Inc., Jacksonville, TX	49 CFR 172.400(a), 172.504 Table 2	To become a party to Exemption 8006. (Mode 1)
8013-X	DOT-E 8013	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.302, 173.304, 175.3	To authorize the use of a DOT Specification cylinder not presently authorized for the transportation of certain flammable and nonflammable gases. (Modes 1, 4, 5.)
8017-X	DOT-E 8017	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.301(d)(2), 173.302(a)(3)	To authorize the use of DOT Specification 3AX, 3AAX, or 3T cylinders for the transportation of a flammable gas. (Mode 1.)
8019-X	DOT-E 8019	Robertshaw Controls Company, Indiana, PA	49 CFR 173.206, 175.3, 178.205	To authorize the shipment of sodium potassium, which is a metallic liquid alloy classed as a flammable solid, in non-DOT specification fiberboard boxes. (Modes 1, 2, 4.)
8025-X	DOT-E 8025	Dow Chemical Co., Freeport, TX	49 CFR 173.154	To authorize the transportation of a water reactive solid in closed, watertight rail cars and motor vehicles. (Modes 1, 2.)
8035-X	DOT-E 8035	NL McCullough, NL Industries, Inc., Houston, TX	49 CFR 172.101, 173.93	To authorize the transportation of limited quantities of certain propellant explosives in special plastic tube packaging as Class C explosives. (Mode 1.)
8046-P	DOT-E 8046	Contrans, Hamburg, West Germany	49 CFR 173.247	To become a party to Exemption 8046. (Modes 1, 2, 3.)
8051-X	DOT-E 8051	Mauser-Werke G.m.b.H. (Mauser Packaging, Ltd.), New York, NY.	49 CFR 173, Subpart F, 178.19	To authorize the transportation of certain corrosive liquids in non-DOT specification 55-gallon polyethylene Specification 34 type reusable, blow-molded container. (Modes 1, 2, 3.)
8074-X	DOT-E 8074	Matheson, Lyndhurst, NJ	49 CFR 173.34(d)	To authorize the use of a DOT Specification 3E cylinder without safety devices for the transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4, 5.)
8099-X	DOT-E 8099	Union Carbide Corporation, New York, NY	49 CFR 173.305(a)(15)	To authorize the use of a non-DOT specification composite packaging for shipment of poisonous solids. (Modes 1, 2, 3.)

Renewal and Party to Exemptions—Continued

8101-X	DOT-E 8101	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 173.392(c)(7), 173.392(c)(8)	To authorize the use of the EXPLOSIVES A placard only when 30mm GAU-8 (PGU-14/B) armor piercing ammunition, containing a depleted uranium metal projectile, is loaded in the same shipping container with PGU-13/B ammunition, & eliminates need to label packages as containing radioactive material. (Modes 1, 2, 3.)
8162-X	DOT-E 8162	Structural Composites, Industries, Inc., Azusa, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark and sell a non-DOT specification cylinder for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8222-P	DOT-E 8222	Campagnie des Containers Reservoirs, Cedex, France.	49 CFR 173.245a	To become a party to Exemption 8222. (Modes 1, 3.)
8336-X	DOT-E 8336	Cities Service Company, Tulsa, OK	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize shipment of certain compressed gases, n.o.s., (methane-ethane mixture) in DOT Specification MC-331 tank motor vehicles. (Mode 1.)
8414-P	DOT-E 8414	SLEMI, Paris, France	49 CFR 173.315	To become a party to Exemption 8414. (Modes 1, 2, 3.)

New Exemptions

8367-N	DOT-E 8367	Ford Aerospace and Communications Corporation, Palo Alto, CA.	49 CFR 173.302(a), 175.3	To authorize the shipment of certain batteries and hydrogen gas in non-DOT specification containers. (Modes 1, 2, 3, 4.)
8389-N	DOT-E 8389	Container Corporation of America, Wilmington, DE.	49 CFR 173.346	To authorize the use of a 15 gallon capacity polyethylene DOT Specification 34 packaging for shipment of certain poisonous liquids. (Modes 1, 2, 3.)
8390-N	DOT-E 8390	Texas Instruments, Inc., Dallas, TX	49 CFR 173.272(g), 178.210, 178.24a.	To authorize the shipment of 95%-98% sulfuric acid in DOT-2E polyethylene bottles overpacked in DOT-12A60 fiberboard boxes. (Mode 1.)
8396-N	DOT-E 8396	Aztec Chemicals, Elyria, OH	49 CFR 173.119, 173.21	To authorize the transportation of a flammable liquid which is also an organic peroxide in DOT Specification MC-307 and MC-312 cargo tanks. (Mode 1.)
8397-N	DOT-E 8397	Mauser Packaging Ltd., New York, NY	49 CFR 173.191, 173.217, 173.245b, 173/154, 178.16.	To manufacture, mark and sell a nonreusable, molded ploythylene drum with removable head, with capacities of 8, 16, and 32 gallons, for shipment of phosphorous pentachloride, various corrosive solids and materials presently authorized in a DOT Specification 35. (Modes 1, 2, 3.)
8408-N	DOT-E 8408	Presvac Systems (Burlington) Limited, Ontario, Canada.	49 CFR 173.119(a)(17), 173.245(a)(31), 178.342-5, 178.343-5.	To authorize non-DOT specification cargo tanks complying with DOT Specification MC-307/312 except for bottom outlet valve variation for transport of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8409-N	DOT-E 8409	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	49 CFR 173.264(a)(4)	To authorize the shipment of hydrofluoric acid no greater than 70% strength, in non-DOT Specification polyethylene bottles, not exceeding a capacity of 6 liters, packed in DOT specification 12A fiberboard boxes. (Modes 1, 3.)
8410-N	DOT-E 8410	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	49 CFR 173.269(a)(1)	To authorize the shipment of a perchloric acid no greater than 72% strength in glass bottles, not exceeding a capacity of 2.5 liters, packed in DOT Specification IMCO 4C2 wooden box. (Modes 1, 3.)
8412-N	DOT-E 8412	Mobay Chemical Corporation, Kansas City, MO	49 CFR 173.377(b)(6)	To authorize shipment of organic phosphate compound mixtures in DOT Specification 12B boxes containing no more than two inside DOT Specification 2D foil lined paper bags not to exceed 15 pounds each. (Modes 1, 2, 3.)
8414-N	DOT-E 8414	Fauvet-Girel, Paris, France	49 CFR 173.315	To authorize shipment of various non-flammable, refrigerant, compressed gases in non-DOT specification IMCO V portable tanks. (Modes 1, 2, 3.)
8415-N	DOT-E 8415	Bayonne Barrel & Drum Co., Newark, NJ	49 CFR 173.28(o), 175.3, 178.116-10(a).	To authorize conversion of non-DOT specification tight head 18 gauge steel 55 gallon drums to DOT Specification 17E except for markings for shipment of commodities authorized in DOT Specification 17E. (Modes 1, 2, 3, 4.)
8416-N	DOT-E 8416	The Protectoseal Co., Bensenville, IL	49 CFR 173 Subpart D, 178.89	To manufacture, mark and sell non-DOT specification stainless steel drums for shipment of various flammable liquids. (Mode 1.)
8422-N	DOT-E 8422	CIG Gas Cylinders, Marayong, Australia	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 175.3.	To manufacture, mark and sell non-DOT specification high pressure seamless aluminum cylinders for shipment of compressed gases and other hazardous materials. (Modes 1, 2, 3, 4.)
8426-N	DOT-E 8426	Martin Tank Manufacturing, Cerritos, CA	49 CFR 173.119(a)(17), 173.245(a)(31)(30), 178.304-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transport of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8428-N	DOT-E 8428	Allied Drum Service, Incorporated, Louisville, KY	49 CFR 173.28(o), 175.3, 178.116-10(a).	To authorize conversion of non-DOT specification tight head 18 gauge steel 55 gallon drums to DOT Specification 17E except for location of markings for shipment of commodities authorized in DOT 17E. (Modes 1, 2, 3, 4.)
8432-N	DOT-E 8432	U.S. Department of Defense/MTMC, Washington, DC.	49 CFR 172.101, 173.154, 175.3	To authorize shipment of a demolition kit containing, as separately packaged items, a sodium perchlorate solution classed as an oxidizer, and a powdered aluminum mixture loaded on a strapped and covered wirebound wooden pallet box. (Modes 1, 2, 3, 4.)
8434-N	DOT-E 8434	Union Carbide Corporation, New York, NY	49 CFR 173.154, 173.178	To authorize shipment of calcium silicate powder, classed as a flammable solid, in containers prescribed for calcium carbide. (Modes 1, 2.)
8437-N	DOT-E 8437	Park Chemical Company, Detroit, MI	49 CFR 173.154, 178.241-4	To authorize the shipment of a sodium nitrate mixture in non-DOT specification 50 pound 9 mil plastic bags which are stretch wrapped 40 bags to a pallet. (Modes 1.)

New Exemptions—Continued

8442-N	DOT-E 8442	Lubbock Manufacturing Co., Lubbock, TX	49 CFR 173.315(a)(c)(1)	To manufacture, mark, and sell DOT Specification MC-331 cargo tanks for shipment of ethane-propane mixtures, prepared and offered for transportation in accordance with Notice No. 79-3, Docket HM-115. (Mode 1.)
8443-N	DOT-E 8443	Dow Chemical Company, Midland, MI	49 CFR 173.315(a)(c)(1)	To authorize shipment of ethane-propane mixtures in DOT specification MC-331 cargo tanks in accordance with Notice No. 79-3, Docket HM-115. (Mode 1.)
8444-N	DOT-E 8444	Du Bois Chemical Company, Cincinnati, OH	49 CFR 173.245(a), 173.256(a), 173.263(a).	To authorize shipment of various cleaning compounds, classed as corrosive materials, in a polyethylene lined, DOT Specification 57 portable tank. (Modes 1.)
8445-N	DOT-E 8445	Dow Chemical Company, Midland, MI	49 CFR 173, Subpart D, E, F	To authorize shipment of various hazardous substances and wastes in various containers, not exceeding one gallon capacity, overpacked in DOT specification containers for purposes of disposal. (Mode 1.)
8446-N	DOT-E 8446	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354(a)(2)	To authorize export shipment of motor fuel antiknock compound in DOT Specification 5B drums with openings not exceeding 2.3 inch diameter. (Modes 1, 3.)
8449-N	DOT-E 8449	Tri-State Steel Drum Co., Inc., Graysville, GA	49 CFR 173.28(o), 175.3, 178.118-10(a).	To authorize conversion of non-DOT specification tight head 18 gauge steel 55-gallon drums to DOT specification 17H except for markings for shipment of all commodities authorized in a DOT Specification 17H drum. (Modes 1, 2, 3, 4.)
8464-N	DOT-E 8464	Airesearch Manufacturing Company of Arizona, Phoenix, AZ.	49 CFR 173.302(a)	To manufacture, mark, and sell a toroidal pressure vessel similar to a DOT 39 specification for shipment of helium. (Modes 1, 4, 5.)
8466-N	DOT-E 8466	Atlas Powder Company, Dallas, TX	49 CFR 173.114a	To authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)

Emergency Exemptions

EE 8086-P	DOT-E 8086	U.S. Department of Defense, Washington, DC	49 CFR 172.101, 172.102, 173.119, 173.206, 173.87.	To become a party to Exemption 8086. (Mode 1.)
EE 8483-N	DOT-E 8483	The Embassy of Switzerland, Washington, DC	49 CFR 173.88(c)(2)(v), 173.92, 175.3.	To authorize the transportation of rocket motors, Class B explosives with igniters installed in non-DOT specification packaging and by cargo-only aircraft. (Mode 4.)
EE 8484-N	DOT-E 8484	Alaska International Airline, Anchorage, AK	49 CFR 172.101, 173.315(a)(1), 175.3	To authorize limited shipments of liquefied nitrogen in non-DOT specification portable tanks. (Mode 4.)
EE 8485-N	DOT-E 8485	The U.S. Department of Defense, Washington, DC.	49 CFR 174.104(b)(1)	To authorize shipment of a Class A explosive in open top gondola cars, equipped with friction type bearings and cast iron brake shoes. (Mode 2.)

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Withdrawals			
8002-P	Allied Engineering Corporation, New York, NY.	49 CFR 173.119, 173.141(a)(10), 173.245(a)(30), 173.346, 173.620, 173.630, 46 CFR 90.05-35.	To become a party to Exemption 8002. (Modes 1, 2, 3.)
8430-N	C. T. Takahashi & Associates, Seattle, WA.	49 CFR 173.368	To authorize shipment of arsenical flue dust, poison B solid, in 20-foot bulk dry ocean containers. (Modes 1, 3.)

Denials

8045-X—Request by Container Corporation of America, Wilmington, DE to authorize use of a DOT-12P fiberboard box with two inner 2.5-gallon DOT-2U polyethylene containers for the transportation of corrosive, flammable and Class B poisonous liquids denied September 30, 1980.

8162-X—Request by Structural Composites Industries, Inc., Azusa, CA to manufacture, mark and sell a non-DOT specification cylinder for shipment of certain nonflammable compressed gases denied September 29, 1980.

8357-N—Request by Rho-Chem Corporation, Inglewood, CA to authorize one-time reuse, without reconditioning, of a DOT Specification 17E steel drum of 20/18 gauge, for shipment of contaminated cleaning solvents, classed as flammable liquids denied September 16, 1980.

8420-N—Request by Soaper Chemical Co., Inc., Henderson, KY to authorize shipment of various flammable, corrosive and irritant materials contained in properly labeled drums in open bed trucks without placarding denied September 10, 1980.

8425-N—Request by P B & S Chemical Co., Henderson, KY to authorize shipment of aqua ammonia, 29% in DOT Specification 6D or 34 containers with vented closures denied September 24, 1980.

EE 8486-N—Request by The People-to-People Health Foundation, Inc., Herndon, VA to authorize deregulation of materials identified as "medical supplies" whereby hazardous materials would be carried as nonhazardous materials denied September 30, 1980.

Issued in Washington, D.C., on December 8, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-38755 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of Applicants for exemptions

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes January 14, 1981.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

New Exemptions

Application No.	Applicant	Regulations (s) affected	Nature of exemption thereof
8532-N	Container and Pressure Vessels Limited, Clones, Ireland.	49 CFR 173 Subpart D, 173 Subpart F, 173 Subpart H.	To authorize shipment of various flammable, combustible, and poison B liquids, corrosive materials, and ORM-A materials in non-DOT specification steel portable tanks from 14 to 20 cubic meters capacity with incomplete stiffening rings. (Modes 1, 2, 3.)
8533-N	Container and Pressure Vessels Limited, Clones, Ireland.	49 CFR 173 Subpart D, 173 Subpart F, 173 Subpart H.	To authorize shipment of various flammable, combustible, and poison B liquids corrosive materials, and ORM-A materials in non-DOT specification portable tanks from 20 to 24 cubic meters capacity with incomplete stiffening rings. (Modes 1, 2, 3.)
8534-N	Consolidated Container Corp., Minneapolis, MN.	49 CFR 173.28(o), 178.118-10(a)	To authorize conversion of non-DOT specification tight head 18 guage steel 55 gallon drums to DOT Specification 17H except for markings for shipment of all commodities authorized in a DOT Specification 17H drum. (Mode 4.)
8535-N	Advance Aviation Services, Inc., Mesa, AZ.	49 CFR 107 Appendix B, 172.101 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b).	To authorize carriage of Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8536-N	Pennwalt Corp., Buffalo, NY	49 CFR 173.157(a)(5)	To authorize an increased weight limitation for a 12B carton from 65 pounds to 80 pounds with the dry weight of material not to exceed 50 pounds for shipment of benzoyl peroxide. (Modes 1, 3.)
8537-N	Container Corporation of America, Wilmington, DE.	49 CFR 173.119	To Manufacture, mark and sell DOT Specification 34 containers for shipment of methanol and isopropanol, classed as flammable liquids. (Modes 1, 2, 3.)
8538-N	Hercules Inc., Cumberland, MD	49 CFR 173.62(a)(2)	To authorize shipment of a high explosive liquid in DOT Specification 15M boxes having inside 2-gallon polyethylene bottles wrapped in plastic bags and packed in sawdust in lieu of copper containers and rubber boots. (Mode 1.)
8539-N	Aero Taxi-Rockford, Inc., Rockford, IL	49 CFR 107 appendix B, 172.101, 172.204(c)(3), 173.27, 175.30)a)(1), 175.320(b).	To authorize carriage of class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 9, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials transportation bureau.

[FR Doc. 80-38756 Filed 12-12 80; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Rail Transit Electromagnetic Compatibility; Draft Recommended Practice; Availability of Specifications and Request for Comment

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of availability of specifications and request for comment.

SUMMARY: The Urban Mass Transportation Administration (UMTA) with technical support from the Transportation Systems Center (TSC) of the Department of Transportation has been working in a cooperative effort with transit operators and their suppliers to develop standardized methods of analysis and testing to quantify and resolve issues of electromagnetic compatibility (EMC) in rail transit operations. As part of this effort, a draft standards document (i.e. recommended practice) has been developed for intrasystem EMC between rail transit vehicular electrical power and track circuit signalling subsystems and is being issued for public comment. UMTA is interested in comments from all elements of the transit community—transit operators, their engineering consultants, their suppliers, etc., and the general public.

DATE: Comments must be received by January 30, 1981.

ADDRESSES: 1. All comments should be submitted to Mr. Louis A. Frasco, Manager, Rail Transit EMI Program, Department of Transportation, Transportation Systems Center, Kendall Square/DTS-722, Cambridge, Massachusetts 02142. 2. Copies of the specification may be obtained upon request from the Department of Transportation, Transportation Systems Center, Kendall Square/DTS-722, Cambridge, Massachusetts 02142, ATTN: STARS/EMI STD.

FOR FURTHER INFORMATION CONTACT: Stephen S. Teel, Office of Rail and Construction Technology, (202) 426-0090.

SUPPLEMENTARY INFORMATION: This standards document has been developed through the efforts of a federally coordinated industry technical working group. A transit property advisory board was established to oversee this effort and to review the final draft of the document prior to the general issuance for public comment.

The importance of EMC in the design of rail transit systems has been emphasized recently with observed

interference between new generation chopper propulsion controlled transit vehicles and existing train control systems at certain United States transit properties. The future disposition of the EMC issue will impact the future deployment of chopper propulsion systems and other more advanced solid-state propulsion control concepts (e.g., a.c. propulsion) in United States rail transit.

Dated: December 8, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-38622 Filed 12-12-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 14]

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 $411,000 has been established for the company.

Name of Company:

CORONET INSURANCE COMPANY

Business Address:

3500 West Peterson Avenue
Chicago, Illinois 60659

State of Incorporation:

Illinois

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 limitation, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44503 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: December 9, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-38092 Filed 12-12-80; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1980 Rev., Supp. No. 13]

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 $953,000 has been established for the company.

Name of Company:

AMERICAN-EUROPEAN REINSURANCE CORPORATION

Business Address:

280 Park Avenue
New York, New York 10017

State of Incorporation:

Delaware

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitation, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44501 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: December 9, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-38093 Filed 12-12-80; 8:45 am]

BILLING CODE 4810-35-M

Surety Company Application and Renewal Fees; Change in Fees Imposed

The Department of the Treasury will be increasing the fees imposed and collected as referred to in 31 CFR 223.22, to recover costs related to services performed for and special benefits conferred upon surety companies. The new fees are effective December 31, 1980 and are determined in accordance

with Office of Management and Budget Circular A-25, as amended. The fee increases are a result of inflation and increased personnel costs incurred since the last rate increase of January 31, 1977. The new fees are as follows:

(1) Examination of a company's application for a certificate of authority as an acceptable surety on Federal bonds or for a certificate of authority as an acceptable reinsuring company on such bonds—$1,050.

(2) Examination of a company's application for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States—$100.

(3) Determination of a company's continuing qualifications for annual renewal of its certificate of authority—$700.

(4) Determination of a company's continuing qualifications for annual renewal of its authority as an admitted reinsurer—$50.

Questions concerning this notice should be directed to the Audit Staff, Bureau of Government Financial Operations,. Department of the Treasury, Washington, D.C. 20226 by phoning (202) 634-5010 or FTS 634-5010.

Dated: December 10, 1980

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-38691 Filed 12-12-80; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

[Public Debt Series—No. 37-80]

Treasury Notes of December 31, 1982, Series Z-1982

1. Invitation for Tenders

1.1. The secretary of the Treasury, under the authority of the second Liberty Bond Act, as amended, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Notes of December 31, 1982, Series Z-1982 (CUSIP No. 912827 LJ 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of securities

2.1. The securities will be dated December 31, 1980, and will bear interest from that date, payable on a semiannual basis on June 30, 1981, and each subsequent 6 months on december 31 and june 30, until the principal becomes payable. They will mature December 31, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities willbe available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations giverning United states securities apply to the securities offered in this circular. there general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Wahsington, D. C. 20226, up to 1:30 p.m., Eastern standard time, Tuesday, December 16, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, December 15, 1980.

3.2. each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., &.11 percent. common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form ;in lieu of a specified yield. No bidder may submit more than on noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account for customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, amy submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, an defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment quarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at

the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal palces on the basis of price per hundred, e.g., 99.923, and the determinations of the secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received fdrom Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more of less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The secretary's action under this section is final.

5. payment and delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5, must be made or completed on or before Wednesday, December 31, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, December 29, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of security allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrended to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2 The Secretary of the Tresury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-39033 Filed 12-12-80; 10:20 am]
BILLING CODE 4810-40-M

[Public Debt Series—No. 38-80]

Treasury Notes of December 31, 1984, Series H-1984

December 11, 1980.

Invitation For Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000 of United States securities, designated Treasury Notes of December 31, 1984, Series H-1984 (CUSIP No. 912827 LK 6). The securities will be sold at auction

with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description Of Securities

2.1. The securities will be dated December 31, 1980, and will bear interest from that date, payable on a semiannual basis on June 30, 1981, and each subsequent 6 months on December 31 and June 30, until the principal becomes payable. They will mature December 31, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000 $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities ill be permitted.

2.5. The Department of the Treasury's general regualtions governing United States securities apply to the securities offered in this circular. These general regualtions include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, December 18, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, December 17, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitie tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their poliical subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the ofering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of acceped competitive tenders.

3.7. Competitive bidders will be advised of he acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all enders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Wednesday, December 31, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, December 29, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrentered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrounded to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve BAnks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The ammouncement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations

[FR Doc. 80-39039 Filed 12-12-80; 10:20 am]
BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 242
Monday, December 15, 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

[M-301, Amdt. 2; Dec. 10, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., December 11, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue N.W., Washington, D.C. 20428.

SUBJECT: 18. Docket 38901, Application of IATA for approval of an agreement establishing a Fuel Market Monitoring Program. (Memo No. 131, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2290-80 Filed 12-11-80; 3:54 p.m.]

BILLING CODE 6320-01-M

2

[M-301, Amdt. 3; Dec. 10, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., December 11, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Deletion: 24. Docket 38721, Application of Global International Airways Corporation to engage in scheduled foreign air transportation of property and mail between the U.S. and Colombia. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2289-80 Filed 12-11-80; 3:54 pm]

BILLING CODE 6320-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

December 10, 1980.

TIME AND DATE: 10 a.m., December 17, 1980.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—473rd Meeting, December 17, 1980, Regular Meeting (10 a.m.)

CAP-1. Project No. 3018, Thomas M. McMaster and Robert Schroder; Project No. 3239, Puget Sound Power & Light Co.
CAP-2. Project No. 3064, City of Fayetteville, North Carolina, Public Works Commission; Project No. 3124, John M. Jordan
CAP-3. Project No. 199, South Carolina Public Service Authority
CAP-4. Docket No. ER81-69-000, Georgia Power Co.
CAP-5. Docket No. ER77-578, Kansas Gas & Electric Co.
CAP-6. Docket No. ER80-508, Boston Edison Co.
CAP-7. Docket No. ER80-473, Duke Power Co.
CAP-8. Docket No. ER80-184, Oklahoma Gas & Electric Co.
CAP-9. Docket No. EF80-4031, Southwestern Power Administration—Narrows Dam Project
CAP-10. Docket No. EL79-8, Central Power & Light Co., et al.
CAP-11. Docket No. ES80-38, Pacific Power & Light Co.
CAP-12. Docket No. ES81-11-000, Illinois Power Co.

Miscellaneous Agenda—473rd Meeting, December 17, 1980, Regular Meeting

CAM-1. Docket No. RM81-3, annual report for electric utilities, licensees and others. Federal filings pursuant to Section 141.1
CAM-2. Docket No. RM81- , revision of requirements for issuance of securities or the assumption of liability
CAM-3. Docket No. RM79-47, statewide exemptions from incremental pricing
CAM-4. Docket No. RM80-56, revision of form No. 2, annual report for natural gas companies (class A and class B)
CAM-5. Docket No. RM81-1-000, rule adopting revised alternative fuel price ceilings for the State of Rhode Island
CAM-6. Docket No. GP80-114-000, Jack D. Hodgden, lessee and Ruth Spearman, et al., lease, Gray County, Tex.
CAM-7. Docket No. GP80-74, Crutcher-tuffs Corp.

Gas Agenda—473rd Meeting, December 17, 1980, Regular Meeting

CAG-1. Docket Nos. TA81-1-6-000 (PGA81-1, LAFUT81-1, IPR81-1 and TT81-1) and CP77-302, Sea Robin Pipeline Co.
CAG-2. Docket No. TA81-11-11-000 (PGA81-1, IPR81-1, GRI81-1 and LFUT81-1), United Gas Pipe Line Co.
CAG-3. Docket No. TA81-1-58-000 (PGA81-1 and IPR81-1), Texas Gas Pipe Line Corp.
CAG-4. Docket No. RP81-20-000, U-T offshore system
CAG-5. Docket No. RP81-17-000, Midwestern Gas Transmission Co.
CAG-6. Docket No. RP81-18-000, High Island offshore system
CAG-7. Docket No. RP81-19-000, Northern Natural Gas Co.
CAG-8. Docket Nos. RP80-135 and TA80-1-16, National Fuel Gas Supply Corp.
CAG-9. Docket No. RP80-61, Consolidated Gas Supply Corp.
CAG-10. Docket Nos. RP73-110 and RP74-96, Natural Gas Pipeline Co. of America
CAG-11. Docket No. RP79-22 (storage), Consolidated Gas Supply Corp.
CAG-12. Docket No. CI78-816, Exxon Corp.; FERC Gas rate schedule No. 159, Chevron U.S.A. Inc.; Docket No. CI77-145-001, Freeport Oil Co.; Docket No. CI77-334-001, Southland Royalty Co.; Docket No. CI77-16, Transco Exploration Co.; Docket Nos. CI74-392 and CI78-882, Exxon Corp.
CAG-13. Docket No. RI81-2-000, Felmont Oil Corp.
CAG-14. Docket Nos. CP75-140, et al., Pacific Alaska LNG Co., et al.; Docket Nos. CP74-160, et al., Pacific Indonesia LNG Co., et al.; Docket No. CI78-453, Pacific Lighting Gas Development Co.; Docket No. CI78-452, Pacific Simpco Partnership
CAG-15. Docket No. CP80-560, Northern Border Pipeline Co.
CAG-16. Docket No. CP79-473, Alabama-Tennessee Natural Gas Co.
CAG-17. Docket No. CP75-23, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-18. Docket No. CP80-554, Cities Service Gas Co.
CAG-19. Docket No. CP80-537, Northwest Pipeline Corp.
CAG-20. Docket No. CP80-446, Natural Gas Pipeline Co. of America
CAG-21. Docket No. CP79-416-001, ANR Storage Co.
CAG-22. Docket No. CP80-313, Michigan Wisconsin Pipe Line Co.; Docket No. CP74-317, Great Lakes Gas Transmission Co.
CAG-23. Docket No. CP80-452, Cimarron Transmission Co., Natural Gas Pipeline Co. of America and United Gas Pipe Line Co.
CAG-24. Docket No. CP80-509, Southern Natural Gas Co.

CAG-25. Docket No. CP80-373, Tennessee Gas Pipeline Co.
CAG-26. Docket No. CP80-510, Consolidated System LNG Co.

Power Agenda—473rd Meeting, December 17, 1980, Regular Meeting

I. Licensed Project Matters

P-1. Project No. 2750, Town of Springfield, Vermont

II. Electric Rate Matters

ER-1. Docket No. ER 80-204, CP National Corp.

Miscellaneous Agenda—473rd Meeting, December 17, 1980, Regular Meeting

M-1. Docket No. RM81-7, exemptions from licensing requirements of part I of the Federal Power Act of a category of small hydroelectric power projects
M-2. Docket No. RM80-31, regulations governing safety of water power projects and projects works
M-3. Docket No. RM79-6, procedures governing the collection and reporting of information associated with the cost of providing electric service
M-4. Reserved
M-5. Reserved
M-6. Docket No. RM80-60, ex parte and separation of functions rules
M-7. Docket No. RM80-75, interim rule amending Section 282.202(a) of the Commission's regulations under the Natural Gas Policy Act of 1978
M-8. Docket No. RM80-33, final rules for part 270, subpart B, Section 270.201, 270.202 and 270.204
M-9. Docket No. RM80-54, amendments to part 273, regulations under the Natural Gas Policy Act
M-10. Docket No. RM79-76 (Colorado-1), high-cost gas produced from tight formations

Gas Agenda—473rd Meeting, December 17, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. (a) Docket Nos. RP78-52 and RP79-22 (storage accounting), consolidated Gas Supply Corp.; (b) Docket No. RP79-68, North Penn Gas Co.

II. Producer Matters

CI-1. Reserved

III. Pipeline Certificate Matters

CP-1. Docket No. CP78-340, Trunkline gas Co.; Docket Nos. CP79-70, CP80-217, CP80-218 and CP80-236, Transcontinental Gas Pipe Line Corp.; Docket No. CP80-82, Michigan Wisconsin Pipe Line Co.; Texas Eastern Transmission Corp. and Transcontinental Gas Pipe Line Corp.; Docket Nos. CP80-227, CP80-251, CP80-286 and CP80-384, Michigan Wisconsin Pipe Line Co.; Docket No. CP80-267, Columbia Gulf Transmission Co. and Southern Natural Gas Co.; Docket No. CP80-375, Consolidated Gas Supply Corp., Northern Natural Gas Co.; Division of Internorth, Inc., Michigan Wisconsin Pipe Line Co. and El Paso Natural Gas Co.
CP-2. Docket No. CP74-94 (phase I and Phase II), United Gas Pipe Line Co., complainant v. Billy J. McCombs, R. James Stillings, d.b.a. Gastill Co., David A. Onsgard, Basin Petroleum Corp., Louis H. Haring, Jr., National Exploration Co., E. I. du Pont de Nemours & Co., Bill Forney, Sr., and Bill Forney, Inc., respondents
CP-3. Docket No. CP80-502, Natural Gas Pipeline Co. of America; Docket No. CP80-520, Natural Gas Pipeline Co. of America; Docket No. CP81-43, Energy Gathering, Inc.
CP-4. Docket No. CP80-135, Northern Natural Gas Co., Division of Internorth, Inc.
CP-5. Docket No. CP78-124, Northern Border Pipeline Co.; Docket Nos. CP78-123, et al., Northwest Alaskan Pipeline Co.

Kenneth F. Plumb,
Secretary.

[S-2280-80 Filed 12-11-80; 2:59 pm]
BILLING CODE 6450-85-M

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., Monday, December 15, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Management Official Interlocks
Service Corporation Activity

[S-2282-80 Filed 12-11-80; 9:39 am]
BILLING CODE 6720-01-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., December 18, 1980.

PLACE: 1700 G Street NW., sixth floor, board room, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Application to Acquire Control of—Seguin Savings Association, Seguin, Texas and Application to Assume Indebtedness By—Seguin Savings, Inc, Seguin, Texas
Application for Bank Membership—Metropolitan Savings Bank, Brooklyn, New York
Application for Bank Membership—Lee Savings Bank, Lee, Massachusetts
Application for Bank Membership—Sharon Co-operative Bank Sharon, Massachusetts
Modification of Condition Home Fed Trust (Wholly-owned subsidiary of) Home Federal Savings and loan of San Diego, San Diego, California
Application to Participate in a shared Remote Service Unite Network—First Federal Savings and loan Association of Peoria, Peoria, Illinois
Branch Office Application—Metropolitan Federal Savings and Loan Association, Fargo, North Dakota

[S-2283-80 Filed 12-11-80; 9:39 am]
BILLING CODE 6720-01-M

6

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 45, 80951, December 8, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, December 2, 1980.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted this matter from the agenda of its previously announced closed meeting of Tuesday, December 2, 1980, 10 a.m., and will consider it at a meeting on Wednesday, December 3, 1980, 11 a.m.

[S-2287-80 Filed 12-11-80; 3:17 pm]
BILLING CODE 6750-01-M

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, December 17, 1980.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of Proposed Trade Regulation Rule on Funeral Industry Practices.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-2288-80 Filed 12-11-80; 3:17 pm]
BILLING CODE 6750-01-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 80629, December 5, 1980.

STATUS: Closed/open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, December 2, 1980.

CHANGES IN THE MEETING: Additional meeting and items. The following item was considered at a closed meeting scheduled for Tuesday, December 9, 1980, at 10 a.m.:

Litigation matter.

The following additional items will be considered at a closed meeting scheduled for Thursday, December 11, 1980, following the 10 a.m. open meeting:

Settlement of administrative proceeding of an enforcement nature.
Formal orders of investigation.

The following additional item will be considered at an open meeting scheduled for Thursday, December 11, 1980, at 10 a.m.:

Consideration of whether to adopt, on an interim basis, the following rules under the Investment Company Act of 1940 that would (1) permit any person controlled by a business development company and certain affiliated persons of such a person to enter into a transaction with such a company without first obtaining an order approving the transaction, and (2) permit a business development company to acquire the securities of and operate a wholly-owned small business investment company. For further information, please contact Marsha Gilman at (202) 272–3036.

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272–2091.

December 10, 1980.

[S-2284-80 Filed 12-11-80; 12:49 pm]

BILLING CODE 8010-01-M

9

[Meeting No. 1258]

TENNESSEE VALLEY AUTHORITY:

TIME AND DATE: 7:30 p.m., CST, Thursday, December 18, 1980.

PLACE: Alabama A&M University, Elmore Health Science Building, Normal, Alabama, near Huntsville, Alabama.

STATUS: Open.

ACTION ITEMS:

A—Project Authorizations

1. Project Authorization No. 3535—Commercial solar water heating demonstration.
2. Project Authorization No. 3538—Demonstration of heating and cooling storage systems for businesses and industries which shift energy use to offpeak periods.

C—Power Items

1. Bill of Sale and Quitclaim Deed to Sequachee Valley Electric Cooperative conveying certain transmission facilities.
2. Agreement with city of Memphis, Tennessee, covering establishment of new solar water heater project in the service area of Memphis Light, Gas and Water.
3. Interim use of new alternative outdoor lighting rate schedule.
4. New Power contract with Revere Copper and Brass Incorporated, Scottsboro, Alabama.

D—Personnel Actions

1. New wage schedules for hourly and annual trades and labor employees and other recommendations resulting from negotiations between TVA and Tennessee Valley Trades and Labor Council, 46th Annual Wage Conference.

E—Real Property Transactions

1. Amendment of Board Resolution to revise payment terms for the sale of phosphate lands in Williamson and Maury Counties, Tennessee.
2. Filing of two (2) condemnation suits.

F—Unclassified

1. Agreement with Alabama Agricultural and Mechanical university covering arrangements for a regional resource utilization and development program.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: December 11, 1980.

[S-2285-80 Filed 12-11-80; 1:37 pm]

BILLING CODE 8120-01-M

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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
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

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

COMMUNITY SERVICES ADMINISTATION

74928 11-13-80 / State Agency Assistance funded under Section 231 of the Economic Opportunity Act; policy statement revision and changes in administrative requirements

COST ACCOUNTING STANDARDS BOARD

48573 7-21-80 / Cost of money as an element of the cost of capital assets under construction

ENERGY DEPARTMENT

Economic Regulatory Administration—

74672 11-10-80 / Synthetic natural gas feedstock allocation regulations; exemption of naphtha and allocations of propane

Federal Energy Regulatory Commission—

77421 11-24-80 / High-cost natural gas; production enhancement procedures

ENVIRONMENTAL PROTECTION AGENCY

75212 11-14-80 / Approval of implementation plan revision; Florida

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

75166 11-14-80 / Petition to classify alien as immediate relative of a U.S. citizen or as a preference immigrant; Revision of requirements for petitions based on adoptive relationships

[Corrected at 45 FR 76652, 11-20-80]

Prisons Bureau—

75124 11-13-80 / Control, custody, care, treatment, and instruction of inmates; social education guidelines

75127 11-13-80 / Inmate control, custody, care, treatment, and instruction; pre-trial inmates; work/study release; and searches of housing units, inmates, and inmate work areas

LABOR DEPARTMENT

Occupational Safety and Health Administration—

64872 9-30-80 / Occupational exposure to cotton dust

PERSONNEL MANAGEMENT OFFICE

75567 11-14-80 / Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

SECURITIES AND EXCHANGE COMMISSION

15925 3-12-80 / Bank holding companies and banks—requirements for form and content of financial statements

List of Public Laws

Last Listing December 11, 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).

H.R. 7020 / Pub. L. 96-510 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Dec. 11, 1980; 94 Stat. 2767) Price $2.25.

H.R. 6410 / Pub. L. 96-511 Paperwork Reduction Act of 1980 (Dec. 11, 1980; 94 Stat. 2812) Price $1.25.

PRINCIPLES OF REGULATIONS WRITING SEMINAR

WHAT: The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.

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1. How to prepare for drafting: adopting a style manual, knowing your audience.
2. How to draft a regulation: organizing a regulation to make it easier for the reader, using consistent clear language, avoiding jargon and legalese, and reviewing and redrafting systematically.
3. How to prepare a regulation to comply with Federal Register publication requirements: writing an effective preamble and explaining how the regulation amends the Code of Federal Regulations.

WHO: Any Federal employee who drafts documents or who reviews for substance documents that are published in the Federal Register.

WHEN: January 21, 1981; February 25, 1981; May 13, 1981

HOW: Register for the class by sending a training authorization form to us. After we receive your training authorization form, we will mail you a confirmation letter that will serve as an admission ticket to the class. Tuition will not be charged for an applicant who cancels a confirmed reservation five work days before the day of the class. Someone may substitute for the applicant if the agency training office approves.

WHERE: Send your training form to: Principles of Regulations Writing Seminar, Office of the Federal Register, NARS, Washington, D.C. 20408. The class will be held in Washington, D.C., at 1100 L Street N.W. in Room 9407.

COST: $75 for each person.

FOR MORE INFORMATION: Phone Viola Wilson (202) 523-5240.

12-15-80
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Monday, December 15, 1980

82470 Part II—Treasury/BATF:
Proposed Viticultural Areas; Proposed Rulemaking and Hearings

82474 Part III—Interior/FWS:
Proposed Endangered Status and Critical Habitat for the Chihuahua Chub

82480 Part IV—Interior/FWS:
Review of Plant Taxa for Listing as Endangered or Threatened Species

82572 Part V—DOE:
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82586 Part VI—DOE/ERA:
Motor Gasoline Allocation Revision

82594 Part VII—OMB/OFPP:
Profit and Fee Negotiation Objectives, Policy Directive; Establishment of Procurement Data Reporting Requirements

82608 Part VIII—OMB:
Budget Rescissions and Deferrals

82616 Part IX—EPA:
Investigation of Averaging for Heavy-Duty Engine and Light-Duty Truck NO_x Emissions; Public Workshop

Federal Register

Monday
December 15, 1980

Part II

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Proposed Establishment of Five Viticultural Areas in California; Request for Comments and Notice of Hearings

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 360]

Santa Maria Valley, Santa Cruz Mountains, Los Carneros, Sonoma Valley, and North Coast Viticultural Areas.

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of five viticultural area in California named "Santa Maria Valley," "Santa Cruz Mountains," "Los Carneros," "Sonoma Valley," and "North Coast." This proposal is the result of petitions submitted by members of the grape-growing industry. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will help consumers of wine to identify better the wines which they may purchase.

DATE: Comments must be received by February 13, 1981.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alchohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044 (Notice No. 360).

Copies of the petitions and written comments are available for public inspection during normal business hours at the: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas L. Minton, Research and Regulations Branch (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Approved viticultural areas are listed in 27 CFR Part 9.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on U.S. Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Proposed Regulations

This notice of proposed rulemaking is intended to solicit comments from interested parties concerning the possible establishment of these five viticultural areas. While ATF feels that the evidence submitted in the petitions concerning these areas may warrant this proposal, it is not convinced that the areas should be approved or where any particular boundaries should be drawn. Therefore, ATF is not proposing any specific regulatory language. However, on the basis of written comments received in response to this notice, testimony received at future public hearings, and its own research, ATF may issue a final rule establishing any of these proposed areas without further notice.

Santa Maria Valley

The proposed Santa Maria Valley viticultural area is located in portions of Santa Barbara and San Luis Obispo Counties, California. The proposed area consists of approximately 80,000 acres within the watershed of the Santa Maria River and includes portions of primary tributary valleys of the Cuyama River, Sisquoc River and Suey Creek to the north, Tepesquet Creek to the east, and Bradley Canyon to the south.

The petitioners state that the soils within the area are well-drained sandy and clay loams. The elevation of the proposed area ranges from 200 feet to over 2,000 feet above sea level. The petitioner also states that while a few micro-climatic regions exist within the proposed area, the areas suitable for grape production generally exhibit the climatic characteristics of Region II.

The petitioners describe the proposed boundary of the Santa Maria Valley viticultural area as follows:

Beginning at the intersection of Highway 101 and Gary-Orcut Road, in Santa Barbara County, the boundary runs in a northerly direction along Highway 101, across the Santa Maria River for approximately 13½ miles to Los Berros Canyon Creek (elevation 200 feet). The boundary then runs northeasterly along the north bank of Los Berros Creek, then easterly and southeast to Suey Creek (elevation 1,000 feet). From Suey Creek the boundary runs southeast to a point of intersection with the San Luis Obispo County-Santa Barbara County line. The boundary then runs northeasterly along the county line to Chimney Canyon. The boundary then runs down Chimney Canyon across the Cuyama River to Suey Canyon, east of Las Coches Mountain. Then the boundary runs down the natural contour of Suey Canyon to Tepusquet Creek and subsequently down Tepusquet Canyon (elevation 1,000 feet) to the intersection of Tepusquet Canyon and the 800-foot contour line on the northern slope of the Santa Maria Valley. The boundary then runs easterly along the 800-foot contour line across the Sisquoc River and then westerly along the 800-foot contour line of the southern slope of the Santa Maria Valley to the Sisquoc Ranch Headquarters (elevation 600 feet). The boundary then runs along the 600-foot contour line to the unincorporated community of Sisquoc (elevation approximately 500 feet). From Sisquoc, the boundary runs westerly 3 miles along the southern edge of the valley to Gary-Orcut Road, then 4 miles west along Gary-Orcut Road to the beginning point on Highway 101.

Santa Cruz Mountains

The proposed Santa Cruz Mountains viticultural area is located in portions of San Mateo, Santa Clara and Santa Cruz Counties, California.

The petitioners state that the proposed area is distinguished from surrounding areas by its generally cooler climate, shorter growing season, and shallow, less fertile soils. The petitioners describe the proposed boundaries of the Santa Cruz Mountains viticultural area as follows:

Beginning at the summit of Highway 92 in San Mateo County, the boundary runs northeast to the 400-foot contour line. The boundary then travels southeast from the 400-foot contour line to Canada Road. The boundary then travels along Canada Road to Interstate 280, then along Interstate 280 to Highway 84 (Woodside Road). The boundary then runs southwest along Highway 84 to Mountain Home Road, then along Mountain Home Road to Portola Road, then southwest along Portola Road to Highway 84. The boundary then runs west on Highway 84

to the 600-foot contour line. The boundary then runs in a southeasterly direction along the 600-foot contour line to Pierce Road, then along Pierce Road to the 800-foot contour line, then along the 800-foot contour line in a southesterly direction to Highway 152. The boundary then runs along Highway 152 in a southwesterly direction over the summit and down to the 400-foot contour line on the west side of the Santa Cruz Mountains. The boundary then runs along the 400-foot contour line in a northerly direction to Felton Empire Road. The boundary then runs along Felton Empire Road and northeast to Highway 9, then south along Highway 9 to Bull Creek, then southwest along Bull Creek to the 400-foot contour line. The boundary continues in a northwesterly manner along the 400-foot contour line to Highway 92, then northeast along Highway 92 to the beginning point.

Los Carneros

The proposed Los Carneros viticultural area is located in Napa County, California. The petitioner states that the proposed area is more suited to early-ripening grape varieties than the surrounding areas because of its generally cooler climate. The petitioner also states that the soils in the proposed area are primarily of the Haire-Coombs soil type rather than the Bale-Cole-Yolo soil types generally encountered in surrounding areas.

The petitioner describes the proposed boundary of the Los Carneros viticultural area as follows:

Beginning at the junction of the Napa County-Sonoma County line and the Napa County-Solano County line, the proposed western boundary runs north along the Napa County-Sonoma County line to the township line T.6.N./T.5.N. The northern boundary of the proposed area runs east along this township line to Browns Valley Creek. The northern boundary then follows Browns Valley Creek eastward to Napa Creek. The boundary then follows Napa Creek to the Napa River. The proposed eastern boundary would run along the Napa River to the Napa County-Solano County line. The proposed southern boundary would run along the Napa County-Solano County line from the Napa River to the beginning point.

Sonoma Valley

The proposed Sonoma Valley viticultural area is located in the southeastern portion of Sonoma County, California, and a small portion of Napa County, California. The petitioner states that the proposed area is unique in soil composition and climate. The petitioner also states that the proposed area is the driest area in Sonoma County. The petitioner states that the area's location and surrounding mountains protect it from the intense heat of California's Central Valley and from the fog intrusion which affects the climate of the Santa Rosa-Petaluma Valley and Plains area. The petitioner describes the proposed boundaries as follows:

Beginning at the junction of Tolay Creek and San Pablo Bay, the boundary runs north along Tolay Creek to the junction of Tolay Creek and Highway 37. The boundary then runs west along Highway 37 to its junction with Highway 121. From this junction the boundary runs in a straight line to the peak of Wildcat Mountain and then in a straight line to a peak of Sonoma mountain (elevation 2,271 feet). From there, the boundary runs in a straight line to the peak of Taylor Mountain. From the peak of Taylor Mountain the boundary runs straight in a northeasterly direction to the point at which Los Alamos Road joins Highway 12. The boundary then runs easterly in a straight line to the peak of Buzzard Peak, then easterly in a straight line to the peak of Mount Hood. The boundary then runs easterly in a straight line to an unnamed peak located on the Sonoma County-Napa County line and identified as having an elevation of 2,530 feet. This unnamed peak is located in the northeast quarter of Section 9, Township 7 North, Range 6 West, Mt. Diablo Base and Meridian. The boundary then runs southeasterly along the Sonoma County-Napa County line to Los Amigos Road. The boundary then runs east along Los Amigos Road to its junction with Duhig Road, then south along Duhig Road to Ramal Road. The boundary then runs west along Ramal Road to the Sonoma County-Napa County line, then in a southwesterly direction along the county line to the point at which Sonoma Creek enters San Pablo Bay. The boundary then runs southwesterly along the shore of San Pablo Bay to the beginning point.

North Coast

The petitioner proposes that this viticultural area be known by two names, "North Coast" and "North Coast Counties." ATF has decided that in order to avoid consumer confusion and misleading labeling practices, a single defined viticultural area may have only one name. Also, ATF will not allow the use of the words "county" or "counties" in a viticultural area appellation. Since county and multi-county appellations of origin must contain the words "county" or "counties" and viticultural areas are intended to be distinct from political subdivisions, such as counties, ATF has decided that the use of these words in a viticultural area appellation of origin would be inappropriate and misleading. Therefore, ATF is proposing only the name "North Coast" for this area.

The proposed North Coast viticultural area is comprised of the entire Mendocino, Sonoma, and Napa Counties, California. The petitioner states that the proposed North Coast viticultural area is distinguished from surrounding areas by soil, a unique combination of rainfall and temperature during the growing season, diurnal and nocturnal extremes, morning fogs, and the lowering of the water table during the ripening weeks.

The petitioner states that the boundaries of the proposed area are the statute boundaries of the counties of Napa, Sonoma, and Mendocino.

Public Participation

ATF requests comments from all interested persons concerning these proposed viticultural areas. ATF particularly requests comments concerning possible alternative boundaries for these proposed areas and comments concerning viticultural and geographical characteristics which may distinguish these areas from surrounding areas.

The proposed North Coast viticultural area includes the Sonoma Valley, Los Carneros, and previously proposed Napa Valley viticultural areas (ATF Notice No. 337 [45 FR 17026] March 17, 1980). In addition, the portion of the proposed Sonoma Valley area bounded by Los Amigois, Duhig, and Ramal Roads is located within the proposed Napa Valley Viticultural area. ATF believes that viticultural areas may be located wholly within another viticultural area if each individual area is supported by the evidence required in 27 CFR 4.25a(e)(2). While ATF was initially opposed to overlapping areas where only a portion of each area was located within the other, ATF now feels that this issue of overlapping areas should be opened for public comment. For this reason, ATF is interested in receiving any information, data, or opinions concerning those areas which are located in more than one proposed viticultural area. Further, ATF is especially interested in receiving comments on the general issue of allowing viticultural areas to overlap.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

All comments and the names of persons submitting comments are

available to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments.

Public hearings concerning these proposed viticultural areas will be scheduled at a later date and will be announced in a later notice.

Drafting Information

The principal author of this document is Thomas L. Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

These viticultural areas are proposed under the authority in 27 U.S.C. 205.

Signed: October 1, 1980.

G. R. Dickerson,

Director.

Approved: December 5, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-38683; Filed 12-12-80; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 361; Re: Notice Nos. 350-354, 356 and 360]

Viticultural Area Hearings—

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of hearings.

SUMMARY: This notice announces the times and places the Bureau of Alcohol, Tobacco and Firearms (ATF) will hold ten public hearings to receive comments relating to the establishment of ten proposed viticultural areas. The proposed viticultural areas are North Coast, Sonoma Valley, Los Carneros, Guenoc Valley, Santa Cruz Mountains, Lime Kiln Valley, Santa Maria Valley, and San Pasqual Valley in California, Fennville in Michigan, and Finger Lakes in New York. ATF will hear testimony relating to a particular viticultural area at each particular hearing.

DATES: Hearing dates—

(1) North Coast—January 12, 1981, at 9:30 a.m.

(2) Sonoma Valley—January 13, 1981, at 9:30 a.m.

(3) Los Carneros—January 14, 1981, at 9:30 a.m.

(4) Guenoc Valley—January 15, 1981, at 9:30 a.m.

(5) Santa Cruz Mountains—January 19, 1981, at 9:30 a.m.

(6) Lime Kiln Valley—January 21, 1981, at 9:30 a.m.

(7) Santa Maria Valley—January 23, 1981, at 9:30 a.m.

(8) San Pasqual Valley—January 26, 1981, at 9:30 a.m.

(9) Fennville—February 3, 1981, at 10:00 a.m.

(10) Finger Lakes—February 11, 1981, at 10:00 a.m.

(Evening sessions for each hearing will be held if necessary beginning at 7:00 p.m.)

Requests to comment—Requests to comment at these hearings must be received no later than 10 days before the scheduled date of the appropriate hearing.

ADDRESSES: Send requests to comment to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044.

Copies of the petitions, the notices of proposed rulemaking, the hearing transcripts, and any written comments concerning these proposed viticultural areas will be available for public inspection during normal business hours at the: ATF Reading Room, Federal Building, Room 4407, 12th and Pennsylvania Avenue, N.W., Washington, DC.

Hearing Locations—

(1) North Coast, Sonoma Valley, Los Carneros, Guenoc Valley—Federal Building, 777 Sonoma Avenue, Room 113C, Santa Rosa, California.

(2) Santa Cruz Mountains—City Hall, City of Santa Clara, 1500 Warburton Avenue, Santa Clara, California.

(3) Lime Kiln Valley—County of San Benito Court House, Room 204, 5th and Martinez Streets, Hollister, California.

(4) Santa Maria Valley—Council Chambers, City of Santa Maria, 110 East Cook Street, Santa Maria, California.

(5) San Pasqual Valley—The Chamber of Commerce, 720 North Broadway, Escondido, California.

(6) Fennville—Douglas Village Hall, 86 Center Street (Corner of Center and Union Streets), Douglas, Michigan.

(7) Finger Lakes—New York Agricultual Experimental Station, Jordan Hall, 2nd Floor, 630 W. North Street, Geneva, New York.

FOR FURTHER INFORMATION CONTACT: Thomas Minton, Norman Blake, or Roger Bowling, Research and Regulations Branch, (202-566-7626).

SUPPLEMENTARY INFORMATION: On October 27, 1980, November 6, 1980, and elsewhere in this issue, ATF issued six notices of proposed rulemaking in the Federal Register to obtain comment on these ten proposed viticultural areas (45 FR 70914, 45 FR 73694), also elsewhere in this issue.

ATF believes that public hearings are essential in order to obtain and evaluate all possible information concerning these proposed viticultural areas. Persons desiring to testify should submit a written request containing the name, address, and telephone number of the individual who will testify. They should indicate in their request *which hearing they would like to attend* and the time of day they would like to comment. To the extent possible, ATF will honor these preferences. Persons asking to comment should include in their request an outline of the topics on which they will speak. Oral comment will be limited to 10 minutes per speaker, but additional time may be granted for answering questions. Persons asking to comment should be prepared to respond to questions concerning their comments, their topic outline, or any matter relating to written comments they may have submitted.

Persons not scheduled to comment may be allowed to comment at the conclusion of each hearing if time permits.

ATF will notify all persons asking to comment and will confirm the date and time. An agenda listing the speakers will be available at each hearing.

Written comments relating to these proposed viticultural areas will be available at each hearing for public inspection. Each hearing will be conducted under the procedural rules in 27 CFR 71.41(a)(3).

ATF specifically requests comments and suggestions concerning—

(a) Evidence that the names of the proposed viticultural areas are locally and/or nationally known as referring to the areas specified in the petitions;

(b) Historical or current evidence supporting the proposed boundaries of the viticultural areas as specified in the petitions; and

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed areas from surrounding areas.

Evidence obtained at the hearings along with the written comments received in response to the notices of proposed rulemaking will be used to determine whether to issue final regulations establishing any of these viticultural areas as proposed.

Drafting Information

The principal author of this document is Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This notice of hearing is issued under the authority contained in 27 U.S.C. 205.

Signed: November 26, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-38684 Filed 12-12-80; 8:45 am]

BILLING CODE 4810-31-M

federal register

Monday
December 15, 1980

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants: Proposed Endangered Status and Critical Habitat for Chihuahua Chub

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Chihuahua Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Chihuahua chub to be an Endangered species. This action is being taken because populations of the Chihuahua chub have been significantly reduced by habitat destruction resulting from channelization, development of flood control levees, massive diversion of surface water for irrigation, dam construction, pollution, deforestation, and excessive groundwater pumping. The Chihuahua chub occurs in the Guzman Basin including the Mimbres River of New Mexico and the Rio Casas Grandes, Rio Santa Maria, and Laguna Bustillos drainages of Mexico. Critical Habitat is included with this proposed rule. The proposed rule, if promulgated, would provide protection to wild populations of this species. Comments and information from the public are sought.

DATES: Comments from the public must be received by March 16,1981. Comments from the Governor of New Mexico must be received by March 16, 1981. The public meeting on this proposal will be held January 6, 1981, at 7:00 p.m.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this proposed rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The public meeting on this proposal will be held at the Light Hall Auditorium, Western New Mexico University, Silver City, New Mexico.

FOR FURTHER INFORMATION CONTACT: For further information on this proposal, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/235-2771).

SUPPLEMENTAL INFORMATION:

Background

The Chihuahua chub was first discovered in 1851, inhabiting the Mimbres River of New Mexico and the Rio Casas Grandes of Mexico. Adult chubs average about six inches in length and are usually found in pools (greater than three feet in depth) or associated with some type of cover (such as undercut banks, submerged trees or shrubs) in small and medium size streams. This species is assumed to feed primarily on aquatic invertebrates and insect larva; however, no data are available to support this assumption. Spawning occurs in the spring, possibly extending through summer, perhaps in quiet pools over beds of aquatic vegetation. Little else in known about the biology of the Chihuahua chub.

Populations of the Chihuahua chub have been significantly reduced because of recent modifications in the aquatic habitats of the Guzman Basin. The chub's preferred pool and undercut bank habitat has been virtually eliminated through a combination of factors including diversion of surface water for irrigation, channelization, construction of dams and levees, and deforestation.. The excessive pumping of underground water supplies has also caused springs and other peermanent aquatic habitats maintaining the species to dry up. Pollution is reported to be responsible for the elimination of chubs from some streams in Mexico.

The Service has received recommendations or resolutions urging the listings of the Chihuahua chub as Endangered from the following organizations: the Albuquerque District of the U.S. Army Corps of Engineer, the American Fisheries Society Endangered Species Committee (Fisheries 4: 29–44), the New Mexico Wildlife Federation, and the Desert Fishes Council. In 1979, the Service contracted biologists from the University of Michigan to survey the status of the Chihuahua chub in the United States and Mexico. These workers found no evidence of successful reproduction in the one small surviving Chihuahua chub population (less than ten adult fish) in the United States. They also documented the disappearance of chubs from six localities in Mexico where they were previously common or abundant. Their final report recommended that the Chihuahua chub be officially listed as an Endangered species for both the United States and Mexico.

Factors Affecting the Species

In 50 CFR 424.11(b) of the Service's regulations for Listing Endangered and Threatened Species and Designating Critical Habitat (45 FR 13022–26) it is stated that:

"A species shall be listed if the Director determines on the basis of the best scientific and commercial data available to him after conducting a review of the species' status that the species is Endangered or Threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;

(3) Disease or predation;

(4) Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat; and

(5) Other natural or manmade factors affecting its continued existence."

These factors, and their application to the Chihuahua chub, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Mimbres River of New Mexico, which in the past supported an abundant Chihuahua chub population, has been drastically modified by agricultural and flood control developments. These activities have resulted in the elimination of much of the natural pool and undercut bank habitat, restricting the present population, probably fewer than ten adult chubs, to one small section of the Mimbres River. Further flood reclamation work, maintenance of push-up irrigation diversions, channelization, and development of flood control levees without concern for the Chihuahua chub will severely threaten the continued existence of this species in the United States. Studies in Mexico revealed that historic Chihuahua chub habitats were destroyed because of pollution, massive diversion of surface waters for irrigation, development of hydroelectric facilities, construction of levees, and channelization. Some streams were found to be completely dry, probably due to excessive pumping of underground aquifers or diversion of surface waters. Undoubtedly, manipulation of the stream habitat will continue as the interior of Mexico and areas along the Mimbres River in New Mexico are further developed.

2. *Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally effect it.* The Chihuahua chub is not being pursued for any commericial endeavors. In the early twentieth century, the chub was taken for sport and referred to as "gila trout." However, this practice does not occur today, at least partially because of the extremely low density of the existing population. It

is possible that the chub is taken, incidentally, as a bait fish.

3. *Disease or predation.* Some predation of Chihuahua chubs by introduced rainbow trout and other species probably occurs, but the impact of this factor is considered to be negligible if adequate escape cover is available.

4. *Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat.* Laws concerning State endangered species of New Mexico do not provide mechanisms to encourage habitat protection. Listing the Chihuahua chub and designation of its Critical Habitat, pursuant to the Endangered Species Act of 1973 [87 Stat. 884; 16 U.S.C. 1531 et seq.), as amended, would protect its habitat from destructive Federal actions.

5. *Other natural or manmade factors affecting its continued existence.* The introduction of exotic fishes has been documented to have detrimental effects on many types of native stream fish. Therefore, it has been assumed that the establishment of the rainbow trout, carp, longfin dace, black bullhead, mosquitofish, and rock bass within the range of the Chihuahua chub is a threat to its continued existence. However, the effect of this factor on the Chihuahua chub needs to be further studied.

Critical Habitat

50 CFR 424.02 defines "Critical Habitat" to include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and (b) which may require special management considerations or protection; and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Director that such areas are essential for the conservation of the species.

The proposed Critical Habitat for the Chihuahua chub is as follows: the Mimbres River between the confluence of Allie Canyon and Sheppard Canyon (S¼ Section 17, Section 20, Section 28, NE¼ Section 29, Section 33, T16S; R11W), and two small spring-fed tributaries (less than 100 yards) entering the Mimbres River in the Critical Habitat Section [NW¼ Section 28, SW¼ Section 28, NW¼ Section 33, T16S R11W) within Grant County, New Mexico. Although the actual streambed is subject to State jurisdiction, the waterflow is fully appropriated and the adjacent banks are privately owned.

As specified in the listing regulations [50 CFR 424.12(b)], "The Director shall consider in determining what areas are Critical Habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management consideration or protection. These requirements include, but are not limited to:

(1) Space for individual and population growth and normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring . . . and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species."

Adult Chihuahua chub appear to be dependent on habitats that have some combination of pools at least three feet deep, shade, and undercut banks or other cover such as downed logs and submerged shrubs. This habitat evidently provides both escape cover and a suitable foraging situation, and is present in the proposed Critical Habitat area. Sites for breeding, reproduction, and development of juvenile chub are found in the proposed area.

Activities associated with irrigation agriculture, the primary land use surrounding the proposed Critical Habitat, are potentially detrimental to the continued existence of the Chihuahua chub. These primarily consist of physical modification of the natural streambed done without regard for presence of the chub, including the annual maintenance of push-up irrigation diversion, channelization of the stream, and the construction of flood control levees close to pools containing the remnant chub population. With some modification, most of these activities could be carried out without adversely impacting the chub population (e.g., by developing permanent irrigation diversions and flood control levees a safe distance from the chub habitat). Channelization in any form within the Critical Habitat would likely be detrimental to chubs, but there would probably be no incentive to modify the stream channel in such a manner if adequate flood protection was available for local property owners. In addition, any future excessive ground water pumping or surface water diversion in the vicinity of the Critical Habitat for any purpose could be detrimental to the chub by limiting flows in the Mimbres River. The recent proposed use of 210.33 acre feet of water per annum from a well near San Lorenzo, New Mexico (four miles downstream of the proposed Critical Habitat) for domestic and municipal purposes is not expected to adversely impact the present chub habitat.

No current or proposed Federal action should impact the proposed Critical habitat. However, the U.S. Army Corps of Engineers, the Soil Conservation Service, and the Federal Disaster Assistance Administration are authorized to provide Emergency Levee Rehabilitation (Public Law 84-99) for private flood control structures damaged by high waters. Consequently, a future flood on the Mimbres River may necessitate such Federal flood control improvement projects in the proposed Critical Habitat. Before implementing such projects these agencies would be required to enter into Section 7 consultation with the Fish and Wildlife Service to insure their actions would not adversely modify the Critical Habitat.

Effect of This Proposal if Published as a Final Rule

Regulations already published in Title 50, § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Chihuahua chub, but also requires them to insure that their actions do not result in the destruction or adverse modification of this Critical Habitat which has been determined by the Director of the Service.

The Service is required to consider economic and other impacts of specifying a particular area as Critical

Habitat. The Service has prepared a draft impact analysis. The Service is notifying Federal agencies that may authorize, fund or carry out activities in the area under consideration in this proposed rule. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action. The Service will prepare a final impact analysis prior to the time of publishing a final rule.

The major threat to the Chihuahua chub is the destruction of habitat caused by channelization, development of flood control levees, massive diversion of surface water for irrigation, deforestation and excessive pumping of ground water. Federal agencies (U.S. Army Corps of Engineers, Soil Conservation Service, and Federal Disaster Assistance Administration) may be authorized through the Emergency Levee Rehabilitation Program (Pub. L. 84-99), after a future flood, to repair privately constructed flood control levees along the Membres River in the vicinity of the proposed Critical Habitat. The Corps is aware of the presence of the Chihuahua chub and is cooperating with the Service and the New Mexico Department of Game and Fish to insure their future activities do not adversely impact the remaining population of this species. Although the U.S. Forest Service controls a significant portion of Grant County, the agency has no jurisdiction in the proposed Critical Habitat. However, the Forest Service is negotiating for the purchase of a 160 acre tract referred to as the Cooney Place, which is adjacent to the Mimbres River, for use as a trail head. If this property is acquired by the Forest Service, they plan to assess the potential of this site for the successful reintroduction of the Chihuahua chub. Since this parcel of land is not being proposed as Critical Habitat, this action will not affect any of the Forest Service's intentions concerning the Cooney Place.

The Soil Conservation Service has proposed a bank stabilization program along the Mimbres River including the Critical Habitat, but funds for this project have not been appropriated. If this action is approved, any modification effected to eliminate impacts to the Chihuahua chub is expected to have a negligible effect on the Soil Conservation Service program. The Agricultural Stabilization and Conservation Service is involved in two programs within the Mimbres River Valley: (1) the ASCP program which authorizes cost sharing for County committee approved soil and water conservation projects, and (2) the Emergency Conservation Loan Program which provides financial assistance to farmers and ranchers for clean-up operations following floods. Both programs are restricted to activities on or involving farm lands. These programs should not be affected by the designation of Critical Habitat on the Mimbres River. No other Federal activities are known that may impact the habitat of the Chihuahua chub.

Any Federal activities in the chub's Critical Habitat potentially would be subject to conferral or consultation under the requirements of Section 7 of the Endangered Species Act of 1973, as amended. It should be emphasized, however, that modification, and not curtailment, of the affected Federal activity traditionally has been the result of Section 7 consultations.

The following source documents were consulted in the development of this proposed rule:

References

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Deacon, J. E., G. Kobetich, J. D. Williams, S. Contraras-Balderas, and others. 1979. Fishes of North America—endangered, threatened, or of special concern: 1979. Fisheries 4:29-44.

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Girard, C. 1859. Ichthyology of the boundary U.S. and Mexico. Boundary Surv. 2:1-85.

Gunther, A. 1868. Catalogue of fishes in the British Museum. London 7: xx + 512 pp.

Hatch, M.D. 1980. Management plan for the Chihuahua chub, *Gila nigrescens* (Girard, 1856) in New Mexico. Unpubl. report of New Mexico Department of Game and Fish, Santa Fe. 16 pp.

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Knapp, F. T. 1953. Fishes found in the freshwaters of Texas. Ragland Studio and Litho Printing Co., Brunswick, Georgia. 166 pp.

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Miller, R. R. 1952. Bait fishes of the lower Colorado River from Lake Mead, Nevada, to Yuma, Arizona, with a key for their identification. Calif. Fish and Game 38:7-42.

Miller, R. R. 1961. Man and the changing fish fauna of the American Southwest. Pap. Mich. Acad. Sci., Arts, and Letters 46 (1960): 365-404.

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Miller, R. R., and C. Hubbs. 1962. *Gila pandora*, a cyprinid new to the Texas fish fauna. Texas J. Sci. 14:111-113.

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U.S. Environmental Data Service. 1974-77. Climatological data. Annual summary, New Mexico. U.S. Department of Commerce, National Oceanic and Atmospheric Administration. Vols. 76-81. No. 13.

U.S. Geological Survey. 1978. Water resources data for New Mexico. U.S. Geological Survey. Water-data Report NM-78-1. 677 pp.

Uyeno, T. 1961. Osteology and phylogeny of the American cyprinid genus *Gila*. Unpubl. Ph.D. Dissertation. University of Michigan, Ann Arbor. 174 pp.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other

concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be designated as Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities which may adversely modify the area which is being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation on federally funded of authorized projects.

Public Meeting

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information relative to the public meeting is set out below:

Place	*Date*	*Time*	*Subject*
1. Silver City, N. Mex.	January 6, 1981	7 p.m.	Chihuahua Chub

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Washington Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (40 CFR 1500–08).

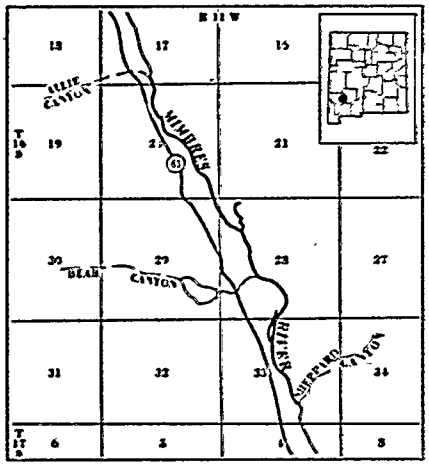
Primary Author

The primary author of this rule is Jim Bednarz, working under contract with the Service's Albuquerque Regional Office.

The Department has determined that this is not a significantly rulemaking under 43 CFR 14 or Executive Order 12044, nor does it require preparation of a regulatory analysis.

Regulations Promulgation

1. It is proposed to amend § 17.11 by adding, in alphabetical order under Fishes, the following to the list of animals:



Dated: November 28, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-38709 Filed 12-12-80; 8:45 am]

BILLING CODE 4310-55-M

§ 17.11 Endangered and threatened wildlife.

Species: Scientific name	Species: Common name	Historic range	Status	When listed	Critical habitat	Special rules
Gila nigrescens	Chub, Chihuahua	U.S.A. (New Mexico), Mexico (Chihuahua).	E		17.95(e)	NA

§ 17.95 [Amended]

2. It is further proposed that § 17.95(e), fishes, be amended by adding Critical Habitat of the Chihuahua chub in alphabetical order as follows:

CHIHUAHUA CHUB

(Gila nigrescens)

New Mexico, Grant County

The Mimbres River between the confluences of Allie and Sheppard Canyons in S¼ Section 17, Section 20, Section 28, NE¼ Section 29, and Section 33, T16S; R11W; plus two small spring-fed tributaries entering the Mimbres River within the above described Critial Habitat. The spring-fed lateral tributary in NW¼ Section 28, T16S R11W and the spring-fed tributary in SW¼ Section 28 and NW¼ Section 33, T16S R11W. Known primary constituent elements includes: Clean water with pools at least three feet deep, shade and undercut banks or other cover such as downed logs and submerged shrubs.

Chihuahua Chub

Grant Co., New Mexico.

Critical Habitat for the Chihuahua Chub

Federal Register

Monday
December 15, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants: Review of Plant Taxa for Listing as Endangered or Threatened Species

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Plant Taxa for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Service is issuing current lists of those plant taxa native to the U.S. being considered for listing as Endangered or Threatened under the Endangered Species Act of 1973, as amended (the Act). Such taxa should be considered in environmental planning. The present notice refines and updates three previous notices. A list is also provided of plant taxa which were previously under consideration for listing, but are presently presumed either extinct, not valid species, subspecies or varieties, or more abundant or widespread than previously believed and/or not subject to identifiable threats.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

Information relating to particular plant taxa may be obtained from appropriate Service Regional Offices listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, Washington, and Pacific Trust Territories
Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232, Telephone: 503/231-6131 (FTS: 8/429-6131)

Region 2—Arizona, New Mexico, Oklahoma, and Texas
Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, Telephone: 505/766-3972 (FTS: 8/474-3972)

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin
Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Telephone: 612/725-3596 (FTS: 8/725-3596)

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands
Regional Director (ARD/FA), U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303, Telephone 404/221-3583 (FTS: 8/242-3583)

Region 5—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia
Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 700, One Gateway Center, Newton Corner, Massachusetts 02158, Telephone: 617/965-5100 ext. 316 (FTS: 8/829-9316, 7, 8)

Region 6— Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (Iowa and Missouri under Region 3 after October 4, 1980)
Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, Telephone: 303/234-2496 (FTS: 8/234-2496)

Alaska Area—Area Director, U.S. Fish and Wildlife Service, 1101 E. Tudor Road, Anchorage, Alaska 99503, Telephone: 907/276-3800, (FTS: Seattle Operator: 8/399-0150; 907/276-3800)

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771), or the appropriate Regional Office.

SUPPLEMENTARY INFORMATION:

Background

Recognizing a special need to focus on the conservation of Endangered and Threatened plants, which were first accorded the means for Federal protection therein, the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on Endangered and Threatened plant species and recommend necessary conservation measures. The Smithsonian report, published as House Document No. 94-51, included a list of more than 3,000 native taxa thought to be extinct, Threatened, or Endangered. The Service published a notice on July 1, 1975 (40 FR 27823) in which it announced that the Smithsonian report had been accepted as a petition under the terms of the Act, and that the taxa named in the report were being reviewed for possible inclusion in the list of Endangered and Threatened species. One previous notice of review, which named four plants, had been published in April 1975 (40 FR 17612) in response to a petition. Many of these taxa were subsequently proposed for addition to the list on June 16, 1976 (41 FR 24523). Later, in 1977 (42 FR 40823) a third notice involving one plant was published. Because of the provisions of a 2-year limit for proposed rules in the Endangered Species Act Amendments of 1978 (Pub. L. 95-632), the 1976 proposal was mandatorily withdrawn in November 1979. Official notice of this withdrawal appeared on December 10, 1979 (44 FR 70796). That notice indicated that withdrawal was required because of the expiration of the deadline for making such rules final and was not related to the conservation status of the taxa proposed therein. The present notice is intended to reflect the Service's current judgment of the probable status of all plant taxa that were included either in previous notices or the 1976 proposal, as well as other taxa concerning which information has become available more recently. Taxa are grouped in several categories, as described below, in order to accurately reflect the Service's present evaluation of their status.

Category 1

Taxa for which the Service presently has sufficient information on hand to support the biological appropriateness of their being listed as Endangered or Threatened species. Because of the large number of such species, and because of the necessity of gathering data concerning the environmental and economic impacts of listings and designations of Critical Habitats, it is anticipated that the development and publication of proposed and final rules concerning such species will require several years. In some cases, although adequate data are now available to the Service to support re-proposal of species originally included in the withdrawn 1976 proposal, such species cannot be proposed for listing pending the receipt of sufficient new information warranting such action, as required by Section 4(f)(5) of the Act. The requirement that such re-proposals be based on new information has been interpreted to mean that such information must have been developed subsequent to the withdrawal of the original proposal on November 10, 1979. The Service requests that new information on the species named in this notice be submitted as soon as possible and on a continuing basis.

Also included in this list are taxa whose status in the recent past is known, but which may have already become extinct. These retain a high priority for addition to the list, subject to confirmation of extant populations. Such possibly extinct species are indicated by an asterisk (*). Double asterisks (**) indicate taxa thought to be extinct in the wild, but known to be extant in cultivation.

Category 2

Taxa for which information now in the possession of the Service indicates the probable appropriateness of listing as Endangered or threatened, but for which sufficient information is not presently available to biologically support a proposed rule. Further biological research and field study will usually be necessary to determine the status of the taxa included in this category. It is hoped that this notice will encourage such research. Some taxa included in this category are of doubtful taxonomic validity and require further taxonomic research before their status can be clarified. The fact that many of these taxa have previously been proposed and withdrawn for procedural reasons largely reflects changes in informational standards applied to listing procedures in recent years. Additional information concerning these taxa, especially that resulting from recent investigations, is particularly sought by the Service.

Category 3

Taxa no longer being considered for listing as Endangered or Threatened. Such taxa are included in one of three sub-categories, depending on the reasons for removal from consideration.

3A. Taxa for which the Service has persuasive evidence of extinction. If re-discovered, however, such species might acquire high priority for listing. At this time, the best available information indicates that the taxa included in this category, or the habitats from which they were known, are in fact extinct or destroyed, respectively.

3B. Names that on the basis of current taxonomic understanding, usually as represented in published revisions and monographs, do not represent taxa meeting the Act's definition of "species." Such supposed taxa could be re-evaluated in the future on the basis of subsequent research.

3C. Taxa that have proven to be more abundant or widespread than was previously believed and/or those that are not subject to any identifiable threat. Should further research or changes in land use indicate significant decline in any of these taxa, they may be re-evaluated for possible inclusion in categories 1 or 2.

The plants listed in categories 1 and 2 may be considered candidates for addition to the list of Endangered and Threatened plants and, as such, consideration should be given them in environmental planning.

The Service hereby solicits information concerning the status of any of the species included in the present lists. Information is particularly sought:

1. indicating that a taxon would more properly be assigned to a category other than the one in which it appears;
2. providing new information regarding a plant previously proposed for listing and withdrawn because of the expiration of two years before a final listing action;
3. recommending an area as Critical Habitat for a candidate taxon or indicating why it would not be prudent to propose Critical Habitat for the taxon;
4. nominating for listing consideration a taxon not contained in the present lists;
5. documenting threats to any of the taxa listed;
6. indicating taxonomic revisions of any taxa included;
7. suggesting new or more appropriate common names for taxa;
8. noting errors in indicated distribution, etc.

The Service intends to consider all information received in response to this notice and to amend the contents of categories 1, 2, and 3 to reflect the current state of knowledge concerning affected plant taxa, and to indicate its intentions with regard to future listing actions. Such changes will be indicated by periodic notices in the Federal Register.

The following lists are arranged alphabetically by names of genera and species. Synonyms have been provided when necessary to avoid confusion. In some cases, taxa have been included which have not yet been formally described in the scientific literature. Such taxa are usually identified by a name followed by "sp. (ssp., var.) nov. ined." Known historical ranges are given by state for all included taxa.

Table 1 contains the name of all taxa presently on the list of Endangered plants. The left-hand column indicates status (E—Endangered, T—Threatened).

Table 2 contains the names of all taxa that have been proposed for listing under the Act, but for which final action has not yet been taken.

Table 3 lists all taxa in categories 1 and 2 (candidates), as explained above. The left-hand column indicates category.

Table 4 lists all taxa in category 3, with the left-hand column indicating sub-categories.

A list of genera (Table 5) is also provided, arranged by families, for cross referencing.

This notice was principally prepared by the Botany staff of the Service's Endangered Species Program in the Washington Office of Endangered species and the Service's Regional and Area Offices. The Service gratefully acknowledges the assistance of Dr. John Nagy of Brookhaven National Laboratory, Upton, New York, for extensive technical assistance in compiling the lists of taxa.

Dated: September 25, 1980.

Ronald E. Lamberton,

Acting Director, Fish and Wildlife Service.

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TABLE 1 TAXA CURRENTLY LISTED 1

	TAXON	FAMILY	COMMON NAME	HISTORIC DISTRIBUTION
T	ABIES GUATEMALENSIS	PINACEAE	PINABETE (FIR, GUATEMALAN)	EL SALVADOR, GUATEMALA, HONDURAS, MEXICO
T	ACONITUM NOVEBORACENSE	RANUNCULACEAE	MONKSHOOD, WILD, NORTHERN	IA NY OH WI
E	ANCISTROCACTUS TOBUSCHII	CACTACEAE	FISHHOOK CACTUS, TOBUSCH	TX
E	ARABIS MCDONALDIANA	BRASSICACEAE	ROCK CRESS, MC DONALD'S	CA OR
E	ARCTOMECON HUMILIS	PAPAVERACEAE	BEAR-POPPY, DWARF	UT
E	ARCTOSTAPHYLOS HOOKERI SSP. RAVENII	ERICACEAE	MANZANITA, RAVEN'S (PRESIDIO)	CA
T	ASTRAGALUS PERIANUS	FABACEAE	MILK-VETCH, RYDBERG	UT
E	ASTRAGALUS YODER-WILLIAMSII	FABACEAE	MILK-VETCH, OSGOOD MOUNTAINS	ID NV
E	BAPTISIA ARACHNIFERA	FABACEAE	RATTLEWEED, HAIRY	GA
E	BERBERIS SONNEI	BERBERIDACEAE	BARBERRY, TRUCKEE	CA
	BETULA LENTA VAR. UBER	*** SEE ***	BETULA UBER	
E	BETULA UBER	BETULACEAE	BIRCH, ROUND-LEAF, VIRGINIA	VA
E	CASTILLEJA GRISEA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, SAN CLEMENTE IS.	CA
	CASTILLEJA HOLOLEUCA SSP. GRISEA	*** SEE ***	CASTILLEJA GRISEA	
	COLORADOA MESAE-VERDAE	*** SEE ***	SCLEROCACTUS MESAE-VERDAE	
E	CORDYLANTHUS MARITIMUS SSP. MARITIMUS	SCROPHULARIACEAE	BIRD'S-BEAK, SALT MARSH	CA MEXICO (BAJA CALIFORNIA)
E	CORYPHANTHA MINIMA	CACTACEAE	CORY CACTUS, NELLIE	TX
	CORYPHANTHA NELLIEAE	*** SEE ***	CORYPHANTHA MINIMA	
T	CORYPHANTHA RAMILLOSA	CACTACEAE	CORY CACTUS, BUNCHED	TX MEXICO (COAHUILA)
T	CORYPHANTHA SNEEDII VAR. LEEI	CACTACEAE	PINCUSHION CACTUS, LEE	NM
E	CORYPHANTHA SNEEDII VAR. SNEEDII	CACTACEAE	PINCUSHION CACTUS, SNEED	NM TX
E	DELPHINIUM KINKIENSE	RANUNCULACEAE	LARKSPUR, SAN CLEMENTE ISLAND	CA
E	DUDLEYA TRASKIAE	CRASSULACEAE	LIVEFOREVER, SANTA BARBARA ISLAND	CA
	ECHINACEA ANGUSTIFOLIA VAR. TENNESSEENSIS	*** SEE ***	ECHINACEA TENNESSEENSIS	
E	ECHINACEA TENNESSEENSIS	ASTERACEAE	CONEFLOWER, PURPLE, TENNESSEE	TN
	ECHINOCACTUS GLAUCUS	*** SEE ***	SCLEROCACTUS GLAUCUS	
E	ECHINOCACTUS HORIZONTHALONIUS VAR. NICHOLII	CACTACEAE	CACTUS, TURK'S HEAD, NICHOL	AZ
	ECHINOCACTUS MARIPOSENSIS	*** SEE ***	NEOLLOYDIA MARIPOSENSIS	
	ECHINOCACTUS MESAE-VERDAE	*** SEE ***	SCLEROCACTUS MESAE-VERDAE	
	ECHINOCACTUS PEEBLESIANUS	*** SEE ***	PEDIOCACTUS PEEBLESIANUS VAR. PEEBLESIANUS	
	ECHINOCACTUS SILERI	*** SEE ***	PEDIOCACTUS SILERI	
	ECHINOCACTUS SUBGLAUCUS	*** SEE ***	SCLEROCACTUS GLAUCUS	
	ECHINOCACTUS TOBUSCHII	*** SEE ***	ANCISTROCACTUS TOBUSCHII	
	ECHINOCACTUS WHIPPLEI VAR. GLAUCUS	*** SEE ***	SCLEROCACTUS GLAUCUS	
	ECHINOCEREUS ARIZONICUS	*** SEE ***	ECHINOCEREUS TRIGLOCHIDIATUS VAR. ARIZONICUS	
	ECHINOCEREUS COCCINEUS VAR. INERMIS	*** SEE ***	ECHINOCEREUS TRIGLOCHIDIATUS VAR. INERMIS	
	ECHINOCEREUS DAVISII	*** SEE ***	ECHINOCEREUS VIRIDIFLORUS VAR. DAVISII	
E	ECHINOCEREUS ENGELMANNII VAR. PURPUREUS	CACTACEAE	HEDGEHOG CACTUS, PURPLE-SPINED	UT
	ECHINOCEREUS HEMPELII /OF AUTHORS, NOT FOBE	*** SEE ***	ECHINOCEREUS KUENZLERI	
E	ECHINOCEREUS KUENZLERI	CACTACEAE	HEDGEHOG CACTUS, KUENZLER	NM
E	ECHINOCEREUS LLOYDII	CACTACEAE	HEDGEHOG CACTUS, LLOYD'S	TX
	ECHINOCEREUS MELANOCENTRUS	*** SEE ***	ECHINOCEREUS REICHENBACHII VAR. ALBERTII	
	ECHINOCEREUS PHOENICEUS VAR. INERMIS	*** SEE ***	ECHINOCEREUS TRIGLOCHIDIATUS VAR. INERMIS	
E	ECHINOCEREUS REICHENBACHII VAR. ALBERTII	CACTACEAE	CACTUS, BLACK LACE	TX
	ECHINOCEREUS ROETTERI VAR. LLOYDII	*** SEE ***	ECHINOCEREUS LLOYDII	
E	ECHINOCEREUS TRIGLOCHIDIATUS VAR. ARIZONICUS	CACTACEAE	HEDGEHOG CACTUS, ARIZONA	AZ
E	ECHINOCEREUS TRIGLOCHIDIATUS VAR. INERMIS	CACTACEAE	HEDGEHOG CACTUS, SPINELESS	CO UT
E	ECHINOCEREUS VIRIDIFLORUS VAR. DAVISII	CACTACEAE	PITAYA, GREEN, DAVIS'	TX
	ECHINOMASTUS MARIPOSENSIS	*** SEE ***	NEOLLOYDIA MARIPOSENSIS	
	EGTOSPERMA ALEXANDRAE	*** SEE ***	SWALLENIA ALEXANDRAE	
	ERYSIMUM ANGUSTATUM /GREENE	*** SEE ***	ERYSIMUM CAPITATUM VAR. ANGUSTATUM	
E	ERYSIMUM CAPITATUM VAR. ANGUSTATUM	BRASSICACEAE	WALLFLOWER, CONTRA COSTA	CA
	ESCOBARIA LEEI	*** SEE ***	CORYPHANTHA SNEEDII VAR. LEEI	

TABLE 1 (CONTINUED) TAXA CURRENTLY LISTED

2

	ESCOBARIA MINIMA	*** SEE ***	CORYPHANTHA MINIMA	
	ESCOBARIA SNEEDII	*** SEE ***	CORYPHANTHA SNEEDII VAR. SNEEDII	
T	FITZROYA CUPRESSOIDES	CUPRESSACEAE	ALERCE (FALSE LARCH, CHILEAN)	ARGENTINA, CHILE
E	HAPLOSTACHYS HAPLOSTACHYA VAR. ANGUSTIFOLIA	LAMIACEAE		HI
E	HARPEROCALLIS FLAVA	LILIACEAE	HARPER'S BEAUTY	FL
	HUDSONIA ERICOIDES SSP. MONTANA	*** SEE ***	HUDSONIA MONTANA	
T	HUDSONIA MONTANA	CISTACEAE	GOLDEN-HEATHER, MOUNTAIN	NC
E	KOKIA COOKEI	MALVACEAE	KOKIO, COOKE'S	HI
E	LIPOCHAETA VENOSA	ASTERACEAE	NEHE,	HI
E	LOTUS DENDROIDEUS SSP. TRASKIAE	FABACEAE	BROOM, SAN CLEMENTE ISLAND	CA
	LOTUS SCOPARIUS SSP. TRASKIAE	*** SEE ***	LOTUS DENDROIDEUS SSP. TRASKIAE	
	MAHONIA SONNEI	*** SEE ***	BERBERIS SONNEI	
E	MALACOTHAMNUS CLEMENTINUS	MALVACEAE	BUSH-MALLOW, SAN CLEMENTE ISLAND	CA
	MAMMILLARIA LEEI	*** SEE ***	CORYPHANTHA SNEEDII VAR. LEEI	
	MAMMILLARIA MINIMA	*** SEE ***	CORYPHANTHA MINIMA	
	MAMMILLARIA SNEEDII	*** SEE ***	CORYPHANTHA SNEEDII VAR. SNEEDII	
	MAMMILLARIA TOBUSCHII	*** SEE ***	ANCISTROCACTUS TOBUSCHII	
E	MIRABILIS MACFARLANEI	NYCTAGINACEAE	FOUR-O'CLOCK, MACFARLANE'S	ID OR
	NAVAJOA PEEBLESIANUS	*** SEE ***	PEDIOCACTUS PEEBLESIANUS VAR. PEEBLESIANUS	
T	NEOLLOYDIA MARIPOSENSIS	CACTACEAE	LLOYD'S CACTUS, MARIPOSA	TX MEXICO (COAHUILA)
E	OENOTHERA AVITA SSP. EUREKENSIS	ONAGRACEAE	EVENING-PRIMROSE, EUREKA VALLEY	CA
E	OENOTHERA DELTOIDES SSP. HOWELLII	ONAGRACEAE	EVENING-PRIMROSE, ANTIOCH DUNES	CA
E	ORCUTTIA MUCRONATA	POACEAE	GRASS, SOLANO (CRAMPTON'S ORCUTT)	CA
E	PEDICULARIS FURBISHIAE	SCROPHULARIACEAE	LOUSEWORT, FURBISH	ME CANADA (NEW BRUNSWICK)
E	PEDIOCACTUS BRADYI	CACTACEAE	PINCUSHION CACTUS, BRADY	AZ
	PEDIOCACTUS GLAUCUS	*** SEE ***	SCLEROCACTUS GLAUCUS	
E	PEDIOCACTUS KNOWLTONII	CACTACEAE	HEDGEHOG CACTUS, KNOWLTON	CO NM
	PEDIOCACTUS MESAE-VERDAE	*** SEE ***	SCLEROCACTUS MESAE-VERDAE	
E	PEDIOCACTUS PEEBLESIANUS VAR. PEEBLESIANUS	CACTACEAE	CACTUS, PEEBLES NAVAJO	AZ
E	PEDIOCACTUS SILERI	CACTACEAE	PINCUSHION CACTUS, SILER	AZ UT
	PEDIOCACTUS WRIGHTIAE	*** SEE ***	SCLEROCACTUS WRIGHTIAE	
E	PHACELIA ARGILLACEA	HYDROPHYLLACEAE	PHACELIA, CLAY	UT
E	POGOGYNE ABRAMSII	LAMIACEAE	MESA-MINT, SAN DIEGO	CA
E	POTENTILLA ROBBINSIANA	ROSACEAE	CINQUEFOIL, ROBBINS	NH VT
E	RHODODENDRON CHAPMANII	ERICACEAE	RHODODENDRON, CHAPMAN	FL
	RHODODENDRON MINUS VAR. CHAPMANII	*** SEE ***	RHODODENDRON CHAPMANII	
E	SAGITTARIA FASCICULATA	ALISMATACEAE	ARROWHEAD, BUNCHED	NC SC
E	SARRACENIA OREOPHILA	SARRACENIACEAE	PITCHERPLANT, GREEN	AL GA TN
	SCLEROCACTUS FRANKLINII	*** SEE ***	SCLEROCACTUS GLAUCUS	
T	SCLEROCACTUS GLAUCUS	CACTACEAE	CACTUS, HOOKLESS, UINTA BASIN	CO UT
T	SCLEROCACTUS MESAE-VERDAE	CACTACEAE	CACTUS, MESA VERDE	CO NM
E	SCLEROCACTUS WRIGHTIAE	CACTACEAE	FISHHOOK CACTUS, WRIGHT	UT
E	STENOGYNE ANGUSTIFOLIA VAR. ANGUSTIFOLIA	LAMIACEAE		HI
	STYLOPHYLLUM TRASKIAE	*** SEE ***	DUDLEYA TRASKIAE	
E	SWALLENIA ALEXANDRAE	POACEAE	GRASS, DUNE, EUREKA VALLEY	CA
	TOUMEYA BRADYI	*** SEE ***	PEDIOCACTUS BRADYI	
	TOUMEYA PEEBLESIANUS	*** SEE ***	PEDIOCACTUS PEEBLESIANUS VAR. PEEBLESIANUS	
E	TRILLIUM PERSISTENS	LILIACEAE	TRILLIUM, PERSISTENT	GA SC
	UTAHIA PEEBLESIANUS	*** SEE ***	PEDIOCACTUS PEEBLESIANUS VAR. PEEBLESIANUS	
	UTAHIA SILERI	*** SEE ***	PEDIOCACTUS SILERI	
E	VICIA MENZIESII	FABACEAE	VETCH, HAWAIIAN	HI
E	ZIZANIA TEXANA	POACEAE	WILD-RICE, TEXAS	TX

TABLE 2 TAXA CURRENTLY PROPOSED 3

TAXON	FAMILY	COMMON NAME	HISTORIC DISTRIBUTION
CALLIRHOE SCABRIUSCULA	MALVACEAE	POPPY-MALLOW, TEXAS	TX
ERIOGONUM GYPSOPHILUM	POLYGONACEAE	WILD-BUCKWHEAT, GYPSUM-LOVING	NM
EUPHORBIA SKOTTSBERGII VAR. KALAELOANA	EUPHORBIACEAE	'AKOKO, 'EWA PLAINS	HI
HEDEOMA APICULATUM	LAMIACEAE	PENNYROYAL, MCKITTRICK	NM TX
HEDEOMA TODSENII	LAMIACEAE	PENNYROYAL, TODSEN'S	NM
ISOTRIA MEDEOLOIDES	ORCHIDACEAE	POGONIA, SMALL WHORLED	CT GA IL ME MD MA MI MO NH NJ NY NC PA RI SC VT VA CANADA
PARONYCHIA ARGYROCOMA VAR. ALBIMONTANA	CARYOPHYLLACEAE	WHITLOW-WORT,	ME MA NH
PHACELIA FORMOSULA	HYDROPHYLLACEAE	PHACELIA,	CO
SPIRANTHES PARKSII	ORCHIDACEAE	LADIES'-TRESSES, NAVASOTA	TX
STEPHANOMERIA MALHEURENSIS	ASTERACEAE	WIRE-LETTUCE, MALHEUR	OR

TABLE 3

TAXA CURRENTLY UNDER REVIEW

	TAXON	FAMILY	COMMON NAME	HISTORIC DISTRIBUTION
	ABAMA AMERICANUM	*** SEE ***	NARTHECIUM AMERICANUM	
	ABAMA MONTANA	*** SEE ***	NARTHECIUM AMERICANUM	
1	ABRONIA ALPINA	NYCTAGINACEAE	SAND-VERBENA, ALPINE	AZ CA
2	ABRONIA BIGELOVII	NYCTAGINACEAE		NM
1	ABRONIA MACROCARPA	NYCTAGINACEAE		TX
1*	ABUTILON EREMITOPETALUM	MALVACEAE	ABUTILON, HIDDEN-PETALED	HI
	ABUTILON MARSHII	*** SEE ***	ALLOWISSADULA HOLOSERICEA	
1	ABUTILON MENZIESII	MALVACEAE	KO'OLOA 'ULA	HI
1	ABUTILON SANDWICENSE	MALVACEAE		HI
2	ABUTILON VIRGINIANUM	MALVACEAE		PR VI BRITISH VI
1	ACACIA KOAIA	FABACEAE	KOA OHA	HI
1	ACAENA EXIGUA	ROSACEAE	LILI-WAI	HI
1	ACANTHOMINTHA ILICIFOLIA	LAMIACEAE	THORN-MINT, SAN DIEGO	CA MEXICO
1	ACANTHOMINTHA OBOVATA SSP. DUTTONII	LAMIACEAE	THORN-MINT, SAN MATEO	CA
2	ACER GRANDIDENTATUM VAR. SINUOSUM	ACERACEAE		TX
1*	ACHYRANTHES MUTICA	AMARANTHACEAE		HI
1	ACHYRANTHES NELSONII	AMARANTHACEAE		HI
1*	ACHYRANTHES SPLENDENS VAR. REFLEXA	AMARANTHACEAE		HI
1	ACHYRANTHES SPLENDENS VAR. ROTUNDATA	AMARANTHACEAE		HI
2	ACLEISANTHES CRASSIFOLIA	NYCTAGINACEAE		TX
	ACTINEA HERBACEA	*** SEE ***	HYMENOXYS ACAULIS VAR. GLABRA	
	ACTINELLA DEPRESSA	*** SEE ***	HYMENOXYS DEPRESSA	
	ACTINOSTACHYS GERMANII	*** SEE ***	SCHIZAEA GERMANII	
1	ADENOPHORUS PERIENS	POLYPODIACEAE	FERN, PENDANT KIHI	HI
1*	AERVA SERICEA	AMARANTHACEAE		HI
2	AESCHYNOMENE VIRGINICA	FABACEAE	JOINT-VETCH, SENSITIVE	DE MD NJ NC PA VA
2	AGALINIS ACUTA	SCROPHULARIACEAE	FALSE FOXGLOVE	CT MA NY RI
1*	AGALINIS CADDOENSIS	SCROPHULARIACEAE		LA
2	AGALINIS PSEUDOPHYLLA	SCROPHULARIACEAE		AL LA MS TN
1	AGALINIS PURPUREA VAR. CARTERI	SCROPHULARIACEAE		FL
1*	AGALINIS STENOPHYLLA	SCROPHULARIACEAE	FALSE FOXGLOVE,	FL
2	AGASTACHE CUSICKII	LAMIACEAE		ID OR
1	AGAVE ARIZONICA	LILIACEAE		AZ
2	AGAVE CHISOENSIS	LILIACEAE		TX
2	AGAVE EGGERSIANA	LILIACEAE		VI
1	AGAVE PARVIFLORA	LILIACEAE		AZ
2	AGAVE SCHOTTII VAR. TRELEASEI	LILIACEAE		AZ
1	AGAVE TOUMEYANA VAR. BELLA	LILIACEAE		AZ
2	AGAVE UTAHENSIS VAR. EBORISPINA	LILIACEAE		CA NV
2	AGAVE UTAHENSIS VAR. NEVADENSIS	LILIACEAE		CA NV
	AGERATINA SHASTENSIS	*** SEE ***	EUPATORIUM SHASTENSE	
2	AGRIMONIA INCISA	ROSACEAE		FL MS SC
1	AGROSTIS ARISTIGLUMIS	POACEAE	BENT GRASS, AWNED	CA
1	AGROSTIS BLASDALEI VAR. BLASDALEI	POACEAE		CA
1	AGROSTIS BLASDALEI VAR. MARINENSIS	POACEAE	BENT GRASS, MARIN	CA
1	AGROSTIS CLIVICOLA VAR. CLIVICOLA	POACEAE		CA
1	AGROSTIS CLIVICOLA VAR. PUNTA-REYESENSIS	POACEAE	BENT GRASS, POINT REYES	CA
	AGROSTIS HENDERSONII	*** SEE ***	AGROSTIS MICROPHYLLA VAR. HENDERSONII	
2	AGROSTIS MICROPHYLLA VAR. HENDERSONII	POACEAE	BENT GRASS, HENDERSON'S	CA OR
1	AGROSTIS ROSSIAE	POACEAE	BENT GRASS, ROSS	WY
	AJANIA SENJAVINENSIS	*** SEE ***	ARTEMISIA SENJAVINENSIS	
1	ALECTRYON MACROCOCCUM	SAPINDACEAE	MAHOE,	HI
2	ALETES HUMILIS	APIACEAE		CO
2	ALLIONIA CRISTATA	NYCTAGINACEAE		AZ
1	ALLIUM AASEAE	LILIACEAE	ONION, AASE	ID

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ALLIUM DICTUON	LILIACEAE	ONION, BLUE MOUNTAIN	WA
2	ALLIUM DOUGLASII VAR. CONSTRICTUM	LILIACEAE		WA
1	ALLIUM GOODDINGII	LILIACEAE		AZ NM
1	ALLIUM HICKMANII	LILIACEAE	ONION, HICKMAN'S	CA
1	ALLIUM HOFFMANII	LILIACEAE	ONION, BEEGUM	CA
1	ALLIUM PASSEYI	LILIACEAE	ONION, PASSEY'S	UT
2	ALLIUM PERDULCE VAR. SPERRYI	LILIACEAE		TX
2	ALLIUM PLEIANTHUM	LILIACEAE		OR
2	ALLIUM ROBINSONII	LILIACEAE		OR WA
1	ALLIUM SANBORNII VAR. TUOLUMNENSE	LILIACEAE		CA
2	ALLIUM SCILLOIDES	LILIACEAE		WA
2	ALLIUM TOLMIEI VAR. PERSIMILE	LILIACEAE		ID
2	ALLIUM YOSEMITENSE	LILIACEAE	ONION, YOSEMITE	CA
2	ALLOWISSADULA HOLOSERICEA	MALVACEAE		TX
1	ALOPECURUS AEQUALIS VAR. SONOMENSIS	POACEAE	ALOPECURUS, SONOMA	CA
1	ALSINODENDRON OBOVATUM	CARYOPHYLLACEAE		HI
1	ALSINODENDRON TRINERVE	CARYOPHYLLACEAE		HI
2	ALSOPHILA BROOKSII	CYATHEACEAE		PR CUBA, HISPANIOLA
1	ALSOPHILA DRYOPTEROIDES	CYATHEACEAE		PR
1	AMARANTHUS BROWNII	AMARANTHACEAE		HI
2	AMBROSIA CHEIRANTHIFOLIA	ASTERACEAE	RAGWEED,	TX MEXICO
1	AMBROSIA PUMILA	ASTERACEAE	RAGWEED, SAN DIEGO	CA
1	AMMOBROMA SONORAE	LENNOACEAE	SANDFOOD	AZ CA MEXICO
1	AMORPHA OUACHITENSIS	FABACEAE	FALSE INDIGO,	AR OK
2	AMORPHA ROEMERANA	FABACEAE		TX
2	AMORPHA TEXANA	FABACEAE		TX
1	AMPHIANTHUS PUSILLUS	SCROPHULARIACEAE	AMPHIANTHUS, LITTLE	AL GA SC
1*	AMSINCKIA CARINATA	BORAGINACEAE		OR
1	AMSINCKIA GRANDIFLORA	BORAGINACEAE	FIDDLENECK, LARGE-FLOWERED	CA
2	AMSINCKIA VERNICOSA VAR. FURCATA	BORAGINACEAE		CA
2	AMSONIA GLABERRIMA	APOCYNACEAE		LA TX
1	AMSONIA KEARNEYANA	APOCYNACEAE		AZ
2	AMSONIA PEEBLESII	APOCYNACEAE		AZ
2	AMSONIA REPENS	APOCYNACEAE		TX
2	AMSONIA TABERNAE-MONTANUM VAR. GATTINGERI	APOCYNACEAE		TN
1	AMSONIA THARPII	APOCYNACEAE		TX
1	ANDRACHNE ARIDA	EUPHORBIACEAE		TX
2	ANDROPOGON ARGTATUS	POACEAE	BEARD GRASS,	AL FL
2	ANEMONE EDWARDSIANA VAR. PETRAEA	RANUNCULACEAE		TX
2	ANEMONE OREGANA VAR. FELIX	RANUNCULACEAE		OR WA
1	ANGELICA SCABRIDA	APIACEAE		NV
1	ANGURIA COOKIANA	CUCURBITACEAE	ALGODONCILLO	PR
2	ANODA ABUTILOIDES	MALVACEAE	FALSE INDIAN-MALLOW	AZ
2	ANTENNARIA ARCUATA	ASTERACEAE	PUSSYTOES, MEADOW	ID NV WY
1	ANTENNARIA SOLICEPS	ASTERACEAE		NV
2	ANTHERICUM CHANDLERI	LILIACEAE		TX MEXICO
2	ANTIRHEA PORTORICENSIS	RUBIACEAE	QUINA	PR
1	ANTIRRHINUM SUBCORDATUM	SCROPHULARIACEAE	SNAPDRAGON, DIMORPHIC	CA
1	APACHERIA CHIRICAHUENSIS	CROSSOSOMATACEAE		AZ
2	APHANISMA BLITOIDES	CHENOPODIACEAE		CA
1	APIOS PRICEANA	FABACEAE	POTATO-BEAN (GROUNDNUT), PRICE'S	AL IL KY MS TN
	APLOPAPPUS SALICINUS	*** SEE ***	HAPLOPAPPUS SALICINUS	
2	APOCYNUM JONESII	APOCYNACEAE	DOGBANE, JONES'	AZ

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	AQUILEGIA AUSTRALIS	*** SEE ***	AQUILEGIA CANADENSIS VAR. AUSTRALIS	
2	AQUILEGIA BARNEBYI	RANUNCULACEAE		CO UT
2	AQUILEGIA CAERULEA VAR. DAILEYAE	RANUNCULACEAE		CO
1	AQUILEGIA CANADENSIS VAR. AUSTRALIS	RANUNCULACEAE	COLUMBINE, CANADIAN,	FL GA
1	AQUILEGIA CHAPLINEI	RANUNCULACEAE	COLUMBINE,	NM TX
1	AQUILEGIA DESERTORUM	RANUNCULACEAE		AZ
1	AQUILEGIA HINCKLEYANA	RANUNCULACEAE	COLUMBINE, HINCKLEY'S	TX
2	AQUILEGIA LONGISSIMA	RANUNCULACEAE	COLUMBINE, LONG SPUR	AZ MEXICO
2*	AQUILEGIA MICRANTHA VAR. MANCOSANA	RANUNCULACEAE	COLUMBINE,	CO
2	AQUILEGIA SAXIMONTANA	RANUNCULACEAE		CO
2	ARABIS ACULEOLATA	BRASSICACEAE		CA OR
2	ARABIS BLEPHAROPHYLLA	BRASSICACEAE	ROCK CRESS, COAST	CA
1	ARABIS BREWERI VAR. AUSTINIAE	BRASSICACEAE		CA
1	ARABIS BREWERI VAR. PECUNIARIA	BRASSICACEAE	ROCK CRESS,	CA
1	ARABIS CONSTANCEI	BRASSICACEAE	ROCK CRESS, CONSTANCE'S	CA
2*	ARABIS FRUCTICOSA	BRASSICACEAE	ROCK CRESS, FRUIT	WY
2	ARABIS GEORGIANA	BRASSICACEAE		AL GA
2	ARABIS GUNNISONIANA	BRASSICACEAE	ROCK CRESS,	CO
1	ARABIS HOFFMANNII	BRASSICACEAE	ROCK CRESS, HOFFMANN'S	CA
1	ARABIS JOHNSTONII	BRASSICACEAE	ROCK CRESS, JOHNSTON'S	CA
1	ARABIS KOEHLERI VAR. KOEHLERI	BRASSICACEAE	ROCK CRESS, KOEHLER'S	OR
2	ARABIS KOEHLERI VAR. STIPITATA	BRASSICACEAE		OR
2	ARABIS MISSOURIENSIS VAR. DEAMII	BRASSICACEAE		IN MO WI
2	ARABIS MODESTA	BRASSICACEAE	ROCK CRESS, MODEST	CA OR
1	ARABIS PERSTELLATA VAR. AMPLA	BRASSICACEAE	ROCK CRESS, LARGE	TN
1	ARABIS PERSTELLATA VAR. PERSTELLATA	BRASSICACEAE	ROCK CRESS, SMALL	AL KY
2	ARABIS PYGMAEA	BRASSICACEAE		CA
2	ARABIS SERPENTINICOLA	BRASSICACEAE		CA OR
2	ARABIS SP. /SP. NOV. INED.	BRASSICACEAE	ROCK CRESS (GRAY KNOLLS, UINTAH CO.)	UT
2	ARABIS SP. /SP. NOV. INED.	BRASSICACEAE	ROCK CRESS (JONES HOLE, UINTAH CO.)	UT
2	ARABIS SUFFRUTESCENS VAR. HORIZONTALIS	BRASSICACEAE		OR
	ARABIS SUFFRUTESCENS VAR. PERSTYLOSA	*** SEE ***	ARABIS CONSTANCEI	
1	ARCTOMECON CALIFORNICA	PAPAVERACEAE	DESERT-POPPY,	AZ NV
2	ARCTOMECON MERRIAMII	PAPAVERACEAE	DESERT-POPPY,	CA NV
	ARCTOSTAPHYLOS ANDERSONII VAR. PALLIDA	*** SEE ***	ARCTOSTAPHYLOS PALLIDA	
1	ARCTOSTAPHYLOS AURICULATA	ERICACEAE	MANZANITA, MT. DIABLO	CA
1	ARCTOSTAPHYLOS BAKERI	ERICACEAE	MANZANITA, BAKER'S	CA
1	ARCTOSTAPHYLOS CATALINAE	ERICACEAE		CA
2	ARCTOSTAPHYLOS CONFERTIFLORA	ERICACEAE	MANZANITA, SANTA ROSA ISLAND	CA
2	ARCTOSTAPHYLOS CRUZENSIS	ERICACEAE	MANZANITA, ARROYO DE LA CRUZ	CA
1	ARCTOSTAPHYLOS DENSIFLORA	ERICACEAE	MANZANITA, VINE HILL	CA
2	ARCTOSTAPHYLOS EDMUNDSII VAR. EDMUNDSII	ERICACEAE	MANZANITA, LITTLE SUR	CA
2	ARCTOSTAPHYLOS EDMUNDSII VAR. PARVIFOLIA	ERICACEAE	MANZANITA, SMALL-FLOWERED LITTLE SUR	CA
1	ARCTOSTAPHYLOS GLUTINOSA	ERICACEAE	MANZANITA, SCHREIBER'S	CA
2	ARCTOSTAPHYLOS HISPIDULA	ERICACEAE		CA OR
1**	ARCTOSTAPHYLOS HOOKERI SSP. FRANCISCANA	ERICACEAE	MANZANITA, SAN FRANCISCO	CA
1	ARCTOSTAPHYLOS HOOKERI SSP. HEARSTIORUM	ERICACEAE	MANZANITA, HEARST'S	CA
	ARCTOSTAPHYLOS HOOKERI SSP. MONTANA	*** SEE ***	ARCTOSTAPHYLOS MONTANA	
1	ARCTOSTAPHYLOS IMBRICATA	ERICACEAE	MANZANITA, SAN BRUNO MOUNTAIN	CA
2	ARCTOSTAPHYLOS LUCIANA	ERICACEAE	MANZANITA, SANTA LUCIA	CA
1	ARCTOSTAPHYLOS MONTANA	ERICACEAE	MANZANITA, TAMALPAIS	CA
1	ARCTOSTAPHYLOS MONTARAENSIS	ERICACEAE	MANZANITA, MONTARA	CA
1	ARCTOSTAPHYLOS MONTEREYENSIS	ERICACEAE	MANZANITA, MONTERREY	CA
1	ARCTOSTAPHYLOS MORROENSIS	ERICACEAE	MANZANITA, MORRO	CA
1	ARCTOSTAPHYLOS MYRTIFOLIA	ERICACEAE	MANZANITA, IONE	CA
2	ARCTOSTAPHYLOS OTAYENSIS	ERICACEAE	MANZANITA, OTAY	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ARCTOSTAPHYLOS PACIFICA	ERICACEAE	MANZANITA, PACIFIC	CA
1	ARCTOSTAPHYLOS PALLIDA	ERICACEAE	MANZANITA, ALAMEDA	CA
1	ARCTOSTAPHYLOS PILOSULA SSP. PILOSULA	ERICACEAE		CA
1	ARCTOSTAPHYLOS PUMILA	ERICACEAE	MANZANITA, SANDMAT	CA
2	ARCTOSTAPHYLOS REFUGIOENSIS	ERICACEAE	MANZANITA, REFUGIO	CA
2	ARCTOSTAPHYLOS RUDIS	ERICACEAE		CA
1	ARCTOSTAPHYLOS SILVICOLA	ERICACEAE	MANZANITA, SILVER-LEAVED	CA
	ARCTOSTAPHYLOS STANFORDIANA SSP. HISPIDULA	*** SEE ***	ARCTOSTAPHYLOS HISPIDULA	
1	ARCTOSTAPHYLOS VIRGATA	ERICACEAE	MANZANITA, BOLINAS	CA
1	ARENARIA ALABAMENSIS	CARYOPHYLLACEAE	SANDWORT, ALABAMA	AL NC
1	ARENARIA CUMBERLANDENSIS	CARYOPHYLLACEAE		TN
2	ARENARIA DECUMBENS /SP. NOV. INED.	CARYOPHYLLACEAE		CA
1	ARENARIA FONTINALIS	CARYOPHYLLACEAE	STITCHWORT, WATER	KY TN
1*	ARENARIA FRANKLINII VAR. THOMPSONII	CARYOPHYLLACEAE		OR
	ARENARIA GODFREYI	*** SEE ***	MINUARTIA GODFREYI	
1	ARENARIA KINGII VAR. ROSEA	CARYOPHYLLACEAE		NV
1	ARENARIA LIVERMORENSIS	CARYOPHYLLACEAE	SANDWORT, LIVERMORE	TX
1	ARENARIA MACRADENIA VAR. KUSCHEI	CARYOPHYLLACEAE		CA
	ARENARIA MARCESCENS	*** SEE ***	MINUARTIA MARCESCENS	
2	ARENARIA PALUDICOLA	CARYOPHYLLACEAE		CA WA
1	ARENARIA ROSEI	CARYOPHYLLACEAE	SANDWORT, PEANUT	CA
1	ARENARIA STENOMERES	CARYOPHYLLACEAE		NV
2	ARENARIA URSINA	CARYOPHYLLACEAE	SANDWORT, BEAR VALLEY	CA
2	ARGEMONE ARIZONICA	PAPAVERACEAE		AZ
2	ARGEMONE GLAUCA VAR. INERMIS	PAPAVERACEAE		HI
1	ARGEMONE MUNITA SSP. ROBUSTA	PAPAVERACEAE		CA
1	ARGEMONE PLEIACANTHA SSP. PINNATISECTA	PAPAVERACEAE	PRICKLY-POPPY,	NM
1	ARGYROXIPHIUM KAUENSE	ASTERACEAE	SILVERSWORD, KA'U	HI
1	ARGYROXIPHIUM SANDWICENSE	ASTERACEAE	HINAHINA	HI
1	ARGYROXIPHIUM VIRESCENS VAR. VIRESCENS	ASTERACEAE	GREENSWORD	HI
1	ARGYTHAMNIA APHOROIDES	EUPHORBIACEAE	MERCURY, WILD,	TX
1	ARGYTHAMNIA ARGYRAEA	EUPHORBIACEAE	MERCURY, WILD,	TX
1	ARGYTHAMNIA BLODGETTII	EUPHORBIACEAE		FL
1	ARISTIDA FLORIDANA	POACEAE	TRIPLE-AWNED GRASS,	FL
2	ARISTIDA PORTORICENSIS	POACEAE	PELOS DEL DIABLO	PR
1	ARISTIDA SIMPLICIFLORA	POACEAE		AL FL MS
1	ARNICA VENOSA	ASTERACEAE	ARNICA, VEINY	CA
2	ARNICA VISCOSA	ASTERACEAE	ARNICA, SHASTA	CA OR
1	ARTEMISIA ALEUTICA	ASTERACEAE	WORMWOOD, ALEUTIAN	AK
	ARTEMISIA ANDROSACEA	*** SEE ***	ARTEMISIA SENJAVINENSIS	
2	ARTEMISIA ARGILOSA	ASTERACEAE	SAGEBRUSH, COALTOWN	CO
1	ARTEMISIA SENJAVINENSIS	ASTERACEAE	SAGE, ARTIC	AK U.S.S.R.
2	ARTEMISIA UNALASKENSIS VAR. ALEUTICA	ASTERACEAE		AK
	ASARUM CONTRACTA	*** SEE ***	HEXASTYLIS CONTRACTA	
	ASARUM LEWISII	*** SEE ***	HEXASTYLIS LEWISII	
	ASARUM NANIFLORA	*** SEE ***	HEXASTYLIS NANIFLORA	
1	ASCLEPIAS CUTLERI	ASCLEPIADACEAE	MILKWEED, CUTLER	AZ UT
2	ASCLEPIAS EASTWOODIANA	ASCLEPIADACEAE	MILKWEED, EASTWOOD'S	NV
1	ASCLEPIAS MEADII	ASCLEPIADACEAE	MILKWEED, MEAD'S	IL IN IA KS MO WI
1	ASCLEPIAS RUTHIAE	ASCLEPIADACEAE	MILKWEED, RUTH	UT
2	ASCLEPIAS VIRIDULA	ASCLEPIADACEAE		FL
1	ASCLEPIAS WELSHII	ASCLEPIADACEAE		UT
	ASIMINA PULCHELLA	*** SEE ***	DEERINGOTHAMNUS PULCHELLUS	
	ASIMINA RUGELII	*** SEE ***	DEERINGOTHAMNUS RUGELII	
1	ASIMINA TETRAMERA	ANNONACEAE	PAWPAW,	FL
2	ASPLENIUM ANDREWSII	POLYPODIACEAE		AZ CO UT

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1*	ASPLENIUM FRAGILE VAR. INSULARIS	POLYPODIACEAE		HI
2	ASPLENIUM HETERORESILIENS	POLYPODIACEAE		FL GA NC SC
1*	ASPLENIUM LEUCOSTEGIOIDES	POLYPODIACEAE		HI
2	ASPLENIUM PLENUM	POLYPODIACEAE		FL
	ASPLENIUM RHOMBOIDEUM	*** SEE ***	ASPLENIUM FRAGILE VAR. INSULARIS	
1	ASTER AVITUS	ASTERACEAE		GA SC
2	ASTER BLEPHAROPHYLLUS	ASTERACEAE		NM
2	ASTER BRACHYPHOLIS	ASTERACEAE		FL
1	ASTER CURTUS	ASTERACEAE	ASTER, CURTUS	OR WA CANADA (BRITISH COLUMBIA)
2	ASTER DEPAUPERATUS	ASTERACEAE	ASTER,	MD PA
	ASTER ERICOIDES VAR. DEPAUPERATUS	*** SEE ***	ASTER DEPAUPERATUS	
2	ASTER FURCATUS	ASTERACEAE		IL IN IA MI MO WI
2	ASTER GLAUCESCENS	ASTERACEAE		WA
2	ASTER GORMANII	ASTERACEAE	ASTER, GORMAN	OR
1	ASTER JESSICAE	ASTERACEAE		ID WA
1	ASTER LEMMONII	ASTERACEAE		AZ
2	ASTER PALUDICOLA	ASTERACEAE		CA OR
1	ASTER PLUMOSUS	ASTERACEAE		FL
1*	ASTER SANDWICENSIS	ASTERACEAE	ASTER, HAWAIIAN	HI
2	ASTER SCABRICAULIS	ASTERACEAE		TX
1	ASTER SPINULOSUS	ASTERACEAE		FL
1	ASTER VIALIS	ASTERACEAE		OR
1	ASTER YUKONENSIS	ASTERACEAE	ASTER, YUKON	AK CANADA (YUKON TERRITORY)
1*	ASTILBE CRENATILOBA	SAXIFRAGACEAE		NC TN
1	ASTRAGALUS ACCUMBENS	FABACEAE		NM
2	ASTRAGALUS ACKERMANNII	FABACEAE		NV
1	ASTRAGALUS AEQUALIS	FABACEAE		NV
1*	ASTRAGALUS AGNICIDUS	FABACEAE		CA
2	ASTRAGALUS AMPULLARIUS	FABACEAE	MILK-VETCH, GUMBO	AZ UT
1*	ASTRAGALUS APPLEGATII	FABACEAE		OR
1	ASTRAGALUS ATRATUS VAR. INSEPTUS	FABACEAE	MILK-VETCH,	ID
1	ASTRAGALUS BARNEBYI	FABACEAE	MILK-VETCH, BARNEBY	AZ UT
2	ASTRAGALUS BEATHII	FABACEAE	MILK-VETCH, BEATH	AZ
1	ASTRAGALUS BEATLEYAE	FABACEAE	MILK-VETCH, BEATLEY	NV
1	ASTRAGALUS BRAUNTONII	FABACEAE		CA
2	ASTRAGALUS CALLITHRIX	FABACEAE	MILK-VETCH, CALLOWAY	NV UT
1	ASTRAGALUS CALYCOSUS VAR. MONOPHYLLIDIUS	FABACEAE		NV
1	ASTRAGALUS CAMPTOPUS	FABACEAE		ID
	ASTRAGALUS CASTANEIFORMIS VAR. CONSOBRINUS	*** SEE ***	ASTRAGALUS CONSOBRINUS	
2	ASTRAGALUS CASTETTERI	FABACEAE	MILK-VETCH, CASTETTER	NM
1	ASTRAGALUS CERAMICUS VAR. APUS	FABACEAE		ID
1	ASTRAGALUS CHLOODES	FABACEAE	MILK-VETCH, GRASS	UT
2	ASTRAGALUS CIMAE VAR. CIMAE	FABACEAE	RATTLEWEED, CIMA	CA NV
2	ASTRAGALUS CIMAE VAR. SUFFLATUS	FABACEAE		CA
1	ASTRAGALUS CLARIANUS	FABACEAE	RATTLEWEED, CLARA HUNT'S	CA
2	ASTRAGALUS COLLINUS VAR. LAURENTII	FABACEAE		OR
1	ASTRAGALUS COLUMBIANUS	FABACEAE	MILK-VETCH, COLUMBIA	WA
2	ASTRAGALUS CONSOBRINUS	FABACEAE		UT
2	ASTRAGALUS CONVALLARIUS VAR. FINITIMUS	FABACEAE		UT
1	ASTRAGALUS COTTAMII	FABACEAE	MILK-VETCH, COTTAM	AZ UT
1	ASTRAGALUS COTTONII	FABACEAE		WA
1	ASTRAGALUS CREMNOPHYLAX	FABACEAE	MILK-VETCH,	AZ
1	ASTRAGALUS CRONQUISTII	FABACEAE	MILK-VETCH, CRONQUIST	UT
1	ASTRAGALUS DEANEI	FABACEAE	MILK-VETCH, DEANE	CA
1*	ASTRAGALUS DESERETICUS	FABACEAE	MILK-VETCH, DESERET	UT

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	ASTRAGALUS DESPERATUS VAR. CONSPECTUS	*** SEE ***	ASTRAGALUS BARNEBYI		
1	ASTRAGALUS DETERIOR	FABACEAE	MILK-VETCH, CLIFF-PALACE	CO	
1	ASTRAGALUS DOUGLASII VAR. PERSTRICTUS	FABACEAE		CA	
1	ASTRAGALUS FUNEREUS	FABACEAE		CA	NV
1	ASTRAGALUS GEYERI VAR. TRIQUETRUS	FABACEAE		AZ	NV
1	ASTRAGALUS HAMILTONII	FABACEAE	MILK-VETCH, HAMILTON	UT	
1*	ASTRAGALUS HARRISONII	FABACEAE	MILK-VETCH, HARRISON.	UT	
2	ASTRAGALUS HENRIMONTANENSIS	FABACEAE		UT	
2	ASTRAGALUS HOODIANUS	FABACEAE		OR	WA
1*	ASTRAGALUS HUMILLIMUS	FABACEAE	MILK-VETCH, MANCOS	CO	
1	ASTRAGALUS ISELYI	FABACEAE	MILK-VETCH, ISELY	UT	
1	ASTRAGALUS JAEGERIANUS	FABACEAE		CA	
1	ASTRAGALUS JOHANNIS-HOWELLII	FABACEAE		CA	
1*	ASTRAGALUS KENTROPHYTA VAR. DOUGLASII	FABACEAE	MILK-VETCH, THISTLE, DOUGLAS	OR	WA
	ASTRAGALUS LAURENTII	*** SEE ***	ASTRAGALUS COLLINUS VAR. LAURENTII		
2	ASTRAGALUS LENTIGINOSUS VAR. AMBIGUUS	FABACEAE		AZ	
2	ASTRAGALUS LENTIGINOSUS VAR. ANTONIUS	FABACEAE		CA	
1	ASTRAGALUS LENTIGINOSUS VAR. COACHELLAE	FABACEAE		CA	
2	ASTRAGALUS LENTIGINOSUS VAR. LATUS	FABACEAE		NV	
1	ASTRAGALUS LENTIGINOSUS VAR. MICANS	FABACEAE		CA	NV
1	ASTRAGALUS LENTIGINOSUS VAR. PISCINENSIS	FABACEAE		CA	
1	ASTRAGALUS LENTIGINOSUS VAR. SESQUIMETRALIS	FABACEAE		CA	NV
2	ASTRAGALUS LENTIGINOSUS VAR. SIERRAE	FABACEAE		CA	
1*	ASTRAGALUS LENTIGINOSUS VAR. URSINUS	FABACEAE	MILK-VETCH, BEAR VALLEY	UT	
1	ASTRAGALUS LIMNOCHARIS	FABACEAE		UT	
2	ASTRAGALUS LINIFOLIUS	FABACEAE	MILK-VETCH, GRAND JUNCTION	CO	
2	ASTRAGALUS LUTOSUS	FABACEAE		CO	UT
1	ASTRAGALUS MAGDALENAE VAR. PEIRSONII	FABACEAE		CA	
2	ASTRAGALUS MALACOIDES	FABACEAE	MILK-VETCH, KAIPAROWITS	UT	
2	ASTRAGALUS MICROCYMBUS	FABACEAE	MILK-VETCH,	CO	
1	ASTRAGALUS MISELLUS VAR. PAUPER	FABACEAE	MILK-VETCH, PAUPER	WA	
1	ASTRAGALUS MOHAVENSIS VAR. HEMIGYRUS	FABACEAE		CA	NV
2	ASTRAGALUS MOLLISSIMUS VAR. MARCIDUS	FABACEAE		TX	
2	ASTRAGALUS MONOENSIS	FABACEAE		CA	
1	ASTRAGALUS MONTII	FABACEAE	MILK-VETCH, HELIOTROPE	UT	
1	ASTRAGALUS MONUMENTALIS	FABACEAE		UT	
1	ASTRAGALUS MULFORDIAE	FABACEAE		ID	OR
2	ASTRAGALUS MUSIMONUM	FABACEAE		NV	
1	ASTRAGALUS NEVINII	FABACEAE		CA	
1	ASTRAGALUS ONICIFORMIS	FABACEAE		ID	
1	ASTRAGALUS OOCARPUS	FABACEAE		CA	
1	ASTRAGALUS OOPHORUS VAR. CLOKEYANUS	FABACEAE		NV	
2	ASTRAGALUS OOPHORUS VAR. LONCHOCALYX	FABACEAE		UT	
2	ASTRAGALUS OSTERHOUTII	FABACEAE	MILK-VETCH, OSTERHOUT	CO	
2	ASTRAGALUS PECKII	FABACEAE		OR	
1	ASTRAGALUS PHOENIX	FABACEAE	MILK-VETCH, ASH MEADOWS	NV	
1	ASTRAGALUS PORRECTUS	FABACEAE	MILK-VETCH,	NV	
1	ASTRAGALUS PROIMANTHUS	FABACEAE	MILK-VETCH,	WY	
2	ASTRAGALUS PSEUDIODANTHUS	FABACEAE		CA	NV
2	ASTRAGALUS PTEROCARPUS	FABACEAE		NV	
2	ASTRAGALUS PUNICEUS VAR. GERTRUDIS	FABACEAE		NM	
2	ASTRAGALUS PURSHII VAR. OPHIOGENES	FABACEAE	MILK-VETCH,	ID	OR
1*	ASTRAGALUS PYCNOSTACHYUS SSP. LANOSISSIMUS	FABACEAE	LOCOWEED, VENTURA MARSH	CA	
1	ASTRAGALUS RAFAELENSIS	FABACEAE	MILK-VETCH, SAN RAFAEL	UT	
2	ASTRAGALUS RAVENII	FABACEAE	LOCOWEED, RAVEN'S	CA	
1	ASTRAGALUS ROBBINSII VAR. ALPINIFORMIS	FABACEAE	MILK-VETCH, ROBBINS,	OR	
2	ASTRAGALUS ROBBINSII VAR. JESUPI	FABACEAE	MILK-VETCH, ROBBINS,	NH	VT

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ASTRAGALUS ROBBINSII VAR. OCCIDENTALIS	FABACEAE	MILK-VETCH, ROBBINS,	NV
2	ASTRAGALUS SABULOSUS	FABACEAE		UT
2	ASTRAGALUS SAURINUS	FABACEAE	MILK-VETCH, DINOSAUR	UT
2	ASTRAGALUS SCHMOLLIAE	FABACEAE	MILK-VETCH, SCHMOLL	CO
1	ASTRAGALUS SERENOI VAR. SORDESCENS	FABACEAE	MILK-VETCH,	NV
2	ASTRAGALUS SHEVOCKII	FABACEAE		CA
1	ASTRAGALUS SILICEUS	FABACEAE	MILK-VETCH,	NM
1	ASTRAGALUS SINUATUS	FABACEAE	MILK-VETCH, WHITED	WA
2	ASTRAGALUS SOLITARIUS	FABACEAE		NV OR
2	ASTRAGALUS SP.	FABACEAE	MILK-VETCH(HORSESHOE BEND,UINTAH CO)	UT
2	ASTRAGALUS SP. /SP. NOV. INED.	FABACEAE	MILK-VETCH (RUSH VALLEY, TOOELE CO.)	UT
	ASTRAGALUS SPALDINGII VAR. TYGHENSIS	*** SEE ***	ASTRAGALUS TYGHENSIS	
1	ASTRAGALUS STERILIS	FABACEAE	MILK-VETCH,	ID OR
	ASTRAGALUS STOCKSII	*** SEE ***	ASTRAGALUS HENRIMONTANENSIS	
1	ASTRAGALUS STRIATIFLORUS	FABACEAE	MILK-VETCH, ESCARPMENT	AZ UT
1	ASTRAGALUS SUBVESTITUS	FABACEAE		CA
2	ASTRAGALUS TEGETARIOIDES	FABACEAE		CA OR
1	ASTRAGALUS TENER VAR. TITI	FABACEAE		CA
1	ASTRAGALUS TENNESSEENSIS	FABACEAE		AL IL IN TN
2	ASTRAGALUS TEPHRODES VAR. EURYLOBUS	FABACEAE		NV
2	ASTRAGALUS TITANOPHILUS	FABACEAE		AZ
1	ASTRAGALUS TOQUIMANUS	FABACEAE		NV
1	ASTRAGALUS TRASKIAE	FABACEAE		CA
2	ASTRAGALUS TROGLODYTUS	FABACEAE		AZ
2	ASTRAGALUS TWEEDYI	FABACEAE		OR WA
1	ASTRAGALUS TYGHENSIS	FABACEAE		OR
1	ASTRAGALUS UNCIALIS	FABACEAE	MILK-VETCH,	NV
1	ASTRAGALUS VEXILLIFLEXUS VAR. NUBILUS	FABACEAE		ID
2	ASTRAGALUS WETHERILLII	FABACEAE		CO UT
1	ASTRAGALUS WITTMANNII	FABACEAE		NM
1	ASTRAGALUS XIPHOIDES	FABACEAE	MILK-VETCH, GLADIATOR	AZ
2	ASTRANTHIUM ROBUSTUM	ASTERACEAE		TX
2	ATRIPLEX KLEBERGORUM	CHENOPODIACEAE	SALTBUSH, KLEBERG'S	TX
2	ATRIPLEX PATULA SSP. SPICATA	CHENOPODIACEAE		CA
2	ATRIPLEX PLEIANTHA	CHENOPODIACEAE	SALTBUSH,	CO NM
1*	ATRIPLEX TULARENSIS	CHENOPODIACEAE	SALTBUSH, BAKERSFIELD	CA
1	ATRIPLEX VALLICOLA	CHENOPODIACEAE	SALTBUSH, LOST HILLS	CA
2	ATRIPLEX WELSHII	CHENOPODIACEAE	SALTBUSH, WELSH	UT
1	AUREOLARIA PATULA	SCROPHULARIACEAE		AL GA KY TN
1	BACCHARIS VANESSAE	ASTERACEAE	BACCHARIS, ENCINITIS	CA
2	BACOPA SIMULANS	SCROPHULARIACEAE	WATER-HYSSOP, CHARLES CITY	VA
2	BAHIA BIGELOVII	ASTERACEAE		TX
2	BALSAMORHIZA ROSEA	ASTERACEAE		OR WA
2	BALSAMORHIZA SERICEA /SP. NOV. INED.	ASTERACEAE		OR
1*	BANARA VANDERBILTII	FLACOURTIACEAE		PR
1	BAPTISIA CALYCOSA	FABACEAE		FL
2	BAPTISIA HIRSUTA	FABACEAE	WILD INDIGO, HAIRY	FL
2	BAPTISIA MEGACARPA	FABACEAE	WILD INDIGO, APALACHICOLA	AL FL
2	BAPTISIA RIPARIA	FABACEAE	WILD INDIGO,	FL
1	BAPTISIA SIMPLICIFOLIA	FABACEAE		FL
1	BARTONIA TEXANA	GENTIANACEAE	SCREWSTEM, TEXAS	TX
2	BASIPHYLLAEA ANGUSTIFOLIA	ORCHIDACEAE		PR CUBA, HISPANIOLA
2	BATESIMALVA VIOLACEA	MALVACEAE	GAY-MALLOW, PURPLE	TX MEXICO
1	BENITOA OCCIDENTALIS	ASTERACEAE	BENITOA	CA
1	BENSONIELLA OREGONA	SAXIFRAGACEAE	BENSONIELLA, OREGON	CA OR

2	BERBERIS NERVOSA VAR. MENDOCINENSIS	BERBERIDACEAE		CA
1	BERBERIS NEVINII	BERBERIDACEAE	BARBERRY, NEVIN'S	CA
1	BERBERIS PINNATA SSP. INSULARIS	BERBERIDACEAE	BARBERRY, ISLAND	CA
2	BESSEYA BULLII	SCROPHULARIACEAE		IL IN IA MI MN OH WI
1	BIDENS ASPLENIOIDES	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS BIDENTOIDES	ASTERACEAE	BUR-MARIGOLD,	DE MD NJ PA
1	BIDENS CAMPYLOTHECA	ASTERACEAE	BIDENS, CAMPYLOTHECA	HI
2	BIDENS CERVICATA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS COARCTATA	ASTERACEAE	BIDENS, MANOA	HI
2	BIDENS CONJUNCTATA	ASTERACEAE	KO'OKO'OLAU	HI
1	BIDENS CTENOPHYLLA	ASTERACEAE		HI
1	BIDENS CUNEATA	ASTERACEAE	BIDENS, CUNEATE	HI
1	BIDENS DEGENERI	ASTERACEAE	KO'OKO'OLAU	HI
1	BIDENS DISTANS	ASTERACEAE	BIDENS, LANAI	HI
2	BIDENS GRACILOIDES	ASTERACEAE	BIDENS, MAUNALUA	HI
1	BIDENS HAWAIIENSIS	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS MACROCARPA VAR. OVATIFOLIA	ASTERACEAE	KO'OKO'OLAU	HI
1	BIDENS MAUIENSIS	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS MENZIESII VAR. LEPTODONTA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS MICRANTHA VAR. CADUCA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS MICRANTHA VAR. KAALANA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS MICRANTHA VAR. LACINIATA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS NEMATOCERA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS OBTUSILOBA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS PULCHELLA	ASTERACEAE	KO'OKO'OLAU	HI
2	BIDENS SALICOIDES	ASTERACEAE	BIDENS, WILLOW-LEAVED	HI
2	BIDENS SANDWICENSIS VAR. SETOSA	ASTERACEAE	KO'OKO'OLAU	HI
1	BIDENS SKOTTSBERGII	ASTERACEAE	KO'OKO'OLAU	HI
1	BIDENS STOKESII	ASTERACEAE	BIDENS, STOKES	HI
1	BIDENS VALIDA	ASTERACEAE	BIDENS, ROBUST	HI
1	BIDENS WIEBKEI	ASTERACEAE	KO'OKO'OLAU	HI
1	BLENNOSPERMA BAKERI	ASTERACEAE	BLENNOSPERMA, BAKER'S	CA
1	BLENNOSPERMA NANUM VAR. ROBUSTUM	ASTERACEAE	BLENNOSPERMA, POINT REYES	CA
1	BLOOMERIA HUMILIS	LILIACEAE	GOLDENSTAR, DWARF	CA
1	BOBEA TIMONIOIDES	RUBIACEAE	'AHAKEA	HI
1	BOERHAVIA MATHISIANA	NYCTAGINACEAE		TX
	BOLOPHYTA TETRANEURIS	*** SEE ***	PARTHENIUM TETRANEURIS	
2	BOLTONIA ASTEROIDES VAR. DECURRENS	ASTERACEAE		IL MO
2	BONAMIA GRANDIFLORA	CONVOLVULACEAE		FL
1	BONAMIA MENZIESII	CONVOLVULACEAE		HI
2	BOTHRIOCHLOA EXARISTATA	POACEAE		LA TX
1	BOTRYCHIUM PUMICOLA	OPHIOGLOSSACEAE	GRAPE FERN, CRATER LAKE	CA OR
1*	BOTRYCHIUM SUBBIFOLIATUM	OPHIOGLOSSACEAE	MAKOU	HI
1	BRACHIONIDIUM CILIOLATUM	ORCHIDACEAE		PR
2	BRASSIA CAUDATA	ORCHIDACEAE		FL MEXICO, WEST INDIES, CENTRAL AMERICA, SOUTH AMERICA
1	BRAYA HUMILIS SSP. VENTOSA	BRASSICACEAE		CO
2	BRAYA HUMILIS VAR. LEIOCARPA	BRASSICACEAE		MI VT CANADA
	BREWERIA GRANDIFLORA	*** SEE ***	BONAMIA GRANDIFLORA	
2	BRICKELLIA BRACHYPHYLLA VAR. HINCKLEYI	ASTERACEAE		TX
2	BRICKELLIA BRACHYPHYLLA VAR. TERLINGUENSIS	ASTERACEAE		TX
2	BRICKELLIA CORDIFOLIA	ASTERACEAE	NEMESIS, FLYR'S	AL FL GA
2	BRICKELLIA DENTATA	ASTERACEAE		TX
1	BRICKELLIA EUPATORIOIDES VAR. FLORIDANA	ASTERACEAE		FL
2	BRICKELLIA KNAPPIANA	ASTERACEAE	BRICKELLIA, KNAPP'S	CA NV

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW 12

2	BRICKELLIA LEPTOPHYLLA	ASTERACEAE		TX MEXICO
2	BRICKELLIA SHINERI	ASTERACEAE		TX MEXICO
2	BRICKELLIA VIEJENSIS	ASTERACEAE	BRICKELLIA, SIERRA VIEJA	TX
1	BRIGHAMIA CITRINA	CAMPANULACEAE	ALULA	HI
1	BRIGHAMIA INSIGNIS	CAMPANULACEAE	ALULA	HI
1*	BRIGHAMIA REMYI	CAMPANULACEAE		HI
1	BRIGHAMIA ROCKII	CAMPANULACEAE	PUA 'ALA	HI
1	BRODIAEA CORONARIA SSP. ROSEA	LILIACEAE	BRODIAEA, INDIAN VALLEY	CA
1	BRODIAEA FILIFOLIA	LILIACEAE	BRODIAEA, THREAD-LEAVED	CA
1	BRODIAEA INSIGNIS	LILIACEAE		CA
1	BRODIAEA KINKIENSIS	LILIACEAE		CA
1	BRODIAEA ORCUTTII	LILIACEAE	BRODIAEA, ORCUTT'S	CA
1	BRODIAEA PALLIDA	LILIACEAE	BRODIAEA, CHINESE CAMP	CA
2	BROMUS TEXENSIS	POACEAE		TX MEXICO
1	BRONGNIARTIA MINUTIFOLIA	FABACEAE	BRONGNIARTIA, LITTLE-LEAF	TX MEXICO
1	BRUNFELSIA PORTORICENSIS	SOLANACEAE		PR
2	BUCKLEYA DISTICHOPHYLLA	SANTALACEAE		NC TN VA
1	BUMELIA THORNEI	SAPOTACEAE	BUCKTHORN,	GA
1	BUXUS VAHLII	BUXACEAE	BOXWOOD,	PR VI JAMAICA
2	BYRSONIMA HORNEANA	MALPIGHIACEAE	MARICAO CIMARRON	PR
2	BYRSONIMA OPHITICOLA	MALPIGHIACEAE	MARICAO CIMARRON	PR
2	CACALIA DIVERSIFOLIA	ASTERACEAE		AL FL GA
1	CACALIA RUGELIA	ASTERACEAE		NC TN
2	CAESALPINIA BRACHYCARPA	FABACEAE		TX
1	CAESALPINIA DRUMMONDII	FABACEAE		TX MEXICO
1	CAESALPINIA PORTORICENSIS	FABACEAE	MATO (BROWN NICKER)	PR
1	CALAMAGROSTIS CAINII	POACEAE		TN
2	CALAMAGROSTIS CRASSIGLUMIS	POACEAE	REED GRASS, THURBER'S	AK CA WA CANADA (BRITISH COLUMBIA)
2	CALAMAGROSTIS DENSA	POACEAE	REED GRASS, DENSE	CA
2	CALAMAGROSTIS FOLIOSA	POACEAE	REED GRASS, LEAFY	CA
1	CALAMAGROSTIS INSPERATA	POACEAE	REED GRASS, OFER HOLLOW	MO OH
2	CALAMAGROSTIS PERPLEXA	POACEAE	REED GRASS, WOOD	NY
1	CALAMAGROSTIS TWEEDYI	POACEAE	REED GRASS,	ID MT WA
2	CALAMINTHA ASHEI	LAMIACEAE		FL GA
2	CALAMINTHA DENTATUM	LAMIACEAE		FL GA
1	CALAMOVILFA ARCUATA	POACEAE	SAND GRASS,	OK TN
2	CALAMOVILFA BREVIPILIS	POACEAE	SAND GRASS,	NJ NC SC VA
2	CALAMOVILFA CURTISSII	POACEAE	SAND GRASS,	FL
1*	CALLICARPA AMPLA	VERBENACEAE	CAPA ROSA	PR VI
1	CALLIRHOE BUSHII	MALVACEAE	POPPY-MALLOW,	AR MO OK
	CALLIRHOE PAPAVER VAR. BUSHII	*** SEE ***	CALLIRHOE BUSHII	
1	CALOCHORTUS CLAVATUS SSP. RECURVIFOLIUS	LILIACEAE	MARIPOSA, CRUZ	CA
1	CALOCHORTUS CLAVATUS VAR. AVIUS	LILIACEAE		CA
1	CALOCHORTUS COERULEUS VAR. WESTONII	LILIACEAE	MARIPOSA, SHIRLEY MEADOWS	CA
1	CALOCHORTUS DUNNII	LILIACEAE	MARIPOSA, DUNN'S	CA MEXICO
1	CALOCHORTUS EXCAVATUS	LILIACEAE		CA
1	CALOCHORTUS GREENEI	LILIACEAE	MARIPOSA, GREENE'S	CA OR
1	CALOCHORTUS HOWELLII	LILIACEAE		OR
1*	CALOCHORTUS INDECORUS	LILIACEAE	MARIPOSA,	OR

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	CALOCHORTUS LONGEBARBATUS VAR. LONGEBARBATUS	LILIACEAE	STAR-TULIP, LONG-HAIRED	CA OR WA
2	CALOCHORTUS LONGEBARBATUS VAR. PECKII	LILIACEAE	MARIPOSA-LILY, LONG-BEARDED, PECK'S	OR
1*	CALOCHORTUS MONANTHUS	LILIACEAE	MARIPOSA, SHASTA RIVER	CA
2	CALOCHORTUS NITIDIS	LILIACEAE		ID WA
1	CALOCHORTUS OBISPOENSIS	LILIACEAE	MARIPOSA, SAN LUIS	CA
1	CALOCHORTUS PERSISTENS	LILIACEAE	MARIPOSA, SISKIYOU	CA
2	CALOCHORTUS STRIATUS	LILIACEAE	MARIPOSA, ALKALI	CA NV
1	CALOCHORTUS TIBURONENSIS	LILIACEAE	MARIPOSA, TIBURON	CA
1	CALOCHORTUS VENUSTUS VAR. SANGUINEUS	LILIACEAE		CA
2	CALYCADENIA FREMONTII	ASTERACEAE	ROSINWEED, FREMONT'S	CA
2	CALYCADENIA HOOVERI	ASTERACEAE		CA
1	CALYPTRANTHES LUQUILLENSIS	MYRTACEAE		PR
1	CALYPTRANTHES PEDUNCULARIS	MYRTACEAE		PR
2	CALYPTRANTHES THOMASIANA	MYRTACEAE		PR VI
1	CALYPTRANTHES TRIFLORUM	MYRTACEAE		PR
1	CALYPTRIDIUM PULCHELLUM	PORTULACACEAE	PUSSY PAWS	CA
1	CALYPTRONOMA RIVALIS	ARECACEAE	PALMA MANACA	PR
2	CALYSTEGIA PEIRSONII	CONVOLVULACEAE	MORNING-GLORY, PEIRSON'S	CA
1	CALYSTEGIA STEBBINSII	CONVOLVULACEAE	MORNING-GLORY, STEBBINS'	CA
2	CAMASSIA CUSICKII	LILIACEAE		ID OR
2	CAMASSIA LEICHTLINII VAR. LEICHTLINII	LILIACEAE	CAMASSIA, LEICHTLIN	OR
1	CAMISSONIA BENITENSIS	ONAGRACEAE	EVENING-PRIMROSE, SAN BENITO	CA
2	CAMISSONIA CONFERTIFLORA	ONAGRACEAE		AZ
2	CAMISSONIA EXILIS	ONAGRACEAE		AZ
1	CAMISSONIA GUADALUPENSIS SSP. CLEMENTINA	ONAGRACEAE		CA
1	CAMISSONIA HARDHAMIAE	ONAGRACEAE		CA
2	CAMISSONIA MEGALANTHA	ONAGRACEAE		AZ NV UT
2	CAMISSONIA NEVADENSIS	ONAGRACEAE		NV
1	CAMISSONIA SIERRAE SSP. ALTICOLA	ONAGRACEAE		CA
2	CAMISSONIA SPECUICOLA SSP. HESPERIA	ONAGRACEAE		AZ
1	CAMISSONIA SPECUICOLA SSP. SPECUICOLA	ONAGRACEAE		AZ
2	CAMISSONIA TANACETIFOLIA SSP. QUADRIPERFORATA	ONAGRACEAE		CA
1	CAMPANULA CALIFORNICA	CAMPANULACEAE	HAREBELL, SWAMP	CA
2	CAMPANULA PIPERI	CAMPANULACEAE	HAREBELL, OLYMPIC	WA
2	CAMPANULA REVERCHONII	CAMPANULACEAE		TX
1*	CAMPANULA ROBINSIAE	CAMPANULACEAE	BELLFLOWER, ROBINS'	FL
1	CAMPANULA SHARSMITHIAE /SP. NOV. INED.	CAMPANULACEAE		CA
1	CAMPANULA SHETLERI	CAMPANULACEAE	CAMPANULA, CASTLE	CA
1	CAMPANULA WILKINSIANA	CAMPANULACEAE	HAREBELL, WILKIN'S	CA
1	CANAVALIA CENTRALIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA FORBESII	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA HALEAKALAENSIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA KAUAIENSIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA KAUENSIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA LANAIENSIS	FABACEAE	JACK-BEAN, LANAI	HI
1	CANAVALIA MAKAHAENSIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA MOLOKAIENSIS	FABACEAE	JACK-BEAN, MOLOKAI	HI
1	CANAVALIA MUNROI	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA NUALOLOENSIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA PENINSULARIS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA PUBESCENS	FABACEAE	JACK-BEAN,	HI
1	CANAVALIA ROCKII	FABACEAE	PUA-KAUHI	HI
1	CANAVALIA STENOPHYLLA	FABACEAE	JACK-BEAN,	HI
2	CANNA PERTUSA	CANNACEAE	MARACA	FL PR
1	CAPPARIS SANDWICHIANA VAR. SANDWICHIANA	CAPPARACEAE	PUA PILO (CAPER, NATIVE)	HI
	CARDAMINE GAMBELII	*** SEE ***	NASTURTIUM GAMBELII	
2	CARDAMINE LONGII	BRASSICACEAE	BITTER CRESS, LONG'S	ME MD VA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1*	CARDAMINE MICRANTHERA	BRASSICACEAE	BITTER CRESS,	NC
1	CARDAMINE PATTERSONII	BRASSICACEAE	BITTER CRESS, SADDLE MOUNTAIN	OR
1*	CAREX ABORIGINUM	CYPERACEAE	SEDGE, INDIAN VALLEY	ID
1	CAREX ALBIDA	CYPERACEAE	SEDGE, WHITE	CA
1	CAREX AMPLISQUAMA	CYPERACEAE		GA
2	CAREX BALTZELLII	CYPERACEAE		AL FL
2	CAREX BILTMOREANA	CYPERACEAE	SEDGE, BILTMORE	GA NC
2	CAREX CHAPMANII	CYPERACEAE	SEDGE,	FL NC SC VA
2	CAREX CURATORUM	CYPERACEAE		AZ UT
2	CAREX FISSA	CYPERACEAE		OK
1	CAREX JACOBI-PETERI	CYPERACEAE	SEDGE, ANDERSON	AK
1	CAREX LATEBRACTEATA	CYPERACEAE	SEDGE, WATERFALL'S	OK
2	CAREX OBISPOENSIS	CYPERACEAE	SEDGE, SAN LUIS	CA
2	CAREX ONUSTA	CYPERACEAE		TX
2	CAREX ORONENSIS	CYPERACEAE	SEDGE,	ME
2	CAREX PAUCIFRUCTA	CYPERACEAE	SEDGE, SIERRA	CA
2	CAREX PLECTOCARPA	CYPERACEAE		AK MT
1	CAREX ROANENSIS	CYPERACEAE		TN
2	CAREX SOCIALIS	CYPERACEAE		IL MO
1*	CAREX SPECUICOLA	CYPERACEAE	SEDGE,	AZ
2	CAREX TOMPKINSII	CYPERACEAE	SEDGE, THOMPKINS'	CA
2	CARPENTERIA CALIFORNICA	SAXIFRAGACEAE		CA
2	CASSIA EXUNGUIS	FABACEAE	TAMARINDILLO	PR
1	CASSIA KEYENSIS	FABACEAE	SENNA, FLORIDA KEYS	FL
1	CASSIA MIRABILIS	FABACEAE		PR
2	CASSIA RIPLEYANA	FABACEAE		TX
2	CASTANEA OZARKENSIS	FAGACEAE	CHINQUAPIN, OZARK	AR LA MS MO OK
2	CASTILLEJA ANNUA	SCROPHULARIACEAE		AK
1	CASTILLEJA AQUARIENSIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, AQUARIUS	UT
1	CASTILLEJA CHLOROTICA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, GREEN-TINGED	OR
1	CASTILLEJA CHRISTII	SCROPHULARIACEAE	INDIAN PAINTBRUSH, CHRIST'S	ID
1	CASTILLEJA CILIATA	SCROPHULARIACEAE	INDIAN PAINTBRUSH,	TX
2	CASTILLEJA CINEREA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, ASH GREY	CA
1	CASTILLEJA CRYPTANTHA	SCROPHULARIACEAE		WA
2	CASTILLEJA ELONGATA	SCROPHULARIACEAE		TX
2	CASTILLEJA FRATERNA	SCROPHULARIACEAE		OR
2	CASTILLEJA GLANDULIFERA	SCROPHULARIACEAE		OR
1	CASTILLEJA GLEASONII	SCROPHULARIACEAE		CA
2	CASTILLEJA HOLOLEUCA	SCROPHULARIACEAE		CA
1	CASTILLEJA KAIBABENSIS	SCROPHULARIACEAE		AZ
1	CASTILLEJA LATIFOLIA SSP. MENDOCINENSIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, MENDOCINO COAST	CA
1*	CASTILLEJA LESCHKEANA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, POINT REYES	CA
1	CASTILLEJA LEVISECTA	SCROPHULARIACEAE		OR WA CANADA (BRITISH COLUMBIA)
1*	CASTILLEJA LUDOVICIANA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, JEFF DAVIS PARISH	LA
1	CASTILLEJA MOLLIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, SOFT-LEAVED	CA
1	CASTILLEJA NEGLECTA	SCROPHULARIACEAE		CA
1	CASTILLEJA PARVULA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, TUSHAR	UT
1	CASTILLEJA REVEALII	SCROPHULARIACEAE	INDIAN PAINTBRUSH, REVEAL	UT
1	CASTILLEJA SALSUGINOSA	SCROPHULARIACEAE	INDIAN PAINTBRUSH,	NV
2	CASTILLEJA STEENENSIS	SCROPHULARIACEAE		OR
1	CASTILLEJA ULIGINOSA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, PITKIN MARSH	CA
1	CASTILLEJA XANTHOTRICHA	SCROPHULARIACEAE		OR
2	CAULANTHUS AMPLEXICAULIS VAR. BARBARAE	BRASSICACEAE	CAULANTHUS, SANTA BARBARA	CA
2	CAULANTHUS LEMMONII	BRASSICACEAE	JEWELFLOWER, LEMMON'S	AZ
2	CAULANTHUS SIMULANS	BRASSICACEAE		CA
2	CAULANTHUS STENOCARPUS	BRASSICACEAE	CAULANTHUS, SLENDER-POD	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	CAULOSTRAMINA JAEGERI	BRASSICACEAE		CA
1	CEANOTHUS CONFUSUS	RHAMNACEAE		CA
1	CEANOTHUS CYANEUS	RHAMNACEAE		CA
1	CEANOTHUS DIVERGENS	RHAMNACEAE		CA
1	CEANOTHUS FERRISAE	RHAMNACEAE	CALIFORNIA-LILAC, COYOTE	CA
2	CEANOTHUS GLORIOSUS VAR. PORRECTUS	RHAMNACEAE	CEANTHOS, MOUNT VISION	CA
1	CEANOTHUS HEARSTIORUM	RHAMNACEAE	CALIFORNIA-LILAC, HEARST'S	CA
2	CEANOTHUS IMPRESSUS VAR. NIPOMENSIS	RHAMNACEAE		CA
2	CEANOTHUS MARITIMUS	RHAMNACEAE	CALIFORNIA-LILAC, MARITIME	CA
1	CEANOTHUS MASONII	RHAMNACEAE	CALIFORNIA-LILAC, MASON'S	CA
2	CEANOTHUS RIGIDUS	RHAMNACEAE	CEANOTHUS, MONTERREY	CA
2	CEANOTHUS RODERICKII	RHAMNACEAE	CEANOTHUS, PINE HILL	CA
1*	CENCHRUS AGRIMONIOIDES VAR. LAYSANENSIS	POACEAE	SANDBUR, AGRIMONY, LAYSAN	HI
1	CENTAURIUM NAMOPHILUM VAR. NAMOPHILUM /INED.	GENTIANACEAE		CA NV
2	CENTROSEMA ARENICOLA	FABACEAE	BUTTERFLY-PEA,	FL
1	CENTROSTEGIA LEPTOCERAS	POLYGONACEAE	SPINEFLOWER, SLENDER-HORNED	CA
	CEPHALOCEREUS DEERINGII	*** SEE ***	CEREUS ROBINII VAR. DEERINGII	
2	CERASTIUM ARVENSE VAR. VILLOSISSIMUM	CARYOPHYLLACEAE	CHICKWEED, FIELD, LONG-HAIRY	PA
1	CERCOCARPUS TRASKIAE	ROSACEAE	MOUNTAIN-MAHOGANY, CATALINA	CA
1	CEREUS ERIOPHORUS VAR. FRAGRANS	CACTACEAE		FL
1	CEREUS GRACILIS VAR. ABORIGINUM	CACTACEAE	PRICKLY-APPLE, ABORIGINAL	FL
1	CEREUS GRACILIS VAR. SIMPSONII	CACTACEAE	PRICKLY-APPLE, SIMPSON'S	FL
2	CEREUS GREGGII	CACTACEAE		AZ CA NM TX MEXICO
1	CEREUS PORTORICENSIS	CACTACEAE	HIGO CHUMBO	PR
2	CEREUS QUADRICOSTATUS	CACTACEAE	SEBUCAN	PR
1*	CEREUS ROBINII VAR. DEERINGII	CACTACEAE	TREE CACTUS,	FL
1	CEREUS ROBINII VAR. ROBINII	CACTACEAE	TREE CACTUS,	FL CUBA
1	CHAENACTIS NEVII	ASTERACEAE		OR
2	CHAENACTIS PARISHII	ASTERACEAE	CHAENACTIS, PARISH'S	CA MEXICO (BAJA CALIFORNIA)
2	CHAENACTIS RAMOSA	ASTERACEAE		WA
2	CHAENACTIS THOMPSONII	ASTERACEAE		WA
1	CHAETOPAPPA HERSHEYI	ASTERACEAE		NM TX
	CHAMAECRISTA KEYENSIS	*** SEE ***	CASSIA KEYENSIS	
	CHAMAECRISTA MIRABILIS	*** SEE ***	CASSIA MIRABILIS	
	CHAMAESYCE ATROCOCCA VAR. ATROCOCCA	*** SEE ***	EUPHORBIA ATROCOCCA	
	CHAMAESYCE CUMULICOLA	*** SEE ***	EUPHORBIA CUMULICOLA	
	CHAMAESYCE DELTOIDEA SSP. DELTOIDEA	*** SEE ***	EUPHORBIA DELTOIDEA SSP. DELTOIDEA	
	CHAMAESYCE DELTOIDEA SSP. SERPYLLUM	*** SEE ***	EUPHORBIA DELTOIDEA SSP. SERPYLLUM	
	CHAMAESYCE GARBERI	*** SEE ***	EUPHORBIA GARBERI	
	CHAMAESYCE PORTERANA VAR. KEYENSIS	*** SEE ***	EUPHORBIA PORTERANA VAR. KEYENSIS	
	CHAMAESYCE PORTERANA VAR. PORTERANA	*** SEE ***	EUPHORBIA PORTERANA VAR. PORTERANA	
	CHAMAESYCE PORTERANA VAR. SCOPARIA	*** SEE ***	EUPHORBIA PORTERANA VAR. SCOPARIA	
	CHAMAESYCE REMYI	*** SEE ***	EUPHORBIA REMYI	
2	CHEILANTHES ARIZONICA	POLYPODIACEAE		AZ
2	CHEILANTHES FIBRILLOSA	POLYPODIACEAE	LIP FERN, FIBRILLOSE	CA
2	CHEILANTHES PRINGLEI	POLYPODIACEAE		AZ
	CHEILANTHES PYRAMIDALIS VAR. ARIZONICA	*** SEE ***	CHEILANTHES ARIZONICA	
2	CHEIRODENDRON HELLERI VAR. HELLERI	ARALIACEAE		HI
2	CHEIRODENDRON HELLERI VAR. MICROCARPUM	ARALIACEAE		HI
2	CHEIRODENDRON HELLERI VAR. SODALIUM	ARALIACEAE		HI
1*	CHEIRODENDRON TRIGYNUM VAR. ROCKII	ARALIACEAE	OLAPA,	HI
1*	CHEIRODENDRON TRIGYNUM VAR. SUBCORDATUM	ARALIACEAE	OLAPA,	HI
2	CHELONE OBLIQUA VAR. SPECIOSA	SCROPHULARIACEAE		AR IL IN IA MI MN MO
2	CHENOPODIUM OAHUENSE VAR. DISCOSPERMUM	CHENOPODIACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	CHENOPODIUM PEKELOI	CHENOPODIACEAE	GOOSEFOOT, MOLOKAI	HI
1	CHIONANTHUS PYGMAEUS	OLEACEAE	FRINGE-TREE, PYGMY	FL
2	CHLORIS TEXENSIS	POACEAE		TX
1	CHLOROGALUM GRANDIFLORUM	LILIACEAE	SOAPROOT, RED HILLS	CA
1	CHLOROGALUM PURPUREUM VAR. PURPUREUM	LILIACEAE	AMOLE, PURPLE	CA
1	CHLOROGALUM PURPUREUM VAR. REDUCTUM	LILIACEAE	AMOLE, CAMMATTA CANYON	CA
2	CHOISYA ARIZONICA	RUTACEAE		AZ
2	CHOISYA MOLLIS	RUTACEAE		AZ
2	CHORIZANTHE BREWERI	POLYGONACEAE	CHORIZANTHE, BREWER'S	CA
2	CHORIZANTHE HOWELLII	POLYGONACEAE	CHORIZANTHE, HOWELL	CA
	CHORIZANTHE LEPTOCERAS	*** SEE ***	CENTROSTEGIA LEPTOCERAS	
1	CHORIZANTHE ORCUTTIANA	POLYGONACEAE	SPINEFLOWER, ORCUTT'S	CA
1*	CHORIZANTHE PARRYI VAR. FERNANDINA	POLYGONACEAE	CHORIZANTHE, SAN FERNANDO VALLEY	CA
2	CHORIZANTHE PUNGENS VAR. PUNGENS	POLYGONACEAE		CA
2	CHORIZANTHE RECTISPINA	POLYGONACEAE	CHORIZANTHE, SAN FERNANDO VALLEY	CA
1	CHORIZANTHE SPINOSA	POLYGONACEAE	SPINEFLOWER, MOJAVE	CA
1	CHORIZANTHE STATICOIDES SSP. CHRYSACANTHA	POLYGONACEAE	TURKISH RUGGING, ORANGE COUNTY	CA
1	CHORIZANTHE VALIDA	POLYGONACEAE	SPINEFLOWER, SONOMA	CA
	CHROMOLAENA BORINQUENSIS	*** SEE ***	EUPATORIUM BORINQUENSE	
	CHROMOLAENA OTEROI	*** SEE ***	EUPATORIUM OTEROI	
1	CHRYSOPSIS CRUISEANA	ASTERACEAE		FL
1	CHRYSOPSIS FLORIDANA	ASTERACEAE		FL
2	CHRYSOSPLENIUM IOWENSE	SAXIFRAGACEAE		IA MN
2	CHRYSOTHAMNUS MOLESTUS	ASTERACEAE		AZ
2	CHRYSOTHAMNUS NAUSEOSUS SSP. TEXENSIS	ASTERACEAE		NM TX
	CHRYSOTHAMNUS VISCIDIFLORUS VAR. MODESTUS	*** SEE ***	CHRYSOTHAMNUS MOLESTUS	
1	CIMICIFUGA ARIZONICA	RANUNCULACEAE		AZ
2	CIMICIFUGA RUBIFOLIA	RANUNCULACEAE		AL IL KY TN VA
1	CIRSIUM CAMPYLON	ASTERACEAE	THISTLE, MT. HAMILTON	CA
1	CIRSIUM CILIOLATUM	ASTERACEAE		CA OR
1	CIRSIUM CRASSICAULE.	ASTERACEAE	THISTLE, SLOUGH	CA
1	CIRSIUM FONTINALE SSP. OBISPOENSE	ASTERACEAE	THISTLE, BOG, CHORRO CREEK	CA
1	CIRSIUM FONTINALE VAR. FONTINALE	ASTERACEAE	THISTLE, FOUNTAIN	CA
1	CIRSIUM HYDROPHILUM VAR. HYDROPHILUM	ASTERACEAE	THISTLE, SUISUN	CA
1	CIRSIUM HYDROPHILUM VAR. VASEYI	ASTERACEAE	THISTLE, MT. TAMALPAIS	CA
1	CIRSIUM LONCHOLEPIS	ASTERACEAE	THISTLE, LA GRACIOSA	CA CANADA (ONTARIO)
1	CIRSIUM OCCIDENTALE VAR. COMPACTUM	ASTERACEAE	THISTLE, COBWEB, COMPACT	CA
1	CIRSIUM PITCHERI	ASTERACEAE	THISTLE, DUNE	IL IN MI WI CANADA
1	CIRSIUM RHOTHOPHILUM	ASTERACEAE	THISTLE, SURF	CA
2	CIRSIUM TURNERI	ASTERACEAE		TX
1	CIRSIUM VINACEUM	ASTERACEAE		NM
1	CLADOCARPA ATOLLENSIS	CUCURBITACEAE		HI
1	CLADOCARPA CAUMII	CUCURBITACEAE		HI
1	CLADOCARPA LAMOUREUXII	CUCURBITACEAE		HI
1	CLADOCARPA MAXIMOWICZII	CUCURBITACEAE		HI
1	CLADOCARPA NIIHAUENSIS	CUCURBITACEAE	PUA O KAMA	HI
1	CLADOCARPA SEMITONSUS	CUCURBITACEAE		HI
2	CLAOXYLON SANDWICENSE VAR. SANDWICENSE	EUPHORBIACEAE	POOLA	HI
2	CLARKIA AMOENA SSP. WHITNEYI	ONAGRACEAE		CA
2	CLARKIA BILOBA SSP. AUSTRALIS	ONAGRACEAE		CA
2	CLARKIA BOREALIS SSP. ARIDA	ONAGRACEAE		CA
2	CLARKIA CALIENTENSIS	ONAGRACEAE		CA
1	CLARKIA FRANCISCANA	ONAGRACEAE	CLARKIA, PRESIDIO	CA
1	CLARKIA IMBRICATA	ONAGRACEAE		CA
1	CLARKIA LINGULATA	ONAGRACEAE	CLARKIA, MERCED	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	CLARKIA MOSQUINII SSP. MOSQUINII	ONAGRACEAE		CA
1*	CLARKIA MOSQUINII SSP. XEROPHILA	ONAGRACEAE		CA
1	CLARKIA ROSTRATA	ONAGRACEAE	CLARKIA, BEAKED	CA
1	CLARKIA SPECIOSA SSP. IMMACULATA	ONAGRACEAE		CA
1	CLARKIA SPRINGVILLENSIS	ONAGRACEAE		CA
	CLAYTONIA BOSTOCKII	*** SEE ***	MONTIA BOSTOCKII	
1*	CLAYTONIA FLAVA	PORTULACACEAE		ID MT
	CLAYTONIA LANCEOLATA VAR. FLAVA	*** SEE ***	CLAYTONIA FLAVA	
1	CLAYTONIA LANCEOLATA VAR. PEIRSONII	PORTULACACEAE	SPRING BEAUTY, PEIRSON'S	CA
1	CLAYTONIA MEGARHIZA VAR. NIVALIS	PORTULACACEAE		WA
2	CLEMATIS ALBICOMA	RANUNCULACEAE	LEATHERFLOWER, WHITE-HAIRED	VA WV
2	CLEMATIS HIRSUTISSIMA VAR. ARIZONICA	RANUNCULACEAE		AZ
2	CLEMATIS MICRANTHA	RANUNCULACEAE	OLD MAN'S BEARD	FL
2	CLEMATIS OCCIDENTALIS VAR. DISSECTA	RANUNCULACEAE		WA
1	CLEMATIS VITICAULIS	RANUNCULACEAE	VIRGIN'S BOWER, GRAPE	VA
2	CLEOME MULTICAULIS	CAPPARACEAE		AZ CO NM TX MEXICO
1	CLEOME SANDWICENSIS	CAPPARACEAE	SPIDERFLOWER, WILD	HI
1	CLERMONTIA DREPANOMORPHA	CAMPANULACEAE	CLERMONTIA, KOHALA	HI
1	CLERMONTIA LINDSEYANA	CAMPANULACEAE		HI
1	CLERMONTIA LOYANA	CAMPANULACEAE		HI
1	CLERMONTIA MUNROI	CAMPANULACEAE		HI
1	CLERMONTIA PYRULARIA	CAMPANULACEAE		HI
1	CLITORIA FRAGRANS	FABACEAE		FL
2	CLUSIA FLAVA	HYPERICACEAE		FL
2	COCCULUS INTEGER	MENISPERMACEAE		HI
2	COCCULUS LONCHOPHYLLUS	MENISPERMACEAE		HI
2	COCCULUS VIRGATUS	MENISPERMACEAE		HI
2	COCHISEIA ROBBINSORUM	CACTACEAE		AZ
2	COELORACHIS TUBERCULOSA	POACEAE		AL FL
2	COLLINSIA ANTONINA	SCROPHULARIACEAE		CA
2	COLLOMIA LARSENII	POLEMONIACEAE		CA
1	COLLOMIA MACROCALYX	POLEMONIACEAE	COLLOMIA, BRISTLE-FLOWERED	OR
1	COLLOMIA MAZAMA	POLEMONIACEAE		OR
2	COLLOMIA RAWSONIANA	POLEMONIACEAE		CA
2	COLUBRINA CALIFORNICA	RHAMNACEAE		AZ CA
1	COLUBRINA OPPOSITIFOLIA	RHAMNACEAE	KAUILA	HI
2	COLUBRINA STRICTA	RHAMNACEAE	SNAKEWOOD, COMAL	TX MEXICO
1	COMMELINA GIGAS	COMMELINACEAE	DAYFLOWER, CLIMBING	FL
1	CONDALIA HOOKERI VAR. EDWARDSIANA	RHAMNACEAE	BRASIL, EDWARDS'	TX
1	CONRADINA BREVIFOLIA	LAMIACEAE	ROSEMARY, SHORT-LEAVED	FL
1	CONRADINA GLABRA	LAMIACEAE	ROSEMARY, APALACHIOLA	FL
2	CONRADINA GRANDIFLORA	LAMIACEAE		FL
1	CONRADINA VERTICILLATA	LAMIACEAE		KY TN
	CONYZA ERIOPHYLLA	*** SEE ***	ERIGERON ERIOPHYLLUS	
1	COPROSMA FAUREI VAR. LANAIENSIS	RUBIACEAE		HI
1	COPROSMA MONTANA VAR. ORBICULARIS	RUBIACEAE		HI
1	COPROSMA OCHRACEA VAR. KAALAE	RUBIACEAE		HI
1	COPROSMA SERRATA	RUBIACEAE		HI
2	CORDIA BELLONIS	BORAGINACEAE		PR
2	CORDIA RUPICOLA	BORAGINACEAE		PR BRITISH VI
1	CORDIA WAGNERORUM	BORAGINACEAE		PR
	CORDYLANTHUS BRUNNEUS VAR. CAPILLARIS	*** SEE ***	CORDYLANTHUS TENUIS SSP. CAPILLARIS /INED.	
1	CORDYLANTHUS EREMICUS SSP. BERNARDINUS /INED.	SCROPHULARIACEAE	BIRD'S-PEAK, SAN BERNARDINO	CA
2	CORDYLANTHUS EREMICUS SSP. EREMICUS	SCROPHULARIACEAE	BIRD'S-BEAK, DESERT	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	CORDYLANTHUS LITTORALIS	*** SEE ***	CORDYLANTHUS RIGIDUS SSP. LITTORALIS /INED.	
1	CORDYLANTHUS MARITIMUS SSP. PALUSTRIS	SCROPHULARIACEAE	BIRD'S-BEAK,	CA OR
2	CORDYLANTHUS MOLLIS SSP. HISPIDUS	SCROPHULARIACEAE	BIRD'S-BEAK, HISPID	CA
1	CORDYLANTHUS MOLLIS SSP. MOLLIS	SCROPHULARIACEAE	BIRD'S-BEAK, SOFT	CA
1	CORDYLANTHUS NIDULARIUS	SCROPHULARIACEAE	BIRDS-ON-NEST	CA
1*	CORDYLANTHUS PALMATUS	SCROPHULARIACEAE	BIRD'S-BEAK, PALMATE-BRACTED	CA
	CORDYLANTHUS RAMOSUS SSP. EREMICUS	*** SEE ***	CORDYLANTHUS EREMICUS SSP. EREMICUS	
1	CORDYLANTHUS RIGIDUS SSP. LITTORALIS /INED.	SCROPHULARIACEAE	BIRD'S-BEAK, SEASIDE	CA
2	CORDYLANTHUS TECOPENSIS	SCROPHULARIACEAE	BIRD'S-BEAK, TECOPA	CA NV
1	CORDYLANTHUS TENUIS SSP. CAPILLARIS /INED.	SCROPHULARIACEAE	BIRD'S-BEAK, PENNELL	CA
1	CORDYLANTHUS TENUIS SSP. PALLESCENS /INED.	SCROPHULARIACEAE	BIRD'S-BEAK, PALLID	CA
1	COREOPSIS HAMILTONII	ASTERACEAE	COREOPSIS, MT. HAMILTON	CA
2	COREOPSIS INTERMEDIA	ASTERACEAE	TICKSEED, GOLDEN WAVE	LA TX
1	COREOPSIS LATIFOLIA	ASTERACEAE		AR GA NC SC
1	COREOPSIS PULCHRA	ASTERACEAE		AL
2	CORETHROGYNE FILAGINIFOLIA VAR. LINIFOLIA	ASTERACEAE		CA
1	CORNUTIA OBOVATA	VERBENACEAE	NIGUA	PR
1	CORYDALIS AQUAE-GELIDAE	FUMARIACEAE		OR WA
2	CORYPHANTHA DASYACANTHA VAR. VARICOLOR	CACTACEAE		TX
1	CORYPHANTHA DUNCANII	CACTACEAE		NM TX
2	CORYPHANTHA HESTERI	CACTACEAE		TX
2	CORYPHANTHA MISSOURIENSIS VAR. MARSTONII	CACTACEAE		AZ UT
1	CORYPHANTHA RECURVATA	CACTACEAE		AZ MEXICO
	CORYPHANTHA ROBBINSORUM	*** SEE ***	COCHISEIA ROBBINSORUM	
1	CORYPHANTHA SCHEERI VAR. ROBUSTISPINA	CACTACEAE		AZ MEXICO
1	CORYPHANTHA SCHEERI VAR. UNCINATA	CACTACEAE		TX
1	CORYPHANTHA STROBILIFORMIS VAR. DURISPINA	CACTACEAE		TX MEXICO
2	CORYPHANTHA SULCATA VAR. NICKELSIAE	CACTACEAE		TX MEXICO
2	CORYPHANTHA VIVIPARA VAR. ALVERSONII	CACTACEAE		AZ CA
1	CORYPHANTHA VIVIPARA VAR. BUOFLAMA	CACTACEAE		AZ
2	CORYPHANTHA VIVIPARA VAR. ROSEA	CACTACEAE		AZ CA NV UT
2	COURSETIA AXILLARIS	FABACEAE		TX MEXICO
1	COWANIA SUBINTEGRA	ROSACEAE	CLIFF-ROSE,	AZ
2	CRATAEGUS BERBERIFOLIA	ROSACEAE		TX
2	CRATAEGUS HARBINSONII	ROSACEAE	HAW,	AL GA TN
2	CRATAEGUS STENOSEPALA	ROSACEAE		TX
2	CRATAEGUS SUTHERLANDENSIS	ROSACEAE		TX
2	CRATAEGUS WARNERI	ROSACEAE		TX
1	CRESCENTIA PORTORICENSIS	BIGNONIACEAE	HIGUERO DE SIERRA	PR
2	CROOMIA PAUCIFLORA	STEMONACEAE	CROOMIA	AL FL GA
2	CROSSOSOMA PARVIFLORUM	CROSSOSOMATACEAE		AZ
1	CROTON ALABAMENSIS	EUPHORBIACEAE		AL TN
2	CROTON ELLIOTTII	EUPHORBIACEAE		AL FL GA
2	CROTON IMPRESSUS	EUPHORBIACEAE		PR HISPANIOLA
2	CROTON NUMMULARIIFOLIUS	EUPHORBIACEAE		PR CUBA, HISPANIOLA
2*	CRYPTANTHA APERTA	BORAGINACEAE	CATSEYE,	CO
2	CRYPTANTHA ATWOODII	BORAGINACEAE	CATSEYE, ATWOOD'S	AZ
1	CRYPTANTHA BARNEBYI	BORAGINACEAE	CATSEYE, BARNEBY	UT
1	CRYPTANTHA COMPACTA	BORAGINACEAE	CATSEYE, COMPACT	UT
2	CRYPTANTHA CRASSIPES	BORAGINACEAE		TX

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	CRYPTANTHA CRINITA	BORAGINACEAE	CRYPTANTHA, SILKY	CA
2	CRYPTANTHA ELATA	BORAGINACEAE	CATSEYE, CLIFFDWELLER'S CANDLESTICK	CO UT
1	CRYPTANTHA GANDERI	BORAGINACEAE	CRYPTANTHA, GANDER'S	CA MEXICO
1	CRYPTANTHA HOFFMANNII	BORAGINACEAE		CA NV
1*	CRYPTANTHA INSOLITA	BORAGINACEAE	CATSEYE,	NV
1	CRYPTANTHA JOHNSTONII	BORAGINACEAE	CATSEYE, JOHNSTON	UT
1	CRYPTANTHA JONESIANA	BORAGINACEAE	CATSEYE, JONES	UT
2	CRYPTANTHA MENSANA	BORAGINACEAE		UT
1	CRYPTANTHA OCHROLEUCA	BORAGINACEAE	CATSEYE, YELLOW-WHITE	UT
1	CRYPTANTHA ROOSIORUM	BORAGINACEAE	CATSEYE, BRISTLE-CONE	CA
2	CRYPTANTHA SEMIGLABRA	BORAGINACEAE	CATSEYE,	AZ UT
1	CRYPTANTHA SHACKLETTEANA	BORAGINACEAE	CATSEYE,	AK
1	CRYPTANTHA THOMPSONII	BORAGINACEAE		WA
1	CRYPTANTHA TRASKIAE	BORAGINACEAE		CA
1	CRYPTANTHA TUMULOSA	BORAGINACEAE		CA NV
1	CRYPTOCARYA OAHUENSIS	LAURACEAE		HI
1*	CTENITIS SQUAMIGERA	POLYPODIACEAE		HI
2	CTENIUM FLORIDANUM	POACEAE		FL GA
2	CUCURBITA OKEECHOBEENSIS	CUCURBITACEAE	GOURD, OKEECHOBEE	FL
1	CUPHEA ASPERA	LYTHRACEAE		FL
1	CUPRESSUS ABRAMSIANA	CUPRESSACEAE	CYPRESS, SANTA CRUZ	CA
	CUPRESSUS ARIZONICA VAR. NEVADENSIS	*** SEE ***	CUPRESSUS NEVADENSIS	
	CUPRESSUS ARIZONICA VAR. STEPHENSONII	*** SEE ***	CUPRESSUS STEPHENSONII	
2	CUPRESSUS GOVENIANA	CUPRESSACEAE	CYPRESS, GOWEN	CA
	CUPRESSUS GOVENIANA VAR. ABRAMSIANA	*** SEE ***	CUPRESSUS ABRAMSIANA	
2	CUPRESSUS MACROCARPA	CUPRESSACEAE	CYPRESS, MONTERREY	CA
2	CUPRESSUS NEVADENSIS	CUPRESSACEAE		CA
1	CUPRESSUS STEPHENSONII	CUPRESSACEAE	CYPRESS, CUYAMACA	CA
1	CUSCUTA ATTENUATA	CUSCUTACEAE	DODDER,	OK
2	CUSCUTA HARPERI	CUSCUTACEAE		AL GA
1*	CUSCUTA WARNERI	CUSCUTACEAE	DODDER, WARNER'S	UT
1	CYANEA ANGUSTIFOLIA VAR. LANAIENSIS	CAMPANULACEAE		HI
1*	CYANEA ARBOREA	CAMPANULACEAE		HI
	CYANEA ARBOREA VAR. PYCNOCARPA	*** SEE ***	CYANEA PYCNOCARPA	
1*	CYANEA ASPLENIIFOLIA	CAMPANULACEAE		HI
1	CYANEA BALDWINII	CAMPANULACEAE	CYANEA, BALDWIN	HI
1	CYANEA BRYANII	CAMPANULACEAE	CYANEA, BRYAN	HI
1	CYANEA CARLSONII	CAMPANULACEAE		HI
1	CYANEA CHOCKII	CAMPANULACEAE		HI
1	CYANEA FERNALDII	CAMPANULACEAE		HI
1	CYANEA GIBSONII	CAMPANULACEAE		HI
1*	CYANEA GIFFARDII	CAMPANULACEAE		HI
2	CYANEA GRIMESIANA VAR HIRSUTIFOLIA	CAMPANULACEAE		HI
1*	CYANEA GRIMESIANA VAR. LYDGATEI	CAMPANULACEAE		HI
1	CYANEA GRIMESIANA VAR MAUIENSIS	CAMPANULACEAE		HI
1	CYANEA GRIMESIANA VAR. MUNROI	CAMPANULACEAE		HI
2	CYANEA KUNTHIANA	CAMPANULACEAE		HI
1	CYANEA LEPTOSTEGIA	CAMPANULACEAE	CYANEA, GIANT KOKE E	HI
	CYANEA LINDSEYANA	*** SEE ***	CLERMONTIA LINDSEYANA	
1	CYANEA LINEARIFOLIA	CAMPANULACEAE		HI
1	CYANEA MARKSII	CAMPANULACEAE		HI
1	CYANEA MCELDOWNEYI	CAMPANULACEAE		HI
2	CYANEA NELSONII	CAMPANULACEAE		HI
	CYANEA PINNATIFIDA	*** SEE ***	ROLLANDIA PINNATIFIDA	
1	CYANEA PLATYPHYLLA	CAMPANULACEAE		HI
1	CYANEA PYCNOCARPA	CAMPANULACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1*	CYANEA REGINA	CAMPANULACEAE		HI
	CYANEA RIVULARIS	*** SEE ***	DELISSEA RIVULARIS	
1	CYANEA ROLLANDIOIDES	CAMPANULACEAE		HI
2	CYANEA SCABRA	CAMPANULACEAE		HI
1	CYANEA SHIPMANII	CAMPANULACEAE		HI
1	CYANEA SOLANACEA	CAMPANULACEAE	POPOLO	HI
1	CYANEA SOLENOCALYX	CAMPANULACEAE	CYANEA, MOLOKAI	HI
1	CYANEA STICTOPHYLLA	CAMPANULACEAE		HI
1	CYANEA SUBMURICATA	CAMPANULACEAE		HI
1	CYANEA SUPERBA	CAMPANULACEAE		HI
1	CYANEA TRITOMANTHA	CAMPANULACEAE	AKU 'AKU	HI
	CYATHEA BROOKSII	*** SEE ***	ALSOPHILA BROOKSII	
	CYATHEA DRYOPTEROIDES	*** SEE ***	ALSOPHILA DRYOPTEROIDES	
1	CYCLADENIA HUMILIS VAR. JONESII	APOCYNACEAE	CYCLADENIA, JONES	UT
	CYCLODON ALABAMENSIS	*** SEE ***	MATELEA ALABAMENSIS	
2	CYMOPTERUS BASALTICUS	APIACEAE		NV UT
1	CYMOPTERUS COULTERI	APIACEAE	BISCUITROOT, COULTER	UT
1	CYMOPTERUS DESERTICOLA	APIACEAE	CYMOPTERUS, DESERT	CA
1	CYMOPTERUS GOODRICHII	APIACEAE		NV
1	CYMOPTERUS HIGGINSII	APIACEAE	BISCUITROOT, HIGGINS	UT
1	CYMOPTERUS MINIMUS	APIACEAE	BISCUITROOT, CEDAR BREAKS	UT
2	CYMOPTERUS NIVALIS	APIACEAE		ID MT NV
2	CYMOPTERUS RIPLEYI VAR. SANICULOIDES	APIACEAE		NV
1	CYNANCHUM MONENSE	ASCLEPIADACEAE		PR
1	CYNANCHUM WIGGINSII	ASCLEPIADACEAE		AZ
2	CYPERUS GRAYIOIDES	CYPERACEAE	SEDGE, UMBRELLA,	IL
2	CYPERUS ONEROSUS	CYPERACEAE		TX
	CYPERUS URBANII	*** SEE ***	MARISCUS URBANII	
2	CYPRIPEDIUM CALIFORNICUM	ORCHIDACEAE	LADY'S-SLIPPER, CALIFORNIA	CA OR
2	CYPRIPEDIUM MONTANUM	ORCHIDACEAE		AK CA MT OR WA WY CANADA
1	CYRTANDRA ALATA	GESNERIACEAE		HI
1	CYRTANDRA ALNEA	GESNERIACEAE		HI
1	CYRTANDRA AMBIGUA	GESNERIACEAE		HI
1	CYRTANDRA AXILLIFLORA	GESNERIACEAE		HI
1	CYRTANDRA BASIPARTITA	GESNERIACEAE		HI
2	CYRTANDRA BISERRATA	GESNERIACEAE		HI
1	CYRTANDRA BREVICORNUTA	GESNERIACEAE		HI
1	CYRTANDRA BRYANII	GESNERIACEAE		HI
1	CYRTANDRA CAMPANIFORMIS	GESNERIACEAE		HI
1*	CYRTANDRA CARINATA	GESNERIACEAE		HI
1	CYRTANDRA CAUDATISEPALA	GESNERIACEAE		HI
1	CYRTANDRA CHARTACEA	GESNERIACEAE		HI
1	CYRTANDRA CHRISTOPHERSENII	GESNERIACEAE		HI
1*	CYRTANDRA COLLARIFERA	GESNERIACEAE		HI
2	CYRTANDRA CONRADTII	GESNERIACEAE		HI
1*	CYRTANDRA CORDIFOLIA VAR. BREVIPILITA	GESNERIACEAE		HI
2	CYRTANDRA CORDIFOLIA VAR. GYNOGLABRA	GESNERIACEAE		HI
1*	CYRTANDRA CRASSIOR	GESNERIACEAE		HI
1	CYRTANDRA CRENATA	GESNERIACEAE		HI
1	CYRTANDRA CUPULIFORMIS	GESNERIACEAE		HI
1	CYRTANDRA DENTATA	GESNERIACEAE		HI
1	CYRTANDRA ELLIPTICIFOLIA	GESNERIACEAE		HI
1	CYRTANDRA ELLIPTISEPALA	GESNERIACEAE		HI
1	CYRTANDRA FERRICOLORATA	GESNERIACEAE		HI
1*	CYRTANDRA FERRUGINOSA	GESNERIACEAE		HI
2	CYRTANDRA FILIPES	GESNERIACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	CYRTANDRA FORBESII	GESNERIACEAE		HI
1	CYRTANDRA FOSBERGII	GESNERIACEAE		HI
1	CYRTANDRA FREDERICKII	GESNERIACEAE		HI
1	CYRTANDRA FUSIFORMIS	GESNERIACEAE		HI
1*	CYRTANDRA GARBERI	GESNERIACEAE		HI
2	CYRTANDRA GEORGIANA	GESNERIACEAE		HI
2	CYRTANDRA GIFFARDII	GESNERIACEAE		HI
2	CYRTANDRA GLAUCA	GESNERIACEAE		HI
2	CYRTANDRA GRAYANA VAR. LANAIENSIS	GESNERIACEAE		HI
2	CYRTANDRA HALAWENSIS	GESNERIACEAE		HI
2	CYRTANDRA HAWAIENSIS	GESNERIACEAE		HI
2	CYRTANDRA HIRSUTULA	GESNERIACEAE		HI
1	CYRTANDRA HOBDYI	GESNERIACEAE		HI
2	CYRTANDRA HOSAKAE	GESNERIACEAE		HI
1	CYRTANDRA INFRAPALLIDA	GESNERIACEAE		HI
1	CYRTANDRA INTONSA	GESNERIACEAE		HI
2	CYRTANDRA INTRAPILOSA	GESNERIACEAE		HI
2	CYRTANDRA INTRAVILLOSA	GESNERIACEAE		HI
1	CYRTANDRA KAALAE	GESNERIACEAE		HI
1	CYRTANDRA KAHANENSIS	GESNERIACEAE		HI
1	CYRTANDRA KAHUKUENSIS	GESNERIACEAE		HI
1	CYRTANDRA KALUANUIENSIS	GESNERIACEAE		HI
1	CYRTANDRA KANEOHEENSIS	GESNERIACEAE		HI
1*	CYRTANDRA KAUAIENSIS	GESNERIACEAE	ULUNAHELE	HI
2	CYRTANDRA KAULANTHA	GESNERIACEAE		HI
1	CYRTANDRA KOOLAUENSIS	GESNERIACEAE		HI
1*	CYRTANDRA LAEVIS	GESNERIACEAE		HI
1	CYRTANDRA LESSONIANA VAR. INTRAPUBENS	GESNERIACEAE		HI
2	CYRTANDRA LIMOSIFLORA	GESNERIACEAE		HI
2	CYRTANDRA LONGICALYX	GESNERIACEAE		HI
1*	CYRTANDRA LONGIFOLIA VAR. LONGIFOLIA	GESNERIACEAE		HI
1	CYRTANDRA LONGILOBA	GESNERIACEAE		HI
2	CYRTANDRA LYSIOSEPALA VAR. GRAYI	GESNERIACEAE		HI
2	CYRTANDRA LYSIOSEPALA VAR. HALEAKALENSIS	GESNERIACEAE		HI
2	CYRTANDRA LYSIOSEPALA VAR. LYSIOSEPALA	GESNERIACEAE		HI
2	CYRTANDRA MACRANTHA	GESNERIACEAE		HI
2	CYRTANDRA MALACOPHYLLA VAR. MALACOPHYLLA	GESNERIACEAE		HI
1*	CYRTANDRA MANNII	GESNERIACEAE		HI
1	CYRTANDRA MEGASTIGMATA	GESNERIACEAE		HI
1	CYRTANDRA MENZIESII	GESNERIACEAE	HA I WALE	HI
2	CYRTANDRA MUNROI	GESNERIACEAE		HI
1	CYRTANDRA NIUENSIS	GESNERIACEAE		HI
1	CYRTANDRA NUBINCOLENS	GESNERIACEAE		HI
2	CYRTANDRA OENOBARBA	GESNERIACEAE		HI
1	CYRTANDRA OLIVACEA	GESNERIACEAE		HI
1	CYRTANDRA PALOLOENSIS	GESNERIACEAE		HI
2	CYRTANDRA PALUDOSA VAR. HAUPUENSIS	GESNERIACEAE		HI
1*	CYRTANDRA PARTITA	GESNERIACEAE		HI
1	CYRTANDRA PEARSALLII	GESNERIACEAE		HI
1	CYRTANDRA PERSTAMINODICA	GESNERIACEAE		HI
1*	CYRTANDRA PICKERINGII	GESNERIACEAE		HI
1*	CYRTANDRA PILIGYNA	GESNERIACEAE		HI
2	CYRTANDRA PLATYPHYLLA VAR. HILOENSIS	GESNERIACEAE		HI
1	CYRTANDRA PLURIFOLIA	GESNERIACEAE		HI
1	CYRTANDRA POLYANTHA	GESNERIACEAE		HI
1	CYRTANDRA PRUINOSA	GESNERIACEAE		HI
1	CYRTANDRA PUBENS	GESNERIACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	CYRTANDRA RAMOSISSIMA	GESNERIACEAE		HI
1	CYRTANDRA ROCKII	GESNERIACEAE		HI
1	CYRTANDRA SANDWICENSIS	GESNERIACEAE		HI
1*	CYRTANDRA SKOTTSBERGII	GESNERIACEAE		HI
1	CYRTANDRA SUBCORDATA	GESNERIACEAE		HI
1	CYRTANDRA SUBRECTA	GESNERIACEAE		HI
1	CYRTANDRA SUBUMBELLATA VAR. INTOSA	GESNERIACEAE		HI
1	CYRTANDRA TERNATA	GESNERIACEAE		HI
1	CYRTANDRA TURBINIFORMIS	GESNERIACEAE		HI
1*	CYRTANDRA VANIOTA	GESNERIACEAE		HI
1	CYRTANDRA VILLICALYX VAR. PUBENTIGYNA	GESNERIACEAE		HI
1	CYRTANDRA VILLOSA	GESNERIACEAE		HI
1	CYRTANDRA VILLOSIFLORA	GESNERIACEAE		HI
1*	CYRTANDRA WAIANUENSIS	GESNERIACEAE		HI
1*	CYRTANDRA WAIOLANI	GESNERIACEAE		HI
1	CYRTANDRA WAIOMAOENSIS	GESNERIACEAE		HI
2	DALEA BARTONII	FABACEAE		TX
2	DALEA EPICA	FABACEAE	PRAIRIE-CLOVER, HOLE-IN-THE-ROCK	UT
1	DALEA FOLIOSA	FABACEAE	PRAIRIE-CLOVER,	AL IL TN
1	DALEA REVERCHONII	FABACEAE	PRAIRIE-CLOVER, COMANCHE-PEAK	TX
1	DALEA SABINALIS	FABACEAE	PRAIRIE-CLOVER, SABINAL	TX
1	DALEA TENTACULOIDES	FABACEAE	INDIGOBUSH, GENTRY'S	AZ
1	DAPHNOPSIS HELLERANA	THYMELAEACEAE		PR
2	DARLINGTONIA CALIFORNICA	SARRACENIACEAE	PITCHERPLANT, CALIFORNIA	CA OR
1	DEDECKERA EUREKENSIS	POLYGONACEAE	JULY GOLD	CA
2	DEERINGOTHAMNUS PULCHELLUS	ANNONACEAE		FL
1	DEERINGOTHAMNUS RUGELII	ANNONACEAE		FL
1*	DELISSEA FALLAX	CAMPANULACEAE		HI
1*	DELISSEA LACINIATA	CAMPANULACEAE		HI
1*	DELISSEA NIIHAUENSIS	CAMPANULACEAE		HI
1*	DELISSEA PARVIFLORA	CAMPANULACEAE		HI
1	DELISSEA RHYTIDOSPERMA	CAMPANULACEAE		HI
2	DELISSEA RIVULARIS	CAMPANULACEAE		HI
1*	DELISSEA SINUATA	CAMPANULACEAE		HI
1	DELISSEA UNDULATA	CAMPANULACEAE		HI
2	DELPHINIUM ALABAMICUM	RANUNCULACEAE		AL
1	DELPHINIUM BAKERI	RANUNCULACEAE	LARKSPUR, BAKER'S	CA
2	DELPHINIUM CALIFORNICUM SSP. INTERIUS	RANUNCULACEAE		CA
1	DELPHINIUM HESPERIUM SSP. CUYAMACAE	RANUNCULACEAE		CA
1	DELPHINIUM HUTCHINSONAE	RANUNCULACEAE	DELPHINIUM, HUTCHINSON'S	CA
2	DELPHINIUM INOPINUM	RANUNCULACEAE		CA
1	DELPHINIUM LEUCOPHAEUM	RANUNCULACEAE		OR
1	DELPHINIUM LUTEUM	RANUNCULACEAE	LARKSPUR, YELLOW	CA
1	DELPHINIUM MULTIPLEX	RANUNCULACEAE	LARKSPUR,	WA
2	DELPHINIUM NEWTONIANUM	RANUNCULACEAE		AR
2	DELPHINIUM PARISHII SSP. PURPUREUM	RANUNCULACEAE		CA
1	DELPHINIUM PAVONACEUM	RANUNCULACEAE		OR
2	DELPHINIUM TRELEASEI	RANUNCULACEAE		AR MO
1	DELPHINIUM VARIEGATUM SSP. THORNEI	RANUNCULACEAE	LARKSPUR, ROYAL, THORNE'S	CA
1	DELPHINIUM VIRIDESCENS	RANUNCULACEAE	LARKSPUR, WENATCHEE	WA
1	DELPHINIUM XANTHOLEUCUM	RANUNCULACEAE	LARKSPUR, NORTHWESTERN	WA
1	DENDROMECON RIGIDA SSP. RHAMNOIDES	PAPAVERACEAE		CA
1	DENDROPEMON SINTENISII	LORANTHACEAE	HICAQUILLO (MISTLETOE)	PR
1	DESMANTHUS BICORNUTUS	FABACEAE	BUNDLEFLOWER, RUBY	AZ MEXICO
2	DESMODIUM LINDHEIMERI	FABACEAE		TX MEXICO

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	DICENTRA FORMOSA SSP. OREGANA	FUMARIACEAE	BLEEDINGHEART, PACIFIC	CA OR
2	DICERANDRA FRUTESCENS	LAMIACEAE	BALM, SCRUB	FL
1	DICERANDRA IMMACULATA	LAMIACEAE		FL
1	DICHANTHELIUM LANUGINOSUM VAR. THERMALE	POACEAE	PANIC GRASS, HOT SPRING	CA
2	DICHELOSTEMMA LACUNA-VERNALIS	LILIACEAE	BRODIAEA, VERNAL POOL	CA
1*	DICLIPTERA KRUGII	ACANTHACEAE		PR
1	DIELLIA ERECTA	POLYPODIACEAE		HI
1	DIELLIA FALCATA	POLYPODIACEAE		HI
1	DIELLIA LACINIATA	POLYPODIACEAE		HI
1*	DIELLIA MANNII	POLYPODIACEAE		HI
1	DIELLIA UNISORA	POLYPODIACEAE		HI
2	DIGITARIA FLORIDANA	POACEAE		FL
2	DIGITARIA GRACILLIMA	POACEAE		FL
2	DIGITARIA PAUCIFLORA	POACEAE	FINGER GRASS,	FL
2	DIONAEA MUSCIPULA	DROSERACEAE	VENUS' FLY-TRAP,	NC SC
1*	DIPLAZIUM MOLOKAIENSE	POLYPODIACEAE		HI
1*	DISSANTHELIUM CALIFORNICUM	POACEAE	DISSANTHELIUM, CALIFORNIA	CA MEXICO
1	DITAXIS CALIFORNICA	EUPHORBIACEAE	DITAXIS, CALIFORNIA	CA
1	DITHYREA MARITIMA	BRASSICACEAE		CA
2	DODECATHEON FRENCHII	PRIMULACEAE	SHOOTINGSTAR, FRENCH'S	AR IL IN KY MO
2	DODONAEA ERIOCARPA VAR. CONFERTIOR	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. COSTULATA	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. FORBESII	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. LANAIENSIS	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. MOLOKAIENSIS	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. OBLONGA	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. PALLIDA	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. SKOTTSBERGII	SAPINDACEAE		HI
2	DODONAEA ERIOCARPA VAR. VARIANS	SAPINDACEAE		HI
2	DODONAEA SANDWICENSIS VAR. LATIFOLIA	SAPINDACEAE		HI
2	DODONAEA SANDWICENSIS VAR. SIMULANS	SAPINDACEAE		HI
2	DODONAEA STENOPTERA VAR. FAURIEI	SAPINDACEAE		HI
1	DODONAEA STENOPTERA VAR. STENOPTERA	SAPINDACEAE		HI
1	DOUGLASIA IDAHOENSIS /SP. NOV. INED.	PRIMULACEAE		ID
1	DOWNINGIA CONCOLOR VAR. BREVIOR	CAMPANULACEAE		CA
1	DOWNINGIA HUMILIS	CAMPANULACEAE		CA
	DOWNINGIA PUSILLA	*** SEE ***	DOWNINGIA HUMILIS	
1	DRABA APRICA	BRASSICACEAE		AR GA MO OK SC
2	DRABA ARIDA	BRASSICACEAE		NV
2	DRABA ASPRELLA VAR. ASPRELLA	BRASSICACEAE		AZ
2	DRABA ASPRELLA VAR. KAIBABENSIS	BRASSICACEAE		AZ
2	DRABA ASPRELLA VAR. STELLIGERA	BRASSICACEAE		AZ
2	DRABA ASPRELLA VAR. ZIONENSIS	BRASSICACEAE	WHITLOW-GRASS, ZION	UT
2	DRABA ASTEROPHORA VAR. ASTEROPHORA	BRASSICACEAE	DRABA, LAKE TAHOE	CA NV
1	DRABA ASTEROPHORA VAR. MACROCARPA	BRASSICACEAE	DRABA, CUP LAKE	CA
1	DRABA CRASSIFOLIA VAR. NEVADENSIS	BRASSICACEAE		CA NV
2	DRABA CRUCIATA VAR. CRUCIATA	BRASSICACEAE	DRABA, MINERAL KING	CA
2	DRABA CRUCIATA VAR. INTEGRIFOLIA	BRASSICACEAE	DRABA, WHITNEY	CA
2	DRABA DOUGLASII VAR. CROCKERI	BRASSICACEAE		CA NV
2	DRABA HOWELLII VAR. CARNOSULA	BRASSICACEAE		CA
1	DRABA JAEGERI	BRASSICACEAE		NV
2	DRABA LEMMONII VAR. CYCLOMORPHA	BRASSICACEAE		ID OR
2	DRABA MAGUIREI VAR. BURKEI	BRASSICACEAE		UT
2	DRABA MAGUIREI VAR. MAGUIREI	BRASSICACEAE		UT
1	DRABA MURRAYI	BRASSICACEAE		AK CANADA (YUKON TERRITORY)

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	DRABA PAUCIFRUCTA	BRASSICACEAE		NV
2	DRABA QUADRICOSTATA	BRASSICACEAE	DRABA, BODIE HILLS	CA NV
1	DRABA SOBOLIFERA	BRASSICACEAE	WHITLOW-GRASS, STOLON	UT
2	DRABA STENOLOBA VAR. RAMOSA	BRASSICACEAE		CA NV
	DRABA ZIONENSIS	*** SEE ***	DRABA ASPRELLA VAR. ZIONENSIS	
1	DRACAENA FORBESII	LILIACEAE	HALAPEPE,	HI
1	DRACAENA HAWAIIENSIS	LILIACEAE	HALAPEPE,	HI
	DRYPETES PHYLLANTHOIDES	*** SEE ***	NEOWAWRAEA PHYLLANTHOIDES	
1	DUBAUTIA HERBSTOBATAE	ASTERACEAE		HI
2	DUBAUTIA LAEVIGATA VAR. PARVIFOLIA	ASTERACEAE		HI
1	DUBAUTIA LATIFOLIA	ASTERACEAE		HI
2	DUBAUTIA LAXA VAR. BLAKEI	ASTERACEAE		HI
1	DUBAUTIA LAXA VAR. WAIANENSIS	ASTERACEAE	NAENAE-PUA-MELEMELE,	HI
2	DUBAUTIA MAGNIFOLIA	ASTERACEAE		HI
1	DUBAUTIA MICROCEPHALA	ASTERACEAE		HI
1	DUBAUTIA PLANTAGINEA VAR. ACRIDENTATA	ASTERACEAE		HI
2	DUBAUTIA PLATYPHYLLA VAR. LEPTOPHYLLA	ASTERACEAE		HI
1	DUBAUTIA RETICULATA	ASTERACEAE		HI
2	DUBAUTIA WAIALEALAE VAR. MEGAPHYLLA	ASTERACEAE		HI
1	DUDLEYA BETTINAE	CRASSULACEAE	LIVEFOREVER, SAN LUIS SERPENTINE	CA
	DUDLEYA BLOCHMANIAE SSP. BREVIFOLIA	*** SEE ***	DUDLEYA BREVIFOLIA	
1	DUDLEYA BLOCHMANIAE SSP. INSULARIS	CRASSULACEAE	DUDLEYA, SANTA ROSA ISLAND	CA
1	DUDLEYA BREVIFOLIA	CRASSULACEAE	DUDLEYA, SHORT-LEAVED	CA
1	DUDLEYA CANDELABRUM	CRASSULACEAE	LIVEFOREVER, CANDLEHOLDER	CA
1	DUDLEYA CYMOSA SSP. MARCESCENS	CRASSULACEAE	LIVEFOREVER, SANTA MONICA MOUNTAINS	CA
1	DUDLEYA DENSIFLORA	CRASSULACEAE	DUDLEYA, SAN GABRIEL MOUNTAIN	CA
1	DUDLEYA MULTICAULIS	CRASSULACEAE	LIVEFOREVER, MANY-STEMMED	CA
1	DUDLEYA NESIOTICA	CRASSULACEAE	LIVEFOREVER, SANTA CRUZ ISLAND	CA
1	DUDLEYA PARVA	CRASSULACEAE	DUDLEYA, SERPENTINE	CA
1	DUDLEYA SAXOSA SSP. SAXOSA	CRASSULACEAE		CA
1	DUDLEYA STOLONIFERA	CRASSULACEAE	LIVEFOREVER, LAGUNA BEACH	CA
1	DUDLEYA VARIEGATA	CRASSULACEAE	DUDLEYA, VARIEGATED	CA MEXICO
1	DUDLEYA VIRENS	CRASSULACEAE		CA
1	DUDLEYA VISCIDA	CRASSULACEAE	DUDLEYA, VISCID	CA
1	DYSSODIA TEPHROLEUCA	ASTERACEAE	DOGWEED, ASHY	TX
	ECHEVERIA RUSBYI	*** SEE ***	GRAPTOPETALUM RUSBYI	
2	ECHINACEA LAEVIGATA	ASTERACEAE	CONEFLOWER,	AL GA MD NC SC,VA
2	ECHINOCEREUS BLANKII VAR. ANGUSTICEPS	CACTACEAE		TX
1	ECHINOCEREUS CHLORANTHUS VAR. NEOCAPILLUS	CACTACEAE	HEDGEHOG CACTUS,	TX
1	ECHINOCEREUS ENGELMANNII VAR. HOWEI	CACTACEAE	HEDGEHOG CACTUS,	CA
2	ECHINOCEREUS ENGELMANNII VAR. MUNZII	CACTACEAE		CA MEXICO
2	ECHINOCEREUS LEDINGII	CACTACEAE		AZ
1	ECHINOCEREUS REICHENBACHII VAR. CHISOSENSIS	CACTACEAE		TX
2	ECHINOCEREUS REICHENBACHII VAR. FITCHII	CACTACEAE		TX
2	ECHINOCEREUS RUSSANTHUS	CACTACEAE	HEDGEHOG CACTUS, RUSTY	TX
2	ECHINOCEREUS VIRIDIFLORUS VAR. CORRELLII	CACTACEAE		TX
2	ELEOCHARIS AUSTROTEXANA	CYPERACEAE		TX
1	ELEOCHARIS CYLINDRICA	CYPERACEAE	SPIKE-RUSH, CYLINDER	TX MEXICO
1	ELLIOTTIA RACEMOSA	ERICACEAE	PLUME, GEORGIA	GA SC
1*	ELODEA BRANDEGEAE	HYDROCHARITACEAE	WATERWEED, TRUCKEE	CA
1*	ELODEA LINEARIS	HYDROCHARITACEAE	WATERWEED, NASHVILLE	TN
1*	ELODEA NEVADENSIS	HYDROCHARITACEAE	WATERWEED, NEVADA	NV
2	ELODEA SCHWEINITZII	HYDROCHARITACEAE	WATERWEED, SCHWEINITZ'S	PA
2	ELYMUS SVENSONII	POACEAE		TN

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ELYTRARIA CAROLINIENSIS VAR. ANGUSTIFOLIA	ACANTHACEAE		FL
2	EMBELIA HILLEBRANDII	MYRSINACEAE		HI
2	ENCELIA FRUTESCENS VAR. RESINOSA	ASTERACEAE		AZ
1	ENCELIOPSIS COVILLEI	ASTERACEAE	DAISY, PANAMINT	CA
1	ENCELIOPSIS NUDICAULIS VAR. CORRUGATA	ASTERACEAE		NV
1	ENCYCLIA BOOTHIANA VAR. ERYTHRONIOIDES	ORCHIDACEAE	ORCHID, DOLLAR	FL
				BAHAMAS, BELIZE, CUBA, JAMIACA
2	ENCYCLIA SINTENISII	ORCHIDACEAE		MEXICO, HISPANIOLA, S. AMERICA
				PR
	EPIDENDRUM BRITTONIANUM /NOMEN CONFUSUM	*** SEE ***	EPIDENDRUM KRANZLINII	CUBA, JAMAICA, HISPANIOLA
	EPIDENDRUM ERYTHRONIOIDES	*** SEE ***	ENCYCLIA BOOTHIANA VAR. ERYTHRONIOIDES	
2	EPIDENDRUM KRANZLINII	ORCHIDACEAE		PR
1	EPIDENDRUM LACERUM	ORCHIDACEAE		PR
				CUBA
	EPIDENDRUM SINTENISII	*** SEE ***	ENCYCLIA SINTENISII	
1	EPILOBIUM NEVADENSE	ONAGRACEAE	WILLOWHERB, NEVADA	NV UT
2	EPILOBIUM NIVIUM	ONAGRACEAE	WILLOWHERB, SNOW MOUNTAIN	CA
	EPILOBIUM OBCORDATUM SSP. SISKIYOUENSE	*** SEE ***	EPILOBIUM SISKIYOUENSE	
2	EPILOBIUM OREGANUM	ONAGRACEAE		CA OR
2	EPILOBIUM SISKIYOUENSE	ONAGRACEAE		CA OR
2	EPITHELANTHA BOKEI	CACTACEAE		TX
				MEXICO
1	ERAGROSTIS FOSBERGII	POACEAE	LOVE GRASS, FOSBERG'S	HI
1*	ERAGROSTIS MAUIENSIS	POACEAE	LOVE GRASS, MAUI	HI
1	ERAGROSTIS NIIHAUENSIS	POACEAE	LOVE GRASS, NIIHAU	HI
1*	ERAGROSTIS PAUPERA	POACEAE		HI
1	ERAGROSTIS TRACYI	POACEAE	LOVE GRASS, SANIBEL	FL
1	ERIASTRUM BRANDEGEAE	POLEMONIACEAE	ERIASTRUM, BRANDEGEE	CA
2	ERIASTRUM DENSIFLORUM SSP. SANCTORUM	POLEMONIACEAE		CA
1	ERIASTRUM TRACYI	POLEMONIACEAE	ERIASTRUM, TRACY	CA
1	ERICAMERIA FASCICULATA	ASTERACEAE	GOLDENWEED, EASTWOOD'S	CA
	ERICAMERIA PALMERI SSP. PALMERI	*** SEE ***	HAPLOPAPPUS PALMERI SSP. PALMERI	
2	ERIGERON AEQUIFOLIUS	ASTERACEAE	DAISY, HALL'S	CA
2	ERIGERON ARIZONICUS	ASTERACEAE		AZ
1	ERIGERON BASALTICUS	ASTERACEAE	DAISY, BASALT	WA
2	ERIGERON BIGELOVII	ASTERACEAE		TX
				MEXICO
2	ERIGERON CHRYSOPSIDIS VAR. BREVIFOLIUS	ASTERACEAE		OR
1	ERIGERON CRONQUISTII	ASTERACEAE	DAISY, CRONQUIST	UT
2	ERIGERON DECUMBENS VAR. DECUMBENS	ASTERACEAE		OR
1	ERIGERON DELICATUS	ASTERACEAE	FLEABANE, DEL NORTE	CA OR
1	ERIGERON ERIOPHYLLUS	ASTERACEAE	FLEABANE,	AZ
	ERIGERON FLAGELLARIS VAR. TRILOBATUS	*** SEE ***	ERIGERON PROSELYTICUS	
2	ERIGERON FLETTII	ASTERACEAE		WA
2	ERIGERON FLEXUOSUS	ASTERACEAE	DAISY, TRINITY ALPS	CA
2	ERIGERON FOLIOSUS VAR. BLOCHMANIAE	ASTERACEAE	LEAFY-DAISY, BLOCKMAN'S	CA
	ERIGERON GEISERI VAR. CALCICOLA	*** SEE ***	ERIGERON MIMEGLETES	
	ERIGERON GRANDIFLORUS SSP. MUIRII	*** SEE ***	ERIGERON MUIRII	
2	ERIGERON HESSII	ASTERACEAE		NM
1	ERIGERON HOWELLII	ASTERACEAE	FLEABANE, HOWELL'S	OR WA
2	ERIGERON HULTENII	ASTERACEAE		AK
2	ERIGERON KACHINENSIS	ASTERACEAE	DAISY, KACHINA	CO UT
1	ERIGERON KUSCHEI	ASTERACEAE	FLEABANE,	AZ
1	ERIGERON LATUS	ASTERACEAE	FLEABANE,	ID NV
1	ERIGERON LEIBERGII	ASTERACEAE		WA
2	ERIGERON LEMMONII	ASTERACEAE		AZ

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ERIGERON MAGUIREI	ASTERACEAE	DAISY, MAGUIRE	UT
1	ERIGERON MANCUS	ASTERACEAE	DAISY, DEPAUPERATE	UT
1	ERIGERON MIMEGLETES	ASTERACEAE	FLEABANE,	TX
1	ERIGERON MUIRII	ASTERACEAE		AK
1	ERIGERON MULTICEPS	ASTERACEAE	DAISY, KERN RIVER	CA
2	ERIGERON OVINUS	ASTERACEAE		NV
1	ERIGERON PARISHII	ASTERACEAE	DAISY, PARISH'S	CA
2	ERIGERON PERGLABER	ASTERACEAE		AZ
1	ERIGERON PIPERANUS	ASTERACEAE		WA
1	ERIGERON PRINGLEI	ASTERACEAE		AZ
1	ERIGERON PROSELYTICUS	ASTERACEAE	DAISY, CLIFF	UT
2	ERIGERON PULCHELLUS VAR. TOLSTEADII	ASTERACEAE		MN
1	ERIGERON RHIZOMATUS	ASTERACEAE	FLEABANE,	NM
1	ERIGERON SIONIS	ASTERACEAE		UT
2	ERIGERON SUPPLEX	ASTERACEAE	DAISY, SUPPLE	CA
2	ERIGERON UNCIALIS VAR. CONJUGANS	ASTERACEAE		NV
2	ERIOCAULON KORNICKIANUM	ERIOCAULACEAE	PIPEWORT,	AR GA OK TX
1	ERIOCHLOA MICHAUXII VAR. SIMPSONII	POACEAE		FL
1	ERIODICTYON ALTISSIMUM	HYDROPHYLLACEAE	MOUNTAIN BALM, INDIAN KNOB	CA
1	ERIODICTYON CAPITATUM	HYDROPHYLLACEAE	LOMPOC YERBA SANTA	CA
2	ERIOGONUM ALLENI	POLYGONACEAE		VA WV
2	ERIOGONUM ALPINUM	POLYGONACEAE	WILD BUCKWHEAT, TRINITY	CA
1	ERIOGONUM AMMOPHILUM	POLYGONACEAE	WILD BUCKWHEAT, SAND-LOVING	NV UT
1	ERIOGONUM APACHENSE	POLYGONACEAE		AZ
1	ERIOGONUM APRICUM VAR. APRICUM	POLYGONACEAE	WILD BUCKWHEAT, IONE	CA
1	ERIOGONUM APRICUM VAR. PROSTRATUM	POLYGONACEAE	WILD BUCKWHEAT, IRISH HILL	CA
1	ERIOGONUM ARETIOIDES	POLYGONACEAE	WILD BUCKWHEAT, WIDSTOE	UT
1	ERIOGONUM ARGOPHYLLUM	POLYGONACEAE	WILD BUCKWHEAT,	NV
2	ERIOGONUM BIFURCATUM	POLYGONACEAE		CA NV
2	ERIOGONUM BRANDEGEI	POLYGONACEAE	WILD BUCKWHEAT, BRANDEGEE	CO
1	ERIOGONUM BREEDLOVEI VAR. BREEDLOVEI	POLYGONACEAE		CA
2	ERIOGONUM BREEDLOVEI VAR. SHEVOCKII	POLYGONACEAE		CA
1	ERIOGONUM BUTTERWORTHIANUM	POLYGONACEAE	WILD BUCKWHEAT, BUTTERWORTH'S	CA
1	ERIOGONUM CAPILLARE	POLYGONACEAE	WILD BUCKWHEAT,	AZ
1	ERIOGONUM CHRYSOPS	POLYGONACEAE	WILD BUCKWHEAT, GOLDEN	OR
2	ERIOGONUM CLAVELLATUM	POLYGONACEAE	WILD BUCKWHEAT, COMB WASH	CO UT
2	ERIOGONUM CORRELLII	POLYGONACEAE		TX
2	ERIOGONUM CORYMBOSUM VAR. DAVIDSEI	POLYGONACEAE	WILD BUCKWHEAT, CORYMBED, DAVIDSE	UT
1	ERIOGONUM CORYMBOSUM VAR. MATTHEWSAE	POLYGONACEAE	WILD BUCKWHEAT, MATTHEW'S	UT
1	ERIOGONUM CROCATUM	POLYGONACEAE	WILD BUCKWHEAT, VENTURA	CA
2	ERIOGONUM CRONQUISTII	POLYGONACEAE	WILD BUCKWHEAT, CRONQUIST	UT
1	ERIOGONUM CUSICKII	POLYGONACEAE		OR
1*	ERIOGONUM DENSUM	POLYGONACEAE		AZ NM
2	ERIOGONUM EREMICOLA	POLYGONACEAE	ERIOGONUM, WILD ROSE CANYON	CA
2	ERIOGONUM EREMICUM	POLYGONACEAE	WILD BUCKWHEAT, LIMESTONE	UT
2	ERIOGONUM ERICIFOLIUM VAR. ERICIFOLIUM	POLYGONACEAE	WILD BUCKWHEAT,	AZ
1	ERIOGONUM ERICIFOLIUM VAR. THORNEI	POLYGONACEAE	WILD BUCKWHEAT, THORNE'S	CA
1	ERIOGONUM FLAVUM VAR. AQUILINUM	POLYGONACEAE	WILD BUCKWHEAT,	AK
1	ERIOGONUM FLORIDANUM	POLYGONACEAE	WILD BUCKWHEAT, SCRUB	FL
1	ERIOGONUM GIGANTEUM VAR. COMPACTUM	POLYGONACEAE	GIANT BUCKWHEAT, SANTA BARBARA IS.	CA
1	ERIOGONUM GIGANTEUM VAR. FORMOSUM	POLYGONACEAE		CA
2	ERIOGONUM GILMANII	POLYGONACEAE	WILD BUCKWHEAT, GILMAN'S	CA
1	ERIOGONUM GRANDE VAR. DUNKLEI	POLYGONACEAE		CA
	ERIOGONUM HARPERI	*** SEE ***	ERIOGONUM LONGIFOLIUM VAR. HARPERI	
2	ERIOGONUM HEERMANNII VAR. SUBRACEMOSUM	POLYGONACEAE		AZ UT
1	ERIOGONUM HOLMGRENII	POLYGONACEAE		NV
1	ERIOGONUM HUMIVAGANS	POLYGONACEAE	WILD BUCKWHEAT, SPREADING	UT

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ERIOGONUM JAMESII VAR. RUPICOLA	POLYGONACEAE	WILD BUCKWHEAT, SANDSTONE	UT
1	ERIOGONUM KELLOGGII	POLYGONACEAE	ERIOGONUM, KELLOGG'S	CA
2	ERIOGONUM KENNEDYI VAR. AUSTROMONTANUM	POLYGONACEAE	WILD BUCKWHEAT, SOUTHERN MOUNTAIN	CA
1	ERIOGONUM KENNEDYI VAR. PINICOLA	POLYGONACEAE	WILD BUCKWHEAT, KERN	CA
2	ERIOGONUM LAGOPUS	POLYGONACEAE		MT WY
2	ERIOGONUM LANCIFOLIUM	POLYGONACEAE	WILD BUCKWHEAT, LANCE LEAF	UT
1	ERIOGONUM LEMMONII	POLYGONACEAE	WILD BUCKWHEAT.	NV
1	ERIOGONUM LOBBII VAR. ROBUSTUM	POLYGONACEAE		NV
1	ERIOGONUM LOGANUM	POLYGONACEAE	WILD BUCKWHEAT, LOGAN	UT
	ERIOGONUM LONGIFOLIUM VAR. FLORIDANUM	*** SEE ***	ERIOGONUM FLORIDANUM	
	ERIOGONUM LONGIFOLIUM VAR. GNAPHALIFOLIUM	*** SEE ***	ERIOGONUM FLORIDANUM	
1	ERIOGONUM LONGIFOLIUM VAR. HARPERI	POLYGONACEAE		AL TN
1	ERIOGONUM MICROTHECUM VAR. JOHNSTONII	POLYGONACEAE	BRUSH BUCKWHEAT, JOHNSTON'S	CA
2	ERIOGONUM MICROTHECUM VAR. PANAMINTENSE	POLYGONACEAE	BRUSH BUCKWHEAT, PANAMINT MOUNTAINS	CA
1	ERIOGONUM MORTONIANUM	POLYGONACEAE	WILD BUCKWHEAT,	AZ
1	ERIOGONUM NATUM	POLYGONACEAE		UT
2	ERIOGONUM NEALLEYI	POLYGONACEAE	WILD BUCKWHEAT, IRION COUNTY	TX
2	ERIOGONUM NERVULOSUM	POLYGONACEAE		CA
2	ERIOGONUM NORTONII	POLYGONACEAE	WILD BUCKWHEAT, PINNACLES	CA
1	ERIOGONUM NUDUM VAR. MURINUM	POLYGONACEAE	WILD BUCKWHEAT, MOUSE	CA
2	ERIOGONUM NUMMULARE	POLYGONACEAE		UT
2	ERIOGONUM OSTLUNDII	POLYGONACEAE	WILD BUCKWHEAT, OSTLUND	UT
1	ERIOGONUM OVALIFOLIUM VAR. NOV. INED.	POLYGONACEAE		NV
1	ERIOGONUM OVALIFOLIUM VAR. VINEUM	POLYGONACEAE	WILD BUCKWHEAT,	AZ CA
1	ERIOGONUM PANGUICENSE VAR. ALPESTRE	POLYGONACEAE	WILD BUCKWHEAT, PANGUITCH	UT
2	ERIOGONUM PELINOPHILUM	POLYGONACEAE	WILD BUCKWHEAT, CLAY-LOVING	CO
1	ERIOGONUM PENDULUM	POLYGONACEAE	ERIOGONUM, WALSO	CA OR
1	ERIOGONUM PROCIDUUM	POLYGONACEAE		CA ID OR
2	ERIOGONUM RIPLEYI	POLYGONACEAE		AZ
2	ERIOGONUM SCOPULORUM	POLYGONACEAE		OR
1	ERIOGONUM SMITHII	POLYGONACEAE	WILD BUCKWHEAT, SMITH	UT
2	ERIOGONUM SP. /SP. NOV. INED.	POLYGONACEAE	WILD BUCKWHEAT (TRINITY,TEHAMA COS.)	CA
1	ERIOGONUM SP. /SP. NOV. INED.	POLYGONACEAE	WILD BUCKWHEAT (LAKEVIEW)	OR
2	ERIOGONUM SUFFRUTICOSUM	POLYGONACEAE	WILD BUCKWHEAT, BUSHY	TX
1	ERIOGONUM THOMPSONAE VAR. ATWOODII	POLYGONACEAE	WILD BUCKWHEAT, THOMPSON, ATWOOD'S	AZ
1	ERIOGONUM TRUNCATUM	POLYGONACEAE	ERIOGONUM, CONTRA COSTA	CA
2	ERIOGONUM TUMULOSUM	POLYGONACEAE		CO UT
1	ERIOGONUM TWISSELMANNII	POLYGONACEAE	ERIOGONUM, TWISSELMANN'S	CA
2	ERIOGONUM UMBELLATUM VAR. /VAR. NOV. INED.	POLYGONACEAE		CA
2	ERIOGONUM UMBELLATUM VAR. MINUS	POLYGONACEAE	WILD BUCKWHEAT, SULFUR-FLOWERED, ALP	CA
2	ERIOGONUM UMBELLATUM VAR. TORREYANUM	POLYGONACEAE	WILD BUCKWHEAT, SULFUR-FLOWERED, TOR	CA
2	ERIOGONUM VESTITUM	POLYGONACEAE	ERIOGONUM, IDRIA	CA
	ERIOGONUM VILLIFLORUM VAR. TUMULOSUM	*** SEE ***	ERIOGONUM TUMULOSUM	
1	ERIOGONUM VISCIDULUM	POLYGONACEAE	WILD BUCKWHEAT,	AZ NV
2	ERIOGONUM WRIGHTII VAR. OLANCHENSE	POLYGONACEAE	WILD BUCKWHEAT, OLANCHE PEAK	CA
1	ERIOGONUM ZIONIS VAR. COCCINEUM	POLYGONACEAE	WILD BUCKWHEAT, ZION,	AZ
1	ERIOPHYLLUM CONGDONII	ASTERACEAE	ERIOPHYLLUM, CONGDON'S	CA
1	ERIOPHYLLUM LANATUM VAR. HALLII	ASTERACEAE	WOOLY-SUNFLOWER, FT. TEJON	CA
2	ERIOPHYLLUM LATILOBUM	ASTERACEAE	WOOLY-SUNFLOWER, SAN MATEO	CA
1	ERIOPHYLLUM MOHAVENSE	ASTERACEAE	WOOLY-SUNFLOWER, BARSTOW	CA
2	ERIOPHYLLUM NEVINII	ASTERACEAE		CA
1	ERIOPHYLLUM NUBIGENUM	ASTERACEAE	WOOLY-SUNFLOWER, YOSEMITE	CA
	ERIOPHYLLUM NUBIGENUM VAR. CONGDONII	*** SEE ***	ERIOPHYLLUM CONGDONII	
2	ERITHALIS REVOLUTA	RUBIACEAE		PR
1	ERRAZURIZIA ROTUNDATA	FABACEAE		AZ
1	ERYNGIUM ARISTULATUM VAR. PARISHII	APIACEAE	COYOTE-THISTLE, SAN DIEGO	CA
1	ERYNGIUM CONSTANCEI /SP. NOV. INED.	APIACEAE		CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ERYNGIUM CUNEIFOLIUM	APIACEAE		FL
2	ERYNGIUM MATHIASIAE /SP. NOV. INED.	APIACEAE		CA
1	ERYNGIUM PINNATISECTUM	APIACEAE	COYOTE-THISTLE, TUOLUMNE	CA
1	ERYNGIUM RACEMOSUM	APIACEAE	COYOTE-THISTLE, DELTA	CA
2	ERYNGIUM SPINOSEPALUM	APIACEAE		CA
1	ERYSIMUM AMMOPHILUM	BRASSICACEAE	WALLFLOWER, COAST	CA
	ERYSIMUM ANGUSTATUM /P.A.RYDBERG	*** SEE ***	ERYSIMUM ASPERUM VAR. ANGUSTATUM	
1	ERYSIMUM ASPERUM VAR. ANGUSTATUM	BRASSICACEAE	WALLFLOWER,	AK CANADA (YUKON TERRITORY)
2	ERYSIMUM FRANCISCANUM VAR. FRANCISCANUM	BRASSICACEAE	WALLFLOWER, SAN FRANCISCO	CA
2	ERYSIMUM INSULARE	BRASSICACEAE	WALLFLOWER, ISLAND	CA MEXICO
1	ERYSIMUM MENZIESII	BRASSICACEAE	WALLFLOWER, MENZIES'	CA
1	ERYSIMUM TERETIFOLIUM	BRASSICACEAE	WALLFLOWER, BEN LOMOND	CA
2	ERYTHRONIUM CLIFTONII /SP. NOV. INED.	LILIACEAE		CA
2	ERYTHRONIUM GRANDIFLORUM SSP. PUSATERI	LILIACEAE	FAWN-LILY,	CA
1	ERYTHRONIUM PROPULLANS	LILIACEAE		MN
2	ERYTHRONIUM TUOLUMNENSE	LILIACEAE	FAWN-LILY, TUOLUMNE	CA
1	ESCHSCHOLZIA PROCERA	PAPAVERACEAE	POPPY, KERNVILLE	CA
2	ESCHSCHOLZIA RHOMBIPETALA	PAPAVERACEAE		CA
1	EUGENIA HAEMATOCARPA	MYRTACEAE	UVILLO	PR
1	EUGENIA MARGARETTAE	MYRTACEAE		PR
1	EUGENIA MOLOKAIANA	MYRTACEAE	NIOI	HI
1	EUGENIA UNDERWOODII	MYRTACEAE		PR
2	EULOPHIA ECRISTATA	ORCHIDACEAE		FL LA MS NC SC CUBA
2	EUPATORIUM BORINQUENSE	ASTERACEAE		PR
1	EUPATORIUM DROSEROLEPIS	ASTERACEAE	OREGANILLO	PR
1	EUPATORIUM LEUCOLEPIS VAR. NOVAE-ANGLIAE	ASTERACEAE	THROUGHWORT, WHITE-BRACTED, N.E.	MA RI
1	EUPATORIUM LUCIAE-BRAUNIAE	ASTERACEAE		KY TN
2	EUPATORIUM OTEROI	ASTERACEAE		PR
2	EUPATORIUM RESINOSUM VAR. KENTUCKIENSE	ASTERACEAE	THOROUGHWORT,	KY
2	EUPATORIUM RESINOSUM VAR. RESINOSUM	ASTERACEAE		DE NJ NC
2	EUPATORIUM SHASTENSE	ASTERACEAE	EUPATORIUM, SHASTA	CA
1	EUPHORBIA ARNOTTIANA VAR. INTEGRIFOLIA	EUPHORBIACEAE		HI
1	EUPHORBIA ATROCOCCA	EUPHORBIACEAE		HI
2	EUPHORBIA AUSTRINA	EUPHORBIACEAE		FL
1	EUPHORBIA CELASTROIDES VAR. KAENANA	EUPHORBIACEAE		HI
1	EUPHORBIA CELASTROIDES VAR. KEALIANA	EUPHORBIACEAE		HI
1	EUPHORBIA CELASTROIDES VAR. KOHALANA	EUPHORBIACEAE		HI
2	EUPHORBIA CELASTROIDES VAR. NELSONII	EUPHORBIACEAE		HI
1	EUPHORBIA CELASTROIDES VAR. NEMATOPODA	EUPHORBIACEAE		HI
1	EUPHORBIA CELASTROIDES VAR. SAXICOLA	EUPHORBIACEAE		HI
1	EUPHORBIA CELASTROIDES VAR. STOKESII	EUPHORBIACEAE		HI
1	EUPHORBIA CUMULICOLA	EUPHORBIACEAE		FL
1	EUPHORBIA DEGENERI VAR. MOLOKAIENSIS	EUPHORBIACEAE		HI
1	EUPHORBIA DELTOIDEA SSP. DELTOIDEA	EUPHORBIACEAE		FL
1	EUPHORBIA DELTOIDEA SSP. SERPYLLUM	EUPHORBIACEAE	SPURGE, WEDGE	FL
2	EUPHORBIA DISCOIDALIS	EUPHORBIACEAE		FL
1	EUPHORBIA EXSERTA	EUPHORBIACEAE		FL
1	EUPHORBIA FENDLERI VAR. TRILIGULATA	EUPHORBIACEAE	SPURGE,	TX
1	EUPHORBIA GARBERI	EUPHORBIACEAE	SPURGE,	FL
1	EUPHORBIA GOLONDRINA	EUPHORBIACEAE	SPURGE,	TX
1	EUPHORBIA HAELEELEANA	EUPHORBIACEAE		HI
1	EUPHORBIA HALEMANUI	EUPHORBIACEAE		HI
2	EUPHORBIA HILLEBRANDII VAR. PALIKEANA	EUPHORBIACEAE		HI
1	EUPHORBIA HILLEBRANDII VAR. WAIMANOANA	EUPHORBIACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	EUPHORBIA HOOVERI	EUPHORBIACEAE	SPURGE, HOOVER	CA
2	EUPHORBIA INNOCUA	EUPHORBIACEAE		TX
2	EUPHORBIA JEJUNA	EUPHORBIACEAE		TX
1*	EUPHORBIA MULTIFORMIS VAR. KAALANA	EUPHORBIACEAE		HI
1	EUPHORBIA MULTIFORMIS VAR. KAPULEIENSIS	EUPHORBIACEAE		HI
1	EUPHORBIA MULTIFORMIS VAR. PERDITA	EUPHORBIACEAE		HI
1	EUPHORBIA MULTIFORMIS VAR. SPARSIFLORA	EUPHORBIACEAE		HI
2	EUPHORBIA PERENNANS	EUPHORBIACEAE		TX
1	EUPHORBIA PLATYSPERMA	EUPHORBIACEAE		AZ CA
1	EUPHORBIA PORTERANA VAR. KEYENSIS	EUPHORBIACEAE	SPURGE, PORTER'S,	FL
1	EUPHORBIA PORTERANA VAR. PORTERANA	EUPHORBIACEAE		FL
1	EUPHORBIA PORTERANA VAR. SCOPARIA	EUPHORBIACEAE	SPURGE, PORTER'S,	FL
2	EUPHORBIA PURPUREA	EUPHORBIACEAE	SPURGE, WOLF'S MILK	DE MD NJ NC PA VA WV
1	EUPHORBIA REMYI	EUPHORBIACEAE		HI
2	EUPHORBIA ROEMERANA	EUPHORBIACEAE		TX
1	EUPHORBIA SKOTTSBERGII VAR. AUDENS	EUPHORBIACEAE		HI
1*	EUPHORBIA SKOTTSBERGII VAR. SKOTTSBERGII	EUPHORBIACEAE		HI
1*	EUPHORBIA SKOTTSBERGII VAR. VACCINIOIDES	EUPHORBIACEAE		HI
2	EUPHORBIA STRICTIOR	EUPHORBIACEAE		TX
1	EUPHORBIA TELEPHIOIDES	EUPHORBIACEAE		FL
1	EURYA SANDWICENSIS VAR. GRANDIFOLIA	THEACEAE		HI
2	EURYTAENIA HINCKLEYI	APIACEAE		TX
2	EUTREMA PENLANDII	BRASSICACEAE		CO
1	EXOCARPUS LUTEOLUS	SANTALACEAE	HEAU (EXOCARPUS, LEAFY)	HI
2	FEROCACTUS ACANTHODES VAR. ACANTHODES	CACTACEAE		AZ CA NV MEXICO
	FEROCACTUS ACANTHODES VAR. EASTWOODIAE	*** SEE ***	FEROCACTUS EASTWOODIAE /COMB. NOV. INED.	
1	FEROCACTUS EASTWOODIAE /COMB. NOV. INED.	CACTACEAE		AZ
1	FEROCACTUS VIRIDESCENS	CACTACEAE	BARREL CACTUS, SAN DIEGO	CA MEXICO
2	FESTUCA DASYCLADA	POACEAE	FESCUE, SEDGE	CO UT
2	FESTUCA LIGULATA	POACEAE		TX
2	FILIPENDULA OCCIDENTALIS	ROSACEAE	QUEEN-OF-THE-FOREST	OR
1	FIMBRISTYLIS PERPUSILLA	CYPERACEAE		GA
1	FLAVERIA MACDOUGALLII	ASTERACEAE		AZ
1	FORESTIERA SEGREGATA VAR. PINETORUM	OLEACEAE		FL
2	FORSELLESIA PUNGENS VAR. GLABRA	CROSSOSOMATACEAE		CA NV
1	FRANKENIA JOHNSTONII	FRANKENIACEAE	FRANKENIA, JOHNSTON	TX
1**	FRANKLINIA ALATAMAHA	THEACEAE	FRANKLIN TREE	GA
2	FRASERA COLORADENSIS	GENTIANACEAE		CO OK
1	FRASERA GYPSICOLA	GENTIANACEAE	GREEN-GENTIAN,	NV
1	FRASERA PAHUTENSIS	GENTIANACEAE	GREEN-GENTIAN,	NV
2	FRASERA UMPQUAENSIS	GENTIANACEAE	GREEN-GENTIAN, UMPQUA	CA OR
2	FRAXINUS CUSPIDATA VAR. MACROPETALA	OLEACEAE	ASH,	AZ NV NM
2	FRAXINUS GOODDINGII	OLEACEAE	ASH, GOODDING'S	AZ MEXICO
1	FREMONTODENDRON DECUMBENS	STERCULIACEAE	FLANNELBUSH, PINE HILL	CA
1	FREMONTODENDRON MEXICANUM	STERCULIACEAE		CA MEXICO
2	FRITILLARIA BRANDEGEI	LILIACEAE	FRITILLARY, GREENHORN	CA
2	FRITILLARIA EASTWOODIAE	LILIACEAE	FRITILLARY, BUTTE	CA
1	FRITILLARIA FALCATA	LILIACEAE	FRITILLARY, TALUS	CA
2	FRITILLARIA GENTNERI	LILIACEAE	MISSION-BELLS, GENTNER	OR
1	FRITILLARIA LILIACEA	LILIACEAE		CA
	FRITILLARIA PHAEANTHERA	*** SEE ***	FRITILLARIA EASTWOODIAE	
2	FRITILLARIA PLURIFLORA	LILIACEAE		CA
1	FRITILLARIA RODERICKII	LILIACEAE	FRITILLARY, RODERICK'S	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	FRITILLARIA STRIATA	LILIACEAE	LILY, ADOBE	CA
2	FRITILLARIA VIRIDEA	LILIACEAE		CA
1	GAHNIA LANAIENSIS	CYPERACEAE		HI
1	GAILLARDIA FLAVA	ASTERACEAE	BLANKETFLOWER, YELLOW	UT
2	GALACTIA EGGERSII	FABACEAE		VI
				BRITISH VI
1	GALACTIA PINETORUM	FABACEAE	MILK-PEA	FL
1	GALIUM ANGUSTIFOLIUM SSP. BORREGOENSE	RUBIACEAE	BEDSTRAW,	CA
2	GALIUM BUXIFOLIUM	RUBIACEAE	BEDSTRAW, ISLAND	CA
2	GALIUM CALIFORNICUM SSP. LUCIENSE	RUBIACEAE	BEDSTRAW,	CA
1	GALIUM CALIFORNICUM SSP. PRIMUM	RUBIACEAE	BEDSTRAW,	CA
1	GALIUM CALIFORNICUM SSP. SIERRAE	RUBIACEAE	BEDSTRAW, EL DORADO	CA
1	GALIUM CATALINENSE SSP. ACRISPUM	RUBIACEAE	BEDSTRAW, SAN CLEMENTE ISLAND	CA
2	GALIUM CORRELLII	RUBIACEAE		TX
1	GALIUM GLABRESCENS SSP. MODOCENSE	RUBIACEAE	BEDSTRAW, MODOC	CA
2	GALIUM GRANDE	RUBIACEAE	BEDSTRAW,	CA
2	GALIUM HARDHAMIAE	RUBIACEAE	BEDSTRAW, HARDHAM'S	CA
1	GALIUM HILENDIAE SSP. KINGSTONENSE	RUBIACEAE	BEDSTRAW, KINGSTON	CA NV
2	GALIUM HYPOTRICHIUM VAR. TOMENTELLUM	RUBIACEAE		CA
2	GALIUM SERPENTICUM SSP. SCOTTICUM	RUBIACEAE	BEDSTRAW,	CA
2	GALIUM SERPENTICUM SSP. WARNERENSE	RUBIACEAE		CA
1	GALVESIA SPECIOSA	SCROPHULARIACEAE		CA
1	GARDENIA BRIGHAMII	RUBIACEAE	NANU	HI
2	GARDENIA WEISSICHII	RUBIACEAE		HI
2	GAURA DEMAREEI	ONAGRACEAE		AR TX
1	GAURA NEOMEXICANA SSP. COLORADENSIS	ONAGRACEAE		CO WY
	GAYA VIOLACEA	*** SEE ***	BATESIMALVA VIOLACEA	
1	GENISTIDIUM DUMOSUM	FABACEAE		TX
				MEXICO
2	GENTIANA AUSTROMONTANA	GENTIANACEAE		NC TN VA WV
2	GENTIANA AUTUMNALIS	GENTIANACEAE	GENTIAN, PINE BARREN	DE NJ NC SC VA
1	GENTIANA BISETAEA	GENTIANACEAE	GENTIAN,	OR
1	GENTIANA PENNELLIANA	GENTIANACEAE	GENTIAN, WIREGRASS	FL
	GENTIANA PORPHYRIO	*** SEE ***	GENTIANA AUTUMNALIS	
1	GEOCARPON MINIMUM	CARYOPHYLLACEAE		AR MO
1	GERANIUM ARBOREUM	GERANIACEAE	GERANIUM, HAWAIIAN, RED-FLOWERED	HI
1	GERANIUM CUNEATUM VAR. HOLOLEUCUM	GERANIACEAE	GERANIUM, NATIVE,	HI
1	GERANIUM MULTIFLORUM VAR. MULTIFLORUM	GERANIACEAE	GERANIUM, NATIVE,	HI
2	GERANIUM MULTIFLORUM VAR. OVATIFOLIUM	GERANIACEAE	HINA HINA, LARGE-LEAVED	HI
2	GERANIUM MULTIFLORUM VAR. SUPERBUM	GERANIACEAE	GERANIUM, NATIVE	HI
	GERARDIA ACUTA	*** SEE ***	AGALINIS ACUTA	
	GERARDIA STENOPHYLLA	*** SEE ***	AGALINIS STENOPHYLLA	
1	GESNERIA PAUCIFLORA	GESNERIACEAE		PR
1	GEUM GENICULATUM	ROSACEAE	AVENS, BENT	NC TN
1	GEUM RADIATUM	ROSACEAE	AVENS, SPREADING	NC TN
1	GILIA CAESPITOSA	POLEMONIACEAE	GILIA, RABBIT VALLEY	UT
2	GILIA NYENSIS	POLEMONIACEAE		NV
2	GILIA PENTSTEMONOIDES	POLEMONIACEAE		CO
1	GILIA TENUIFLORA SSP. ARENARIA	POLEMONIACEAE		CA
2	GILIA TENUIFLORA SSP. HOFFMANNII	POLEMONIACEAE	GILIA, SLENDER-FLOWERED, HOFFMAN	CA
2	GILMANIA LUTEOLA	POLYGONACEAE	GOLDEN CARPET	CA
1	GITHOPSIS FILICAULIS	CAMPANULACEAE	BLUECUP, MISSION CANYON	CA
				MEXICO
1	GLAUCOCARPUM SUFFRUTESCENS	BRASSICACEAE		UT
2	GLOEOCANTHARELLUS PURPURASCENS	GOMPHACEAE	MUSHROOM, INDIAN CREEK	NC
1	GLYCERIA NUBIGENA	POACEAE	MANNA GRASS, SMOKY MOUNTAINS	NC TN
2	GNAPHALIUM OBTUSIFOLIUM VAR. SAXICOLA	ASTERACEAE	CATFOOT, ROCK,	WI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	GNAPHALIUM SANDWICENSE VAR. FLAGELLARE	ASTERACEAE	'ENA'ENA, WHIP	HI
1	GOETZEA ELEGANS	SOLANACEAE	MATA BUEY	PR
2	GONOCALYX CONCOLOR	ERICACEAE		PR
1	GOUANIA FAURIEI	RHAMNACEAE		HI
1	GOUANIA GAGNEI	RHAMNACEAE		HI
1	GOUANIA HILLEBRANDII	RHAMNACEAE		HI
1*	GOUANIA OLIVERI	RHAMNACEAE		HI
1*	GOUANIA VITIFOLIA	RHAMNACEAE		HI
2	GOULDIA ST-JOHNII VAR. MUNROI	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. BOBEOIDES	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. CONGESTA	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. CRASSICAULIS	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. DEGENERI	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. LANAI	RUBIACEAE		HI
2	GOULDIA TERMINALIS VAR. PARVIFOLIA	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. PSEUDODICHOTOMA	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. PUBESCENS	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. QUADRANGULARIS	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. ROTUNDIFOLIA	RUBIACEAE		HI
1	GOULDIA TERMINALIS VAR. SUBCORDATA	RUBIACEAE		HI
2	GRAFFENRIEDA OTTOSCHULZII	MELASTOMATACEAE	CAMASEY, PETITES GRAINES	PR DOMINICAN REPUBLIC, HAITI
2	GRAMMITIS NIMBATA	POLYPODIACEAE		NC CUBA
1	GRAPTOPETALUM BARTRAMII	CRASSULACEAE		AZ
2	GRAPTOPETALUM RUSBYI	CRASSULACEAE		AZ NM
1	GRATIOLA HETEROSEPALA	SCROPHULARIACEAE	HEDGE-HYSSOP, BOGGS LAKE	CA
2	GREENELLA DISCOIDEA	ASTERACEAE		AZ
1	GRINDELIA FRAXINO-PRATENSIS	ASTERACEAE		CA NV
2	GRINDELIA HALLII	ASTERACEAE		CA
1	GRINDELIA HOWELLII	ASTERACEAE		ID MT
1	GRINDELIA MARITIMA	ASTERACEAE		CA
2	GRINDELIA STRICTA SSP. BLAKEI	ASTERACEAE		CA
	GROSSULARIA ECHINELLA	*** SEE ***	RIBES ECHINELLUM	
1	GUTIERREZIA CALIFORNICA	ASTERACEAE		CA
2	GUTIERREZIA SAROTHRAE VAR. POMARIENSIS	ASTERACEAE		UT
2	GYMNOPOGON FLORIDANUS	POACEAE		FL
	HABENARIA HOLOCHILA	*** SEE ***	PLATANTHERA HOLOCHILA	
	HABENARIA INTEGRA	*** SEE ***	PLATANTHERA INTEGRA	
	HABENARIA LEUCOPHAEA	*** SEE ***	PLATANTHERA LEUCOPHAEA	
2	HACKELIA BREVICULA	BORAGINACEAE	STICKSEED, POISON CANYON	CA
1	HACKELIA CRONQUISTII	BORAGINACEAE	STICKSEED, CRONQUIST'S	OR
1	HACKELIA DAVISII	BORAGINACEAE	STICKSEED, DAVIS'	ID
1	HACKELIA OPHIOBIA	BORAGINACEAE	STICKSEED,	NV OR
	HACKELIA PATENS VAR. SEMIGLABRA	*** SEE ***	HACKELIA CRONQUISTII	
1	HACKELIA SP. /SP. NOV. INED.	BORAGINACEAE	STICKSEED (DEEP CR. MTNS., JUAB CO.)	UT
1	HACKELIA VENUSTA	BORAGINACEAE	STICKSEED, SHOWY	WA
1	HALIMOLOBOS PERPLEXA VAR. LEMHIENSIS	BRASSICACEAE		ID
1	HALIMOLOBOS PERPLEXA VAR. PERPLEXA	BRASSICACEAE		ID
2	HAPLOPAPPUS ALPINUS	ASTERACEAE		NV
	HAPLOPAPPUS CANUS	*** SEE ***	HAZARDIA CANA	
	HAPLOPAPPUS CARTHAMOIDES VAR. MAXIMUS	*** SEE ***	HAPLOPAPPUS RADIATUS	
2	HAPLOPAPPUS CERVINUS	ASTERACEAE		AZ
2	HAPLOPAPPUS CONTRACTUS	ASTERACEAE	GOLDENWEED,	WY
	HAPLOPAPPUS EASTWOODIAE	*** SEE ***	ERICAMERIA FASCICULATA	
2*	HAPLOPAPPUS FREMONTII SSP. MONOCEPHALUS	ASTERACEAE	GOLDENWEED,	CO
1	HAPLOPAPPUS INSECTICRURIS	ASTERACEAE		ID

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	HAPLOPAPPUS INTEGRIFOLIUS SSP. INSECTICRURIS	*** SEE ***	HAPLOPAPPUS INSECTICRURIS	
2	HAPLOPAPPUS LIATRIFORMIS	ASTERACEAE		ID WA
2	HAPLOPAPPUS OPHITIDIS	ASTERACEAE	MACRONEMA, SERPENTINE	CA
2	HAPLOPAPPUS PALMERI SSP. PALMERI	ASTERACEAE		CA MEXICO
2	HAPLOPAPPUS RACEMOSUS SSP. CONGESTUS	ASTERACEAE		CA OR
1	HAPLOPAPPUS RADIATUS	ASTERACEAE	GOLDENWEED,	ID OR
1	HAPLOPAPPUS SALICINUS	ASTERACEAE	GOLDENWEED,	AZ
	HAPLOPAPPUS UNIFLORUS SSP. GOSSYPINUS	*** SEE ***	PYRROCOMA UNIFLORA VAR. GOSSYPINA	
1*	HAPLOSTACHYS BRYANII	LAMIACEAE		HI
1*	HAPLOSTACHYS HAPLOSTACHYA VAR. HAPLOSTACHYA	LAMIACEAE		HI
1*	HAPLOSTACHYS HAPLOSTACHYA VAR. LEPTOSTACHYA	LAMIACEAE		HI
1*	HAPLOSTACHYS LINEARIFOLIA	LAMIACEAE		HI
1*	HAPLOSTACHYS MUNROI	LAMIACEAE		HI
1*	HAPLOSTACHYS TRUNCATA	LAMIACEAE		HI
	HARRISIA PORTORICENSIS	*** SEE ***	CEREUS PORTORICENSIS	
2	HARTWRIGHTIA FLORIDANA	ASTERACEAE	HARTWRIGHTIA	FL GA
1	HAZARDIA CANA	ASTERACEAE	HAZARDIA, ISLAND	CA MEXICO (BAJA CALIFORNIA NORTE)
1*	HECHTIA TEXENSIS	BROMELIACEAE		TX
1	HEDEOMA DIFFUSUM	LAMIACEAE		AZ
1	HEDEOMA GRAVEOLENS	LAMIACEAE	PENNYROYAL, MOCK	FL
1	HEDEOMA PILOSUM	LAMIACEAE	PENNYROYAL, OLD BLUE	TX
1*	HEDYOTIS ANGUSTA VAR. ANGUSTA	RUBIACEAE		HI
1	HEDYOTIS ANGUSTA VAR. UMBROSA	RUBIACEAE	HEDYOTIS, NARROW-LEAVED	HI
1*	HEDYOTIS CORIACEA	RUBIACEAE	KIO'ELE	HI
1	HEDYOTIS DEGENERI	RUBIACEAE		HI
2	HEDYOTIS ELATIOR VAR. ELATIOR	RUBIACEAE		HI
1	HEDYOTIS ELATIOR VAR. HERBACEA	RUBIACEAE		HI
2	HEDYOTIS FLUVIATILIS VAR. KAUAIENSIS	RUBIACEAE		HI
1*	HEDYOTIS FOLIOSA	RUBIACEAE		HI
2	HEDYOTIS FORMOSA	RUBIACEAE		HI
2	HEDYOTIS GLAUCIFOLIA VAR. HELLERI	RUBIACEAE		HI
1	HEDYOTIS LITTORALIS	RUBIACEAE		HI
2	HEDYOTIS MANNII	RUBIACEAE		HI
2	HEDYOTIS NIGRICANS VAR. PULVINATA	RUBIACEAE	DIAMONDFLOWERS,	FL
1	HEDYOTIS PARVULA	RUBIACEAE		HI
2	HEDYOTIS PURPUREA VAR. MONTANA	RUBIACEAE		NC
1*	HEDYOTIS REMYI VAR. NUTTALLII	RUBIACEAE		HI
1	HEDYOTIS REMYI VAR. PLANA	RUBIACEAE		HI
	HEDYOTIS SCHLECHTENDAHLIANA VAR. NUTTALLII	*** SEE ***	HEDYOTIS REMYI VAR. NUTTALLII	
	HEDYOTIS SCHLECHTENDAHLIANA VAR. PLANA	*** SEE ***	HEDYOTIS REMYI VAR. PLANA	
1	HEDYOTIS SCHLECHTENDAHLIANA VAR. RETICULATA	RUBIACEAE		HI
1	HEDYOTIS ST-JOHNII	RUBIACEAE	HEDYOTIS, NA PALI BEACH	HI
1*	HEDYOTIS THYRSOIDEA	RUBIACEAE		HI
2	HEDYSARUM BOREALE VAR. GREMIALE	FABACEAE		UT
1	HEDYSARUM OCCIDENTALE VAR. CANONE	FABACEAE		UT
2	HEIMIA LONGIPES	LYTHRACEAE		TX
1	HELIANTHELLA CASTANEA	ASTERACEAE	HELIANTHELLA, DIABLO	CA
2	HELIANTHEMUM DUMOSUM	CISTACEAE	ROCK-ROSE, BUSHY	CT MA NY RI
1	HELIANTHEMUM GREENEI	CISTACEAE	RUSH-ROSE, ISLAND	CA
1	HELIANTHEMUM SUFFRUTESCENS	CISTACEAE	RUSH-ROSE, AMADOR	CA
1	HELIANTHUS CARNOSUS	ASTERACEAE		FL
2	HELIANTHUS DEBILIS SSP. VESTITUS	ASTERACEAE		FL
2	HELIANTHUS EGGERTII	ASTERACEAE		AL KY TN
2	HELIANTHUS EXILIS	ASTERACEAE	SUNFLOWER, SERPENTINE	CA
2	HELIANTHUS GLAUCOPHYLLUS	ASTERACEAE		NC TN

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	HELIANTHUS LACINIATUS SSP. CRENATUS	ASTERACEAE		NM
2	HELIANTHUS LUDENS	ASTERACEAE	GOLDENEYE, FIELD	TX
1	HELIANTHUS NIVEUS SSP. TEPHRODES	ASTERACEAE	SUNFLOWER, DESERT	CA MEXICO
1*	HELIANTHUS NUTTALLII VAR. PARISHII	ASTERACEAE	SUNFLOWER,	CA
1	HELIANTHUS PARADOXUS	ASTERACEAE	SUNFLOWER,	TX
2	HELIANTHUS PRAECOX SSP. HIRTUS	ASTERACEAE		TX
1	HELIANTHUS SCHWEINITZII	ASTERACEAE		NC SC
1*	HELIANTHUS SMITHII	ASTERACEAE		AL GA
	HELIOMERIS SOLICEPS	*** SEE ***	VIGUIERA SOLICEPS	
1	HELIOTROPIUM GUANICENSE	BORAGINACEAE	COTORRILLA	PR
2	HELIOTROPIUM POLYPHYLLUM VAR. HORIZONTALE	BORAGINACEAE		FL
2	HELONIAS BULLATA	LILIACEAE	SWAMP-PINK,	DE GA MD NJ NY NC PA VA
1	HEMIZONIA ARIDA	ASTERACEAE	TARWEED, RED ROCK	CA
1	HEMIZONIA CONJUGENS	ASTERACEAE	TARWEED, OTAY	CA
1	HEMIZONIA FLORIBUNDA	ASTERACEAE	TARWEED, TECATE	CA MEXICO
1	HEMIZONIA MINTHORNII	ASTERACEAE	TARWEED, SANTA SUSANA	CA
1	HEMIZONIA MOHAVENSIS	ASTERACEAE	TARWEED, MAJAVE	CA
2	HEMIZONIA MULTICAULIS SSP. MULTICAULIS	ASTERACEAE		CA
2	HEMIZONIA MULTICAULIS SSP. VERNALIS	ASTERACEAE		CA
1	HESPEROCNIDE SANDWICENSIS	URTICACEAE		HI
2	HESPEROLINON ADENOPHYLLUM	LINACEAE	DWARF-FLAX, GLANDULAR	CA
2	HESPEROLINON BICARPELLATUM	LINACEAE	DWARF-FLAX, TWO CARPEL	CA
1	HESPEROLINON BREWERI	LINACEAE	DWARF-FLAX, BREWER'S	CA
1	HESPEROLINON CONGESTUM	LINACEAE	DWARF-FLAX, MARIN	CA
1	HESPEROLINON DIDYMOCARPUM	LINACEAE	DWARF-FLAX, LAKE COUNTY	CA
2	HESPEROLINON DRYMARIOIDES	LINACEAE	DWARF-FLAX, DRYMARIA	CA
1	HESPEROMANNIA ARBORESCENS	ASTERACEAE	HESPEROMANNIA, LANAI	HI
1	HESPEROMANNIA ARBUSCULA	ASTERACEAE	HESPEROMANNIA, MAUI	HI
1	HESPEROMANNIA LYDGATEI	ASTERACEAE	HESPEROMANNIA, KAUAI	HI
1	HETEROTHECA FLEXUOSA	ASTERACEAE		FL
	HETEROTHECA FLORIDANA	*** SEE ***	CHRYSOPSIS FLORIDANA	
1	HETEROTHECA JONESII	ASTERACEAE	GOLDEN-ASTER, JONES	UT
1	HETEROTHECA RUTHII	ASTERACEAE	GOLDEN-ASTER, RUTH'S	TN
1	HEUCHERA ARKANSANA	SAXIFRAGACEAE		AR
2	HEUCHERA BREVISTAMINEA	SAXIFRAGACEAE	HEUCHERA, LAGUNA	CA
1	HEUCHERA MAXIMA	SAXIFRAGACEAE		CA
2	HEUCHERA MISSOURIENSIS	SAXIFRAGACEAE		MO
	HEUCHERA VILLOSA VAR. ARKANSANA	*** SEE ***	HEUCHERA ARKANSANA	
2	HEXALECTRIS GRANDIFLORA	ORCHIDACEAE	HEXALECTRIS, GREENMAN'S	TX MEXICO
2	HEXALECTRIS NITIDA	ORCHIDACEAE		TX
2	HEXALECTRIS REVOLUTA	ORCHIDACEAE		TX MEXICO
1	HEXASTYLIS CONTRACTA	ARISTOLOCHIACEAE		NC TN
2	HEXASTYLIS LEWISII	ARISTOLOCHIACEAE	HEARTLEAF,	NC VA
1	HEXASTYLIS NANIFLORA	ARISTOLOCHIACEAE	HEARTLEAF, DWARF-FLOWERED	NC SC
1	HEXASTYLIS SPECIOSA	ARISTOLOCHIACEAE	HEARTLEAF, HARPER'S	AL
1	HIBISCADELPHUS DISTANS	MALVACEAE	HAU KUAHIWI, KAUAI	HI
1**	HIBISCADELPHUS GIFFARDIANUS	MALVACEAE	HAU KUAHIWI, KILAUEA	HI
1	HIBISCADELPHUS HUALALAIENSIS	MALVACEAE	HAU KUAHIWI, HUALALAI	HI
1	HIBISCUS BRACKENRIDGEI	MALVACEAE	HIBISCUS, NATIVE YELLOW	HI
2	HIBISCUS CALIFORNICUS	MALVACEAE	HIBISCUS, CALIFORNIA	CA
1	HIBISCUS CLAYI	MALVACEAE	HIBISCUS, CLAY'S	HI
1	HIBISCUS DASYCALYX	MALVACEAE	ROSE-MALLOW, NECHES RIVER	TX
1	HIBISCUS IMMACULATUS	MALVACEAE	HIBISCUS, WHITE MOLOKAI	HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	HIBISCUS KOKIO VAR. KOKIO	MALVACEAE	PUALOALO, KOKI'O 'ULA 'ULA	HI
2	HIBISCUS KOKIO VAR. PUKOONIS	MALVACEAE		HI
1	HIBISCUS NEWHOUSEI	MALVACEAE		HI
2	HIBISCUS ROEATAE	MALVACEAE		HI
2	HIBISCUS SAINT-JOHNIANUS	MALVACEAE		HI
1	HOFFMANNSEGGIA TENELLA	FABACEAE	RUSH-PEA, SLENDER	TX
1	HOLOCARPHA MACRADENIA	ASTERACEAE	TARWEED, SANTA CRUZ	CA
2	HORKELIA HENDERSONII	ROSACEAE		OR
2	HORKELIA TRUNCATA	ROSACEAE		CA
2	HORKELIA TULARENSIS	ROSACEAE		CA
1	HORKELIA WILDERAE	ROSACEAE		CA
	HOUSTONIA MONTANA	*** SEE ***	HEDYOTIS PURPUREA VAR. MONTANA	
	HOUSTONIA NIGRICANS VAR. PULVINATA	*** SEE ***	HEDYOTIS NIGRICANS VAR. PULVINATA	
	HOUSTONIA PULVINATA	*** SEE ***	HEDYOTIS NIGRICANS VAR. PULVINATA	
2	HOWELLIA AQUATILIS	CAMPANULACEAE		CA ID OR WA
2	HULSEA CALIFORNICA	ASTERACEAE		CA
1	HYMENOCALLIS CORONARIA	LILIACEAE	SPIDER-LILY,	AL FL GA NC SC
1	HYMENOCALLIS LATIFOLIA	LILIACEAE		FL
2	HYMENOPHYLLUM TUNBRIDGENSE	HYMENOPHYLLACEAE		SC EUROPE
1	HYMENOXYS ACAULIS VAR. GLABRA	ASTERACEAE	DAISY, LAKESIDE	IL OH CANADA (ONTARIO)
2	HYMENOXYS DEPRESSA	ASTERACEAE		CO UT
2	HYMENOXYS HELENIOIDES	ASTERACEAE		AZ CO UT
2	HYMENOXYS QUINQUESQUAMATA	ASTERACEAE		AZ
1	HYMENOXYS TEXANA	ASTERACEAE	BITTERWEED, TEXAS	TX
1	HYPERICUM CUMULICOLA	HYPERICACEAE	ST. JOHN'S-WORT, HIGHLANDS SCRUB	FL
1	HYPERICUM EDISONIANUM	HYPERICACEAE	ASCYRUM, EDISON'S	FL
1	HYPERICUM LISSOPHLOEUS	HYPERICACEAE		FL
2	HYSTRIX CALIFORNICA	POACEAE	GRASS, BOTTLEBRUSH, CALIFORNIA	CA
2	ILEX AMELANCHIER	AQUIFOLIACEAE	HOLLY,	AL AR FL GA LA MS NC SC VA
	ILEX COLLINA	*** SEE ***	NEMOPANTHUS COLLINUS	
1	ILEX COOKII	AQUIFOLIACEAE	TE	PR
2	ILEX OPACA VAR. ARENICOLA	AQUIFOLIACEAE		FL
1	ILIAMNA COREI	MALVACEAE		VA
1	ILIAMNA REMOTA	MALVACEAE	GLOBE-MALLOW, KANKAKEE	IL IN VA
	ILIAMNA REMOTA VAR. COREI	*** SEE ***	ILIAMNA COREI	
2	ILLICIUM PARVIFLORUM	ILLICIACEAE		FL
2	IPOMOEA CARDIOPHYLLA	CONVOLVULACEAE		TX
2	IPOMOEA EGREGIA	CONVOLVULACEAE	MORNING-GLORY,	AZ
1	IPOMOEA KRUGII	CONVOLVULACEAE	MORNING-GLORY, KRUG'S WHITE	PR
2	IPOMOEA LEMMONII	CONVOLVULACEAE	MORNING-GLORY, LEMMON'S	AZ
1	IRIS LACUSTRIS	IRIDACEAE	IRIS,	MI WI CANADA (ONTARIO)
1	ISCHAEMUM BRYONE	POACEAE		HI
1*	ISODENDRION FORBESII	VIOLACEAE	AUPAKA,	HI
1	ISODENDRION HOSAKAE	VIOLACEAE	AUPAKA,	HI
1	ISODENDRION LAURIFOLIUM	VIOLACEAE	AUPAKA,	HI
1	ISODENDRION LONGIFOLIUM	VIOLACEAE	AUPAKA,	HI
1*	ISODENDRION LYDGATEI	VIOLACEAE	AUPAKA,	HI
1*	ISODENDRION MOLOKAIENSE	VIOLACEAE	AUPAKA,	HI
1*	ISODENDRION PYRIFOLIUM	VIOLACEAE	AUPAKA,	HI
1	ISODENDRION SUBSESSILIFOLIUM	VIOLACEAE	AUPAKA,	HI
1*	ISODENDRION WAIANAEENSE	VIOLACEAE	AUPAKA,	HI
2	ISOETES EATONII	ISOETACEAE	QUILLWORT, EATON'S	CT MA NH NJ
2	ISOETES LITHOPHYLLA	ISOETACEAE	QUILLWORT, ROCK	TX
2	ISOETES LOUISIANENSIS	ISOETACEAE	QUILLWORT, LOUISIANA	GA LA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	ISOETES MELANOSPORA	ISOETACEAE		AL GA SC
1	ISOETES TEGETIFORMANS	ISOETACEAE		GA NC
2	ISOETES VIRGINICA	ISOETACEAE	QUILLWORT,	GA VA
2	IVESIA ARGYROCOMA	ROSACEAE	IVESIA, SILVER-HAIRED	CA
1	IVESIA CALLIDA	ROSACEAE	IVESIA, TAHQUITZ	CA
2	IVESIA CORYMBOSA /SP. NOV. INED.	ROSACEAE		CA
1	IVESIA CRYPTOCAULIS	ROSACEAE		NV
1	IVESIA EREMICA	ROSACEAE		NV
1	IVESIA MULTIFOLIOLATA	ROSACEAE		AZ
1	IVESIA PICKERINGII	ROSACEAE	IVESIA, PICKERING	CA
1	IVESIA RHYPARA	ROSACEAE	IVESIA, GRIMES	OR
1	JACQUEMONTIA CURTISSII	CONVOLVULACEAE	JACQUEMONTIA, PINELAND	FL
1	JACQUEMONTIA RECLINATA	CONVOLVULACEAE		FL
1	JAMESIANTHUS ALABAMENSIS	ASTERACEAE	JAMESIANTHUS, ALABAMA	AL
2	JAQUINIA UMBELLATA	THEOPHRASTACEAE		PR HISPANIOLA
1	JUGLANS HINDSII	JUGLANDACEAE	WALNUT, NORTHERN CALIFORNIA BLACK	CA
2	JUNCUS CAESARIENSIS	JUNCACEAE	RUSH,	MD NJ VA
1	JUNCUS LEIOSPERMUS	JUNCACEAE	RUSH, RED BLUFF	CA
2	JUNCUS SLWOOKOORUM	JUNCACEAE		AK
1	JUNCUS TRIFIDUS VAR. CAROLINIANUS	JUNCACEAE		NC
1	JUSTICIA BORINQUENSIS	ACANTHACEAE		PR
2	JUSTICIA COOLEYI	ACANTHACEAE	WATER-WILLOW, COOLEY'S	FL
2	JUSTICIA CRASSIFOLIA	ACANTHACEAE	WATER-WILLOW, THICK-LEAVED	FL
1	JUSTICIA CULEBRITAE	ACANTHACEAE		PR BRITISH VI
2	JUSTICIA RUNYONII	ACANTHACEAE		TX MEXICO
2	JUSTICIA WARNOCKII	ACANTHACEAE		TX
2	JUSTICIA WRIGHTII	ACANTHACEAE		TX
1	KALMIA CUNEATA	ERICACEAE	WHITE-WICKY	NC SC
2	KALMIOPSIS LEACHIANA	ERICACEAE		OR
	KOANOPHYLLON DROSEROLEPIS	*** SEE ***	EUPATORIUM DROSEROLEPIS	
1	KOKIA DRYNARIOIDES	MALVACEAE	HAU-HELE ULA	HI
2	KOKIA KAUAIENSIS	MALVACEAE	KOKI'O, KAUAI	HI
1	KOSTELETZKYA SMILACIFOLIA	MALVACEAE		AL FL
2	LABORDIA CYRTANDRAE VAR. NAHIKUANA	LOGANIACEAE		HI
2	LABORDIA DECURRENS VAR. DECURRENS	LOGANIACEAE		HI
1	LABORDIA FAGRAEOIDEA VAR. FAGRAEOIDEA	LOGANIACEAE	KAMAKAHALA	HI
1*	LABORDIA FAGRAEOIDEA VAR. LONGISEPALA	LOGANIACEAE		HI
2	LABORDIA FAGRAEOIDEA VAR. SAINT-JOHNIANA	LOGANIACEAE		HI
1	LABORDIA FAGRAEOIDEA VAR. WAIANAEANA	LOGANIACEAE		HI
2	LABORDIA GLABRA	LOGANIACEAE		HI
1	LABORDIA HEDYOSMIFOLIA VAR. KILAUEANA	LOGANIACEAE		HI
1	LABORDIA HEDYOSMIFOLIA VAR. MAGNIFOLIA	LOGANIACEAE		HI
1	LABORDIA HEDYOSMIFOLIA VAR. ROBUSTA	LOGANIACEAE		HI
1	LABORDIA HEDYOSMIFOLIA VAR. ROCKII	LOGANIACEAE		HI
1	LABORDIA HEDYOSMIFOLIA VAR. SKOTTSBERGII	LOGANIACEAE		HI
1	LABORDIA HIRTELLA VAR. IMBRICATA	LOGANIACEAE		HI
1	LABORDIA HIRTELLA VAR. LAEVIS	LOGANIACEAE		HI
1	LABORDIA HIRTELLA VAR. LAEVISEPALA	LOGANIACEAE		HI
1*	LABORDIA HIRTELLA VAR. MICROCALYX	LOGANIACEAE		HI
1*	LABORDIA HIRTELLA VAR. MICROPHYLLA	LOGANIACEAE		HI
1*	LABORDIA KAALAE VAR. BRACHYPODA	LOGANIACEAE		HI
1	LABORDIA KAALAE VAR. FOSBERGII	LOGANIACEAE		HI
1*	LABORDIA KAALAE VAR. KAUAIENSIS	LOGANIACEAE		HI
1	LABORDIA KAALAE VAR. MENDAX	LOGANIACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	LABORDIA LYDGATEI	LOGANIACEAE		HI
1	LABORDIA MEMBRANACEA	LOGANIACEAE	KAMAKAHALA	HI
1*	LABORDIA MOLOKAIANA VAR. MOLOKAIANA	LOGANIACEAE		HI
1	LABORDIA MOLOKAIANA VAR. MUNROI	LOGANIACEAE		HI
1	LABORDIA MOLOKAIANA VAR. SETOSA	LOGANIACEAE		HI
2	LABORDIA NELSONII	LOGANIACEAE		HI
1*	LABORDIA OLYMPIANA	LOGANIACEAE		HI
1*	LABORDIA PALLIDA	LOGANIACEAE		HI
1*	LABORDIA PEDUNCULATA	LOGANIACEAE		HI
2	LABORDIA TINIFOLIA VAR. EUPHORBIOIDEA	LOGANIACEAE		HI
1*	LABORDIA TINIFOLIA VAR. FORBESII	LOGANIACEAE		HI
1*	LABORDIA TINIFOLIA VAR. HONOLULENSIS	LOGANIACEAE		HI
2	LABORDIA TINIFOLIA VAR. LANAIENSIS	LOGANIACEAE		HI
1	LABORDIA TINIFOLIA VAR. MICROGYNA	LOGANIACEAE		HI
1*	LABORDIA TINIFOLIA VAR. PARVIFOLIA	LOGANIACEAE		HI
1	LABORDIA TINIFOLIA VAR. TENUIFOLIA	LOGANIACEAE		HI
2	LABORDIA TRIFLORA	LOGANIACEAE		HI
2	LABORDIA WAWRANA	LOGANIACEAE		HI
	LAPHAMIA CERNUA	*** SEE ***	PERITYLE CERNUA	
2	LAPLACEA PORTORICENSIS	THEACEAE	NINO DE COTA (MARICAO VERDE)	PR HISPANIOLA
1	LASTHENIA BURKEI	ASTERACEAE	BAERIA, BURKE'S	CA
1	LASTHENIA CONJUGENS	ASTERACEAE	BAERIA, CONTRA COSTA	CA
2	LASTHENIA LEPTALEA	ASTERACEAE	BAERIA, SALINAS VALLEY	CA
1	LASTHENIA MACRANTHA SSP. PRISCA	ASTERACEAE		OR
1	LATHYRUS HITCHCOCKIANUS	FABACEAE	PEAVINE, HITCHCOCK'S	CA NV
2	LATHYRUS HOLOCHLORUS	FABACEAE		OR
2	LATHYRUS JEPSONII SSP. JEPSONII	FABACEAE	TULE-PEA, DELTA	CA
1	LAVATERA ASSURGENTIFLORA	MALVACEAE	MALVA ROSA	CA
1	LAYIA DISCOIDEA	ASTERACEAE	TIDYTIPS, RAYLESS	CA
2	LAYIA JONESII	ASTERACEAE	LAYIA, JONES	CA
2	LAYIA LEUCOPAPPA	ASTERACEAE	LAYIA, COMANCHE	CA
2	LAYIA ZIEGLERI	ASTERACEAE		CA
2	LEAVENWORTHIA ALABAMICA VAR. ALABAMICA	BRASSICACEAE		AL
1	LEAVENWORTHIA ALABAMICA VAR. BRACHYSTYLA	BRASSICACEAE	GLADE CRESS,	AL
2	LEAVENWORTHIA CRASSA VAR. CRASSA	BRASSICACEAE	GLADE CRESS,	AL
1	LEAVENWORTHIA CRASSA VAR. ELONGATA	BRASSICACEAE	GLADE CRESS,	AL
2	LEAVENWORTHIA EXIGUA VAR. EXIGUA	BRASSICACEAE		AL GA KY TN
1	LEAVENWORTHIA EXIGUA VAR. LACINIATA	BRASSICACEAE	GLADE CRESS,	KY
1	LEAVENWORTHIA EXIGUA VAR. LUTEA	BRASSICACEAE	GLADE CRESS,	AL TN
2	LEAVENWORTHIA STYLOSA	BRASSICACEAE		AL TN
2	LEAVENWORTHIA TORULOSA	BRASSICACEAE	GLADECRESS, NECKLACE	AL KY TN
2	LECHEA CERNUA	CISTACEAE		FL
2	LECHEA DIVARICATA	CISTACEAE		FL
2	LECHEA LAKELAE	CISTACEAE		FL
1*	LECHEA MENSALIS	CISTACEAE	PINWEED,	TX
1	LEGENERE LIMOSA	CAMPANULACEAE	LEGENERE, GREENE'S	CA
	LEIBERGIA OROGENIOIDES	*** SEE ***	TAUSCHIA TENUISSIMA	
2	LEITNERIA FLORIDANA	LEITNERIACEAE		AR FL GA MO TX
2	LENOPHYLLUM TEXANUM	CRASSULACEAE	STONECROP, TEXAS	TX
1	LEPANTHES ELTOROENSIS	ORCHIDACEAE		PR
2	LEPANTHOPSIS MELANANTHA	ORCHIDACEAE	ORCHID, TINY	FL CUBA, DOMINICAN REPUBLIC, HAITI, JAMAICA
2	LEPECHINIA CARDIOPHYLLA	LAMIACEAE		CA
2	LEPECHINIA GANDERI	LAMIACEAE		CA
2	LEPIDIUM ARBUSCULUM	BRASSICACEAE		HI

1	LEPIDIUM BARNEBYANUM	BRASSICACEAE	PEPPER CRESS, BARNEBY	UT
2	LEPIDIUM BIDENTATUM VAR. REMYI	BRASSICACEAE	ANAUNAU, REMY'S	HI
1	LEPIDIUM DAVISII	BRASSICACEAE	PEPPER CRESS, DAVIS'	ID OR
1	LEPIDIUM FLAVUM VAR. FELIPENSE	BRASSICACEAE		CA
1	LEPIDIUM MONTANUM VAR. NEESEAE	BRASSICACEAE		UT
1	LEPIDIUM MONTANUM VAR. STELLAE	BRASSICACEAE		UT
2	LEPIDIUM NANUM	BRASSICACEAE		NV
1	LEPIDIUM OSTLERI	BRASSICACEAE		UT
1	LEPIDIUM SERRA	BRASSICACEAE	ANAUNAU	HI
1	LEPIDOSPARTUM BURGESSII	ASTERACEAE		TX
	LEPTOCEREUS QUADRICOSTATUS	*** SEE ***	CEREUS QUADRICOSTATUS	
2	LEPTODACTYLON HAZELAE	POLEMONIACEAE		OR
2	LEPTODACTYLON JAEGERI	POLEMONIACEAE		CA
	LEPTOGRAMMA PILOSA VAR. ALABAMENSIS	*** SEE ***	THELYPTERIS PILOSA VAR. ALABAMENSIS	
1	LESPEDEZA LEPTOSTACHYA	FABACEAE	BUSH-CLOVER, PRAIRIE	IL IA MN WI
1	LESQUERELLA AUREA	BRASSICACEAE	BLADDERPOD, GOLDEN	NM
1	LESQUERELLA FILIFORMIS	BRASSICACEAE	BLADDERPOD,	MO
1	LESQUERELLA GARRETTII	BRASSICACEAE	BLADDERPOD, GARRETT	UT
2	LESQUERELLA GLOBOSA	BRASSICACEAE	BLADDERPOD, SHORT'S	IN KY TN
2	LESQUERELLA GOODINGII	BRASSICACEAE	BLADDERPOD,	AZ NM
2	LESQUERELLA HITCHCOCKII	BRASSICACEAE	BLADDERPOD,	NV
1	LESQUERELLA KINGII SSP. BERNARDINA	BRASSICACEAE	BLADDERPOD,	CA
2	LESQUERELLA LATA	BRASSICACEAE	BLADDERPOD,	NM
1*	LESQUERELLA LYRATA	BRASSICACEAE	BLADDERPOD, LYRATE	AL
1	LESQUERELLA MACROCARPA	BRASSICACEAE	BLADDERPOD, LARGE-FRUITED	WY
2	LESQUERELLA MCVAUGHIANA	BRASSICACEAE	BLADDERPOD,	TX
1	LESQUERELLA PERFORATA	BRASSICACEAE	BLADDERPOD, SPRING CREEK	TN
2	LESQUERELLA PRUINOSA	BRASSICACEAE	BLADDERPOD,	CO
2	LESQUERELLA RUBICUNDULA	BRASSICACEAE	BLADDERPOD, BRYCE	UT
1	LESQUERELLA STONENSIS	BRASSICACEAE	BLADDERPOD, STONES RIVER	TN
2	LESQUERELLA THAMNOPHILA	BRASSICACEAE	BLADDERPOD,	TX
1	LESQUERELLA TUMULOSA	BRASSICACEAE	BLADDERPOD,	UT
1	LESSINGIA GERMANORUM SSP. GERMANORUM	ASTERACEAE		CA
2	LESSINGIA GLANDULIFERA VAR. TOMENTOSA	ASTERACEAE		CA
1	LEWISIA CANTELOWII	PORTULACACEAE		CA
1	LEWISIA CONGDONII	PORTULACACEAE		CA
1	LEWISIA COTYLEDON SSP. /SSP. NOV. INED.	PORTULACACEAE		CA
1	LEWISIA COTYLEDON VAR. HECKNERI	PORTULACACEAE		CA
1	LEWISIA COTYLEDON VAR. HOWELLII	PORTULACACEAE		CA OR
1	LEWISIA COTYLEDON VAR. PURDYI	PORTULACACEAE		OR
1	LEWISIA MAGUIREI	PORTULACACEAE		NV
2	LEWISIA OPPOSITIFOLIA	PORTULACACEAE		CA OR
2	LEWISIA PYGMAEA SSP. LONGIPETALA	PORTULACACEAE	LEWISIA, LONG-PETALED	CA
1	LEWISIA SERRATA	PORTULACACEAE		CA
1	LEWISIA STEBBINSII	PORTULACACEAE	LEWISIA, STEBBINS	CA
1	LEWISIA TWEEDYI	PORTULACACEAE		WA
				CANADA (BRITISH COLUMBIA)
1	LIATRIS HELLERI	ASTERACEAE		NC
1	LIATRIS OHLINGERAE	ASTERACEAE	BLAZINGSTAR,	FL
1	LIATRIS PROVINCIALIS	ASTERACEAE	BLAZINGSTAR, GODFREY'S	FL
2	LILAEOPSIS CAROLINENSIS	APIACEAE		AL FL GA LA MS NC SC VA
2	LILIUM FAIRCHILDII	LILIACEAE		CA
2	LILIUM GRAYI	LILIACEAE	LILY, GRAY'S	MD NC TN VA
1	LILIUM IRIDOLLAE	LILIACEAE	LILY, PANHANDLE	AL FL
1	LILIUM OCCIDENTALE	LILIACEAE	LILY, WESTERN	CA OR
2	LILIUM PARRYI	LILIACEAE		AZ CA
1	LILIUM PITKINENSE	LILIACEAE	LILY, PITKIN MARSH	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	LILIUM VOLLMERI	LILIACEAE	LILY, VOLLMER	CA OR
2	LILIUM WASHINGTONIANUM VAR. MINUS	LILIACEAE		CA
1	LILIUM WIGGINSII	LILIACEAE	LILY, WIGGINS	CA OR
1	LIMNANTHES BAKERI	LIMNANTHACEAE	MEADOWFOAM, BAKER'S	CA
1	LIMNANTHES DOUGLASII VAR. SULPHUREA	LIMNANTHACEAE	MEADOWFOAM, YELLOW	CA
1	LIMNANTHES FLOCCOSA SSP. BELLINGERANA	LIMNANTHACEAE		CA OR
1	LIMNANTHES FLOCCOSA SSP. CALIFORNICA	LIMNANTHACEAE		CA
1	LIMNANTHES FLOCCOSA SSP. GRANDIFLORA	LIMNANTHACEAE	MEADOWFOAM, WOOLY, LARGE-FLOWERED	OR
1	LIMNANTHES FLOCCOSA SSP. PUMILA	LIMNANTHACEAE	MEADOWFOAM, WOOLY, DWARF	OR
1	LIMNANTHES GRACILIS VAR. GRACILIS	LIMNANTHACEAE		OR
1	LIMNANTHES GRACILIS VAR. PARISHII	LIMNANTHACEAE	MEADOWFOAM, SLENDER, PARISH'S	CA
1	LIMNANTHES VINCULANS	LIMNANTHACEAE	MEADOWFOAM, SEBASTOPOL	CA
1*	LIMOSELLA PUBIFLORA	SCROPHULARIACEAE	MUDWORT,	AZ
2	LINANTHUS HARKNESSII SSP. CONDENSATUS	POLEMONIACEAE		CA
1	LINANTHUS KILLIPII	POLEMONIACEAE		CA
1	LINANTHUS MACULATUS	POLEMONIACEAE	LINANTHUS, SAN BERNARDINO MT., LITTL	CA
1	LINANTHUS ORCUTTII	POLEMONIACEAE	LINANTHUS, ORCUTT	CA
	LINANTHUS ORCUTTII SSP. PACIFICUS	*** SEE ***	LINANTHUS ORCUTTII	
2	LINDERA MELISSIFOLIA	LAURACEAE		AL AR FL GA LA MS MO NC SC
1*	LINDERNIA SAXICOLA	SCROPHULARIACEAE	FALSE PIMPERNEL,	GA NC
1	LINUM ARENICOLA	LINACEAE	FLAX, SAND	FL
1	LINUM CARTERI VAR. CARTERI	LINACEAE	FLAX,	FL
1	LINUM CARTERI VAR. SMALLII	LINACEAE	FLAX,	FL
2	LINUM MACROCARPUM	LINACEAE	FLAX,	AL
2	LINUM SULCATUM VAR. HARPERI	LINACEAE		AL FL GA
1	LINUM WESTII	LINACEAE	FLAX, WEST'S	FL GA
1*	LIPOCHAETA BRYANII	ASTERACEAE	NEHE, BRYAN'S	HI
1*	LIPOCHAETA DEGENERI	ASTERACEAE	NEHE, SMALL-LEAVED	HI
1	LIPOCHAETA DELTOIDEA	ASTERACEAE		HI
1	LIPOCHAETA DUBIA	ASTERACEAE		HI
1*	LIPOCHAETA FAURIEI	ASTERACEAE	NEHE, FAURIE	HI
1	LIPOCHAETA KAMOLENSIS	ASTERACEAE		HI
1	LIPOCHAETA LOBATA VAR. HASTULATOIDES	ASTERACEAE		HI
1	LIPOCHAETA LOBATA VAR. LEPTOPHYLLA	ASTERACEAE	NEHE,	HI
1	LIPOCHAETA MICRANTHA	ASTERACEAE		HI
1*	LIPOCHAETA OVATA	ASTERACEAE		HI
1	LIPOCHAETA PERDITA	ASTERACEAE	NEHE,	HI
1*	LIPOCHAETA POPULIFOLIA	ASTERACEAE	NEHE,	HI
1	LIPOCHAETA POROPHYLLA	ASTERACEAE		HI
2	LIPOCHAETA SUBCORDATA VAR. MEMBRANACEA	ASTERACEAE	NEHE,	HI
	LIPOCHAETA SUBCORDATA VAR. POPULIFOLIA	*** SEE ***	LIPOCHAETA POPULIFOLIA	
1	LIPOCHAETA TENUIFOLIA	ASTERACEAE	NEHE, SLENDER-LEAVED	HI
1	LIPOCHAETA TENUIS	ASTERACEAE		HI
2	LIPOCHAETA TRILOBATA	ASTERACEAE		HI
1	LIPOCHAETA WAIMEAENSIS	ASTERACEAE		HI
2	LISTERA AURICULATA	ORCHIDACEAE	TWAYBLADE, AURICLED	ME MI MN NH NY VT WI
1	LITHOPHRAGMA MAXIMUM	SAXIFRAGACEAE	WOODLAND STAR, SAN CLEMENTE ISLAND	CA
	LITHOSPERMUM DRUMMONDII	*** SEE ***	MERTENSIA DRUMMONDII	
2	LOBELIA APPENDICULATA VAR. GATTINGERI	CAMPANULACEAE		TN
1	LOBELIA DUNBARIAE	CAMPANULACEAE		HI
	LOBELIA GATTINGERI	*** SEE ***	LOBELIA APPENDICULATA VAR. GATTINGERI	
1	LOBELIA GAUDICHAUDII VAR. KOOLAUENSIS	CAMPANULACEAE		HI
1	LOBELIA HILLEBRANDII VAR. MONOSTACHYA	CAMPANULACEAE		HI
2	LOBELIA HYPOLEUCA VAR. ROCKII	CAMPANULACEAE		HI
1	LOBELIA NIIHAUENSIS	CAMPANULACEAE		HI
1	LOBELIA OAHUENSIS	CAMPANULACEAE		HI
1	LOBELIA TORTUOSA	CAMPANULACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	LOEFLINGIA SQUARROSA SSP. ARTEMISIARUM	CARYOPHYLLACEAE		CA
1	LOMATIUM BRADSHAWII	APIACEAE	DESERT-PARSLEY, BRADSHAW	OR
1	LOMATIUM CONGDONII	APIACEAE	LOMATIUM, CONGDON'S	CA
1	LOMATIUM CUSPIDATUM	APIACEAE		WA
1	LOMATIUM GREENMANII	APIACEAE	DESERT-PARSLEY, GREENMAN'S	OR
	LOMATIUM HALLII	*** SEE ***	LOMATIUM NELSONIANUM	
1	LOMATIUM LAEVIGATUM	APIACEAE		OR WA
2	LOMATIUM LATILOBUM	APIACEAE		CO UT
1	LOMATIUM MINIMUM	APIACEAE		UT
1*	LOMATIUM NELSONIANUM	APIACEAE		OR
1	LOMATIUM OREGANUM	APIACEAE		OR
	LOMATIUM OROGENIOIDES	*** SEE ***	TAUSCHIA TENUISSIMA	
1	LOMATIUM PECKIANUM	APIACEAE	LOMATIUM, PECK'S	CA OR
2	LOMATIUM QUINTUPLEX	APIACEAE		WA
1	LOMATIUM ROLLINSII	APIACEAE		ID OR WA
1	LOMATIUM STEBBINSII	APIACEAE		CA
2	LOMATIUM SUKSDORFII	APIACEAE	DESERT-PARSLEY, SUKSDORF'S	OR WA
1	LOMATIUM THOMPSONII	APIACEAE		WA
1	LOMATIUM TUBEROSUM	APIACEAE	DESERT-PARSLEY, HOOVER'S	WA
1	LOTUS ARGOPHYLLUS SSP. ADSURGENS	FABACEAE	HOSACKIA, SILVER, SAN CLEMENTE IS.	CA
1	LOTUS ARGOPHYLLUS SSP. NIVEUS	FABACEAE	HOSACKIA, SILVER, SANTA CRUZ ISLAND	CA MEXICO
1	LUINA SERPENTINA	ASTERACEAE		OR
	LUPINUS ABORTIVUS	*** SEE ***	LUPINUS CUSICKII SSP. ABORTIVUS	
2	LUPINUS ANTONINUS	FABACEAE		CA
2	LUPINUS ARIDUS SSP. ASHLANDENSIS	FABACEAE		OR
	LUPINUS ARIDUS VAR. ABORTIVUS	*** SEE ***	LUPINUS CUSICKII SSP. ABORTIVUS	
1	LUPINUS BIDDLEI	FABACEAE		OR
2	LUPINUS CERVINUS	FABACEAE	LUPINE, SANTA LUCIA	CA
2	LUPINUS CITRINUS	FABACEAE		CA
	LUPINUS CITRINUS VAR. DEFLEXUS	*** SEE ***	LUPINUS DEFLEXUS	
2	LUPINUS CULBERTSONII SSP. CULBERTSONII	FABACEAE		CA
1*	LUPINUS CUSICKII SSP. ABORTIVUS	FABACEAE		OR
2	LUPINUS CUTLERI	FABACEAE		AZ
2	LUPINUS DALESIAE	FABACEAE		CA
1	LUPINUS DEDECKERAE	FABACEAE		CA
1	LUPINUS DEFLEXUS	FABACEAE		CA
1	LUPINUS DURANII	FABACEAE		CA
2	LUPINUS EXCUBITUS VAR. MEDIUS	FABACEAE		CA
1	LUPINUS EXIMUS	FABACEAE		CA
1	LUPINUS GUADALUPENSIS	FABACEAE	LUPINE, GUADALUPE ISLAND	CA MEXICO
2	LUPINUS HUMBOLDTIENSIS /SP. NOV. INED.	FABACEAE		CA
2	LUPINUS JONESII	FABACEAE		UT
1	LUPINUS LUDOVICIANUS	FABACEAE	LUPINE, SAN LUIS	CA
1	LUPINUS MAGNIFICUS VAR. MAGNIFICUS	FABACEAE		CA
2	LUPINUS MALACOPHYLLUS	FABACEAE		NV
1	LUPINUS MILO-BAKERI	FABACEAE	LUPINE, MILO BAKER	CA
1	LUPINUS NIPOMENSIS	FABACEAE	LUPINE, NIPOMO MESA	CA
2	LUPINUS PEIRSONII	FABACEAE		CA
2	LUPINUS SABINII	FABACEAE		OR WA
1	LUPINUS SPECTABILIS	FABACEAE	LUPINE, SHAGGY HAIR	CA
1	LUPINUS TIDESTROMII VAR. LAYNEAE	FABACEAE	LUPINE, POINT REYES	CA
1	LUPINUS TIDESTROMII VAR. TIDESTROMII	FABACEAE	LUPINE, TIDESTROM	CA
2	LUPINUS TRACYI	FABACEAE	LUPINE, TRACY'S	CA
2	LUPINUS WESTIANUS	FABACEAE	LUPINE, GULFCOAST	FL
2	LYCIUM BERBERIOIDES	SOLANACEAE		TX

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1*	LYCIUM HASSEI	SOLANACEAE	DESERT-THORN, SANTA CATALINA	CA
2	LYCIUM TEXANUM	SOLANACEAE		TX
1*	LYCIUM VERRUCOSUM	SOLANACEAE	DESERT-THORN, SAN NICOLAS	CA MEXICO
2	LYCOPODIUM HALEAKALAE	LYCOPODIACEAE		HI
1	LYCOPODIUM MANNII	LYCOPODIACEAE		HI
2	LYCOPODIUM NUTANS	LYCOPODIACEAE		HI
1	LYONOTHAMNUS FLORIBUNDUS SSP. ASPLENIFOLIUS	ROSACEAE		CA
1	LYONOTHAMNUS FLORIBUNDUS SSP. FLORIBUNDUS	ROSACEAE		CA
1	LYSILOMA MICROPHYLLA VAR. THORNBERI	FABACEAE		AZ
1	LYSIMACHIA ASPERULAEFOLIA	PRIMULACEAE		NC SC
2	LYSIMACHIA FILIFOLIA	PRIMULACEAE		HI
1	LYSIMACHIA HILLEBRANDII VAR HILLEBRANDII	PRIMULACEAE	PUA-HEKILI	HI
1	LYSIMACHIA KALALAUENSIS	PRIMULACEAE		HI
2	LYSIMACHIA OVATA	PRIMULACEAE		HI
2	LYSIMACHIA SP. /SP. NOV. INED.	PRIMULACEAE	(WAIHOI VALLEY, MAUI CO.)	HI
2	LYTHRUM CURTISSII	LYTHRACEAE		FL GA
2	LYTHRUM FLAGELLARE	LYTHRACEAE		FL
2	LYTHRUM OVALIFOLIUM	LYTHRACEAE		TX
1	MACBRIDEA ALBA	LAMIACEAE	BIRDS-IN-A-NEST, WHITE	FL
2	MACHAERANTHERA ARIZONICA	ASTERACEAE		AZ
1	MACHAERANTHERA AUREA	ASTERACEAE	MACHAERANTHERA, HOUSTON	TX
2	MACHAERANTHERA CANESCENS VAR. ZIEGLERI	ASTERACEAE		CA
	MACHAERANTHERA GLABRIUSCULA VAR. CONFERTIFOLIA	*** SEE ***	XYLORHIZA CONFERTIFOLIA	
1	MACHAERANTHERA KINGII	ASTERACEAE		UT
1	MACHAERANTHERA LAGUNENSIS	ASTERACEAE	ASTER, LAGUNA	CA
2	MACHAERANTHERA MUCRONATA	ASTERACEAE		AZ
	MACHAERANTHERA ORCUTTII	*** SEE ***	XYLORHIZA ORCUTTII	
2	MADIA STEBBINSII /SP. NOV. INED.	ASTERACEAE		CA
1	MAGNOLIA ASHEI	MAGNOLIACEAE	MAGNOLIA, ASHE'S	FL
1*	MALACOTHAMNUS ABBOTTII	MALVACEAE	BUSH-MALLOW, ABBOTT'S	CA
1	MALACOTHAMNUS FASCICULATUS VAR. NESIOTICUS	MALVACEAE		CA
1*	MALACOTHAMNUS MENDOCINENSIS	MALVACEAE	BUSH-MALLOW, MENDOCINO	CA
1	MALACOTHAMNUS PALMERI VAR. INVOLUCRATUS	MALVACEAE	BUSH-MALLOW, CARMEL VALLEY	CA
1	MALACOTHAMNUS PALMERI VAR. LUCIANUS	MALVACEAE	BUSH-MALLOW, AROYO SECO	CA
2	MALACOTHAMNUS PARISHII	MALVACEAE	BUSH-MALLOW, PARISH'S	CA
1	MALACOTHRIX SAXATILIS VAR. ARACHNOIDEA	ASTERACEAE	MALACOTHRIX, CARMEL VALLEY	CA
1	MALPIGHIA INFESTISSIMA	MALPIGHIACEAE	STINGINGBUSH	VI
	MALPIGHIA PALLENS	*** SEE ***	MALPIGHIA INFESTISSIMA	
2	MAMMILLARIA ORESTERA	CACTACEAE		AZ
1	MAMMILLARIA THORNBERI	CACTACEAE		AZ MEXICO
1	MANIHOT DAVISIAE	EUPHORBIACEAE		AZ
1	MANIHOT WALKERAE	EUPHORBIACEAE		TX MEXICO
	MANISURIS TUBERCULOSA	*** SEE ***	COELORACHIS TUBERCULOSA	
2	MARGARANTHUS LEMMONII	SOLANACEAE		AZ
2	MARINA ORCUTTII VAR. ORCUTTII	FABACEAE		CA
1	MARISCUS URBANII	CYPERACEAE		PR
1	MARLIEREA SINTENISII	MYRTACEAE	MURTA	PR
1	MARSDENIA ELLIPTICA	ASCLEPIADACEAE		PR
1	MARSHALLIA MOHRII	ASTERACEAE	BARBARA'S BUTTONS,	AL FL GA
1	MARSILEA VILLOSA	MARSILEACEAE		HI
1	MATELEA ALABAMENSIS	ASCLEPIADACEAE	ANGLEPOD,	AL FL GA
2	MATELEA BREVICORONATA	ASCLEPIADACEAE		TX
1	MATELEA FLORIDANA	ASCLEPIADACEAE		FL
2	MATELEA PARVIFLORA	ASCLEPIADACEAE		TX

1	MATELEA RADIATA	ASCLEPIADACEAE	ANGLEPOD (MILKVINE), FALFURRIAS	TX
1*	MATELEA TEXENSIS	ASCLEPIADACEAE		TX
1	MAURANDYA PETROPHILA	SCROPHULARIACEAE	MAURANDYA, DEATH VALLEY	CA
2	MAYTENUS CYMOSA	CELASTRACEAE		PR VI BRITISH VI
2	MAYTENUS ELONGATA	CELASTRACEAE	CUERO DE SAPO	PR
1	MAYTENUS PONCEANA	CELASTRACEAE	CUERO DE SAPO	PR
1	MELANTHERA PARVIFOLIA	ASTERACEAE		FL
1	MENTZELIA ARGILLOSA	LOASACEAE		UT
1	MENTZELIA LEUCOPHYLLA	LOASACEAE	STICKLEAF, ASH MEADOWS	NV
1	MENTZELIA MOLLIS	LOASACEAE	STICKLEAF, SMOOTH	ID OR
1	MENTZELIA PACKARDIAE	LOASACEAE	STICKLEAF, PACKARD'S	OR
1	MERTENSIA DRUMMONDII	BORAGINACEAE	BLUEBELL, DRUMMOND	AK CANADA (NORTHWEST TERRITORIES, YUKON TERRITORY)
	MERTENSIA LANCEOLATA VAR. DRUMMONDII	*** SEE ***	MERTENSIA DRUMMONDII	
2	MERTENSIA TOYABENSIS	BORAGINACEAE	BLUEBELLS,	NV
1	MESADENUS PORTORICENSIS	ORCHIDACEAE		PR
1	METROSIDEROS COLLINA VAR. NEWELLII	MYRTACEAE		HI
1	MEZONEURON KAVAIENSE	FABACEAE	UHIUHI	HI
	MICONIA OTTOSCHULZII	*** SEE ***	GRAFFENRIEDA OTTOSCHULZII	
2	MICRANTHEMUM MICRANTHEMOIDES	SCROPHULARIACEAE		DE DC MD NJ NY PA VA
1	MICROSERIS DECIPIENS	ASTERACEAE		CA
2	MICROSERIS DETLINGII /SP. NOV. INED.	ASTERACEAE		OR
1	MICROSERIS HOWELLII	ASTERACEAE		OR
	MICROSERIS LACINIATA SSP. DETLINGII	*** SEE ***	MICROSERIS DETLINGII /SP. NOV. INED.	
1	MIKANIA STEVENSIANA	ASTERACEAE	GUACO	PR
1*	MIMULUS BRANDEGEI	SCROPHULARIACEAE	MONKEYFLOWER, SANTA CRUZ ISLAND	CA
1	MIMULUS EXIGUUS	SCROPHULARIACEAE	MONKEYFLOWER, MEAN	CA
2	MIMULUS GEMMIPARUS	SCROPHULARIACEAE		CO
1	MIMULUS GLABRATUS VAR. MICHIGANENSIS	SCROPHULARIACEAE	MONKEYFLOWER,	MI
1	MIMULUS PICTUS	SCROPHULARIACEAE	CALICOFLOWER	CA
1	MIMULUS PURPUREUS	SCROPHULARIACEAE	MONKEYFLOWER, PURPLE	CA
2	MIMULUS PYGMAEUS	SCROPHULARIACEAE	MONKEYFLOWER, PYGMY	CA OR
2	MIMULUS RINGENS VAR. COLPOPHILUS	SCROPHULARIACEAE	MONKEYFLOWER, SQUARE-STEMMED	ME CANADA
1	MIMULUS RUPICOLA	SCROPHULARIACEAE	MONKEYFLOWER, DEATH VALLEY	CA
1*	MIMULUS TRASKIAE	SCROPHULARIACEAE	MONKEYFLOWER, SANTA CATALINA	CA
1*	MIMULUS WHIPPLEI	SCROPHULARIACEAE	MONKEYFLOWER, WHIPPLE'S	CA
1	MINUARTIA GODFREYI	CARYOPHYLLACEAE		AL FL NC SC
2	MINUARTIA MARCESCENS	CARYOPHYLLACEAE		VT CANADA
2	MITRACARPUS MAXWELLIAE	RUBIACEAE		PR
1	MITRACARPUS POLYCLADUS	RUBIACEAE		PR
2	MONARDELLA BENITENSIS	LAMIACEAE	MONARDELLA, SAN BENITO	CA
1	MONARDELLA CRISPA	LAMIACEAE	MONARDELLA, CRISP	CA
2	MONARDELLA DIABOLI /SP. NOV. INED.	LAMIACEAE		CA
2	MONARDELLA DOUGLASSII VAR. VENOSA	LAMIACEAE		CA
2	MONARDELLA HYPOLEUCA SSP. LANATA	LAMIACEAE	MONARDELLA, FELT LEAF	CA
1*	MONARDELLA LEUCOCEPHALA	LAMIACEAE	MONARDELLA, MERCED	CA
2	MONARDELLA LINOIDES SSP. OBLONGA	LAMIACEAE		CA
1	MONARDELLA LINOIDES SSP. VIMINEA	LAMIACEAE		CA
2	MONARDELLA MACRANTHA VAR. HALLII	LAMIACEAE	MONARDELLA, HALL'S	CA
1	MONARDELLA NANA SSP. LEPTOSIPHON	LAMIACEAE		CA
1*	MONARDELLA PRINGLEI	LAMIACEAE	MONARDELLA, PRINGLE	CA
1	MONARDELLA ROBISONII	LAMIACEAE	MONARDELLA, ROBISON	CA
1	MONARDELLA SCELERATA /SP. NOV. INED.	LAMIACEAE		CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW 42

1	MONARDELLA STEBBINSII /SP. NOV. INED.	LAMIACEAE		CA
1	MONARDELLA UNDULATA VAR. FRUTESCENS	LAMIACEAE	MONARDELLA, CURLY-LEAVED, SAN LUIS O	CA
2	MONOTROPA BRITTONII	ERICACEAE		FL
1	MONOTROPSIS REYNOLDSIAE	ERICACEAE	PINESAP, SWEET	FL
1	MONTIA BOSTOCKII	PORTULACACEAE		AK, CANADA (YUKON TERRITORY)
1	MORINDA TRIMERA	RUBIACEAE	NONI-KUAHIWI	HI
2	MUHLENBERGIA PILOSA	POACEAE		TX
1	MUHLENBERGIA VILLOSA	POACEAE	MUHLY, VILLOUS	NM TX
1	MUILLA CLEVELANDII	LILIACEAE	GOLDENSTAR, SAN DIEGO	CA
1	MUNROIDENDRON RACEMOSUM	ARALIACEAE		HI
1	MUNZOTHAMNUS BLAIRII	ASTERACEAE		CA
1	MUSINEON LINEARE	APIACEAE		UT
2	MYOSURUS MINIMUS SSP. APUS	RANUNCULACEAE		CA
1	MYRCIANTHES FRAGRANS VAR. SIMPSONII	MYRTACEAE		FL
2	MYRIOPHYLLUM LAXUM	HALORAGACEAE		AL FL GA NC SC
1	MYRSINE FERNSEEI	MYRSINACEAE	KOLEA	HI
1	MYRSINE LANAIENSIS VAR. OAHUENSIS	MYRSINACEAE		HI
1	MYRSINE LINEARIFOLIA VAR. LINEARIFOLIA	MYRSINACEAE		HI
1	MYRSINE MEZII	MYRSINACEAE		HI
2	MYRSINE PETIOLATA	MYRSINACEAE		HI
1	MYRSINE ST-JOHNII	MYRSINACEAE		HI
2	NAJAS CAESPITOSA	NAJADACEAE	NAIAD, FISH LAKE	UT
	NAJAS FLEXILIS SSP. CAESPITOSA	*** SEE ***	NAJAS CAESPITOSA	
2	NAMA XYLOPODUM	HYDROPHYLLACEAE		TX
2	NARTHECIUM AMERICANUM	LILIACEAE		DE NJ NY NC SC
	NARTHECIUM OSSIFRAGUM VAR. AMERICANUM	*** SEE ***	NARTHECIUM AMERICANUM	
1	NASTURTIUM GAMBELII	BRASSICACEAE		CA
1	NAVARETTIA FOSSALIS	POLEMONIACEAE		CA
1	NAVARRETIA PAUCIFLORA	POLEMONIACEAE	NAVARRETIA, FEW-FLOWERED	CA
1	NAVARRETIA PLIEANTHA	POLEMONIACEAE	NAVARRETIA, MANY-FLOWERED	CA
2	NAVARRETIA PROLIFERA SSP. LUTEA	POLEMONIACEAE		CA
1	NAVARRETIA SETILOBA	POLEMONIACEAE	NAVARRETIA, COVILLE'S	CA
1	NEMACLADUS THISSELMANNII	CAMPANULACEAE	NEMACLADUS, EPHEMERAL	CA
1	NEMASTYLIS FLORIDANA	IRIDACEAE	IXIA, FALL-FLOWERING	FL
2	NEMOPANTHUS COLLINUS	AQUIFOLIACEAE		NC TN VA WV
1	NEOLLOYDIA ERECTOCENTRA VAR. ACUNENSIS	CACTACEAE		AZ MEXICO
1	NEOLLOYDIA ERECTOCENTRA VAR. ERECTOCENTRA	CACTACEAE		AZ
1	NEOLLOYDIA GAUTII	CACTACEAE		TX
2	NEOLLOYDIA WARNOCKII	CACTACEAE		TX
1	NEOPARRYA LITHOPHILA	APIACEAE		CO
1	NEOSTAPFIA COLUSANA	POACEAE	GRASS, COLUSA	CA
1	NEOWAWRAEA PHYLLANTHOIDES	EUPHORBIACEAE	MEHAMEHAME	HI
1*	NEPHROPETALUM PRINGLEI	STERCULIACEAE	KIDNEYPETAL, PRINGLE'S	TX MEXICO
1	NERAUDIA ANGULATA	URTICACEAE		HI
1	NERAUDIA KAUAIENSIS	URTICACEAE		HI
2	NERAUDIA MELASTOMIFOLIA	URTICACEAE	MA'OLOA	HI
1	NERAUDIA OVATA	URTICACEAE	MA'OLOA, BIG ISLAND	HI
1	NERAUDIA SERICEA	URTICACEAE		HI
	NESAEA LONGIPES	*** SEE ***	HEIMIA LONGIPES	
2	NESTRONIA UMBELLULA	SANTALACEAE		AL GA NC SC VA
1	NEVIUSIA ALABAMENSIS	ROSACEAE		AL AR MS MO TN
1	NITROPHILA MOHAVENSIS	CHENOPODIACEAE	NITERWORT, AMARGOSA	CA
2	NOLINA ARENICOLA	LILIACEAE		TX
1	NOLINA ATOPOCARPA	LILIACEAE	BEAR-GRASS,	FL

2	NOLINA BRITTONIANA	LILIACEAE	BEAR-GRASS,	FL
1	NOLINA INTERRATA	LILIACEAE	BEAR-GRASS, DEHESA (SAN DIEGO)	CA
1	NOTHOCESTRUM BREVIFLORUM	SOLANACEAE		HI
1	NOTHOCESTRUM LATIFOLIUM	SOLANACEAE	'AIEA,	HI
1	NOTHOCESTRUM LONGIFOLIUM VAR. RUFIPILOSUM	SOLANACEAE	'AIEA,	HI
1	NOTHOCESTRUM PELTATUM	SOLANACEAE	'AIEA,	HI
1	NOTHOCESTRUM SUBCORDATUM	SOLANACEAE	'AIEA,	HI
2	NOTHOLAENA LEMMONII	POLYPODIACEAE		AZ NM MEXICO
2	NOTHOLAENA SCHAFFNERI VAR. NEALLEYI	POLYPODIACEAE		TX
1	NOTOTRICHIUM HUMILE	AMARANTHACEAE		HI
1*	NOTOTRICHIUM SANDWICENSE VAR. DECIPIENS	AMARANTHACEAE		HI
1	NOTOTRICHIUM SANDWICENSE VAR. FORBESII	AMARANTHACEAE		HI
1*	NOTOTRICHIUM SANDWICENSE VAR. KOLEKOLENSE	AMARANTHACEAE		HI
1	NOTOTRICHIUM SANDWICENSE VAR. LEPTOPODUM	AMARANTHACEAE		HI
1	NOTOTRICHIUM SANDWICENSE VAR. LONGESPICATUM	AMARANTHACEAE		HI
1	NOTOTRICHIUM SANDWICENSE VAR. NIIHAUENSE	AMARANTHACEAE		HI
1	NOTOTRICHIUM SANDWICENSE VAR. OLOKELEANUM	AMARANTHACEAE		HI
1	NOTOTRICHIUM VIRIDE	AMARANTHACEAE		HI
2	NUPHAR LUTEUM SSP. ULVACEUM	NYMPHAEACEAE		FL
	OENOTHERA CAESPITOSA VAR. PSAMMOPHILA	*** SEE ***	OENOTHERA PSAMMOPHILA	
	OENOTHERA HOOKERI SSP. WOLFII	*** SEE ***	OENOTHERA WOLFII	
	OENOTHERA MEGALANTHA	*** SEE ***	CAMISSONIA MEGALANTHA	
1	OENOTHERA ORGANENSIS	ONAGRACEAE		NM
2	OENOTHERA PILOSELLA SSP. SESSILIS	ONAGRACEAE	EVENING-PRIMROSE,	AR LA TX
1	OENOTHERA PSAMMOPHILA	ONAGRACEAE	EVENING-PRIMROSE,	ID
	OENOTHERA SESSILIS	*** SEE ***	OENOTHERA PILOSELLA SSP. SESSILIS	
2	OENOTHERA SP. /SP. NOV. INED.	ONAGRACEAE	EVENING-PRIMROSE (MOFFAT & DAGGETT)	CO UT
1	OENOTHERA WOLFII	ONAGRACEAE		CA OR
2	ONCIDIUM CARTHAGENENSE	ORCHIDACEAE	DANCING-LADY, COOT BAY	FL MEXICO, CENTRAL AMERICA, SOUTH AMERICA
2	ONOSMODIUM HELLERI	BORAGINACEAE		TX
1	ONOSMODIUM MOLLE SSP. MOLLE	BORAGINACEAE		IL KY TN
	OONOPSIS MONOCEPHALA	*** SEE ***	HAPLOPAPPUS FREMONTII SSP. MONOCEPHALUS	
2	OPERCULINA TRIQUETRA	CONVOLVULACEAE		VI
1	OPHIOGLOSSUM CONCINNUM	OPHIOGLOSSACEAE	ADDER'S-TONGUE,	HI
1	OPUNTIA ARENARIA	CACTACEAE		NM TX MEXICO
1	OPUNTIA BASILARIS VAR. BRACHYCLADA	CACTACEAE		CA
2	OPUNTIA BASILARIS VAR. LONGIAREOLATA	CACTACEAE		AZ
1	OPUNTIA BASILARIS VAR. TRELEASEI	CACTACEAE	BEAVERTAIL CACTUS, BAKERSFIELD	AZ CA
2	OPUNTIA BASILARIS VAR. WOODBURYI	CACTACEAE		UT
2	OPUNTIA BIGELOVII VAR. HOFFMANNII	CACTACEAE		CA
2	OPUNTIA IMBRICATA VAR. ARGENTEA	CACTACEAE		TX
1	OPUNTIA MUNZII	CACTACEAE		CA
1	OPUNTIA PARRYI VAR. SERPENTINA	CACTACEAE	CHOLLA, SAN DIEGO	CA MEXICO (BAJA CALIFORNIA)
2	OPUNTIA PHAEACANTHA VAR. FLAVISPINA	CACTACEAE		AZ
2	OPUNTIA PHAEACANTHA VAR. MOJAVENSIS	CACTACEAE		AZ CA
2	OPUNTIA PHAEACANTHA VAR. SUPERBOSPINA	CACTACEAE		AZ
2	OPUNTIA SPINOSISSIMA	CACTACEAE		FL PR VI JAMAICA BRITISH VI
1*	OPUNTIA STRIGIL VAR. FLEXOSPINA	CACTACEAE	PRICKLY-PEAR,	TX
2	OPUNTIA TRIACANTHA	CACTACEAE		FL PR VI GUADELOUPE, LESSER ANTILLES
2	OPUNTIA WHIPPLEI VAR. MULTIGENICULATA	CACTACEAE		AZ NV UT

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	OPUNTIA WIGGINSII	CACTACEAE	CHOLLA, WIGGINS	CA
	ORCHIS INTEGRA	*** SEE ***	PLATANTHERA INTEGRA	
	ORCHIS LEUCOPHAEA	*** SEE ***	PLATANTHERA LEUCOPHAEA	
1	ORCUTTIA CALIFORNICA VAR. CALIFORNICA	POACEAE	ORCUTT GRASS, CALIFORNIA	CA MEXICO
1	ORCUTTIA CALIFORNICA VAR. INAEQUALIS	POACEAE	ORCUTT GRASS, SAN JOAQUIN VALLEY	CA
1	ORCUTTIA CALIFORNICA VAR. VISCIDA	POACEAE	ORCUTT GRASS, SACRAMENTO	CA
1	ORCUTTIA GREENEI	POACEAE	ORCUTT GRASS, GREENE'S	CA
1	ORCUTTIA PILOSA	POACEAE	ORCUTT GRASS, PILOSE	CA
1	ORCUTTIA TENUIS	POACEAE	ORCUTT GRASS, SLENDER	CA
1	OREONANA PURPURASCENS	APIACEAE		CA
1	OROBANCHE PARISHII SSP. BRACHYLOBA	OROBANCHACEAE	BROOMRAPE, SHORT-LOBED	CA
1	OROBANCHE VALIDA	OROBANCHACEAE	BROOMRAPE, ROCK CREEK	CA
1	ORTHOCARPUS CAMPESTRIS VAR. SUCCULENTUS	SCROPHULARIACEAE	OWL-CLOVER, SUCCULENT	CA
1	ORTHOCARPUS CASTILLEJOIDES VAR. HUMBOLDTIENSIS	SCROPHULARIACEAE	OWL-CLOVER, HUMBOLDT	CA
1	ORTHOCARPUS FLORIBUNDUS	SCROPHULARIACEAE	ORTHOCARPUS, SAN FRANCISCO	CA
2	ORTHOCARPUS LASIORHYNCHUS	SCROPHULARIACEAE	ORTHOCARPUS, SAN BERNARDINO	CA
1*	ORTHOCARPUS PACHYSTACHYUS	SCROPHULARIACEAE	OWL-CLOVER, SHASTA	CA
	ORTHOCARPUS SUCCULENTUS	*** SEE ***	ORTHOCARPUS CAMPESTRIS VAR. SUCCULENTUS	
2	ORYCTES NEVADENSIS	SOLANACEAE		CA ID NV
	OSMIA BORINQUENSIS	*** SEE ***	EUPATORIUM BORINQUENSE	
1	OSMORHIZA MEXICANA SSP. BIPATRIATA	APIACEAE		TX MEXICO
2	OSTRYA CHISOSENSIS	BETULACEAE		TX
1	OTTOSCHULZIA RHODOXYLON	ICACINACEAE	PALO DE ROSA	PR HISPANIOLA
2	OXYPOLIS CANBYI	APIACEAE	DROPWORT,	DE GA
1	OXYPOLIS GREENMANII	APIACEAE	WATER-DROPWORT, GIANT (GREENMAN'S)	FL
1	OXYTHECA WATSONII	POLYGONACEAE		NV
1	OXYTROPIS CAMPESTRIS VAR. CHARTACEA	FABACEAE		HI
2	OXYTROPIS CAMPESTRIS VAR. JOHANNENSIS	FABACEAE		ME CANADA
2	OXYTROPIS GLABERRIMA	FABACEAE		AK
	OXYTROPIS JOHANNENSIS	*** SEE ***	OXYTROPIS CAMPESTRIS VAR. JOHANNENSIS	
1	OXYTROPIS KOBUKENSIS	FABACEAE	LOCOWEED, KOBUK	AK
1	OXYTROPIS KOKRINENSIS	FABACEAE	OXYTROPE, KOKRINES	AK
	PACHISTIMA CANBYI	*** SEE ***	PAXISTIMA CANBYI	
	PACHYSTIMA CANBYI	*** SEE ***	PAXISTIMA CANBYI	
2	PALAFOXIA ARIDA VAR. GIGANTEA	ASTERACEAE	SPANISHNEEDLE, GIANT	AZ CA
	PALAFOXIA LINEARIS VAR. GIGANTEA	*** SEE ***	PALAFOXIA ARIDA VAR. GIGANTEA	
1	PANICUM ALAKAIENSE	POACEAE	PANIC GRASS,	HI
1	PANICUM CARTERI	POACEAE	PANIC GRASS, CARTER	HI
2	PANICUM FAURIEI	POACEAE	PANIC GRASS, FAURIE'S	HI
2	PANICUM HIRSTII	POACEAE	PANIC GRASS, HIRST'S	GA NJ
2	PANICUM LITHOPHILUM	POACEAE		GA SC
2	PANICUM NIIHAUENSE	POACEAE	PANIC GRASS, NIIHAU	HI
2	PANICUM NUDICAULE	POACEAE		AL FL MS
2	PANICUM PINETORUM	POACEAE		FL
2	PANICUM STEVENSIANUM	POACEAE		PR CUBA
	PANICUM THERMALE	*** SEE ***	DICHANTHELIUM LANUGINOSUM VAR. THERMALE	
2	PARNASSIA CAROLINIANA	SAXIFRAGACEAE		AL FL MS NC SC
2	PARNASSIA KOTZEBUEI VAR. PUMILA	SAXIFRAGACEAE	GRASS-OF-PARNASSUS, KOTZEBUE'S,	WA
1	PARONYCHIA CHARTACEA	CARYOPHYLLACEAE	WHITLOW-WORT,	FL
2	PARONYCHIA CHORIZANTHOIDES	CARYOPHYLLACEAE		TX
2	PARONYCHIA DRUMMONDII SSP. PARVIFLORA	CARYOPHYLLACEAE		TX
1	PARONYCHIA MACCARTII	CARYOPHYLLACEAE	WHITLOW-WORT, MC CART'S	TX

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	PARONYCHIA MONTICOLA	CARYOPHYLLACEAE		TX
2	PARONYCHIA NUDATA	CARYOPHYLLACEAE		TX
2	PARONYCHIA VIRGINICA VAR. PARKSII	CARYOPHYLLACEAE		TX
2	PARONYCHIA WILKINSONII	CARYOPHYLLACEAE		TX MEXICO
1	PARRYA RYDBERGII	BRASSICACEAE	PARRYA, RYDBERG	UT
2	PARTHENIUM TETRANEURIS	ASTERACEAE		CO
1	PARVISEDUM LEIOCARPUM	CRASSULACEAE	STONECROP, LAKE COUNTY	CA
2	PASSIFLORA BILOBATA	PASSIFLORACEAE		PR HISPANIOLA
2	PASSIFLORA MURUCUJA	PASSIFLORACEAE		PR HISPANIOLA
2	PAXISTIMA CANBYI	CELASTRACEAE		KY OH PA VA WV
1	PECTIS IMBERBIS	ASTERACEAE		AZ
2	PEDICULARIS DUDLEYI	SCROPHULARIACEAE	LOUSEWORT, DUDLEY'S	CA
2	PEDICULARIS HOWELLII	SCROPHULARIACEAE	LOUSEWORT, HOWELL	CA OR
1	PEDICULARIS RAINIERENSIS	SCROPHULARIACEAE		WA
1	PEDIOCACTUS DESPAINII	CACTACEAE		UT
1	PEDIOCACTUS PAPYRACANTHUS	CACTACEAE		AZ NM MEXICO
1	PEDIOCACTUS PARADINEI	CACTACEAE		AZ
1	PEDIOCACTUS PEEBLESIANUS VAR. FICKEISENIAE	CACTACEAE		AZ
1	PEDIOCACTUS WINKLERI	CACTACEAE		UT
2	PELEA ANISATA VAR. HAUPUANA	RUTACEAE		HI
	PELEA APODA	*** SEE ***	PELEA PARVIFOLIA VAR. APODA	
1	PELEA BALLOUI	RUTACEAE		HI
1	PELEA CHRISTOPHERSENII	RUTACEAE		HI
1	PELEA CINEREA	RUTACEAE	MANENA	HI
1	PELEA CINEREOPS	RUTACEAE		HI
1	PELEA CLUSIAEFOLIA VAR. PICKERINGII	RUTACEAE		HI
1	PELEA DEGENERI	RUTACEAE		HI
1	PELEA DESCENDENS	RUTACEAE		HI
1	PELEA GLABRA	RUTACEAE		HI
1	PELEA GRANDIFOLIA VAR. LIANOIDES	RUTACEAE		HI
1	PELEA GRANDIFOLIA VAR. MONTANA	RUTACEAE		HI
2	PELEA GRANDIFOLIA VAR. OVALIFOLIA	RUTACEAE		HI
	PELEA GRANDIFOLIA VAR. TERMINALIS	*** SEE ***	PELEA GRANDIFOLIA VAR. OVALIFOLIA	
1	PELEA HAUPUENSIS	RUTACEAE		HI
1	PELEA HAWAIENSIS	RUTACEAE	MANENA	HI
2	PELEA HIIAKAE	RUTACEAE		HI
1	PELEA HOSAKAE	RUTACEAE		HI
2	PELEA KAUAENSIS	RUTACEAE		HI
1	PELEA KAVAIENSIS	RUTACEAE		HI
1*	PELEA KNUDSENII	RUTACEAE		HI
1	PELEA LAKAE	RUTACEAE		HI
1*	PELEA LANCEOLATA	RUTACEAE		HI
1	PELEA LEVEILLEI	RUTACEAE		HI
1	PELEA LYDGATEI	RUTACEAE		HI
1*	PELEA MACROPUS	RUTACEAE		HI
1	PELEA MAKAHAE	RUTACEAE		HI
1*	PELEA MUCRONULATA	RUTACEAE	ALANI	HI
1	PELEA MULTIFLORA	RUTACEAE		HI
1*	PELEA MUNROI	RUTACEAE		HI
1	PELEA NEALIAE	RUTACEAE	PELEA, NEAL	HI
	PELEA NIUENSIS	*** SEE ***	PELEA PEDUNCULARIS VAR. NIUENSIS	
1	PELEA OBLONGIFOLIA	RUTACEAE		HI
1	PELEA OLOWALUENSIS	RUTACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	PELEA ORBICULARIS	RUTACEAE		HI
1*	PELEA OVALIS	RUTACEAE		HI
1	PELEA OVATA	RUTACEAE		HI
1	PELEA PALLIDA	RUTACEAE	ALANI	HI
1	PELEA PANICULATA	RUTACEAE	ALANI	HI
1*	PELEA PARVIFOLIA VAR. APODA	RUTACEAE	APODA	HI
1	PELEA PARVIFOLIA VAR. SESSILIS	RUTACEAE		HI
1	PELEA PEDUNCULARIS VAR. CORDATA	RUTACEAE		HI
1	PELEA PEDUNCULARIS VAR. NIUENSIS	RUTACEAE		HI
1	PELEA PEDUNCULARIS VAR. NUMMULARIA	RUTACEAE		HI
	PELEA PICKERINGII	*** SEE ***	PELEA CLUSIAEFOLIA VAR. PICKERINGII	
1	PELEA PLUVIALIS	RUTACEAE		HI
1	PELEA PUAULUENSIS	RUTACEAE		HI
1	PELEA QUADRANGULARIS	RUTACEAE		HI
1	PELEA RECURVATA	RUTACEAE	ALANI	HI
1	PELEA REFLEXA	RUTACEAE		HI
1	PELEA SAINT-JOHNII	RUTACEAE	PELEA, ST. JOHN'S	HI
1*	PELEA SANDWICENSIS	RUTACEAE		HI
1	PELEA TOMENTOSA	RUTACEAE		HI
1	PELEA VOLCANICA VAR. KOHALAE	RUTACEAE		HI
1	PELEA WAHIAWAENSIS	RUTACEAE		HI
2	PELEA WAIMEAENSIS	RUTACEAE		HI
1	PELEA ZAHLBRUCKNERI	RUTACEAE		HI
	PENIOCEREUS GREGII	*** SEE ***	CEREUS GREGGII	
1	PENSTEMON ALAMOSENSIS	SCROPHULARIACEAE		NM
2	PENSTEMON ANGUSTIFOLIUS VAR. VERNALENSIS	SCROPHULARIACEAE		UT
1	PENSTEMON ARENARIUS	SCROPHULARIACEAE		NV
1	PENSTEMON ATWOODII	SCROPHULARIACEAE		UT
1	PENSTEMON BARRETTIAE	SCROPHULARIACEAE		OR WA
1	PENSTEMON BICOLOR SSP. BICOLOR	SCROPHULARIACEAE		NV
1	PENSTEMON BICOLOR SSP. ROSEUS	SCROPHULARIACEAE		AZ NV
1	PENSTEMON BRACTEATUS	SCROPHULARIACEAE	BEARDTONGUE, RED CANYON	UT
2	PENSTEMON CALCAREUS	SCROPHULARIACEAE	PENSTEMON, LIMESTONE	CA
2	PENSTEMON CALIFORNICUS	SCROPHULARIACEAE	PENSTEMON, CALIFORNIA	CA MEXICO
2	PENSTEMON COMPACTUS	SCROPHULARIACEAE	BEARDTONGUE, CACHE	UT
1	PENSTEMON CONCINNUS	SCROPHULARIACEAE	BEARDTONGUE, TUNNEL SPRINGS	UT
2	PENSTEMON DEGENERI	SCROPHULARIACEAE	BEARDTONGUE, DEGENER	CO
1	PENSTEMON DISCOLOR	SCROPHULARIACEAE	BEARDTONGUE,	AZ
2	PENSTEMON ELEGANTULUS	SCROPHULARIACEAE		ID OR
2	PENSTEMON FILIFORMIS	SCROPHULARIACEAE	PENSTEMON, THREAD-LEAVED	CA
1	PENSTEMON FRANCISCI-PENNELLII	SCROPHULARIACEAE		NV
1*	PENSTEMON FRUTICIFORMIS SSP. AMARGOSAE	SCROPHULARIACEAE		CA NV
2	PENSTEMON GARRETTII	SCROPHULARIACEAE	BEARDTONGUE, GARRETT'S	UT
1	PENSTEMON GLAUCINUS	SCROPHULARIACEAE	BEARDTONGUE,	OR
2	PENSTEMON GOODRICHII	SCROPHULARIACEAE		UT
2	PENSTEMON GRAHAMII	SCROPHULARIACEAE	BEARDTONGUE, GRAHAM	CO UT
2	PENSTEMON HARRINGTONII	SCROPHULARIACEAE	BEARDTONGUE, HARRINGTON	CO
2	PENSTEMON HAYDENII	SCROPHULARIACEAE		NE
2	PENSTEMON HUMILIS VAR. OBTUSIFOLIUS	SCROPHULARIACEAE		UT
2	PENSTEMON KECKII	SCROPHULARIACEAE	BEARDTONGUE,	NV
1	PENSTEMON LEMHIENSIS	SCROPHULARIACEAE	BEARDTONGUE, LEMHI	ID MT
	PENSTEMON MODESTUS	*** SEE ***	PENSTEMON PROCERUS VAR. MODESTUS	
2	PENSTEMON MORIAHENSIS	SCROPHULARIACEAE		NV
2	PENSTEMON NANUS	SCROPHULARIACEAE	BEARDTONGUE, LOW	UT
1	PENSTEMON PAHUTENSIS	SCROPHULARIACEAE	BEARDTONGUE,	NV
2	PENSTEMON PAPILLATUS	SCROPHULARIACEAE	PENSTEMON, INYO	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	PENSTEMON PARVUS	SCROPHULARIACEAE	BEARDTONGUE, SMALL	UT
2	PENSTEMON PATRICUS	SCROPHULARIACEAE		UT
1	PENSTEMON PECKII	SCROPHULARIACEAE		OR
1	PENSTEMON PERSONATUS	SCROPHULARIACEAE	BEARDTONGUE, CLOSED-LIP	CA
1	PENSTEMON PROCERUS VAR. MODESTUS	SCROPHULARIACEAE		NV
1	PENSTEMON PUDICUS	SCROPHULARIACEAE		NV
1	PENSTEMON RETRORSUS	SCROPHULARIACEAE	BEARDTONGUE,	CO
2	PENSTEMON RUBICUNDUS	SCROPHULARIACEAE	BEARDTONGUE,	NV
2	PENSTEMON SP. /SP. NOV. INED.	SCROPHULARIACEAE	BEARDTONGUE (WHITE RIVER, UINTAH CO.	UT
2	PENSTEMON SP. /SP. NOV. INED.	SCROPHULARIACEAE	BEARDTONGUE (RANDLETT, UINTAH CO.)	UT
2	PENSTEMON SPATULATUS	SCROPHULARIACEAE	BEARDTONGUE, WALLOWA	OR
2	PENSTEMON STEPHENSII	SCROPHULARIACEAE	PENSTEMON, STEPHENS	CA
2	PENSTEMON THOMPSONIAE SSP. JAEGERI	SCROPHULARIACEAE		NV
1	PENSTEMON TIDESTROMII	SCROPHULARIACEAE	BEARDTONGUE, TIDESTROM	UT
2	PENSTEMON TRACYI	SCROPHULARIACEAE	PENSTEMON, TRACY	CA
1	PENSTEMON VIRGATUS SSP. PSEUDOPUTUS	SCROPHULARIACEAE		AZ
1	PENSTEMON WARDII	SCROPHULARIACEAE	BEARDTONGUE, WARD	UT
2	PENSTEMON YAMPAENSIS	SCROPHULARIACEAE		CO
1	PENTACHAETA BELLIDIFLORA	ASTERACEAE	PENTACHAETA, WHITE-RAYED	CA
1	PENTACHAETA EXILIS SSP. AEOLICA	ASTERACEAE		CA
1	PENTACHAETA LYONII	ASTERACEAE	PENTACHAETA, LYON'S	CA
2	PEPEROMIA COOKIANA VAR. MINUTILIMBA	PIPERACEAE		HI
1*	PEPEROMIA CORNIFOLIA	PIPERACEAE		HI
1	PEPEROMIA DEGENERI	PIPERACEAE		HI
2	PEPEROMIA EXPALLESCENS VAR. BREVIPILOSA	PIPERACEAE		HI
2	PEPEROMIA FAURIEI	PIPERACEAE		HI
1	PEPEROMIA FLORIDANA	PIPERACEAE		FL
2	PEPEROMIA FORBESII	PIPERACEAE		HI
2	PEPEROMIA HAUPUENSIS	PIPERACEAE		HI
2	PEPEROMIA HELLERI VAR. KNUDSENII	PIPERACEAE		HI
1	PEPEROMIA KULENSIS	PIPERACEAE		HI
2	PEPEROMIA LILIFOLIA VAR. OBTUSATA	PIPERACEAE		HI
2	PEPEROMIA MAUNAKEANA	PIPERACEAE		HI
1	PEPEROMIA OAHUENSIS VAR. ST-JOHNII	PIPERACEAE		HI
2	PEPEROMIA RIGIDILIMBA	PIPERACEAE		HI
2	PEPEROMIA SUBPETIOLATA	PIPERACEAE		HI
1	PEPEROMIA TRELEASEI	PIPERACEAE		HI
2	PEPEROMIA WAIKAMOIANA	PIPERACEAE		HI
1	PEPEROMIA WHEELERI	PIPERACEAE		PR
1	PERIDERIDIA BACIGALUPII	APIACEAE	YAMPAH, MOTHER LODE	CA
1	PERIDERIDIA ERYTHRORHIZA	APIACEAE		OR
1	PERIDERIDIA GAIRDNERI SSP. GAIRDNERI	APIACEAE	YAMPAH, GAIRDNER'S	CA
1	PERITYLE AJOENSIS	ASTERACEAE	ROCK-DAISY, AJO	AZ
1	PERITYLE BISETOSA VAR. BISETOSA	ASTERACEAE	ROCK-DAISY, TWO-SPIKE,	TX
1	PERITYLE BISETOSA VAR. SCALARIS	ASTERACEAE	ROCK-DAISY, TWO-SPIKE,	TX
1	PERITYLE CERNUA	ASTERACEAE		AZ NM
1	PERITYLE COCHISENSIS	ASTERACEAE		AZ
2	PERITYLE INYOENSIS	ASTERACEAE	LAPHAMIA, INYO	CA
1	PERITYLE LINDHEIMERI VAR. HALIMIFOLIA	ASTERACEAE	ROCK-DAISY,	TX
2	PERITYLE LINDHEIMERI VAR. LINDHEIMERI	ASTERACEAE	ROCK-DAISY,	TX
2	PERITYLE MEGALOCEPHALA VAR. INTRICATA	ASTERACEAE		CA NV
2	PERITYLE PARRYI	ASTERACEAE		TX
	PERITYLE ROTUNDATA	*** SEE ***	PERITYLE LINDHEIMERI VAR. LINDHEIMERI	
1	PERITYLE SAXICOLA	ASTERACEAE		AZ
1	PERITYLE VILLOSA	ASTERACEAE	LAPHAMIA, HANAUPAH	CA
1	PERITYLE VITREOMONTANA	ASTERACEAE	ROCK-DAISY, GLASS MOUNTAIN	TX
2	PERITYLE WARNOCKII	ASTERACEAE		TX

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	PERSEA BORBONIA VAR. HUMILIS	LAURACEAE		FL GA
1	PETALONYX THURBERI SSP. GILMANII	LOASACEAE		CA
	PETALOSTEMUM FOLIOSUM	*** SEE ***	DALEA FOLIOSA	
	PETALOSTEMUM REVERCHONII	*** SEE ***	DALEA REVERCHONII	
	PETALOSTEMUM SABINALE	*** SEE ***	DALEA SABINALIS	
1	PETROPHYTUM CINERASCENS	ROSACEAE	ROCKMAT, CHELAN	WA
2	PETROPHYTUM HENDERSONII	ROSACEAE		WA
2	PEUCEDANUM KAUAIENSE	APIACEAE		HI
2	PEUCEDANUM SANDWICENSE VAR. SANDWICENSE	APIACEAE	MAKOU	HI
1*	PHACELIA AMABILIS	HYDROPHYLLACEAE	PHACELIA, SALINE VALLEY	CA
2	PHACELIA ANELSONII	HYDROPHYLLACEAE	PHACELIA, MACBRIDE	CA NV UT
2	PHACELIA ARGENTEA	HYDROPHYLLACEAE		CA OR
1	PHACELIA BEATLEYAE	HYDROPHYLLACEAE	PHACELIA, BEATLEY	NV
1	PHACELIA CAPITATA	HYDROPHYLLACEAE	PHACELIA,	OR
2	PHACELIA CEPHALOTES	HYDROPHYLLACEAE	PHACELIA, VIRGIN	AZ UT
2	PHACELIA CILIATA VAR. OPACA	HYDROPHYLLACEAE		CA
1*	PHACELIA CINEREA	HYDROPHYLLACEAE	PHACELIA, ASHY	CA
1	PHACELIA COOKEI	HYDROPHYLLACEAE	PHACELIA, COOK	CA
2	PHACELIA DALESIANA	HYDROPHYLLACEAE	PHACELIA, TRINITY	CA
	PHACELIA DIVARICATA VAR. INSULARIS	*** SEE ***	PHACELIA INSULARIS VAR. INSULARIS	
2	PHACELIA FILIFORMIS	HYDROPHYLLACEAE	PHACELIA,	AZ
1	PHACELIA FLORIBUNDA	HYDROPHYLLACEAE		CA
1	PHACELIA GLABERRIMA	HYDROPHYLLACEAE		NV
2	PHACELIA GREENEI	HYDROPHYLLACEAE	PHACELIA, SCOTT VALLEY	CA
1	PHACELIA HOWELLIANA	HYDROPHYLLACEAE	PHACELIA, HOWELL	AZ UT
1	PHACELIA INCONSPICUA	HYDROPHYLLACEAE		ID NV
1	PHACELIA INDECORA	HYDROPHYLLACEAE	PHACELIA, DRAB	UT
2	PHACELIA INSULARIS VAR. CONTINENTIS	HYDROPHYLLACEAE		CA
1	PHACELIA INSULARIS VAR. INSULARIS	HYDROPHYLLACEAE	PHACELIA, ISLAND	CA
1*	PHACELIA LENTA	HYDROPHYLLACEAE	PHACELIA,	WA
2	PHACELIA MAMMILLARENSIS	HYDROPHYLLACEAE	PHACELIA, NIPPLE BENCH	UT
1	PHACELIA MONOENSIS /SP. NOV. INED.	HYDROPHYLLACEAE		CA
2*	PHACELIA NEVADENSIS	HYDROPHYLLACEAE		NV
1	PHACELIA NOVENMILLENSIS	HYDROPHYLLACEAE	PHACELIA, NINE MILE CANYON	CA
2	PHACELIA OROGENES	HYDROPHYLLACEAE	PHACELIA, MOUNTAIN	CA
1*	PHACELIA PALLIDA	HYDROPHYLLACEAE	PHACELIA, PALE	TX
2	PHACELIA PARISHII	HYDROPHYLLACEAE		CA NV
1	PHACELIA PHACELIOIDES	HYDROPHYLLACEAE	PHACELIA, MT. DIABLO	CA
2	PHACELIA STEBBINSII	HYDROPHYLLACEAE	PHACELIA, STEBBINS	CA
2	PHACELIA SUAVEOLENS SSP. KECKII	HYDROPHYLLACEAE		CA
1	PHACELIA SUBMUTICA	HYDROPHYLLACEAE	PHACELIA,	CO
1	PHACELIA UTAHENSIS	HYDROPHYLLACEAE	PHACELIA, UTAH	UT
1	PHACELIA VERNA	HYDROPHYLLACEAE		OR
2	PHACELIA WELSHII	HYDROPHYLLACEAE	PHACELIA,	AZ
1	PHASEOLUS SUPINUS	FABACEAE	BEAN, SUPINE	AZ UT
2	PHILADELPHUS ERNESTII	SAXIFRAGACEAE		TX
2	PHILADELPHUS TEXENSIS VAR. TEXENSIS	SAXIFRAGACEAE		TX
2	PHLOX BIFIDA SSP. STELLARIA	POLEMONIACEAE	PHLOX, CLEFT,	IL IN KY TN
2	PHLOX BUCKLEYI	POLEMONIACEAE		VA WV
2	PHLOX CARYOPHYLLA	POLEMONIACEAE	PHLOX,	CO NM
2	PHLOX CLUTEANA	POLEMONIACEAE	PHLOX, NAVAJO MOUNTAIN	AZ UT
2	PHLOX DOLICANTHA	POLEMONIACEAE		CA
2	PHLOX GLADIFORMIS	POLEMONIACEAE	PHLOX, RED CANYON	NV UT
1	PHLOX HIRSUTA	POLEMONIACEAE	PHLOX,	CA
1	PHLOX IDAHONIS	POLEMONIACEAE	PHLOX, CLEARWATER	ID
1	PHLOX LONGIPILOSA	POLEMONIACEAE	PHLOX,	OK
1	PHLOX NIVALIS SSP. TEXENSIS	POLEMONIACEAE	PHLOX, TRAILING, TEXAS	TX

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	PHLOX PECKII	POLEMONIACEAE		OR
2	PHLOX PULCHRA	POLEMONIACEAE	PHLOX,	AL
1.	PHYLLANTHUS ERICOIDES	EUPHORBIACEAE	LEAF-FLOWER,	TX MEXICO
2	PHYLLANTHUS LIEBMANNIANUS SSP. PLATYLEPIS	EUPHORBIACEAE		FL
1	PHYLLANTHUS PENTAPHYLLUS SSP. FLORIDANUS	EUPHORBIACEAE		FL
2	PHYLLANTHUS SANDWICENSIS VAR. DEGENERI	EUPHORBIACEAE		HI
2	PHYLLITIS SCOLOPENDRIUM VAR. AMERICANUM	POLYPODIACEAE	FERN, AMERICAN	AL MI NY TN CANADA (BRITISH COLUMBIA)
1*	PHYLLOSTEGIA BREVIDENS VAR. AMBIGUA	LAMIACEAE		HI
2	PHYLLOSTEGIA BREVIDENS VAR. DEGENERI	LAMIACEAE		HI
1	PHYLLOSTEGIA BREVIDENS VAR. HETERODOXA	LAMIACEAE		HI
1*	PHYLLOSTEGIA BREVIDENS VAR. HIRSUTULA	LAMIACEAE		HI
1*	PHYLLOSTEGIA BREVIDENS VAR. LONGIPES	LAMIACEAE		HI
1*	PHYLLOSTEGIA BREVIDENS VAR. PUBESCENS	LAMIACEAE		HI
1	PHYLLOSTEGIA FLORIBUNDA VAR. FORBESII	LAMIACEAE		HI
1	PHYLLOSTEGIA GLABRA VAR. LANAIENSIS	LAMIACEAE		HI
1	PHYLLOSTEGIA HELLERI VAR. IMMINUTA	LAMIACEAE		HI
2	PHYLLOSTEGIA HILLEBRANDII	LAMIACEAE		HI
2	PHYLLOSTEGIA HIRSUTA	LAMIACEAE		HI
1	PHYLLOSTEGIA KNUDSENII	LAMIACEAE		HI
1	PHYLLOSTEGIA MACROPHYLLA VAR. VELUTINA	LAMIACEAE		HI
1	PHYLLOSTEGIA MOLLIS VAR. FAGERLINDII	LAMIACEAE		HI
1	PHYLLOSTEGIA MOLLIS VAR. HOCHREUTINERI	LAMIACEAE	NEHE KUHIWA	HI
1*	PHYLLOSTEGIA MOLLIS VAR. LYDGATEI	LAMIACEAE		HI
1	PHYLLOSTEGIA MOLLIS VAR. MICRANTHA	LAMIACEAE		HI
1*	PHYLLOSTEGIA PARVIFLORA VAR. CANESCENS	LAMIACEAE		HI
1*	PHYLLOSTEGIA PARVIFLORA VAR. GLABRIUSCULA	LAMIACEAE		HI
1*	PHYLLOSTEGIA PARVIFLORA VAR. HONOLULENSIS	LAMIACEAE		HI
1*	PHYLLOSTEGIA VARIABILIS	LAMIACEAE		HI
2	PHYLLOSTEGIA YAMAGUCHII	LAMIACEAE	PHYLLOSTEGIA, YAMAGUCHI	HI
2	PHYSALIS VISCOSA VAR. ELLIOTII	SOLANACEAE		FL
	PHYSARIA ALPESTRIS VAR. LYRATA	*** SEE ***	PHYSARIA DIDYMOCARPA VAR. LYRATA	
	PHYSARIA ALPESTRIS VAR. PURPUREA	*** SEE ***	PHYSARIA GEYERI VAR. PURPUREA	
2	PHYSARIA BELLII	BRASSICACEAE		CO
2	PHYSARIA CONDENSATA	BRASSICACEAE	TWINPOD, DENSE	WY
1	PHYSARIA DIDYMOCARPA VAR. LYRATA	BRASSICACEAE		ID
1	PHYSARIA GEYERI VAR. PURPUREA	BRASSICACEAE		ID
1	PHYSOSTEGIA CORRELLII	LAMIACEAE	FALSE DRAGON-HEAD, CORRELL'S	TX
2	PHYSOSTEGIA LEPTOPHYLLA	LAMIACEAE		FL
2	PHYSOSTEGIA MICRANTHA	LAMIACEAE		OK TX
1	PILEA LEPTOPHYLLA	URTICACEAE		PR
1	PILEA MULTICAULIS	URTICACEAE		PR
2	PILEA RICHARDII	URTICACEAE		PR VI
2	PILEA YUNQUENSIS	URTICACEAE		PR
1	PINGUICULA IONANTHA	LENTIBULARIACEAE	BUTTERWORT,	FL
2	PINGUICULA PLANIFOLIA	LENTIBULARIACEAE	BUTTERWORT, CHAPMAN'S	AL FL MS
1	PINUS TORREYANA	PINACEAE	PINE, TORREY	CA
1*	PISONIA FLORIDANA	NYCTAGINACEAE		FL
2	PITTOSPORUM CAULIFLORUM VAR. PEDICELLATUM	PITTOSPORACEAE		HI
2	PITTOSPORUM CONFERTIFLORUM VAR. LONGIPES	PITTOSPORACEAE		HI
1	PITTOSPORUM HAWAIIENSE	PITTOSPORACEAE		HI
	PITYOTHAMNUS TETRAMERUS	*** SEE ***	ASIMINA TETRAMERA	
1*	PLAGIOBOTHRYS DIFFUSUS	BORAGINACEAE	POPCORNFLOWER, SAN FRANCISCO	CA
1	PLAGIOBOTHRYS GLABER	BORAGINACEAE	ALLOCARYA, GLABROUS	CA
1	PLAGIOBOTHRYS GLYPTOCARPUS VAR. MODESTUS	BORAGINACEAE		CA
1*	PLAGIOBOTHRYS HIRTUS SSP. CORALLICARPA	BORAGINACEAE		OR

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW 50

1	PLAGIOBOTHRYS HIRTUS SSP. HIRTUS	BORAGINACEAE	POPCORNFLOWER,	OR
1	PLAGIOBOTHRYS HYSTRICULUS	BORAGINACEAE	ALLOCARYA, BEARDED	CA
1*	PLAGIOBOTHRYS LAMPROCARPUS	BORAGINACEAE	POPCORNFLOWER,	OR
1	PLAGIOBOTHRYS MOLLIS VAR. VESTITUS	BORAGINACEAE		CA
1	PLAGIOBOTHRYS SCRIPTUS	BORAGINACEAE	ALLOCARYA, SCRIBE	CA
1	PLAGIOBOTHRYS STRICTUS	BORAGINACEAE	ALLOCARYA, CALISTOGA	CA
	PLANCHONELLA AUAHIENSIS	*** SEE ***	POUTERIA AUAHIENSIS	
	PLANCHONELLA RHYNCHOSPERMA	*** SEE ***	POUTERIA RHYNCHOSPERMA	
1	PLANTAGO CORDATA	PLANTAGINACEAE	PLANTAIN, HEART-LEAVED	AL GA IL IN MI MO NY NC OH WI
2	PLANTAGO PRINCEPS VAR. ACAULIS	PLANTAGINACEAE		HI
1	PLANTAGO PRINCEPS VAR. DENTICULATA	PLANTAGINACEAE		HI
1	PLANTAGO PRINCEPS VAR. ELATA	PLANTAGINACEAE		HI
1	PLANTAGO PRINCEPS VAR. LAXIFOLIA	PLANTAGINACEAE		HI
1	PLANTAGO PRINCEPS VAR. PRINCEPS	PLANTAGINACEAE	ALE	HI
2	PLANTAGO PRINCEPS VAR. QUELENIANA	PLANTAGINACEAE		HI
1	PLATANTHERA HOLOCHILA	ORCHIDACEAE		HI
2	PLATANTHERA INTEGRA	ORCHIDACEAE		AL DE FL GA KS LA MS NE NJ NC ND SC SD TN TX CANADA (NEW BRUNSWICK, NOVA SCOTIA, ONTARIO)
1	PLATANTHERA INTEGRILABIA	ORCHIDACEAE		AL KY MS NC SC TN
1	PLATANTHERA LEUCOPHAEA	ORCHIDACEAE	ORCHID, WHITE-FRINGED, PRAIRIE	AR IL IN IA KS LA ME MI MN MO NE NY ND OH OK SD VA WI CANADA
1	PLATYDESMA REMYI	RUTACEAE	PILOKEA, REMY	HI
1*	PLEODENDRON MACRANTHUM	CANELLACEAE	CHUPAGALLO (CHUPACALLOS)	PR
	PLEOMELE FORBESII	*** SEE ***	DRACAENA FORBESII	
1	PLEUROPOGON HOOVERANUS	POACEAE	SEMAPHORE GRASS, HOOVER'S	CA
1*	PLEUROPOGON OREGONUS	POACEAE	SEMAPHORE GRASS, OREGON	OR
2	PLUMMERA AMBIGENS	ASTERACEAE		AZ
2	PLUMMERA FLORIBUNDA	ASTERACEAE		AZ
1	POA ATROPURPUREA	POACEAE	BLUE GRASS, SAN BERNADINO	CA
1	POA CURTIFOLIA	POACEAE		WA
2	POA EYERDAMII	POACEAE		AK
1	POA FIBRATA	POACEAE	BLUE GRASS, LASSEN COUNTY	CA
1	POA INVOLUTA	POACEAE	BLUE GRASS, BIG BEND	TX
1	POA MANNII	POACEAE	BLUE GRASS, MANN'S	HI
1	POA MARCIDA	POACEAE		OR WA CANADA (BRITISH COLUMBIA)
2	POA MERRILLIANA	POACEAE		AK
1	POA NAPENSIS	POACEAE	BLUE GRASS, NAPA	CA
2	POA NORBERGII	POACEAE		AK
1	POA PACHYPHOLIS	POACEAE	BLUE GRASS, SEA CLIFF	WA
2	POA PALUDIGENA	POACEAE	BLUE GRASS,	IL IN MI NY OH PA WI
2	POA PIPERI	POACEAE		CA OR
1	POA SANDVICENSIS	POACEAE	BLUE GRASS, HAWAIIAN	HI
1	POA SIPHONOGLOSSA	POACEAE		HI
1	PODISTERA YUKONENSIS	APIACEAE		AK CANADA (YUKON TERRITORY)
1	POGOGYNE CLAREANA	LAMIACEAE	POGOGYNE, SANTA LUCIA	CA
2	POGOGYNE DOUGLASII SSP. PARVIFLORA	LAMIACEAE		CA
1	POGOGYNE NUDIUSCULA	LAMIACEAE	POGOGYNE, LOMA ALTA	CA MEXICO
2	POLEMONIUM OCCIDENTALE VAR. LACUSTRE	POLEMONIACEAE	JACOB'S LADDER,	MN
2	POLEMONIUM PAUCIFLORUM SSP. HINCKLEYI	POLEMONIACEAE	JACOB'S LADDER,	AZ TX
1	POLEMONIUM PECTINATUM	POLEMONIACEAE		WA
2	POLEMONIUM REPTANS VAR. VILLOSUM	POLEMONIACEAE	JACOB'S LADDER,	KY OH

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	POLIANTHES MACULOSA	LILIACEAE		TX
1	POLIANTHES RUNYONII	LILIACEAE	HUACO, RUNYON	TX
	POLYGALA ARENICOLA	*** SEE ***	POLYGALA SMALLII	
1	POLYGALA BOYKINII VAR. SPARSIFOLIA	POLYGALACEAE		FL
1	POLYGALA COWELLII	POLYGALACEAE	PALO DE VIOLETA (VIOLET TREE)	PR
1	POLYGALA LEWTONII	POLYGALACEAE	POLYGALA, LEWTON'S	FL
2	POLYGALA PILIOPHORA	POLYGALACEAE		AZ
1	POLYGALA SMALLII	POLYGALACEAE	POLYGALA, TINY	FL
2	POLYGALA SUBSPINOSA VAR. HETERORHYNCA	POLYGALACEAE		CA NV
1	POLYGONELLA CILIATA VAR. BASIRAMIA	POLYGONACEAE	JOINTWEED,	FL
1	POLYGONELLA MACROPHYLLA	POLYGONACEAE	JOINTWEED, LARGE-LEAVED	AL FL
2	POLYGONELLA MYRIOPHYLLA	POLYGONACEAE	JOINTWEED,	FL
2	POLYGONUM BIDWELLIAE	POLYGONACEAE	KNOTWEED, BIDWELL	CA
2	POLYGONUM FUSIFORME	POLYGONACEAE		AZ CA
1	POLYGONUM MARINENSE	POLYGONACEAE	KNOTWEED, MARIN	CA
1*	POLYGONUM MONTEREYENSE	POLYGONACEAE	KNOTWEED, MONTEREY	CA
2	POLYGONUM STRIATULUM	POLYGONACEAE		TX
2	POLYGONUM UTAHENSE	POLYGONACEAE		UT
2	POLYMNIA LAEVIGATA	ASTERACEAE		AL FL GA KY MO TN
1	POLYSTICHUM ALEUTICUM	POLYPODIACEAE	SHIELD FERN (HOLLY FERN), ALEUTIAN	AK
1	POLYSTICHUM DUDLEYI	POLYPODIACEAE		CA
1*	POPULUS HINCKLEYANA	SALICACEAE	COTTONWOOD, GOAT CANYON	TX
2	POROPHYLLUM GREGGII	ASTERACEAE		TX
1	PORTULACA CAULERPOIDES	PORTULACACEAE		PR
1	PORTULACA HAWAIIENSIS	PORTULACACEAE	PORTULACA, HAWAII	HI
1	PORTULACA SCLEROCARPA	PORTULACACEAE	IHI-MAKOLE	HI
1	POTAMOGETON CLYSTOCARPUS	POTAMOGETONACEAE	PONDWEED,	TX
2	POTAMOGETON FLORIDANUS	POTAMOGETONACEAE		FL
2	POTAMOGETON HILLII	POTAMOGETONACEAE	PONDWEED, HILL'S	CT MA MI NY OH PA VT CANADA
2	POTAMOGETON LATERALIS	POTAMOGETONACEAE		CT MA MI MN NH NY VT
2	POTENTILLA EFFUSA VAR. RUPINCOLA	ROSACEAE		CO
1	POTENTILLA HICKMANII	ROSACEAE	CINQUEFOIL, HICKMAN'S	CA
	POTENTILLA MULTIFOLIOLATA	*** SEE ***	IVESIA MULTIFOLIOLATA	
1*	POTENTILLA MULTIJUGA	ROSACEAE	CINQUEFOIL, BALLONA	CA
2	POTENTILLA PATELLIFERA	ROSACEAE	CINQUEFOIL, KINGSTON MOUNTAINS	CA
	POTENTILLA RUPINCOLA	*** SEE ***	POTENTILLA EFFUSA VAR. RUPINCOLA	
2	POTENTILLA SIERRA-BLANCAE	ROSACEAE		NM
1	POTENTILLA ULIGINOSA /SP. NOV. INED.	ROSACEAE		CA
1	POUTERIA AUAHIENSIS	SAPOTACEAE	ALA'A	HI
1	POUTERIA RHYNCHOSPERMA	SAPOTACEAE	ALA'A	HI
2	PRENANTHES BOOTTII	ASTERACEAE	RATTLESNAKE ROOT, BOOTT'S	ME NH NY VT
2	PRENANTHES ROANENSIS	ASTERACEAE	RATTLESNAKE ROOT, MOUNTAIN	KY NC TN VA
1	PRIMULA CAPILLARIS	PRIMULACEAE	PRIMROSE,	NV
2	PRIMULA HUNNEWELLII	PRIMULACEAE		AZ
1	PRIMULA MAGUIREI	PRIMULACEAE	PRIMROSE, MAGUIRE	UT
1	PRIMULA NEVADENSIS	PRIMULACEAE	PRIMROSE,	NV
1	PRITCHARDIA AYLMER-ROBINSONII	ARECACEAE	HAWANE (LO'ULU)	HI
2	PRITCHARDIA ELLIPTICA	ARECACEAE	LO'ULU	HI
1	PRITCHARDIA ERIOPHORA	ARECACEAE	LO'ULU	HI
2	PRITCHARDIA GAUDICHAUDII	ARECACEAE	LO'ULU	HI
1	PRITCHARDIA GLABRATA	ARECACEAE		HI
1	PRITCHARDIA HILLEBRANDII	ARECACEAE	LO'ULU-LELO	HI
2	PRITCHARDIA KAHANAE	ARECACEAE	LO'ULU	HI
1	PRITCHARDIA LANAIENSIS	ARECACEAE	LO'ULU	HI
1	PRITCHARDIA MONTIS-KEA	ARECACEAE		HI
1	PRITCHARDIA MUNROII	ARECACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	PRITCHARDIA REMOTA	ARECACEAE		HI
1	PRIVA PORTORICENSIS	VERBENACEAE		PR
2	PROBOSCIDEA SABULOSA	PEDALIACEAE		NM TX
1	PRUNUS GENICULATA	ROSACEAE	PLUM, SCRUB	FL
	PRUNUS GRAVESII	*** SEE ***	PRUNUS MARITIMA VAR. GRAVESII	
2	PRUNUS HAVARDII	ROSACEAE		TX
1	PRUNUS MARITIMA VAR. GRAVESII	ROSACEAE	PLUM, BEACH, GRAVE'S	CT
2	PRUNUS MURRAYANA	ROSACEAE		TX
2	PRUNUS TEXANA	ROSACEAE		TX
1	PSEUDOBAHIA BAHIAFOLIA	ASTERACEAE	PSEUDOBAHIA, HARTWEG'S	CA
1	PSEUDOBAHIA PEIRSONII	ASTERACEAE		CA
2	PSEUDOTAENIDIA MONTANA	APIACEAE		PA VA WV
1	PSIDIUM SINTENISII	MYRTACEAE	HOJA MENUDA	PR
2	PSORALEA EPIPSILA	FABACEAE	SCURF-PEA,	AZ UT
1*	PSORALEA MACROPHYLLA	FABACEAE	SCURF-PEA,	NC
1	PSORALEA PARIENSIS	FABACEAE		UT
1*	PSORALEA STIPULATA	FABACEAE	SCURF-PEA,	IN KY
2	PSOROTHAMNUS POLYADENIUS VAR. JONESII	FABACEAE		UT
1	PSYCHOTRIA GRANDIFLORA	RUBIACEAE		HI
1*	PSYCHOTRIA INSULARUM VAR. PARADISII	RUBIACEAE		HI
1	PTERALYXIA CAUMIANA	APOCYNACEAE	KAULU	HI
1	PTERALYXIA KAUAIENSIS	APOCYNACEAE	PTERALYXIA, KAUAI	HI
1	PTERIS LIDGATEI	POLYPODIACEAE		HI
2	PTILAGROSTIS PORTERI	POACEAE	NEEDLE GRASS, PORTER'S	CO
2	PTILIMNIUM FLUVIATILE	APIACEAE		AL GA MD NC WV
2	PTILIMNIUM NODOSUM	APIACEAE		AL GA SC
1	PUCCINELLIA PARISHII	POACEAE		AZ CA
2	PUCCINELLIA TRIFLORA	POACEAE		AK
2	PYCNANTHEMUM CURVIPES	LAMIACEAE	MOUNTAIN-MINT,	AL GA TN
2	PYCNANTHEMUM FLORIDANUM	LAMIACEAE		FL
	PYRROCOMA ACUMINATA	*** SEE ***	HAPLOPAPPUS CONTRACTUS	
	PYRROCOMA LIATRIFORMIS	*** SEE ***	HAPLOPAPPUS LIATRIFORMIS	
	PYRROCOMA RADIATUS	*** SEE ***	HAPLOPAPPUS RADIATUS	
1	PYRROCOMA UNIFLORA VAR. GOSSYPINA	ASTERACEAE		CA
1	PYXIDANTHERA BARBULATA VAR. BREVIFOLIA	DIAPENSIACEAE	PIXIE-MOSS, WELL'S (SANDHILL)	NC SC
	PYXIDANTHERA BREVIFOLIA	*** SEE ***	PYXIDANTHERA BARBULATA VAR. BREVIFOLIA	
2	QUERCUS ARKANSANA	FAGACEAE		AL AR
1	QUERCUS GRACILIFORMIS	FAGACEAE	OAK, SLENDER	TX
1	QUERCUS HINCKLEYI	FAGACEAE	OAK, HINCKLEY'S	TX
2	QUERCUS OGLETHORPENSIS	FAGACEAE		GA LA SC
2	QUERCUS PARVULA	FAGACEAE	OAK, SANTA CRUZ ISLAND	CA
1	QUERCUS SHUMARDII VAR. ACERIFOLIA	FAGACEAE		AR
2	QUERCUS TARDIFOLIA	FAGACEAE	OAK, CHIZOS MOUNTAINS	TX
2	QUERCUS TOMENTELLA	FAGACEAE	OAK, ISLAND	CA MEXICO
2	RAILLARDELLA MUIRII	ASTERACEAE	RAILLARDELLA, MUIR'S	CA
2	RAILLARDELLA PRINGLEI	ASTERACEAE	RAILLARDELLA, SHOWY	CA
2	RAILLARDELLA SCABRIDA	ASTERACEAE		CA
	RAILLIARDIA RETICULATA	*** SEE ***	DUBAUTIA RETICULATA	
2	RANDIA PORTORICENSIS	RUBIACEAE		PR
1*	RANUNCULUS ACRIFORMIS VAR. AESTIVALIS	RANUNCULACEAE	BUTTERCUP, SHARP, AUTUMN	UT
2	RANUNCULUS AUSTRO-OREGONUS	RANUNCULACEAE		OR
1	RANUNCULUS FASCICULARIS VAR. CUNEIFORMIS	RANUNCULACEAE	CROWFOOT, KERR	TX
1	RANUNCULUS RECONDITUS	RANUNCULACEAE		OR WA
1	RANUNCULUS SUBCORDATUS	RANUNCULACEAE	BUTTERCUP, BLADEN	NC
2	RAUVOLFIA HELLERI	APOCYNACEAE		HI
2	RAUVOLFIA MAUIENSIS	APOCYNACEAE		HI

2	RAUVOLFIA MOLOKAIENSIS VAR. PARVIFOLIA	APOCYNACEAE		HI
2	RAUVOLFIA REMOTIFLORA	APOCYNACEAE	WAHAULA HEIAU	HI
2	RAUVOLFIA SANDWICENSIS VAR. SANDWICENSIS	APOCYNACEAE	HAO	HI
2	RAUVOLFIA SANDWICENSIS VAR. SUBACUMINATA	APOCYNACEAE		HI
2	RAVENIA URBANII	RUTACEAE	TORTUGO PRIETO	PR
1*	REMYA KAUAIENSIS	ASTERACEAE		HI
1	REMYA MAUIENSIS	ASTERACEAE	REMYA, MAUI	HI
	REYNOLDSIA DEGENERI	*** SEE ***	REYNOLDSIA SANDWICENSIS	
	REYNOLDSIA HILLEBRANDII	*** SEE ***	REYNOLDSIA SANDWICENSIS	
	REYNOLDSIA HUEHUENSIS	*** SEE ***	REYNOLDSIA SANDWICENSIS	
	REYNOLDSIA MAUIENSIS	*** SEE ***	REYNOLDSIA SANDWICENSIS	
1	REYNOLDSIA SANDWICENSIS	ARALIACEAE	'OHE	HI
	REYNOLDSIA VENUSTA	*** SEE ***	REYNOLDSIA SANDWICENSIS	
1	RHEXIA PARVIFLORA	MELASTOMATACEAE	MEADOWBEAUTY,	FL GA
2	RHEXIA SALICIFOLIA	MELASTOMATACEAE	MEADOWBEAUTY, PANHANDLE	AL FL TX
2	RHIPSALIS BACCIFERA	CACTACEAE		FL MEXICO, SRI LANKA, AFRICA, SOUTH AMERICA, WEST INDIES
	RHIPSALIS CASSUTHA	*** SEE ***	RHIPSALIS BACCIFERA	
2	RHODODENDRON PRUNIFOLIUM	ERICACEAE	AZALEA, PLUMLEAF	AL GA
	RHUS AROMATICA VAR. ARENARIA	*** SEE ***	RHUS TRILOBATA VAR. ARENARIA	
1	RHUS MICHAUXII	ANACARDIACEAE		GA NC SC
2	RHUS TRILOBATA VAR. ARENARIA	ANACARDIACEAE	SUMAC,	IL IN OH
	RHYNCHOPHORUM FLORIDANUM	*** SEE ***	PEPEROMIA FLORIDANA	
1	RHYNCHOSIA CINEREA	FABACEAE		FL
1	RHYNCHOSPORA CALIFORNICA	CYPERACEAE	BEAKED-RUSH, CALIFORNIA	CA
1	RHYNCHOSPORA CRINIPES	CYPERACEAE	BEAKED-RUSH,	AL
2	RHYNCHOSPORA CULIXA	CYPERACEAE		FL GA
2	RHYNCHOSPORA GLOBULARIS VAR. SAXICOLA	CYPERACEAE		GA
2	RHYNCHOSPORA KNIESKERNII	CYPERACEAE	BEAKED-RUSH, KNIESKERN'S	DE NJ
2	RHYNCHOSPORA PUNCTATA	CYPERACEAE		FL GA
2	RIBES CANTHARIFORME	SAXIFRAGACEAE	CURRANT, MORENO	CA
1	RIBES ECHINELLUM	SAXIFRAGACEAE	GOOSEBERRY, FLORIDA (MICCOSUKEE)	FL SC
1	ROLLANDIA ANGUSTIFOLIA VAR. OCHREATA	CAMPANULACEAE		HI
2	ROLLANDIA CALYCINA	CAMPANULACEAE		HI
1	ROLLANDIA CRISPA VAR. CRISPA	CAMPANULACEAE		HI
1	ROLLANDIA DEGENERANA	CAMPANULACEAE		HI
1	ROLLANDIA HUMBOLDTIANA	CAMPANULACEAE		HI
1	ROLLANDIA LANCEOLATA	CAMPANULACEAE	ROLLANDIA, LANCEOLATE-LEAVED	HI
1*	ROLLANDIA PARVIFOLIA	CAMPANULACEAE		HI
1	ROLLANDIA PINNATIFIDA	CAMPANULACEAE		HI
2	ROLLANDIA PURPURELLIFOLIA	CAMPANULACEAE		HI
1	ROLLANDIA SESSILIFOLIA	CAMPANULACEAE		HI
1	ROLLANDIA ST-JOHNII	CAMPANULACEAE		HI
1	ROLLANDIA WAIANAEENSIS	CAMPANULACEAE		HI
2	ROMANZOFFIA THOMPSONII /SP. NOV. INED.	HYDROPHYLLACEAE		OR
2	RORIPPA CALYCINA	BRASSICACEAE		MT ND WY CANADA (NORTHWEST TERRITORIES)
	RORIPPA CALYCINA VAR. COLUMBIAE	*** SEE ***	RORIPPA COLUMBIAE	
2*	RORIPPA COLORADENSIS	BRASSICACEAE	WATER CRESS,	CO
2	RORIPPA COLUMBIAE	BRASSICACEAE		CA OR WA
1	RORIPPA SUBUMBELLATA	BRASSICACEAE		CA NV
2	ROSA STELLATA	ROSACEAE		AZ NM TX
1	ROYSTONEA ELATA	ARECACEAE	PALM, ROYAL, FLORIDA	FL
2	RUBUS GLAUCIFOLIUS VAR. GANDERI	ROSACEAE		CA
1	RUBUS NIGERRIMUS	ROSACEAE		WA
2	RUDBECKIA AURICULATA	ASTERACEAE		AL

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

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1	RUDBECKIA HELIOPSIDIS	ASTERACEAE		AL GA NC SC VA
2	RUDBECKIA NITIDA VAR. NITIDA	ASTERACEAE		FL GA
2	RUDBECKIA TRILOBA VAR. PINNATILOBA	ASTERACEAE		FL NC
2	RUELLIA DRUMMONDIANA	ACANTHACEAE		TX
1	RUMEX ORTHONEURUS	POLYGONACEAE	DOCK,	AZ
2	RUMEX SPIRALIS	POLYGONACEAE		TX
2	SAGITTARIA SANFORDII	ALISMATACEAE		CA
1	SALIX ARIZONICA	SALICACEAE		AZ
1	SALIX FLORIDANA	SALICACEAE	WILLOW, FLORIDA	FL GA
1	SALIX OVALIFOLIA VAR. GLACIALIS	SALICACEAE	WILLOW, ROUND-LEAF	AK
1*	SALVIA BLODGETTII	LAMIACEAE	SAGE, BLODGETT'S	FL
1	SALVIA BRANDEGEI	LAMIACEAE		CA
2	SALVIA GREATAE	LAMIACEAE		CA
2	SALVIA PENSTEMONOIDES	LAMIACEAE		TX
2	SANICULA HOFFMANNII	APIACEAE	SANICLE, HOFFMAN	CA
1	SANICULA MARITIMA	APIACEAE	SANICLE, ADOBE	CA
2	SANICULA SANDWICENSIS	APIACEAE		HI
1	SANICULA SAXATILIS	APIACEAE	SANICLE, ROCK	CA
1	SANICULA TRACYI	APIACEAE	SANICLE, TRACY'S	CA OR
	SANIDOPHYLLUM CUMULICOLA	*** SEE ***	HYPERICUM CUMULICOLA	
1	SANTALUM ELLIPTICUM VAR. LITTORALE	SANTALACEAE		HI
1	SANTALUM LANAIENSE	SANTALACEAE		HI
	SARRACENIA ALABAMENSIS SSP. ALABAMENSIS	*** SEE ***	SARRACENIA RUBRA SSP. ALABAMENSIS	
	SARRACENIA ALABAMENSIS SSP. WHERRYI	*** SEE ***	SARRACENIA RUBRA SSP. WHERRYI	
	SARRACENIA JONESII	*** SEE ***	SARRACENIA RUBRA SSP. JONESII	
1	SARRACENIA RUBRA SSP. ALABAMENSIS	SARRACENIACEAE	PITCHERPLANT, ALABAMA CANEBREAK	AL
1	SARRACENIA RUBRA SSP. JONESII	SARRACENIACEAE	PITCHERPLANT, SWEET,	NC SC
1	SARRACENIA RUBRA SSP. WHERRYI	SARRACENIACEAE		AL MS
1	SATUREJA CHANDLERI	LAMIACEAE	SATUREJA, SAN MIGUEL	CA
2	SAUSSUREA WEBERI	ASTERACEAE		CO MT
2	SAXIFRAGA ALEUTICA	SAXIFRAGACEAE	SAXIFRAGE, ALEUTIAN	AK
2	SAXIFRAGA CAREYANA	SAXIFRAGACEAE	SAXIFRAGE,	GA NC TN VA
2	SAXIFRAGA CAROLINIANA	SAXIFRAGACEAE	SAXIFRAGE, GRAY'S	GA KY NC TN VA WV
2	SAXIFRAGA FORBESII	SAXIFRAGACEAE	SAXIFRAGE, FORBES	IL IN IA MN MO WI
1	SAXIFRAGA OCCIDENTALIS VAR. LATIPETIOLATA	SAXIFRAGACEAE		OR
1	SCAEVOLA CORIACEA	GOODENIACEAE	NAUPAKA, DWARF	HI
1	SCAEVOLA KILAUEAE	GOODENIACEAE	NAUPAKA, KILAUEA	HI
1	SCAEVOLA SKOTTSBERGII	GOODENIACEAE		HI
1	SCHIEDEA ADAMANTIS	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1*	SCHIEDEA AMPLEXICAULIS	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA GLOBOSA VAR. FOLIOSIOR	CARYOPHYLLACEAE		HI
1*	SCHIEDEA HAWAIIENSIS	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1*	SCHIEDEA HOOKERI VAR. HOOKERI	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA KAALAE	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA KEALIAE	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA LIGUSTRINA VAR. NEMATOPODA	CARYOPHYLLACEAE		HI
2	SCHIEDEA MEMBRANACEA	CARYOPHYLLACEAE		HI
1	SCHIEDEA MENZIESII VAR. MENZIESII	CARYOPHYLLACEAE		HI
1	SCHIEDEA MENZIESII VAR. SPERGULACEA	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA PUBESCENS VAR. LANAIENSIS	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA SALICARIA	CARYOPHYLLACEAE	MA'OLI'OLI	HI
1	SCHIEDEA VERTICILLATA	CARYOPHYLLACEAE		HI
1	SCHIZACHYRIUM NIVEUM	POACEAE		FL GA
1	SCHIZAEA GERMANII	SCHIZAEACEAE	FERN, CURLY-GRASS	FL CUBA GUADELOUPE
2	SCHIZAEA PUSILLA	SCHIZAEACEAE		NJ NY CANADA

	SCHIZOSTEGE LIDGATEI	*** SEE ***	PTERIS LIDGATEI	
1	SCHOENOLIRION BRACTEOSUM	LILIACEAE	SCHOENOLIRION, BRACTED	CA OR
2	SCHOEPFIA ARENARIA	OLACACEAE	ARANA	PR
1	SCHRANKIA PORTORICENSIS	FABACEAE	ZARZARILLA	PR
2	SCHWALBEA AMERICANA	SCROPHULARIACEAE		CT DE KY LA MD MA MS NJ NY SC TN VA
2	SCIRPUS ANCISTROCHAETUS	CYPERACEAE	BULRUSH, NORTHEASTERN	MA NY PA VT VA
2	SCIRPUS LONGII	CYPERACEAE	BULRUSH, LONG'S	CT ME MA NJ NY
1	SCLERIA DORADOENSIS	CYPERACEAE		PR
1	SCLEROCACTUS POLYANCISTRUS	CACTACEAE	FISHHOOK CACTUS, MOHAVE	AZ CA NV UT
1	SCLEROCACTUS PUBISPINUS	CACTACEAE	FISHHOOK CACTUS, GREAT BASIN	NV UT
2	SCLEROCACTUS SP. /SP. NOV. INED.	CACTACEAE	CACTUS (DUCHESNE & UINTAH COS.)	UT
1	SCLEROCACTUS WHIPPLEI VAR. HEILII	CACTACEAE		NM
2	SCLEROCACTUS WHIPPLEI VAR. REEVESII	CACTACEAE		NM
1	SCROPHULARIA ATRATA	SCROPHULARIACEAE	FIGWORT, BLACK-FLOWERED	CA
1	SCROPHULARIA COCCINEA	SCROPHULARIACEAE	FIGWORT,	NM
	SCROPHULARIA MACRANTHA	*** SEE ***	SCROPHULARIA COCCINEA	
1	SCROPHULARIA VILLOSA	SCROPHULARIACEAE		CA
1	SCUTELLARIA FLORIDANA	LAMIACEAE		FL
1	SCUTELLARIA MONTANA	LAMIACEAE	SKULLCAP, LARGE-FLOWERED	GA TN
1*	SCUTELLARIA OCMULGEE	LAMIACEAE	SKULLCAP,	GA
2	SCUTELLARIA OVATA SSP. PSEUDOARGUTA	LAMIACEAE	SKULLCAP, HEART-LEAVED,	WV
	SCUTELLARIA SERRATA VAR. MONTANA	*** SEE ***	SCUTELLARIA MONTANA	
1	SCUTELLARIA THIERETII	LAMIACEAE		LA
1	SEDUM ALBOMARGINATUM	CRASSULACEAE		CA
1	SEDUM LAXUM SSP. EASTWOODIAE	CRASSULACEAE		CA
1	SEDUM LAXUM SSP. FLAVIDUM	CRASSULACEAE		CA
1	SEDUM MORANII	CRASSULACEAE	STONECROP,	OR
1	SEDUM NEVII	CRASSULACEAE	STONECROP,	AL GA MS NC TN VA WV
1	SEDUM OBLANCEOLATUM	CRASSULACEAE		OR
1	SEDUM OBTUSATUM SSP. PARADISUM	CRASSULACEAE		CA
1*	SEDUM PINETORUM	CRASSULACEAE	SEDUM, PINE CITY	CA
1	SEDUM PUSILLUM	CRASSULACEAE		AR GA NC SC
2	SEDUM ROBERTSIANUM	CRASSULACEAE		TX
2	SEDUM ROSEA VAR. ROANENSIS	CRASSULACEAE		NC TN
	SEDUM TEXANUM	*** SEE ***	LENOPHYLLUM TEXANUM	
2	SELAGINELLA UTAHENSIS	SELAGINELLACEAE		NV UT
1	SELENIA JONESII	BRASSICACEAE	SELENIA, JONE'S	TX
2	SENECIO ANTENNARIIFOLIUS	ASTERACEAE		MD VA WV
1	SENECIO BERNARDINUS	ASTERACEAE	BUTTERWEED, SAN BERNARDINO	CA
1	SENECIO CLEVELANDII VAR. HETEROPHYLLUS	ASTERACEAE		CA
2	SENECIO DIMORPHOPHYLLUS VAR. INTERMEDIUS	ASTERACEAE	GROUNDSEL, INTERMEDIATE	UT
1	SENECIO ERTTERAE	ASTERACEAE	RAGWORT, ERTTER'S	OR
1	SENECIO FRANCISCANUS	ASTERACEAE	GROUNDSEL, SAN FRANCISCO PEAKS	AZ
1	SENECIO GANDERI	ASTERACEAE	BUTTERWEED, GANDER	CA
1	SENECIO HESPERIUS	ASTERACEAE		OR
1	SENECIO HUACHUCANUS	ASTERACEAE	GROUNDSEL, HUACHUCA	AZ MEXICO
1	SENECIO LAYNEAE	ASTERACEAE	BUTTERWEED, LAYNE'S	CA
1	SENECIO NEOWEBSTERI	ASTERACEAE		WA
2	SENECIO QUAERENS	ASTERACEAE		NM
2	SENECIO SANDWICENSIS	ASTERACEAE		HI
2	SENECIO WARNOCKII	ASTERACEAE		TX
1	SESBANIA ARBOREA	FABACEAE	'OHAI	HI
1	SESBANIA HAWAIIENSIS	FABACEAE	'OHAI	HI
1*	SESBANIA HOBDYI	FABACEAE	'OHAI	HI
1	SESBANIA MOLOKAIENSIS	FABACEAE	'OHAI	HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	SESBANIA TOMENTOSA	FABACEAE	'OHAI	HI
	SESBANIA TOMENTOSA VAR. MOLOKAIENSIS	*** SEE ***	SESBANIA MOLOKAIENSIS	
1*	SESUVIUM TRIANTHEMOIDES	AIZOACEAE	SEA-PURSLANE, TEXAS	TX
1*	SEYMERIA HAVARDII	SCROPHULARIACEAE		TX
1	SHORTIA GALACIFOLIA	DIAPENSIACEAE	OCONEE-BELLS, SHORT-STYLED	GA NC SC
1*	SIBARA FILIFOLIA	BRASSICACEAE	ROCK CRESS, ISLAND	CA
	SICYOS ATOLLENSIS	*** SEE ***	CLADOCARPA ATOLLENSIS	
	SICYOS CAUMII	*** SEE ***	CLADOCARPA CAUMII	
	SICYOS LAMOUREUXII	*** SEE ***	CLADOCARPA LAMOUREUXII	
1	SICYOS LAYSANENSIS	CUCURBITACEAE		HI
	SICYOS MAXIMOWICZII	*** SEE ***	CLADOCARPA MAXIMOWICZII	
1	SICYOS NIHOAENSIS	CUCURBITACEAE		HI
	SICYOS NIIHAUENSIS	*** SEE ***	CLADOCARPA NIIHAUENSIS	
	SICYOS SEMITONSUS	*** SEE ***	CLADOCARPA SEMITONSUS	
	SIDA EGGERSII	*** SEE ***	ABUTILON VIRGINIANUM	
2	SIDA LEDYARDII	MALVACEAE		HI
2	SIDA NELSONII	MALVACEAE		HI
1	SIDA RUBROMARGINATA	MALVACEAE		FL
1	SIDALCEA CAMPESTRIS	MALVACEAE	CHECKER-MALLOW, MEADOW	OR
2	SIDALCEA COVILLEI	MALVACEAE	CHECKER-MALLOW, OWENS VALLEY	CA
1	SIDALCEA CUSICKII	MALVACEAE		OR
2	SIDALCEA HICKMANII SSP. ANOMALA	MALVACEAE	SIDALCEA, CUESTA PASS	CA
2	SIDALCEA HICKMANII SSP. HICKMANII	MALVACEAE	SIDALCEA, HICKMAN	CA
2	SIDALCEA HICKMANII SSP. PARISHII	MALVACEAE	SIDALCEA, PRAISH	CA
2	SIDALCEA HICKMANII SSP. VIRIDIS	MALVACEAE	MALLOW, MARIN	CA
1*	SIDALCEA KECKII	MALVACEAE	SIDALCEA, KECK	CA
1	SIDALCEA NELSONIANA	MALVACEAE	CHECKER-MALLOW, NELSON'S	OR
2	SIDALCEA OREGANA SSP. HYDROPHILA	MALVACEAE		CA
1	SIDALCEA OREGANA SSP. VALIDA	MALVACEAE		CA
1	SIDALCEA OREGANA VAR. CALVA	MALVACEAE		WA
1	SIDALCEA PEDATA	MALVACEAE	SIDALCEA, PEDATE	CA
1	SIDALCEA ROBUSTA	MALVACEAE	SIDALCEA, BUTTE COUNTY	CA
2	SIDALCEA SETOSA	MALVACEAE		CA OR
1	SIDALCEA STIPULARIS	MALVACEAE		CA
1	SILENE ALEXANDRI	CARYOPHYLLACEAE		HI
1	SILENE CAMPANULATA SSP. CAMPANULATA	CARYOPHYLLACEAE		CA
1	SILENE CLOKEYI	CARYOPHYLLACEAE		NV
1	SILENE CRYPTOPETALA	CARYOPHYLLACEAE		HI
1	SILENE DEGENERI	CARYOPHYLLACEAE		HI
1	SILENE DOUGLASII VAR. ORARIA	CARYOPHYLLACEAE	CATCHFLY, CASCADE HEAD	OR
1	SILENE HAWAIIENSIS	CARYOPHYLLACEAE		HI
1	SILENE INVISA	CARYOPHYLLACEAE		CA
1	SILENE LANCEOLATA	CARYOPHYLLACEAE		HI
1	SILENE MARMORENSIS	CARYOPHYLLACEAE		CA
1	SILENE PETERSONII VAR. MINOR	CARYOPHYLLACEAE	CATCHFLY, RED CANYON	UT
1	SILENE PETERSONII VAR. PETERSONII	CARYOPHYLLACEAE	CATCHFLY, PLATEAU	UT
2	SILENE PLANKII	CARYOPHYLLACEAE		NM TX
2	SILENE POLYPETALA	CARYOPHYLLACEAE		FL GA
1*	SILENE RECTIRAMEA	CARYOPHYLLACEAE		AZ
2	SILENE REGIA	CARYOPHYLLACEAE		AL AR GA IL IN KY MS MO OH OK
1	SILENE SCAPOSA VAR. SCAPOSA	CARYOPHYLLACEAE		OR
1	SILENE SEELYI	CARYOPHYLLACEAE		WA
1	SILENE SPALDINGII	CARYOPHYLLACEAE		ID MT OR WA
1	SILENE VERECUNDA SSP. VERECUNDA	CARYOPHYLLACEAE		CA
1	SILENE WRIGHTII	CARYOPHYLLACEAE		NM
1	SILPHIUM BRACHIATUM	ASTERACEAE	ROSINWEED,	AL KY TN
1	SILPHIUM CONFERTIFOLIUM	ASTERACEAE		AL

1	SISYRINCHIUM SARMENTOSUM	IRIDACEAE		WA
1	SIUM FLORIDANUM	APIACEAE	WATER-PARSNIP, FLORIDA	FL
1	SMELOWSKIA BOREALIS VAR. VILLOSA	BRASSICACEAE		AK
2	SMELOWSKIA OVALIS SSP. CONGESTA	BRASSICACEAE		CA
1	SMELOWSKIA PYRIFORMIS	BRASSICACEAE		AK
1*	SMILAX LEPTANTHERA	LILIACEAE		GA
2	SMILAX MELASTOMIFOLIA VAR. MELASTOMIFOLIA	LILIACEAE		HI
1*	SOLANUM BAHAMENSE VAR. RUGELII	SOLANACEAE	NIGHTSHADE,	FL
2	SOLANUM CAROLINENSE VAR. FLORIDANUM	SOLANACEAE		FL
1*	SOLANUM CAROLINENSE VAR: HIRSUTUM	SOLANACEAE	HORSE-NETTLE,	GA
1*	SOLANUM CONOCARPUM	SOLANACEAE		VI
1	SOLANUM DRYMOPHILUM	SOLANACEAE	ERUBIA	PR
	SOLANUM GODFREYI	*** SEE ***	SOLANUM CAROLINENSE VAR. FLORIDANUM	
1*	SOLANUM HALEAKALAENSE	SOLANACEAE		HI
1*	SOLANUM HILLEBRANDII	SOLANACEAE		HI
1	SOLANUM INCOMPLETUM	SOLANACEAE	POPOLO, THORNY	HI
1	SOLANUM KAUAIENSE	SOLANACEAE	POPOLO-'AI-A-KE-AKUA	HI
2	SOLANUM MUCRONATUM	SOLANACEAE		PR VI
1	SOLANUM NELSONII VAR. THOMASIAEFOLIUM	SOLANACEAE		HI
1	SOLANUM SANDWICENSE	SOLANACEAE		HI
2	SOLANUM TENUILOBATUM	SOLANACEAE	NIGHTSHADE, NARROW-LEAVED	CA MEXICO
2	SOLANUM WOODBURYI	SOLANACEAE		PR
1	SOLIDAGO ALBOPILOSA	ASTERACEAE	GOLDENROD,	KY
2	SOLIDAGO ARGUTA VAR. HARRISSII	ASTERACEAE		KY MD VA WV
	SOLIDAGO HARRISSII	*** SEE ***	SOLIDAGO ARGUTA VAR. HARRISSII	
1	SOLIDAGO HOUGHTONII	ASTERACEAE	GOLDENROD, HOUGHTON'S	MI NY CANADA (ONTARIO)
1*	SOLIDAGO PORTERI	ASTERACEAE	GOLDENROD, PORTER'S	GA NC
1	SOLIDAGO PULCHRA	ASTERACEAE		NC
1	SOLIDAGO SHORTII	ASTERACEAE	GOLDENROD, SHORT'S	KY
1	SOLIDAGO SPITHAMAEA	ASTERACEAE		NC
1	SOLIDAGO VERNA	ASTERACEAE		NC SC
2	SOPHORA ARIZONICA	FABACEAE		AZ NM
2	SOPHORA CHRYSOPHYLLA VAR. CIRCULARIS	FABACEAE		HI
2	SOPHORA CHRYSOPHYLLA VAR. ELLIPTICA	FABACEAE		HI
2	SOPHORA CHRYSOPHYLLA VAR. GLABRATA	FABACEAE		HI
1	SOPHORA CHRYSOPHYLLA VAR. GRISEA	FABACEAE		HI
2	SOPHORA CHRYSOPHYLLA VAR. KANAIOENSIS	FABACEAE		HI
2	SOPHORA CHRYSOPHYLLA VAR. KAUENSIS	FABACEAE		HI
1	SOPHORA CHRYSOPHYLLA VAR. MAKUAENSIS	FABACEAE		HI
1*	SOPHORA CHRYSOPHYLLA VAR. UNIFOLIATA	FABACEAE		HI
1	SOPHORA GYPSOPHILA VAR. GUADALUPENSIS	FABACEAE		NM TX
2	SOPHORA LEACHIANA	FABACEAE		OR
1	SPHAERALCEA CAESPITOSA	MALVACEAE	GLOBE-MALLOW, JONES	NV UT
2	SPHAERALCEA PSORALOIDES	MALVACEAE		UT
1	SPHAERALCEA RUSBYI SSP. EREMICOLA	MALVACEAE	MALLOW, DESERT, RUSBY	CA
1	SPHAEROMERIA COMPACTA	ASTERACEAE	TANSY,	NV
1	SPHAEROMERIA RUTHIAE	ASTERACEAE	TANSY, ZION	UT
1	SPHAEROMERIA SIMPLEX	ASTERACEAE	FALSE SAGEBRUSH, LARAMIE	WY
2	SPHENOSTIGMA COELESTINUM	IRIDACEAE	IXIA, BARTRAM'S	FL
1	SPIGELIA GENTIANOIDES	LOGANIACEAE	PINKROOT,	FL
2	SPIGELIA LOGANIOIDES	LOGANIACEAE	PINKROOT,	FL
2	SPIGELIA TEXANA	LOGANIACEAE		TX
1	SPIRANTHES LANCEOLATA VAR. PALUDICOLA	ORCHIDACEAE	LADIES'-TRESSES,	FL
2	SPIRANTHES POLYANTHA	ORCHIDACEAE		FL PR BAHAMAS, DOMINICAN REPUBLIC, GUATEMALA, MEXICO

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

	SPOROBOLUS NEGLECTUS VAR. OZARKANUS	*** SEE ***	SPOROBOLUS OZARKANUS	
2	SPOROBOLUS OZARKANUS	POACEAE		MO
2	SPOROBOLUS PATENS	POACEAE	DROPSEED,	AZ
2	SPOROBOLUS TERETIFOLIUS	POACEAE		GA NC SC
2	STACHYS LYTHROIDES	LAMIACEAE		FL
1	STAHLIA MONOSPERMA	FABACEAE	COBANA NEGRA	PR DOM. REP.
1	STANLEYA PINNATA VAR. GIBBEROSA	BRASSICACEAE		WY
	STELLARIA FONTINALIS	*** SEE ***	ARENARIA FONTINALIS	
1	STENOGYNE AFFINIS VAR. AFFINIS	LAMIACEAE		HI
1	STENOGYNE AFFINIS VAR. DEGENERI	LAMIACEAE		HI
1	STENOGYNE ANGUSTIFOLIA VAR. HILLEBRANDII	LAMIACEAE		HI
1*	STENOGYNE ANGUSTIFOLIA VAR. MAUIENSIS	LAMIACEAE		HI
1	STENOGYNE ANGUSTIFOLIA VAR. MEEBOLDII	LAMIACEAE		HI
1*	STENOGYNE ANGUSTIFOLIA VAR. SPATHULATA	LAMIACEAE		HI
2	STENOGYNE CALAMINTHOIDES VAR. OXYODONATA	LAMIACEAE		HI
1*	STENOGYNE CINEREA	LAMIACEAE		HI
1	STENOGYNE CRENATA	LAMIACEAE	STENOGYNE, CRENATE-LEAVED	HI
2	STENOGYNE DIFFUSA	LAMIACEAE		HI
2	STENOGYNE GLABRATA	LAMIACEAE		HI
2	STENOGYNE HALIAKALAE	LAMIACEAE	STENOGYNE, HALEAKALA	HI
2	STENOGYNE HIRSUTULA	LAMIACEAE		HI
1	STENOGYNE KANEHOANA	LAMIACEAE		HI
1	STENOGYNE MACRANTHA	LAMIACEAE		HI
1	STENOGYNE MICROPHYLLA	LAMIACEAE		HI
1	STENOGYNE MOLLIS	LAMIACEAE		HI
2	STENOGYNE OXYGONA	LAMIACEAE		HI
2	STENOGYNE PURPUREA VAR. FORBESII	LAMIACEAE		HI
1	STENOGYNE ROTUNDIFOLIA VAR. OBLONGA	LAMIACEAE		HI
	STENOGYNE RUGOSA VAR. MOLLIS	*** SEE ***	STENOGYNE MOLLIS	
2	STENOGYNE RUGOSA VAR. SUBULATA	LAMIACEAE	MA'OHI'OHI	HI
1*	STENOGYNE SCANDENS	LAMIACEAE		HI
2	STENOGYNE SCROPHULARIOIDES	LAMIACEAE		HI
1	STENOGYNE SESSILIS VAR. HEXANTHA	LAMIACEAE		HI
1	STENOGYNE SESSILIS VAR. LANIENSIS	LAMIACEAE		HI
1*	STENOGYNE SESSILIS VAR. WILKESII	LAMIACEAE		HI
1	STENOGYNE SHERFFII	LAMIACEAE		HI
1*	STENOGYNE SORORIA	LAMIACEAE		HI
1*	STENOGYNE VAGANS	LAMIACEAE		HI
2	STENOGYNE VIRIDIS	LAMIACEAE		HI
	STEPHANOMERIA BLAIRII	*** SEE ***	MUNZOTHAMNUS BLAIRII	
1	STEPHANOMERIA SCHOTTII	ASTERACEAE	WIRE-LETTUCE, SCHOTT'S	AZ
2	STILLINGIA SYLVATICA SSP. TENUIS	EUPHORBIACEAE		FL
1	STIPA LEMMONII VAR. PUBESCENS	POACEAE	SPEAR GRASS, CRAMPTON	CA
1	STREPTANTHUS ALBIDUS SSP. ALBIDUS	BRASSICACEAE	JEWELFLOWER, METCALF CANYON	CA
2	STREPTANTHUS BATRACHOPUS	BRASSICACEAE	STREPTANTHUS, TAMALPAIS	CA
2	STREPTANTHUS BERNARDINUS	BRASSICACEAE		CA
1	STREPTANTHUS BRACHIATUS	BRASSICACEAE	STREPTANTHUS, CONTACT MINE	CA
2	STREPTANTHUS BRACTEATUS	BRASSICACEAE		TX
1	STREPTANTHUS CALLISTUS	BRASSICACEAE	JEWELFLOWER, ROYAL	CA
2	STREPTANTHUS CARINATUS	BRASSICACEAE		TX
1	STREPTANTHUS CORDATUS VAR. PIUTENSIS	BRASSICACEAE		CA
2	STREPTANTHUS CUTLERI	BRASSICACEAE		TX
2	STREPTANTHUS FENESTRATUS	BRASSICACEAE		CA
2	STREPTANTHUS GLANDULOSUS VAR. HOFFMANII	BRASSICACEAE		CA
2	STREPTANTHUS GRACILIS	BRASSICACEAE	STREPTANTHUS, ALPINE	CA
2	STREPTANTHUS HISPIDUS	BRASSICACEAE	JEWELFLOWER, MT. DIABLO	CA

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

2	STREPTANTHUS HOWELLII	BRASSICACEAE		CA OR
	STREPTANTHUS LEMMONII	*** SEE ***	CAULANTHUS LEMMONII	
1	STREPTANTHUS MORRISONII	BRASSICACEAE		CA
1	STREPTANTHUS NIGER	BRASSICACEAE	JEWELFLOWER, TIBURON	CA
1	STREPTANTHUS OLIGANTHUS	BRASSICACEAE	STREPTANTHUS, MASONIC MOUNTAIN	CA NV
2	STREPTANTHUS SPARSIFLORUS	BRASSICACEAE	JEWELFLOWER, SPARSELY-FLOWERED	TX
1	STREPTANTHUS SQUAMIFORMIS	BRASSICACEAE	JEWELFLOWER,	AR OK
1	STYRAX PORTORICENSIS	STYRACACEAE	PALO DE JAZMIN	PR
1	STYRAX TEXANA	STYRACACEAE	SNOWBELLS, TEXAS	TX
1	STYRAX YOUNGAE	STYRACACEAE		TX
				MEXICO
1*	SUAEDA DURIPES	CHENOPODIACEAE	SEEPWEED, HARDTOE	TX
	SULLIVANTIA OHIONIS	*** SEE ***	SULLIVANTIA SULLIVANTII	
2	SULLIVANTIA OREGANA	SAXIFRAGACEAE		OR WA
1	SULLIVANTIA SULLIVANTII	SAXIFRAGACEAE		IN KY OH
	SWERTIA COLORADENSIS	*** SEE ***	FRASERA COLORADENSIS	
2	SYMPHORICARPOS GUADALUPENSIS	CAPRIFOLIACEAE		TX
2	SYNANDRA HISPIDULA	LAMIACEAE	SYNANDRA,	AL IL KY NC OH TN VA WV
1*	SYNTHYRIS MISSURICA SSP. HIRSUTA /INED.	SCROPHULARIACEAE		OR
1	SYNTHYRIS PINNATIFIDA VAR. LANUGINOSA	SCROPHULARIACEAE		WA
1	SYNTHYRIS RANUNCULINA	SCROPHULARIACEAE	KITTENTAILS,	NV
1	TALINUM APPALACHIANUM	PORTULACACEAE		AL
2	TALINUM CALCARICUM	PORTULACACEAE		AL TN
2	TALINUM GOODDINGII	PORTULACACEAE	FLAMEFLOWER, GOODDING	AZ
1	TALINUM OKANOGANENSE	PORTULACACEAE		WA
				CANADA (BRITISH COLUMBIA)
2	TALINUM VALIDULUM	PORTULACACEAE		AZ UT
2	TANACETUM CAMPHORATUM	ASTERACEAE	TANSY, DUNE	CA
	TANACETUM COMPACTUM	*** SEE ***	SPHAEROMERIA COMPACTA	
	TANACETUM SIMPLEX	*** SEE ***	SPHAEROMERIA SIMPLEX	
1	TARAXACUM CALIFORNICUM	ASTERACEAE	DANDELION, CALIFORNIA	CA
1	TARAXACUM CARNEOCOLORATUM	ASTERACEAE		AK
				CANADA (YUKON TERRITORY)
1	TAUSCHIA HOOVERI	APIACEAE		WA
2	TAUSCHIA HOWELLII	APIACEAE	TAUSCHIA, HOWELL'S	CA OR
1	TAUSCHIA STRICKLANDII	APIACEAE		WA
2	TAUSCHIA TENUISSIMA	APIACEAE		ID WA
1	TAXUS FLORIDANA	TAXACEAE	YEW, FLORIDA	FL
2	TECTARIA AMESIANA	POLYPODIACEAE		FL
				BAHAMAS
1	TEPHROSIA ANGUSTISSIMA	FABACEAE		FL
2	TEPHROSIA MOHRII	FABACEAE		AL FL GA
1	TERNSTROEMIA LUQUILLENSIS	THEACEAE	PALO COLORADO	PR
2	TERNSTROEMIA SUBSESSILIS	THEACEAE		PR
1	TETRACOCCUS DIOICUS	EUPHORBIACEAE		CA
2	TETRACOCCUS ILICIFOLIUS	EUPHORBIACEAE	TETRACOCCUS, HOLLY-LEAVED	CA
1*	TETRAMOLOPIUM ARBUSCULUM	ASTERACEAE		HI
1*	TETRAMOLOPIUM ARENARIUM	ASTERACEAE		HI
1*	TETRAMOLOPIUM CAPILLARE	ASTERACEAE		HI
1	TETRAMOLOPIUM CONSANGUINEUM	ASTERACEAE		HI
1*	TETRAMOLOPIUM CONYZOIDES	ASTERACEAE		HI
1	TETRAMOLOPIUM FILIFORME	ASTERACEAE		HI
1	TETRAMOLOPIUM HUMILE VAR. SUBLAEVE	ASTERACEAE		HI
1	TETRAMOLOPIUM LEPIDOTUM	ASTERACEAE		HI
1	TETRAMOLOPIUM POLYPHYLLUM	ASTERACEAE		HI
1	TETRAMOLOPIUM REMYI	ASTERACEAE		HI
1	TETRAMOLOPIUM ROCKII	ASTERACEAE		HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1*	TETRAMOLOPIUM TENERRIMUM	ASTERACEAE		HI
2	TETRAPLASANDRA BISATTENUATA	ARALIACEAE		HI
2	TETRAPLASANDRA HAWAIIENSIS VAR. HAWAIIENSIS	ARALIACEAE		HI
1	TETRAPLASANDRA HAWAIIENSIS VAR. MICROCARPA	ARALIACEAE	'OHE,	HI
2	TETRAPLASANDRA KAALAE VAR. MULTIPLEX	ARALIACEAE	'OHE,	HI
1	TETRAPLASANDRA KAVAIENSIS VAR. DIPYRENA	ARALIACEAE	'OHE 'OHE,	HI
1	TETRAPLASANDRA KAVAIENSIS VAR. GRANDIS	ARALIACEAE	'OHE 'OHE,	HI
1*	TETRAPLASANDRA KAVAIENSIS VAR. INTERCEDENS	ARALIACEAE	'OHE 'OHE,	HI
1	TETRAPLASANDRA KAVAIENSIS VAR. KOLOANA	ARALIACEAE		HI
1*	TETRAPLASANDRA KAVAIENSIS VAR. NAHIKUENSIS	ARALIACEAE		HI
1	TETRAPLASANDRA KAVAIENSIS VAR. OCCIDUA	ARALIACEAE		HI
1	TETRAPLASANDRA KOHALAE	ARALIACEAE		HI
1*	TETRAPLASANDRA LANAIENSIS	ARALIACEAE		HI
2	TETRAPLASANDRA LIHUENSIS VAR. GRACILIPES	ARALIACEAE		HI
1	TETRAPLASANDRA LYDGATEI	ARALIACEAE		HI
2	TETRAPLASANDRA MEIANDRA VAR. BISOBTUSA	ARALIACEAE		HI
1	TETRAPLASANDRA MEIANDRA VAR. BRYANII	ARALIACEAE		HI
1	TETRAPLASANDRA MEIANDRA VAR. DEGENERI	ARALIACEAE		HI
1	TETRAPLASANDRA MEIANDRA VAR. HILLEBRANDII	ARALIACEAE		HI
2	TETRAPLASANDRA MEIANDRA VAR. HILOENSIS	ARALIACEAE		HI
1*	TETRAPLASANDRA MEIANDRA VAR. LEPTOMERA	ARALIACEAE		HI
1	TETRAPLASANDRA MEIANDRA VAR. MAKALEHANA	ARALIACEAE		HI
2	TETRAPLASANDRA MEIANDRA VAR. RHYNCHOCARPOIDES	ARALIACEAE		HI
2	TETRAPLASANDRA MEIANDRA VAR. SIMULANS	ARALIACEAE		HI
1*	TETRAPLASANDRA MUNROI	ARALIACEAE		HI
1	TETRAPLASANDRA OAHUENSIS VAR. ERADIATA	ARALIACEAE		HI
2	TETRAPLASANDRA OAHUENSIS VAR. FAURIEI	ARALIACEAE		HI
2	TETRAPLASANDRA OAHUENSIS VAR. HAILIENSIS	ARALIACEAE		HI
2	TETRAPLASANDRA OAHUENSIS VAR. LONGIPES	ARALIACEAE		HI
2	TETRAPLASANDRA OAHUENSIS VAR. PSEUDORHACHIS	ARALIACEAE		HI
2	TETRAPLASANDRA PUPUKEENSIS VAR. NITIDA	ARALIACEAE		HI
1	TETRAPLASANDRA PUPUKEENSIS VAR. PUPUKEENSIS	ARALIACEAE		HI
2	TETRAPLASANDRA PUPUKEENSIS VAR. VENOSA	ARALIACEAE		HI
2	TETRAPLASANDRA TURBANS	ARALIACEAE		HI
2	TETRAPLASANDRA WAIALEALAE VAR. URCEOLATA	ARALIACEAE		HI
1	TETRAPLASANDRA WAIANENSIS	ARALIACEAE	TETRAPLASANDRA, WAIANAE	HI
2	TETRAPLASANDRA WAIMEAE VAR. ANGUSTIOR	ARALIACEAE		HI
1	THALICTRUM COOLEYI	RANUNCULACEAE	MEADOWRUE, COOLEY'S	FL NC
1	THALICTRUM TEXANUM	RANUNCULACEAE		TX
2	THELOCACTUS BICOLOR VAR. FLAVIDISPINUS	CACTACEAE		TX MEXICO
1	THELYPODIOPSIS ARGILLACEA	BRASSICACEAE	THELYPODY, CLAY	UT
2	THELYPODIUM BRACHYCARPUM	BRASSICACEAE	THELYPODY, SHORT-PODDED	CA OR
1	THELYPODIUM EUCOSMUM	BRASSICACEAE		OR
1	THELYPODIUM HOWELLII VAR. SPECTABILIS	BRASSICACEAE		OR
1	THELYPODIUM REPANDUM	BRASSICACEAE	THELYPODY, JAEGER'S (WAVY-LEAF)	ID
2	THELYPODIUM SAGITTATUM VAR. OVALIFOLIUM	BRASSICACEAE		NV UT
1	THELYPODIUM STENOPETALUM	BRASSICACEAE	THELYPODY, SLENDER-PETALED	CA
1	THELYPODIUM TENUE	BRASSICACEAE	THELYPODY,	TX
2	THELYPTERIS PILOSA VAR. ALABAMENSIS	POLYPODIACEAE		AL
1	THERMOPSIS MACROPHYLLA VAR. AGNINA	FABACEAE	FALSE LUPINE, SANTA BARBARA	CA
2	THERMOPSIS MACROPHYLLA VAR. SEMOTA	FABACEAE		CA
1*	THISMIA AMERICANA	BURMANNIACEAE		IL
1	THLASPI ARCTICUM	BRASSICACEAE		AK CANADA (BRITISH COLUMBIA, YUKON TERRITORY)
2	THLASPI MONTANUM VAR. CALIFORNICUM	BRASSICACEAE		CA

2	THLASPI MONTANUM VAR. SISKIYOUENSE	BRASSICACEAE		OR
1	THYSANOCARPUS CONCHULIFERUS	BRASSICACEAE	FRINGEPOD, ISLAND	CA
1	TILLANDSIA LINEATISPICA	BROMELIACEAE	PINON	PR VI
2	TITHONIA THURBERI	ASTERACEAE		AZ
	TITHYMALUS AUSTRINUS	*** SEE ***	EUPHORBIA AUSTRINA	
1	TORREYA TAXIFOLIA	TAXACEAE	TORREYA, FLORIDA	FL GA
2	TOWNSENDIA ALPIGENA VAR. MINIMA	ASTERACEAE		UT
1	TOWNSENDIA APRICA	ASTERACEAE	TOWNSENDIA, LAST CHANCE	UT
1	TOWNSENDIA JONESII VAR. TUMULOSA	ASTERACEAE		NV
	TOWNSENDIA MINIMA	*** SEE ***	TOWNSENDIA ALPIGENA VAR. MINIMA	
1	TOWNSENDIA SMITHII	ASTERACEAE	GROUND-DAISY, BLACK ROCK	AZ
2	TOWNSENDIA SP. /SP. NOV. INED.	ASTERACEAE	TOWNSENDIA (NYE CO., NEVADA)	NV
1	TRACYINA ROSTRATA	ASTERACEAE		CA
2	TRADESCANTIA EDWARDSIANA	COMMELINACEAE		TX
2	TRAGIA NIGRICANS	EUPHORBIACEAE		TX
1	TRAGIA SAXICOLA	EUPHORBIACEAE		FL
1	TREMATOLOBELIA WIMMERI	CAMPANULACEAE		HI
1	TRICHILIA TRIACANTHA	MELIACEAE	BARIACO	PR
1	TRICHOMANES DRAYTONIANUM	HYMENOPHYLLACEAE		HI
1	TRICHOSTEMA AUSTROMONTANUM SSP. COMPACTUM	LAMIACEAE	BLUECURLS, HIDDEN LAKE	CA
1	TRIFOLIUM AMOENUM	FABACEAE	CLOVER, SHOWY INDIAN	CA
2	TRIFOLIUM ANDERSONII SSP. BEATLEYAE	FABACEAE	CLOVER, FIVE-LEAF, BEATLEY'S	CA NV
1	TRIFOLIUM ANDERSONII VAR. FRISCANUM	FABACEAE		UT
2	TRIFOLIUM BOLANDERI	FABACEAE	CLOVER, BOLANDER	CA
2	TRIFOLIUM DEDECKERAE	FABACEAE	CLOVER, DEDECKER	CA
1	TRIFOLIUM LEMMONII	FABACEAE	CLOVER, LEMMON'S	CA NV
1	TRIFOLIUM OWYHEENSE	FABACEAE	CLOVER, OWYHEE	ID OR
1	TRIFOLIUM POLYODON	FABACEAE	CLOVER, PACIFIC GROVE	CA
1	TRIFOLIUM THOMPSONII	FABACEAE	CLOVER, THOMPSON	WA
1	TRIFOLIUM TRICHOCALYX	FABACEAE	CLOVER, MONTERREY	CA
2	TRIFOLIUM VIRGINICUM	FABACEAE		MD PA VA WV
2	TRILLIUM OVATUM SSP. OETTINGERI	LILIACEAE		CA
2	TRILLIUM PUSILLUM VAR. OZARKANUM	LILIACEAE	TRILLIUM, LEAST, OZARK	AR KY MO TN
1	TRILLIUM PUSILLUM VAR. PUSILLUM	LILIACEAE		AL KY MS NC SC TN
2	TRILLIUM TEXANUM	LILIACEAE		TX
2	TRIPHORA CRAIGHEADII	ORCHIDACEAE	NODDING-CAPS,	FL
2	TRIPHORA LATIFOLIA	ORCHIDACEAE	NODDING-CAPS,	FL
1	TRIPSACUM FLORIDANUM	POACEAE	GAMA GRASS,	FL
2*	TRISETUM ORTHOCHAETUM	POACEAE		MT
1	TRITELEIA CLEMENTINA	LILIACEAE		CA
1	TRITELEIOPSIS PALMERI	LILIACEAE		AZ
1	TROLLIUS LAXUS SSP. LAXUS	RANUNCULACEAE		CT NJ NY OH PA
1	TROPIDOCARPUM CAPPARIDEUM	BRASSICACEAE	TROPIDOCARPUM, CAPER-FRUITED	CA
1	TUMAMOCA MACDOUGALII	CUCURBITACEAE	GLOBE-BERRY, TUMAMOC	AZ MEXICO
1	URERA KAALAE	URTICACEAE	OPUHE	HI
2	URERA KONAENSIS	URTICACEAE		HI
	UROSTACHYS HALEAKALAE	*** SEE ***	LYCOPODIUM HALEAKALAE	
	UROSTACHYS NUTANS	*** SEE ***	LYCOPODIUM NUTANS	
1	URTICA CHAMAEDRYOIDES VAR. RUNYONII	URTICACEAE	ORTIGUILLA,	TX
1	VACCINIUM SEMPERVIRENS	ERICACEAE		SC
1	VALERIANA COLUMBIANA	VALERIANACEAE		WA CANADA (BRITISH COLUMBIA)
1	VALERIANA TEXANA	VALERIANACEAE		NM TX
2	VALERIANA ULIGINOSA	VALERIANACEAE		IN ME MI NY OH VT CANADA
2	VALERIANELLA TEXANA	VALERIANACEAE	CORNSALAD, EDWARDS' PLATEAU	TX

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	VAUQUELINIA PAUCIFLORA	ROSACEAE		AZ NM MEXICO
1	VERBENA CALIFORNICA	VERBENACEAE		CA
2	VERBENA MARITIMA	VERBENACEAE		FL
1	VERBENA TAMPENSIS	VERBENACEAE	VERVAIN,	FL
2	VERBESINA CHAPMANNII	ASTERACEAE	CROWNBEARD, CHAPMAN'S	FL
1	VERBESINA HETEROPHYLLA	ASTERACEAE		FL
2	VERNONIA BORINQUENSIS	ASTERACEAE		PR
1	VIBURNUM BRACTEATUM	CAPRIFOLIACEAE	ARROWWOOD	AL GA
1	VICIA OCALENSIS	FABACEAE	VETCH, OCALA	FL
1	VIGNA OWAHUENSIS	FABACEAE	VIGNA, OAHU	HI
1	VIGNA SANDWICENSIS	FABACEAE		HI
	VIGUIERA LUDENS	*** SEE ***	HELIANTHUS LUDENS	
2	VIGUIERA SOLICEPS	ASTERACEAE	SUNFLOWER, PARIA	UT
	VINCETOXICUM ALABAMENSE	*** SEE ***	MATELEA ALABAMENSIS	
1	VIOLA CHAMISSONIANA	VIOLACEAE	'OLOPU	HI
	VIOLA CHARLESTONENSIS	*** SEE ***	VIOLA PURPUREA VAR. CHARLESTONENSIS	
2	VIOLA FLETTII	VIOLACEAE	VIOLET, FLETT'S	WA
1	VIOLA HELENA	VIOLACEAE		HI
1	VIOLA KAUAIENSIS VAR. WAHIAWAENSIS	VIOLACEAE		HI
2	VIOLA LANCEOLATA SSP. OCCIDENTALIS	VIOLACEAE		CA OR
2	VIOLA NOVAE-ANGLIAE	VIOLACEAE	VIOLET, NEW ENGLAND	ME MI MN NY WI CANADA
1	VIOLA OAHUENSIS	VIOLACEAE		HI
2	VIOLA PURPUREA VAR. CHARLESTONENSIS	VIOLACEAE	VIOLET, LIMESTONE	NV UT
2	VIOLA ROBUSTA	VIOLACEAE		HI
2	WALDSTEINIA LOBATA	ROSACEAE		GA SC
2	WALTHERIA PYROLAEFOLIA	STERCULIACEAE		HI
1	WAREA AMPLEXIFOLIA	BRASSICACEAE		AL FL
1	WAREA CARTERI	BRASSICACEAE		FL
	WEDELIA CRISTATA	*** SEE ***	ALLIONIA CRISTATA	
2	WIKSTROEMIA BASICORDA	THYMELAEACEAE		HI
2	WIKSTROEMIA HANALEI	THYMELAEACEAE		HI
2	WIKSTROEMIA ISAE	THYMELAEACEAE		HI
1	WIKSTROEMIA LEPTANTHA	THYMELAEACEAE		HI
2	WIKSTROEMIA MONTICOLA VAR. OCCIDENTALIS	THYMELAEACEAE		HI
2	WIKSTROEMIA PERDITA	THYMELAEACEAE		HI
2	WIKSTROEMIA SKOTTSBERGIANA	THYMELAEACEAE		HI
1*	WIKSTROEMIA VILLOSA	THYMELAEACEAE		HI
1	WILKESIA HOBDYI	ASTERACEAE	ILIAU, DWARF	HI
2	WILLKOMMIA TEXANA	POACEAE		TX
2	WOODSIA OREGANA VAR. CATHCARTIANA	POLYPODIACEAE	WOODSIA, OREGON	MI MN NY WI CANADA
	WULFENIA BULLII	*** SEE ***	BESSEYA BULLII	
2	WYETHIA RETICULATA	ASTERACEAE	MULE-EARS, EL DORADO	CA
	XANTHOCEPHALUM CALIFORNICUM	*** SEE ***	GUTIERREZIA CALIFORNICA	
	XANTHOCEPHALUM SAROTHRAE VAR. POMARIENSE	*** SEE ***	GUTIERREZIA SAROTHRAE VAR. POMARIENSIS	
1	XYLORHIZA CONFERTIFOLIA	ASTERACEAE		UT
2	XYLORHIZA ORCUTTII	ASTERACEAE	ASTER, ORCUTT'S	CA MEXICO (BAJA CALIFORNIA)
2	XYLOSMA CRENATUM	FLACOURTIACEAE		HI
2	XYRIS DRUMMONDII	XYRIDACEAE		AL FL GA MS
2	XYRIS ISOETIFOLIA	XYRIDACEAE		FL
2	XYRIS LONGISEPALA	XYRIDACEAE	YELLOW-EYED-GRASS, KRAL'S	AL FL
2	XYRIS SCABRIFOLIA	XYRIDACEAE		AL FL GA MS
1	XYRIS TENNESSEENSIS	XYRIDACEAE		GA TN
2	ZANTHOXYLUM BLUETTIANUM	RUTACEAE	A'E (HEA'E)	HI

TABLE 3 (CONTINUED) TAXA CURRENTLY UNDER REVIEW

1	ZANTHOXYLUM DIPETALUM	RUTACEAE	KAWA'U	HI
2	ZANTHOXYLUM GLANDULOSUM	RUTACEAE		HI
1	ZANTHOXYLUM HAWAIIENSE	RUTACEAE		HI
2	ZANTHOXYLUM KAUAENSE VAR. KOHUANA	RUTACEAE		HI
2	ZANTHOXYLUM MAVIENSE	RUTACEAE		HI
1	ZANTHOXYLUM PARVUM	RUTACEAE	TICKLE-TONGUE, SHINNER'S	TX
1	ZANTHOXYLUM SEMIARTICULATUM	RUTACEAE	A'E (HEA'E)	HI
2	ZANTHOXYLUM SKOTTSBERGII	RUTACEAE	A'E (HEA'E)	HI
1	ZANTHOXYLUM THOMASIANUM	RUTACEAE	PRICKLY-ASH,	PR VI
2	ZIGADENUS VAGINATUS	LILIACEAE	DEATHCAMUS, SHEATHED	NV UT
1	ZIZIA LATIFOLIA	APIACEAE		FL

TABLE 4 TAXA NO LONGER UNDER REVIEW 64

	TAXON	FAMILY	COMMON NAME	HISTORIC DISTRIBUTION
3B	ABRONIA ORBICULATA	NYCTAGINACEAE		NV
3B	ABUTILON COMMUTATUM	MALVACEAE	TERCIOPELO	PR
3B	ACACIA EMORYANA	FABACEAE	ACACIA, EMORY	TX
3C	ACHYRANTHES SPLENDENS VAR. SPLENDENS	AMARANTHACEAE		HI
3C	AGASTACHE PARVIFOLIA	LAMIACEAE	AGASTACHE, SMALL-LEAVED	CA
3C	AGAVE MCKELVEYANA	LILIACEAE		AZ
3C	AGAVE UTAHENSIS VAR. KAIBABENSIS	LILIACEAE		AZ
3C	AGROSTIS HOWELLII	POACEAE		OR
3C	ALECTRYON MAHOE	SAPINDACEAE	MAHOE,	HI
3C	ALETES FILIFOLIUS	APIACEAE		NM TX
3C	ALLIUM MADIDUM	LILIACEAE		ID OR
3C	ALNUS MARITIMA	BETULACEAE	ALDER, SEASIDE	DE MD OK
3C	ALPHITONIA PONDEROSA	RHAMNACEAE	KAUILA	HI
3C	AMOREUXIA WRIGHTII	COCHLOSPERMACEAE		TX MEXICO
3B	AMORPHA BRACHYCARPA	FABACEAE		MO
3C	AMSONIA PALMERI	APOCYNAGEAE		AZ
3C	ANEMONE EDWARDSIANA VAR. EDWARDSIANA	RANUNCULACEAE		TX
3C	ANEMONE MINIMA	RANUNCULACEAE	ANEMONE,	VA WV
3C	ANGELICA CALLII	APIACEAE	ANGELICA, CALL'S	CA
3C	ANGELICA WHEELERI	APIACEAE		UT
3C	ANTENNARIA SUFFRUTESCENS	ASTERACEAE	EVERLASTING, EVERGREEN	CA OR
3B	ANTIDESMA CRENATUM	EUPHORBIACEAE		HI
3C	AQUILEGIA CHRYSANTHA VAR. RYDBERGII	RANUNCULACEAE	COLUMBINE,	AZ CO NM
3C	AQUILEGIA JONESII	RANUNCULACEAE	COLUMBINE, JONES'	MT WY CANADA (ALBERTA)
3C	AQUILEGIA LARAMIENSIS	RANUNCULACEAE	COLUMBINE, LARAMIE	WY
3C	ARABIS CRANDALLII	BRASSICACEAE		CO WY
3C	ARABIS DEMISSA VAR. LANGUIDA	BRASSICACEAE	ROCK CRESS, DAGGETT,	UT WY
3C	ARABIS DEMISSA VAR. RUSSEOLA	BRASSICACEAE	ROCK CRESS, DAGGETT,	CO UT WY
3C	ARABIS DISPAR	BRASSICACEAE		CA NV
3C	ARABIS GRACILIPES	BRASSICACEAE		AZ
3C	ARABIS OREGANA	BRASSICACEAE		CA OR
3C	ARABIS OXYLOBULA	BRASSICACEAE	ROCK CRESS,	CO
3C	ARABIS PARISHII	BRASSICACEAE	ROCK CRESS, PARISH'S	CA
3C	ARABIS PETIOLARIS	BRASSICACEAE		TX
3C	ARABIS SHOCKLEYI	BRASSICACEAE	ROCK CRESS, SHOCKLEY'S	CA NV UT
3C	ARCEUTHOBIUM APACHENSE	LORANTHACEAE		AZ
3B	ARCTOSTAPHYLOS GLANDULOSA SSP. CRASSIFOLIA	ERICACEAE	MANZANITA, EASTWOOD	CA
3B	ARCTOSTAPHYLOS INTRICATA VAR. OBLONGIFOLIA	ERICACEAE		CA OR
3C	ARCTOSTAPHYLOS NISSENANA	ERICACEAE		CA
3C	ARCTOSTAPHYLOS PECHOENSIS	ERICACEAE	MANZANITA, PECHO	CA
3C	ARENARIA HOWELLII	CARYOPHYLLACEAE	SANDWORT, HOWELL'S	CA OR
	ARENARIA UNIFLORA	*** SEE ***	MINUARTIA UNIFLORA	
3B	ARGYROXIPHIUM MACROCEPHALUM	ASTERACEAE	SILVERSWORD, 'AHINAHINA	HI
3C	ARNICA AMPLEXICAULIS VAR. PIPERI	ASTERACEAE		OR WA
3C	ARTEMISIA CANA SSP. BOLANDERI	ASTERACEAE		CA
3C	ARTEMISIA PAPPOSA	ASTERACEAE		ID NV OR
3C	ARTEMISIA PORTERI	ASTERACEAE	SAGEBRUSH, PORTER	WY
3B	ARTEMISIA SP.	ASTERACEAE	ARTEMISIA (KAIHOLENA GULCH, LANAI)	HI
3B	ASPLENIUM EBENOIDES	POLYPODIACEAE	SPLEENWORT, SCOTT'S	AL CT IL NJ OH PA TN VA WV
3B	ASPLENIUM KENTUCKIENSE	POLYPODIACEAE	SPLEENWORT,	AR IL IN KY OH VA
	ASPLENOSORUS EBENOIDES	*** SEE ***	ASPLENIUM EBENOIDES	
3C	ASTELIA VERATROIDES SSP. MACROSPERMA	LILIACEAE	PA 'INIU	HI
3C	ASTELIA VERATROIDES VAR. GRACILIS	LILIACEAE	PA 'INIU	HI
3C	ASTELIA VERATROIDES VAR. VERATROIDES	LILIACEAE	PA 'INIU	HI
3C	ASTER BRICKELLIOIDES	ASTERACEAE		CA OR

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3B	ASTER CHASEI	ASTERACEAE		IL
	ASTER CHILENSIS SSP. HALLII	*** SEE ***	ASTER HALLII	
3C	ASTER CHILENSIS VAR. LENTUS	ASTERACEAE	ASTER, SUISUN	CA
3C	ASTER GREATAI	ASTERACEAE		CA
3C	ASTER HALLII	ASTERACEAE		OR WA
3C	ASTER PEIRSONII	ASTERACEAE	ASTER, PEIRSON'S	CA
3B	ASTER PINIFOLIUS	ASTERACEAE	ASTER,	AL FL
3B	ASTER VERUTIFOLIUS	ASTERACEAE		MS
3C	ASTRAGALUS ALTUS	FABACEAE		NM
3C	ASTRAGALUS ALVORDENSIS	FABACEAE		NV OR
3C	ASTRAGALUS AMNIS-AMISSI	FABACEAE	MILK-VETCH,	ID
3C	ASTRAGALUS DETRITALIS	FABACEAE	MILK-VETCH, DEBRIS	CO UT
3C	ASTRAGALUS DRABELLIFORMIS	FABACEAE		WY
3C	ASTRAGALUS DUCHESNENSIS	FABACEAE	MILK-VETCH, DUCHESNE	CO UT
3C	ASTRAGALUS ENSIFORMIS	FABACEAE		AZ UT
3C	ASTRAGALUS LANCEARIUS	FABACEAE		AZ UT
3C	ASTRAGALUS LENTIFORMIS	FABACEAE		CA
3B	ASTRAGALUS LENTIGINOSUS VAR. CHARTACEUS	FABACEAE		CA CO ID OR UT WY
3C	ASTRAGALUS LENTIGINOSUS VAR. MARICOPAE	FABACEAE	LOCOWEED,	AZ
3C	ASTRAGALUS LOANUS	FABACEAE	MILK-VETCH,	UT
3B	ASTRAGALUS MINTHORNIAE VAR. GRACILIOR	FABACEAE		UT
3C	ASTRAGALUS NATURITENSIS	FABACEAE	MILK-VETCH, NATURITA	CO
3C	ASTRAGALUS NIDULARIUS	FABACEAE		UT
3C	ASTRAGALUS NYENSIS	FABACEAE	MILK-VETCH,	NV
3C	ASTRAGALUS OOCALYCIS	FABACEAE		CO NM
3C	ASTRAGALUS PANAMINTENSIS	FABACEAE		CA
3C	ASTRAGALUS PARDALINUS	FABACEAE		UT
3C	ASTRAGALUS PAUPERCULUS	FABACEAE	LOCOWEED, MEAGER	CA
3C	ASTRAGALUS PAYSONII	FABACEAE		ID WY
3A	ASTRAGALUS ROBBINSII VAR. ROBBINSII	FABACEAE	MILK-VETCH, ROBBINS,	VT
3C	ASTRAGALUS SERPENS	FABACEAE	MILK-VETCH,	UT
3C	ASTRAGALUS WOODRUFFII	FABACEAE		UT
3C	ATRIPLEX GRIFFITHSII	CHENOPODIACEAE	SALTBUSH, GRIFFITH'S	AZ NM
	AZALEA AUSTRINUM	*** SEE ***	RHODODENDRON AUSTRINUM	
3B	BACOPA STRAGULA	SCROPHULARIACEAE	WATER-HYSSOP, MAT FORMING	MD VA
3C	BALDUINA ATROPUPUREA	ASTERACEAE		FL GA MS SC
3C	BERBERIS HARRISONIANA	BERBERIDACEAE	BARBERRY,	AZ
3C	BERBERIS HIGGINSIAE	BERBERIDACEAE	BARBERRY, HIGGIN'S	CA
3C	BERBERIS SWASEYI	BERBERIDACEAE		TX
3C	BIDENS FORBESII	ASTERACEAE	BIDENS, FORBES	HI
3B	BIDENS MAGNIDISCA	ASTERACEAE	KO'OKO'OLAU	HI
3C	BIDENS NAPALIENSIS	ASTERACEAE	KO'OKO'OLAU	HI
3C	BIDENS POPULIFOLIA	ASTERACEAE	BIDENS, POPLAR-LEAVED	HI
3C	BIDENS WAIMEANA	ASTERACEAE	KO'OKO'OLAU	HI
3C	BOBEA SANDWICENSIS	RUBIACEAE	'AHAKEA	HI
	BOLOPHYTA ALPINA	*** SEE ***	PARTHENIUM ALPINUM	
	BOLOPHYTA LIGULATA	*** SEE ***	PARTHENIUM LIGULATUM	
3C	BRAZORIA PULCHERRIMA	LAMIACEAE	BROZOS-MINT, CENTERVILLE	TX
3B	CAESALPINIA CULEBRAE	FABACEAE	MATO AMARILLO (SMOOTH YELLOW NICKER)	PR
3B	CAESALPINIA MONENSIS	FABACEAE	MATO NEGRO (BLACK NICKER)	PR
3B	CALAMAGROSTIS INEXPANSA VAR. NOVAE-ANGLIAE	POACEAE	REED GRASS, NORTHERN, NEW ENGLAND	ME NH VT
3B	CALAMAGROSTIS NUBILA	POACEAE	REED GRASS,	NH
3C	CALAMAGROSTIS PORTERI	POACEAE	REED GRASS,	KY NY NC PA VA WV
3B	CALAMOVILFA BREVIPILIS VAR. CALVIPES	POACEAE	SAND GRASS,	VA
3C	CALLIANDRA BIFLORA	FABACEAE	STICK-PEA, TWO-FLOWERED	TX MEXICO
3C	CALOCHORTUS SIMULANS	LILIACEAE		CA

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	CAMISSONIA GOULDII	ONAGRACEAE		AZ UT
3C	CAMISSONIA PARRYI	ONAGRACEAE		AZ UT
3B	CAMPANULA ROTUNDIFOLIA VAR. SACAJAWEANA	CAMPANULACEAE		OR
3C	CANAVALIA IAOENSIS	FABACEAE	JACK-BEAN,	HI
3C	CANAVALIA NAPALIENSIS	FABACEAE	JACK-BEAN,	HI
3C	CANAVALIA SANGUINEA	FABACEAE	JACK-BEAN,	HI
3C	CARDAMINE CONSTANCEI	BRASSICACEAE	BITTER CRESS, CONSTANCE'S	ID
3C	CARDAMINE KONAENSIS	BRASSICACEAE	BITTER CRESS, KONA	HI
3C	CARDAMINE PENDULIFLORA	BRASSICACEAE		OR
3C	CARDAMINE RUPICOLA	BRASSICACEAE	BITTER CRESS,	MT
3C	CAREX ARAPAHOENSIS	CYPERACEAE		CO MT UT WY
3C	CAREX AUSTROCAROLINIANA	CYPERACEAE		GA NC SC TN
3B	CAREX ELACHYCARPA	CYPERACEAE	SEDGE, AROOSTOOK	ME
3C	CAREX INTERRUPTA	CYPERACEAE		OR WA
3B	CAREX JOSSELYNII	CYPERACEAE	SEDGE, JOSSELYN'S	ME
3C	CAREX MICROPTERA VAR. CRASSINERVIA	CYPERACEAE	SEDGE, SMALL-LIVING, THICK-NERVED	CO MT NV WY
3C	CAREX MISERA	CYPERACEAE		GA NC TN
3C	CAREX PARRYANA SSP. IDAHOA	CYPERACEAE		ID MT
3C	CAREX PURPURIFERA	CYPERACEAE		AL GA KY NC TN
3C	CAREX WHITNEYI	CYPERACEAE	SEDGE, WHITNEY	CA
3C	CASTILLEJA BREVILOBATA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, SHORT-LOBED RED	CA OR
3C	CASTILLEJA CHRYSANTHA	SCROPHULARIACEAE		OR
3A	CASTILLEJA CRUENTA	SCROPHULARIACEAE	INDIAN PAINTBRUSH,	AZ
3C	CASTILLEJA CULBERTSONII	SCROPHULARIACEAE	INDIAN PAINTBRUSH, CULBERTSON	CA
3C	CASTILLEJA ELATA	SCROPHULARIACEAE		CA OR
	CASTILLEJA EWANII	*** SEE ***	CASTILLEJA MARTINII VAR. EWANII	
3C	CASTILLEJA LASSENENSIS	SCROPHULARIACEAE	INDIAN PAINTBRUSH, LEMMON'S	CA
3B	CASTILLEJA LINOIDES	SCROPHULARIACEAE		NV
3C	CASTILLEJA MARTINII VAR. EWANII	SCROPHULARIACEAE	INDIAN PAINTBRUSH, EWAN'S	CA
	CASTILLEJA MINIATA SSP. ELATA	*** SEE ***	CASTILLEJA ELATA	
3C	CASTILLEJA ORESBIA	SCROPHULARIACEAE		ID OR
3B	CASTILLEJA OWNBEYANA	SCROPHULARIACEAE	INDIAN PAINTBRUSH, COMMON WALLOWA	OR
3C	CASTILLEJA PARVIFLORA VAR. OLYMPICA	SCROPHULARIACEAE		WA
3C	CASTILLEJA SCABRIDA	SCROPHULARIACEAE	INDIAN PAINTBRUSH,	UT
3C	CEANOTHUS ARBOREUS	RHAMNACEAE		CA
3C	CEANOTHUS PROSTRATUS VAR. LAXUS	RHAMNACEAE	SQUAW CARPET	CA
3C	CENCHRUS AGRIMONIOIDES VAR. AGRIMONIOIDES	POACEAE	SANDBUR, AGRIMONY,	HI
3B	CENCHRUS PENDUNCULATUS	POACEAE	SANDBUR, WOOLY WAIANAE	HI
3C	CERASTIUM ALEUTICUM	CARYOPHYLLACEAE	CHICKWEED, ALEUTIAN	AK
	CERASTIUM BEERINGIANUM VAR. ALEUTICUM	*** SEE ***	CERASTIUM ALEUTICUM	
3B	CERASTIUM CLAWSONII	CARYOPHYLLACEAE	CHICKWEED, MOUSE-EAR	TX
3B	CERATOPHYLLUM FLORIDANUM	CERATOPHYLLACEAE	HORNWORT, FLORIDA	FL
3C	CHAENACTIS EVERMANNII	ASTERACEAE		ID
3C	CHAMAECHAENACTIS SCAPOSA	ASTERACEAE		CO ID UT
3C	CHARPENTIERA DENSIFLORA	AMARANTHACEAE		HI
	CHEIROGLOSSA PALMATA	*** SEE ***	OPHIOGLOSSUM PALMATUM	
3C	CHORIZANTHE BLAKLEYI	POLYGONACEAE		CA
3C	CHORIZANTHE INSIGNIS	POLYGONACEAE	CHORIZANTHE, INDIAN VALLEY	CA
3C	CHRYSOTHAMNUS NAUSEOSUS SSP. NANUS	ASTERACEAE		ID OR WA
3C	CICUTA BOLANDERI	APIACEAE	WATER-HEMLOCK, BOLANDER	CA
3C	CIMICIFUGA LACINIATA	RANUNCULACEAE		OR WA
3C	CIRSIUM BREVIFOLIUM	ASTERACEAE		ID OR WA
3C	CIRSIUM CLOKEYI	ASTERACEAE	THISTLE, CLOKEY'S	NV
3C	CIRSIUM DAVISII	ASTERACEAE		ID
3C	CIRSIUM HALLII	ASTERACEAE		CA NV OR UT
3C	CIRSIUM RYDBERGII	ASTERACEAE		AZ UT
3C	CLADRASTIS KENTUKEA	FABACEAE		AL AR GA IL IN KY MS MO NC OK SC TN

	CLADRASTIS LUTEA	*** SEE ***	CLADRASTIS KENTUKEA	
3B	CLARKIA AMOENA VAR. PACIFICA	ONAGRACEAE		OR WA
3C	CLARKIA AUSTRALIS	ONAGRACEAE		CA
3C	CLAYTONIA BELLIDIFOLIA	PORTULACACEAE		CA OR
3B	CLAYTONIA LANCEOLATA VAR. CHRYSANTHA	PORTULACACEAE		WA
3C	CLEMATIS ADDISONII	RANUNCULACEAE	VIRGIN'S BOWER, ADDISON'S	VA
3B	CLEMATIS GATTINGERI	RANUNCULACEAE	VIRGIN'S BOWER,	AL TN
3B	CLEOMELLA MONTROSAE	CAPPARACEAE		CO
3A	CLERMONTIA HALEAKALENSIS	CAMPANULACEAE		HI
3C	CLERMONTIA HAWAIIENSIS VAR. HAWAIIENSIS	CAMPANULACEAE		HI
3A	CLERMONTIA KONAENSIS	CAMPANULACEAE		HI
3C	CLERMONTIA PELEANA	CAMPANULACEAE		HI
3C	COPROSMA PUBENS VAR. SESSILIFLORA	RUBIACEAE		HI
3B	COREOPSIS HETEROLEPIS	ASTERACEAE		AR
3B	COREOPSIS TRIPTERIS VAR. SUBRHOMBOIDEA	ASTERACEAE		TX
3C	CORYDALIS CASEANA SSP. BRACHYCARPA	FUMARIACEAE		UT
3C	CORYDALIS CASEANA SSP. CASEANA	FUMARIACEAE		CA
3C	CORYDALIS CASEANA SSP. HASTATA	FUMARIACEAE		ID
3C	CROSSOSOMA CALIFORNICUM	CROSSOSOMATACEAE		CA MEXICO (BAJA CALIFORNIA)
3B	CROTON GLANDULOSUS VAR. SIMPSONII	EUPHORBIACEAE		FL
3C	CROTON WIGGINSII	EUPHORBIACEAE		AZ CA MEXICO (BAJA CALIFORNIA, SONORA)
3C	CRYPTANTHA BREVIFLORA	BORAGINACEAE	CATSEYE,	ID UT
3C	CRYPTANTHA CRYMOPHILA	BORAGINACEAE		CA
3C	CRYPTANTHA GRAHAMII	BORAGINACEAE	CATSEYE, GRAHAM	UT
3C	CRYPTANTHA HYPSOPHILA	BORAGINACEAE		CA ID OR
3C	CRYPTANTHA INTERRUPTA	BORAGINACEAE		ID MT NV OR CANADA (BRITISH COLUMBIA)
	CRYPTANTHA NUBIGENA	*** SEE ***	CRYPTANTHA HYPSOPHILA	
3C	CRYPTANTHA PARADOXA	BORAGINACEAE		CO NM UT
3C	CRYPTANTHA SOBOLIFERA	BORAGINACEAE	CATSEYE,	MT
3C	CRYPTANTHA STRICTA	BORAGINACEAE	CATSEYE,	CO UT WY
3C	CRYPTANTHA WEBERI	BORAGINACEAE	CATSEYE, WEBER'S	CO
3C	CUCURBITA TEXANA	CUCURBITACEAE		TX
3C	CUSCUTA HOWELLIANA	CUSCUTACEAE	DODDER, BOGG'S LAKE	CA
3C	CYANEA ANGUSTIFOLIA VAR. RACEMOSA	CAMPANULACEAE		HI
3A	CYANEA COMATA	CAMPANULACEAE		HI
3C	CYANEA GRIMESIANA VAR. GRIMESIANA	CAMPANULACEAE		HI
3C	CYMOPHYLLUS FRASERI	CYPERACEAE		KY NC PA SC TN VA WV
3C	CYMOPTERUS CORRUGATUS	APIACEAE		ID NV OR
3C	CYMOPTERUS DUCHESNENSIS	APIACEAE	BISCUITROOT, DUCHESNE	CO UT
3C	CYMOPTERUS NEWBERRYI	APIACEAE		AZ UT
3C	CYMOPTERUS ROSEI	APIACEAE		UT
3C	CYPERUS GRANITOPHILUS	CYPERACEAE		AL GA NC SC
3C	CYPRIPEDIUM ARIETINUM	ORCHIDACEAE	LADY'S-SLIPPER, RAM'S-HEAD	CT ME MA MI MN NH NY VT WI
3C	CYPRIPEDIUM CANDIDUM	ORCHIDACEAE	LADY'S-SLIPPER, SMALL WHITE	IL IN IA KY MI MN MO NE NJ NY ND OH PA SD WI
3C	CYPRIPEDIUM FASCICULATUM	ORCHIDACEAE		CA CO ID MT OR UT WA WY CANADA
3A	CYRTANDRA BEGONIIFOLIA	GESNERIACEAE	'ILIHIA	HI
3A	CYRTANDRA GRACILIS	GESNERIACEAE		HI
3A	CYRTANDRA GROSSECRENATA	GESNERIACEAE		HI
3A	CYRTANDRA HONOLULENSIS	GESNERIACEAE		HI
3A	CYRTANDRA LAXIFLORA	GESNERIACEAE		HI
3A	CYRTANDRA LESSONIANA VAR. ANGUSTIFOLIA	GESNERIACEAE		HI

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3A	CYRTANDRA LINEARIS	GESNERIACEAE		HI
3A	CYRTANDRA LONGIFOLIA VAR. PARALLELA	GESNERIACEAE		HI
3A	CYRTANDRA SCABRELLA	GESNERIACEAE		HI
3A	CYRTANDRA SUBINTEGRA	GESNERIACEAE		HI
3A	CYRTANDRA TRIFLORA	GESNERIACEAE		HI
	DALEA ARBORESCENS	*** SEE ***	PSOROTHAMNUS ARBORESCENS	
3C	DALEA GATTINGERI	FABACEAE		AL GA TN
	DALEA KINGII	*** SEE ***	PSOROTHAMNUS KINGII	
3C	DALEA SCARIOSA	FABACEAE	PRAIRIE-CLOVER,	NM
	DALEA THOMPSONAE	*** SEE ***	PSOROTHAMNUS THOMPSONAE	
3C	DASYNOTUS DAUBENMIREI	BORAGINACEAE		ID
3C	DELISSEA SUBCORDATA VAR. OBTUSIFOLIA	CAMPANULACEAE		HI
3C	DELISSEA SUBCORDATA VAR. SUBCORDATA	CAMPANULACEAE		HI
3C	DELPHINIUM NUTTALLIANUM VAR. LINEAPETALUM	RANUNCULACEAE	LARKSPUR,	WA
3B	DENTARIA INCISA	BRASSICACEAE		TN
	DICENTRA FORMOSA SSP. NEVADENSIS	*** SEE ***	DICENTRA NEVADENSIS	
3C	DICENTRA NEVADENSIS	FUMARIACEAE	BLEEDINGHEART, NEVADA	CA
3C	DICENTRA OCHROLEUCA	FUMARIACEAE	BLEEDINGHEART, YELLOW	CA
3C	DICERANDRA ODORATISSIMA	LAMIACEAE		FL GA SC
3C	DICHONDRA DONNELLIANA	CONVOLVULACEAE	DICHONDRA, CALIFORNIA	CA
3C	DICHONDRA OCCIDENTALIS	CONVOLVULACEAE		CA
	DIPLACUS ARIDUS	*** SEE ***	MIMULUS ARIDUS	
3C	DISSOCHONDRUS BIFLORUS	POACEAE		HI
3B	DITAXIS DIVERSIFLORA	EUPHORBIACEAE		NV
3C	DODECATHEON POETICUM	PRIMULACEAE		OR WA
3C	DOUGLASIA LAEVIGATA VAR. LAEVIGATA	PRIMULACEAE		OR WA
3C	DOUGLASIA NIVALIS VAR. NIVALIS	PRIMULACEAE		WA
3C	DRABA APICULATA VAR. DAVIESIAE	BRASSICACEAE		MT
3C	DRABA ARGYRAEA	BRASSICACEAE		ID
3C	DRABA DOUGLASII VAR. DOUGLASII	BRASSICACEAE		CA ID NV OR WA
3C	DRABA EXUNGUICULATA	BRASSICACEAE	WHITLOW-WORT,	CO
3C	DRABA LEMMONII VAR. INCRASSATA	BRASSICACEAE		CA
3C	DRABA MOGOLLONICA	BRASSICACEAE		NM
3C	DRABA NIVALIS VAR. BREVICULA	BRASSICACEAE	DRABA, SNOW, LITTLE	WY
	DRABA OLIGOSPERMA VAR. PECTINIPILA	*** SEE ***	DRABA PECTINIPILA	
3C	DRABA PECTINIPILA	BRASSICACEAE		CO WY
3C	DRABA RUAXES	BRASSICACEAE		AK WA CANADA (BRITISH COLUMBIA)
3C	DRABA SPHAEROCARPA	BRASSICACEAE		ID
3C	DRABA SPHAEROIDES VAR. CUSICKII	BRASSICACEAE		NV OR UT
3C	DRABA SUBALPINA	BRASSICACEAE	WHITLOW-GRASS,	UT
	DRABA VENTOSA VAR. RUAXES	*** SEE ***	DRABA RUAXES	
3C	DRACAENA AUREA	LILIACEAE	HALAPEPE,	HI
3C	DUBAUTIA ARBOREA	ASTERACEAE		HI
3B	DUBAUTIA HILLEBRANDII	ASTERACEAE		HI
3C	DUBAUTIA KNUDSENII	ASTERACEAE	DUBAUTIA, KNUDSEN	HI
3B	DUBAUTIA KNUDSENII VAR. DEGENERI	ASTERACEAE		HI
3B	DUBAUTIA LONCHOPHYLLA	ASTERACEAE		HI
3B	DUBAUTIA MOLOKAIENSIS	ASTERACEAE		HI
3B	DUBAUTIA MONTANA VAR. LONGIFOLIA	ASTERACEAE		HI
3B	DUBAUTIA MONTANA VAR. ROBUSTIOR	ASTERACEAE		HI
3C	DUBAUTIA PLANTAGINEA VAR. PLANTAGINEA	ASTERACEAE		HI
3B	DUBAUTIA ROCKII	ASTERACEAE		HI
3C	DUBAUTIA SHERFFIANA	ASTERACEAE	RAILLIARDIA, SHERFF	HI
3B	DUBAUTIA STRUTHIOLOIDES	ASTERACEAE	NA'ENA'E	HI
3B	DUBAUTIA TERNIFOLIA	ASTERACEAE		HI
3B	DUBAUTIA THYRSIFLORA VAR. CERNUA	ASTERACEAE		HI

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3B	DUBAUTIA THYRSIFLORA VAR. THYRSIFLORA	ASTERACEAE		HI
	DUDLEYA COLLOMIAE	*** SEE ***	DUDLEYA SAXOSA VAR. COLLOMIAE	
3C	DUDLEYA SAXOSA VAR. COLLOMIAE	CRASSULACEAE		AZ
3C	DYSCHORISTE CRENULATA	ACANTHACEAE		TX MEXICO
	ECHEVERIA COLLOMIAE	*** SEE ***	DUDLEYA SAXOSA VAR. COLLOMIAE	
3C	ELYTRARIA CAROLINIENSIS VAR. CAROLINIENSIS	ACANTHACEAE		FL GA SC
3C	ENCYCLIA KRUGII	ORCHIDACEAE		PR
3C	EPHEDRA FUNEREA	EPHEDRACEAE		CA NV
	EPIDENDRUM KRUGII	*** SEE ***	ENCYCLIA KRUGII	
3C	ERIGERON ABAJOENSIS	ASTERACEAE	DAISY, ABAJO	UT
3C	ERIGERON ALLOCOTUS	ASTERACEAE	FLEABANE, BRANCHED	MT WY
3C	ERIGERON ARENARIOIDES	ASTERACEAE		UT
3C	ERIGERON BLOOMERI VAR. NUDATUS	ASTERACEAE		CA OR
3C	ERIGERON CALVUS	ASTERACEAE	FLEABANE,	CA
3C	ERIGERON GARRETTII	ASTERACEAE		UT
3C	ERIGERON LOBATUS	ASTERACEAE		AZ
3C	ERIGERON OREGANUS	ASTERACEAE	FLEABANE, OREGON	OR WA
3C	ERIGERON RELIGIOSUS	ASTERACEAE	FLEABANE, CLEAR CREEK	UT
3C	ERIOGONUM AMPULLACEUM	POLYGONACEAE		CA
3C	ERIOGONUM ANEMOPHILUM	POLYGONACEAE	WILD BUCKWHEAT,	NV
3C	ERIOGONUM BEATLEYAE	POLYGONACEAE	WILD BUCKWHEAT, BEATLEY	CA NV
3C	ERIOGONUM CANINUM	POLYGONACEAE	WILD BUCKWHEAT, TIBURON	CA
3C	ERIOGONUM CONCINNUM	POLYGONACEAE		NV
3C	ERIOGONUM CONGDONII	POLYGONACEAE	ERIOGONUM, CONGDON	CA
3C	ERIOGONUM CONTIGUUM	POLYGONACEAE		CA NV
3C	ERIOGONUM CORYMBOSUM VAR. REVEALIANUM	POLYGONACEAE	WILD BUCKWHEAT, CORYMBED, REVEAL	UT
3C	ERIOGONUM DARROVII	POLYGONACEAE	WILD BUCKWHEAT,	AZ NV
3C	ERIOGONUM DESERTICOLA	POLYGONACEAE	ERIOGONUM, DESERT	AZ CA
3C	ERIOGONUM DICLINUM	POLYGONACEAE	ERIOGONUM, JAMES CANYON	CA OR
3C	ERIOGONUM EASTWOODIANUM	POLYGONACEAE		CA
3C	ERIOGONUM EPHEDROIDES	POLYGONACEAE	WILD BUCKWHEAT, EPHEDRA	CO UT
3C	ERIOGONUM GOSSYPINUM	POLYGONACEAE	ERIOGONUM, COTTON	CA
3C	ERIOGONUM GRANDE VAR. TIMORUM	POLYGONACEAE	WILD BUCKWHEAT, SAN NICOLAS ISLAND	CA
3B	ERIOGONUM GRAYI	POLYGONACEAE		UT
3C	ERIOGONUM HEERMANNII VAR. FLOCCOSUM	POLYGONACEAE	ERIOGONUM, CLARK MOUNTAIN	CA NV
3C	ERIOGONUM HIRTELLUM	POLYGONACEAE	WILD BUCKWHEAT, KLAMATH MOUNTAIN	CA
3C	ERIOGONUM HOFFMANNII VAR. HOFFMANNII	POLYGONACEAE	ERIOGONUM, HOFFMAN,	CA
3C	ERIOGONUM HOFFMANNII VAR. ROBUSTIUS	POLYGONACEAE	ERIOGONUM, HOFFMAN, ROBUST	CA
3C	ERIOGONUM HYLOPHILUM	POLYGONACEAE	WILD BUCKWHEAT, BADLANDS	UT
3C	ERIOGONUM INTERMONTANUM	POLYGONACEAE	WILD BUCKWHEAT, DIVIDE	UT
3C	ERIOGONUM INTRAFRACTUM	POLYGONACEAE	WILD BUCKWHEAT, JOINTED	CA
3C	ERIOGONUM LATENS	POLYGONACEAE		CA
3B	ERIOGONUM NANUM	POLYGONACEAE	WILD BUCKWHEAT, DWARF	UT
3C	ERIOGONUM NOVONUDUM	POLYGONACEAE		OR
3C	ERIOGONUM OVALIFOLIUM VAR. CAELESTINUM	POLYGONACEAE		NV
3B	ERIOGONUM PARVIFOLIUM VAR. LUCIDUM	POLYGONACEAE	WILD BUCKWHEAT, POINT LOBOS	CA
3B	ERIOGONUM PARVIFOLIUM VAR. PAYNEI	POLYGONACEAE	ERIOGONUM, SANTA PAULA	CA
3C	ERIOGONUM RUBRICAULE	POLYGONACEAE		NV
3C	ERIOGONUM SAURINUM	POLYGONACEAE	WILD BUCKWHEAT, DINOSAUR	CO UT
3C	ERIOGONUM SISKIYOUENSE	POLYGONACEAE	ERIOGONUM, SISKIYOU	CA
3C	ERIOGONUM TEMBLORENSE	POLYGONACEAE	WILD BUCKWHEAT, TEMBLOR	CA
3C	ERIOGONUM THOMPSONAE VAR. ALBIFLORUM	POLYGONACEAE	WILD BUCKWHEAT, THOMPSON, WHITE-FLOW	AZ UT
3C	ERIOGONUM THOMPSONAE VAR. THOMPSONAE	POLYGONACEAE	WILD BUCKWHEAT, THOMPSON, THOMPSON'S	AZ UT
3C	ERIOGONUM THYMOIDES	POLYGONACEAE		ID OR WA
3C	ERIOGONUM UMBELLATUM VAR. HYPOLEIUM	POLYGONACEAE		WA
3C	ERIOGONUM VIRIDULUM	POLYGONACEAE		CO UT

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	ERIOGONUM ZIONIS VAR. ZIONIS	POLYGONACEAE	WILD BUCKWHEAT, ZION,	AZ UT
3C	ERYNGIUM PETIOLATUM	APIACEAE		OR WA
3C	ERYTHRONIUM HELENAE	LILIACEAE		CA
3C	ERYTHRONIUM HOWELLII	LILIACEAE		CA OR
3C	ERYTHRONIUM OREGONUM	LILIACEAE		OR WA
3C	ESCHSCHOLZIA RAMOSA	PAPAVERACEAE	POPPY, ISLAND	CA
3B	EUPATORIUM SALTUENSE	ASTERACEAE		NC VA
3C	EUPHORBIA ARNOTTIANA VAR. ARNOTTIANA	EUPHORBIACEAE		HI
3C	EUPHORBIA CELASTROIDES VAR. HALAWANA	EUPHORBIACEAE		HI
3C	EUPHORBIA CELASTROIDES VAR. HAUPUANA	EUPHORBIACEAE		HI
3C	EUPHORBIA CELASTROIDES VAR. HUMBERTII	EUPHORBIACEAE		HI
3C	EUPHORBIA CELASTROIDES VAR. MOOMOMIANA	EUPHORBIACEAE		HI
3C	EUPHORBIA CELASTROIDES VAR. NIUENSIS	EUPHORBIACEAE		HI
3C	EUPHORBIA CELASTROIDES VAR. WAIKOLUENSIS	EUPHORBIACEAE		HI
3A	EUPHORBIA DEPPEANA	EUPHORBIACEAE		HI
3C	EUPHORBIA MULTIFORMIS VAR. HALEAKALANA	EUPHORBIACEAE		HI
3C	EUPHORBIA MULTIFORMIS VAR. MULTIFORMIS	EUPHORBIACEAE		HI
3A	EUPHORBIA MULTIFORMIS VAR. TOMENTELLA	EUPHORBIACEAE		HI
3C	EUPHORBIA NEPHRADENIA	EUPHORBIACEAE	SPURGE, PARIA	UT
3C	EUPHORBIA OCELLATA VAR. RATTANII	EUPHORBIACEAE		CA
3C	EUPHORBIA OLOWALUANA VAR. OLOWALUANA	EUPHORBIACEAE		HI
3C	EXOCARPUS GAUDICHAUDII	SANTALACEAE		HI
3C	FIMBRISTYLIS SPADICEA	CYPERACEAE		CA NV TROPICAL AMERICA
3C	FOTHERGILLA GARDENII	HAMAMELIDACEAE	WITCH-ALDER, DWARF	AL FL GA MS NC SC
	FRASERA ALBICAULIS VAR. IDAHOENSIS	*** SEE ***	FRASERA IDAHOENSIS	
3C	FRASERA IDAHOENSIS	GENTIANACEAE		ID OR
3C	FRASERA PUBERULENTA	GENTIANACEAE		CA
3C	FRASERA TUBULOSA	GENTIANACEAE		CA
3C	FRAXINUS ANOMALA VAR. LOWELLII	OLEACEAE	ASH,	AZ
3B	FRITILLARIA ADAMANTINA	LILIACEAE	MISSION-BELLS, DIAMOND LAKE	OR
3B	GALINSOGA SEMICALVA VAR. PERCALVA	ASTERACEAE		AZ
3C	GALIUM ANDREWSII VAR. GATENSE	RUBIACEAE		CA
3C	GALIUM CALIFORNICUM VAR. MIGUELENSE	RUBIACEAE		CA
3C	GALIUM CLEMENTIS	RUBIACEAE	BEDSTRAW, SANTA LUCIA	CA
3C	GALIUM COLLOMAE	RUBIACEAE	BEDSTRAW,	AZ
	GENTIANA ALEUTICA	*** SEE ***	GENTIANELLA PROPINQUA SSP. ALEUTICA	
3B	GENTIANA DELOACHII	GENTIANACEAE	GENTIAN,	GA
3C	GENTIANA FREMONTII	GENTIANACEAE	GENTIAN, MOSS	CA
3C	GENTIANELLA PROPINQUA SSP. ALEUTICA	GENTIANACEAE		AK
3C	GERANIUM MARGINALE	GERANIACEAE		UT
3C	GERANIUM TOQUIMENSE	GERANIACEAE	GERANIUM,	NV
3C	GEUM PECKII	ROSACEAE	AVENS, MOUNTAIN	NH CANADA
3C	GILIA MCVICKERAE	POLEMONIACEAE		UT
3C	GILIA RIPLEYI	POLEMONIACEAE		CA NV
3B	GITHOPSIS LATIFOLIA	CAMPANULACEAE	BLUECUP, LAKE ALAMANOR	CA
3C	GNAPHALIUM SANDWICENSE VAR. MOLOKAIENSE	ASTERACEAE		HI
	GOSSYPIUM SANDVICENSE	*** SEE ***	GOSSYPIUM TOMENTOSUM	
3C	GOSSYPIUM TOMENTOSUM	MALVACEAE	COTTON, HAWAIIAN	HI
3A	GOUANIA BISHOPII	RHAMNACEAE		HI
3A	GOUANIA CUCULLATA	RHAMNACEAE		HI
3A	GOUANIA HAWAIIENSIS	RHAMNACEAE		HI
3A	GOUANIA LYDGATEI	RHAMNACEAE		HI
3A	GOUANIA MANNII	RHAMNACEAE		HI
3A	GOUANIA MEYENII	RHAMNACEAE		HI
3A	GOUANIA PILATA	RHAMNACEAE		HI

3A	GOUANIA REMYI	RHAMNACEAE		HI
3A	GOUANIA SANDWICHIANA	RHAMNACEAE		HI
3A	GOUANIA THINOPHILA	RHAMNACEAE		HI
3B	GOULDIA SP. /SP. NOV. INED.	RUBIACEAE	(MT. KAHILI, KAUAI CO.)	HI
3C	GRINDELIA OOLEPIS	ASTERACEAE	GUMWEED, PLAINS	TX
3C	GUNNERA KAALENSIS	HALORAGACEAE		HI
3C	GUNNERA MAKAHAENSIS	HALORAGACEAE		HI
3B	GUTIERREZIA LINOIDES	ASTERACEAE		AZ
3B	GYMNOCARPIUM HETEROSPORUM	POLYPODIACEAE		AK MI MN WI
	HABENARIA FLAVA	*** SEE ***	PLATANTHERA FLAVA	
	HABENARIA GREENEI	*** SEE ***	PLATANTHERA UNALASCENSIS SSP. MARITIMA	
	HABENARIA MARITIMA	*** SEE ***	PLATANTHERA UNALASCENSIS SSP. MARITIMA	
	HABENARIA PERAMOENA	*** SEE ***	PLATANTHERA PERAMOENA	
	HABENARIA UNALASCENSIS VAR. MARITIMA	*** SEE ***	PLATANTHERA UNALASCENSIS SSP. MARITIMA	
3C	HACKELIA HISPIDA	BORAGINACEAE		ID OR WA
3C	HACKELIA SHARSMITHII	BORAGINACEAE		CA NV
3C	HALIMOLOBOS VIRGATA	BRASSICACEAE	HALIMOLOBUS, VIRGATE	CA
3C	HAPLOPAPPUS ABERRANS	ASTERACEAE		ID
	HAPLOPAPPUS BRICKELLIOIDES	*** SEE ***	HAZARDIA BRICKELLIOIDES	
3C	HAPLOPAPPUS EXIMIUS	ASTERACEAE		CA NV
3C	HAPLOPAPPUS HALLII	ASTERACEAE		OR WA
3C	HAPLOPAPPUS SCOPULORUM	ASTERACEAE		AZ UT
3C	HAPLOPAPPUS SPINULOSUS SSP. LAEVIS	ASTERACEAE		NM
3C	HAPLOPAPPUS WATSONII	ASTERACEAE		NV
3C	HAZARDIA BRICKELLIOIDES	ASTERACEAE		CA NV
3C	HEDEOMA DENTATUM	LAMIACEAE		AZ
3C	HEDEOMA MOLLE	LAMIACEAE		TX
3C	HEDEOMA NANUM VAR. CALIFORNICUM	LAMIACEAE		AZ CA NV
3C	HEDEOMA PULCHERRIMUM	LAMIACEAE		NM
3A	HEDYOTIS COOKIANA	RUBIACEAE		HI
3C	HELENIUM ARIZONICUM	ASTERACEAE		AZ
3C	HELIANTHUS DESERTICOLA	ASTERACEAE		AZ NV UT
3A	HELIANTHUS PRAETERMISSUS	ASTERACEAE		NM
3C	HEMIZONIA HALLIANA	ASTERACEAE	TARWEED, HALL'S	CA
3B	HERMIDIUM ALIPES VAR. PALLIDUM	NYCTAGINACEAE		CO UT
3C	HEUCHERA AMERICANA VAR. HISPIDA	SAXIFRAGACEAE	ALUMROOT,	VA WV
3C	HEUCHERA DURANII	SAXIFRAGACEAE	HEUCHERA, DURAN'S	CA NV
	HEUCHERA HISPIDA	*** SEE ***	HEUCHERA AMERICANA VAR. HISPIDA	
3A	HIBISCADELPHUS BOMBYCINUS	MALVACEAE		HI
3A	HIBISCADELPHUS WILDERANUS	MALVACEAE		HI
3C	HIBISCUS KAHILII	MALVACEAE	HIBISCUS,	HI
3C	HIBISCUS WAIMEAE	MALVACEAE		HI
3C	HIERACIUM LONGIBERBE	ASTERACEAE		OR WA
	HULSEA INYOENSIS	*** SEE ***	HULSEA VESTITA SSP. INYOENSIS	
3C	HULSEA VESTITA SSP. INYOENSIS	ASTERACEAE	HULSEA, INYO	CA NV
3C	HYDRASTIS CANADENSIS	RANUNCULACEAE		AL AR CT DE GA IL IN KY MD MI MN MS MO NE NY NC OH PA TN VT VA WV WI CANADA
3C	HYDROPHYLLUM CAPITATUM VAR. THOMPSONII	HYDROPHYLLACEAE	WATERLEAF, BALLHEAD, THOMPSON'S	OR WA
3C	HYMENOPAPPUS FILIFOLIUS VAR. IDAHOENSIS	ASTERACEAE		ID
3C	HYMENOPAPPUS FILIFOLIUS VAR. TOMENTOSUS	ASTERACEAE	HYMENOPAPPUS, COBWEB	UT
3C	HYMENOXYS SUBINTEGRA	ASTERACEAE		AZ
3C	HYMENOXYS TURNERI	ASTERACEAE		TX
3C	HYPERICUM SPHAEROCARPUM VAR. TURGIDUM	HYPERICACEAE	ST.JOHN'S-WORT,	AL KY TN
	HYPOPITYS CALIFORNICUS	*** SEE ***	PITYOPUS CALIFORNICUS	
3C	HYPOXIS LONGII	LILIACEAE	STAR-GRASS,	AR LA OK TX VA

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	IPOMOEA CAIRICA VAR. LINEARILOBA	CONVOLVULACEAE		HI
3C	IPOMOPSIS GLOBULARIS	POLEMONIACEAE		CO
3C	IRIS TENAX SSP. KLAMATHENSIS	IRIDACEAE	IRIS,	CA
3B	IRIS TENAX VAR. GORMANII	IRIDACEAE	IRIS,	OR
3C	IRIS TENUIS	IRIDACEAE	IRIS, CLACKAMAS	OR
3A	ISODENDRION HAWAIIENSE	VIOLACEAE	WAHINE-NOHO-KULA	HI
3A	ISODENDRION HILLEBRANDII	VIOLACEAE	AUPAKA,	HI
3A	ISODENDRION LANAIENSE	VIOLACEAE	AUPAKA,	HI
3C	ISODENDRION MACULATUM	VIOLACEAE	AUPAKA,	HI
3A	ISODENDRION REMYI	VIOLACEAE	AUPAKA,	HI
3C	ISOETES BOLANDERI VAR. PYGMAEA	ISOETACEAE		AZ CA
3C	ISOETES FLACCIDA	ISOETACEAE		FL GA
3B	ISOETES FOVEOLATA	ISOETACEAE	QUILLWORT, PITTED	CT MA NH
3C	ISOETES ORCUTTII	ISOETACEAE		CA
??	JATROPHA COSTARICENSIS	EUPHORBIACEAE		COSTA RICA
3C	JOINVILLEA ASCENDENS SSP. ASCENDENS	FLAGELLARIACEAE	'OHE	HI
3C	JUNCUS GYMNOCARPUS	JUNCACEAE	RUSH,	AL FL MS NC PA SC TN*
3A	JUNCUS PERVETUS	JUNCACEAE	RUSH, BOG, BARNSTABLE	MA
3B	JUSTICIA MORTUIFLUMINIS	ACANTHACEAE	WATER-WILLOW,	VA
3A	KOKIA LANCEOLATA	MALVACEAE	KOKI'O,	HI
3A	LABORDIA BAILLONII	LOGANIACEAE		HI
3C	LACHNOCAULON BEYRICHIANUM	ERIOCAULACEAE		FL GA NC SC
3C	LASTHENIA MINOR SSP. MARITIMA	ASTERACEAE	GOLDFIELDS, SEASIDE	CA OR WA
3C	LEAVENWORTHIA AUREA	BRASSICACEAE	GLADE CRESS, GOLDEN	CANADA (BRITISH COLUMBIA)
3C	LECHEA MARITIMA VAR. VIRGINICA	CISTACEAE	PINWEED, BEACH, VIRGINIAN	OK TX
3C	LEPANTHES DODIANA	ORCHIDACEAE		VA
3C	LEPIDIUM BIDENTATUM VAR. O-WAIHIENSE	BRASSICACEAE	ANAUNAU,	PR
3C	LESQUERELLA ANGUSTIFOLIA	BRASSICACEAE	BLADDERPOD, THREAD-LEAVED	HI
3B	LESQUERELLA ARCTICA VAR. SCAMMANAE	BRASSICACEAE		OK TX
3C	LESQUERELLA CARINATA	BRASSICACEAE	BLADDERPOD, KEELED	AK
3C	LESQUERELLA DENSIPILA	BRASSICACEAE	BLADDERPOD, DUCK RIVER	ID MT WY
3C	LESQUERELLA FREMONTII	BRASSICACEAE	BLADDERPOD, FREMONT'S	AL TN
3C	LESQUERELLA KINGII SSP. DIVERSIFOLIA	BRASSICACEAE	BLADDERPOD,	WY
3C	LESQUERELLA LESCURII	BRASSICACEAE		OR
3C	LESQUERELLA VALIDA	BRASSICACEAE	BLADDERPOD,STRONG	AL TN
3C	LEWISIA COLUMBIANA VAR. HALLOWENSIS	PORTULACACEAE		NM TX
3C	LEWISIA DISEPALA	PORTULACACEAE	BITTERROOT, YOSEMITE	ID MT OR
3C	LIATRIS CYMOSA	ASTERACEAE		CA
3C	LIATRIS TENUIS	ASTERACEAE		TX
3B	LIGUSTICUM PORTERI VAR. BREVILOBUM	APIACEAE		TX
3C	LILAEOPSIS MASONII	APIACEAE		UT
3C	LILIUM BOLANDERI	LILIACEAE		CA
3B	LIMONIUM CAROLINIANUM VAR. ANGUSTATUM	PLUMBAGINACEAE	SEA-LAVENDER,	CA OR
3C	LIMONIUM LIMBATUM	PLUMBAGINACEAE		FL
3C	LINANTHUS ARENICOLA	POLEMONIACEAE		AZ NM TX
3C	LINANTHUS BELLUS	POLEMONIACEAE	DESERT BEAUTY	CA NV
3B	LIPOCHAETA ALATA VAR. ALATA	ASTERACEAE	NEHE,	MEXICO (BAJA CALIFORNIA)
3B	LIPOCHAETA EXIGUA	ASTERACEAE	NEHE, LESSER	CA
3B	LIPOCHAETA FLEXUOSA	ASTERACEAE	NEHE, FLEXUOUS	MEXICO
3B	LIPOCHAETA FORBESII VAR. FORBESII	ASTERACEAE	NEHE, FORBES	HI
3C	LIPOCHAETA HETEROPHYLLA VAR. HETEROPHYLLA	ASTERACEAE		HI
3B	LIPOCHAETA HETEROPHYLLA VAR. MALVACEA	ASTERACEAE		HI
3B	LIPOCHAETA HETEROPHYLLA VAR. MOLOKAIENSIS	ASTERACEAE		HI
				HI

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3B	LIPOCHAETA INTEGRIFOLIA VAR. ARGENTEA	ASTERACEAE		HI
3B	LIPOCHAETA INTEGRIFOLIA VAR. GRACILIS	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA INTEGRIFOLIA VAR. MAJOR	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA INTEGRIFOLIA VAR. MEGACEPHALA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA INTERMEDIA	ASTERACEAE		HI
3B	LIPOCHAETA KAHOOLAWENSIS	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA LAVARUM VAR. CONFERTA	ASTERACEAE		HI
3B	LIPOCHAETA LAVARUM VAR. HILLEBRANDIANA	ASTERACEAE		HI
3B	LIPOCHAETA LAVARUM VAR. LONGIFOLIA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA LAVARUM VAR. MANELEANA	ASTERACEAE		HI
3B	LIPOCHAETA LAVARUM VAR. OVATA	ASTERACEAE		HI
3B	LIPOCHAETA LAVARUM VAR. SALICIFOLIA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA LAVARUM VAR. SKOTTSBERGII	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA LAVARUM VAR. STEARNSII	ASTERACEAE		HI
3B	LIPOCHAETA LOBATA VAR. ALBESCENS	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA LOBATA VAR. APREVALLIANA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA LOBATA VAR. GROSSEDENTATA	ASTERACEAE		HI
3B	LIPOCHAETA LOBATA VAR. HASTULATA	ASTERACEAE	NEHE,	HI
3C	LIPOCHAETA LOBATA VAR. LOBATA	ASTERACEAE	NEHE, LOBED,	HI
3B	LIPOCHAETA LOBATA VAR. MAKENENSIS	ASTERACEAE		HI
3B	LIPOCHAETA LOBATA VAR. MAUNALOENSIS	ASTERACEAE	NEHE, LOBED, MAUNA LOA	HI
3B	LIPOCHAETA MINUSCULA	ASTERACEAE		HI
3B	LIPOCHAETA PROFUSA VAR. PROFUSA	ASTERACEAE	NEHE, MANY-FLOWERED	HI
3B	LIPOCHAETA PROFUSA VAR. ROBUSTIOR	ASTERACEAE	NEHE,	HI
3C	LIPOCHAETA REMYI	ASTERACEAE	NEHE, REMY'S	HI
3C	LIPOCHAETA ROCKII	ASTERACEAE	NEHE, ROCK'S	HI
3B	LIPOCHAETA ROCKII VAR. DISSECTA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA ROCKII VAR. SUBOVATA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA SCABRA	ASTERACEAE		HI
3B	LIPOCHAETA SUCCULENTA VAR. ANGUSTATA	ASTERACEAE	NEHE,	HI
3C	LIPOCHAETA SUCCULENTA VAR. SUCCULENTA	ASTERACEAE	NEHE,	HI
3B	LIPOCHAETA SUCCULENTA VAR. TRIFIDA	ASTERACEAE	NEHE,	HI
3C	LITSEA AESTIVALIS	LAURACEAE	PONDSPICE	FL GA NC SC TN VA
3A	LOBELIA REMYI	CAMPANULACEAE		HI
3C	LOMATIUM FOENICULACEUM SSP. INYOENSE	APIACEAE	LOMATIUM, INYO	CA ID
3C	LOMATIUM HENDERSONII	APIACEAE		OR WA
3C	LOMATIUM HOWELLII	APIACEAE	LOMATIUM, HOWELL'S	CA OR
3C	LOMATIUM MINUS	APIACEAE	DESERT-PARSLEY, DAY VALLEY	OR
3C	LOMATIUM RAVENII	APIACEAE	DESERT-PARSLEY, LASSEN	CA ID NV OR UT
3C	LOMATIUM RIGIDUM	APIACEAE	LOMATIUM, BIG PINE	CA
3C	LOMATIUM SERPENTINUM	APIACEAE		ID OR WA
3C	LOTUS NUTTALLIANUS	FABACEAE	HOSACKIA, PROSTRATE	CA MEXICO
3C	LUPINUS BURKEI SSP. CAERULEOMONTANUS	FABACEAE		OR
3C	LUPINUS HOLMGRENIANUS	FABACEAE	LUPINE, HOLMGREN	CA NV
3C	LUPINUS INYOENSIS	FABACEAE		CA
	LUPINUS MARIANUS	*** SEE ***	LUPINUS SERVICEUS SSP. MARIANUS	
3C	LUPINUS MONTIGENUS VAR. MONTIGENUS	FABACEAE		CA NV
3B	LUPINUS MUCRONULATUS	FABACEAE		OR
3C	LUPINUS SERICATUS	FABACEAE	LUPINE, COBB MOUNTAIN	CA
3C	LUPINUS SERVICEUS SSP. MARIANUS	FABACEAE		UT
3C	LUZULA HAWAIIENSIS VAR. OAHUENSIS	JUNCACEAE		HI
3B	LYCOPODIUM PORTORICENSE	LYCOPODIACEAE	CLUBMOSS,	PR
3C	LYGODESMIA GRANDIFLORA VAR. STRICTA	ASTERACEAE		UT
	LYSIMACHIA CILIATA	*** SEE ***	STEIRONEMA LAEVIGATUM	
3B	MACHAERANTHERA AMMOPHILA	ASTERACEAE		CA NV
	MACHAERANTHERA COGNATA	*** SEE ***	XYLORHIZA COGNATA	

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	MACHAERANTHERA GRINDELIOIDES VAR. DEPRESSA	ASTERACEAE		AZ NV UT
3C	MACHAERANTHERA LEUCANTHEMIFOLIA	ASTERACEAE		CA NV
3C	MALACOTHAMNUS PALMERI VAR. PALMERI	MALVACEAE	BUSH-MALLOW, PALMER	CA
3C	MARSHALLIA RAMOSA	ASTERACEAE		FL GA
3C	MATELEA EDWARDSENSIS	ASCLEPIADACEAE	MILKVINE, PLATEAU	TX
3C	MENTZELIA HIRSUTISSIMA VAR. STENOPHYLLA	LOASACEAE	STICKLEAF, HAIRY,	CA
3A	MENTZELIA NITENS VAR. LEPTOCAULIS	LOASACEAE	STICKLEAF,	AZ
3C	MERTENSIA VIRIDIS VAR. CANA	BORAGINACEAE	BLUEBELLS, CANESCENT	CO UT
3C	MERTENSIA VIRIDIS VAR. DILATATA	BORAGINACEAE	BLUEBELLS, SMOOTH-LEAF	CO UT WY
	MICROSERIS LACINIATA SSP. SISKIYOUENSIS	*** SEE ***	MICROSERIS NUTANS SSP. SISKIYOUENSIS	/INED.
3C	MICROSERIS NUTANS SSP. SISKIYOUENSIS /INED.	ASTERACEAE		CA OR
3C	MIMULUS ARIDUS	SCROPHULARIACEAE	MONKEYFLOWER, LOW BUSH	CA MEXICO (BAJA CALIFORNIA)
3B	MIMULUS GUTTATUS SSP. ARENICOLA	SCROPHULARIACEAE	MONKEYFLOWER,	CA
3C	MIMULUS JUNGERMANNIOIDES	SCROPHULARIACEAE		OR WA
3B	MIMULUS WASHOENSIS	SCROPHULARIACEAE		NV
3C	MINUARTIA UNIFLORA	CARYOPHYLLACEAE		AL GA NC SC
3C	MIRABILIS PUDICA	NYCTAGINACEAE		NV
3C	MONARDA STIPITATOGLANDULOSA	LAMIACEAE	HORSE-MINT,	AR OK
3C	MONARDELLA ANTONINA	LAMIACEAE		CA
3C	MONARDELLA PALMERI	LAMIACEAE		CA
3C	MONARDELLA PURPUREA	LAMIACEAE		CA OR
3C	MONARDELLA VIRIDIS SSP. SAXICOLA	LAMIACEAE		CA
	MONOTROPA CALIFORNICUS	*** SEE ***	PITYOPUS CALIFORNICUS	
3C	MORINDA SANDWICENSIS	RUBIACEAE		HI
3B	MUHLENBERGIA CURTISETOSA	POACEAE	MUHLY,	IL MO OH PA
	MUHLENBERGIA SCHREBERI VAR. CURTISETOSA	*** SEE ***	MUHLENBERGIA CURTISETOSA	
3C	MUHLENBERGIA TORREYANA	POACEAE	MUHLY,	DE GA KY NJ TN
3B	MUILLA CORONATA	LILIACEAE		CA
3B	MYRCIA PAGANII	MYRTACEAE	AUSU	PR
3C	MYRICA HARTWEGII	MYRICACEAE	SWEET-BAY, SIERRA	CA
3C	NAMA RETRORSUM	HYDROPHYLLACEAE		AZ UT
3A	NERAUDIA COOKII	URTICACEAE		HI
3A	NERAUDIA KAHOOLAWENSIS	URTICACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. DUBIUM	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. HELLERI	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. LANAIENSE	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. LANCEOLATUM	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. LATIFOLIUM	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. MACROPHYLLUM	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. MAUIENSE	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. PULCHELLOIDES	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. PULCHELLUM	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. SUBCORDATUM	AMARANTHACEAE		HI
3B	NOTOTRICHIUM SANDWICENSE VAR. SYRINGIFOLIUM	AMARANTHACEAE		HI
3C	OCHROSIA COMPTA	APOCYNACEAE		HI
	OENOTHERA GOULDII	*** SEE ***	CAMISSONIA GOULDII	
	OPHIOGLOSSUM CALIFORNICUM	*** SEE ***	OPHIOGLOSSUM LUSITANICUM VAR. CALIFORNICUM	
3C	OPHIOGLOSSUM DENDRONEURON	OPHIOGLOSSACEAE		FL CUBA, MEXICO, PHILIPINES, AFRICA, SOUTH AMERICA
3C	OPHIOGLOSSUM LUSITANICUM VAR. CALIFORNICUM	OPHIOGLOSSACEAE	ADDER'S-TONGUE, CALIFORNIA	CA MEXICO
3C	OPHIOGLOSSUM PALMATUM	OPHIOGLOSSACEAE	FERN, HAND	FL WEST INDIES, CENTRAL AMERICA, SOUTH AMERICA
3B	OPUNTIA BORINQUENSIS	CACTACEAE	OLAGA	PR

3C	OPUNTIA PULCHELLA	CACTACEAE	CHOLLA, SAND	AZ NV UT
	ORCHIS FLAVA	*** SEE ***	PLATANTHERA FLAVA	
3C	ORYZOPSIS HYMENOIDES VAR. CONTRACTA	POACEAE		CO WY
3C	OXYTROPIS BESSEYI VAR. OBNAPIFORMIS	FABACEAE		CO UT WY
3C	OXYTROPIS JONESII	FABACEAE		UT
	OXYTROPIS OBNAPIFORMIS	*** SEE ***	OXYTROPIS BESSEYI VAR. OBNAPIFORMIS	
3C	PANAX QUINQUEFOLIUS	ARALIACEAE	GINSENG, AMERICAN	AL AR CT DE DC FL IL IN IA KY LA ME MD MA MI MN MS MO NE NH NJ NY NC OH OK PA RI SC TN VT VA WV WI CANADA
3B	PANICUM ACULEATUM	POACEAE	PANIC GRASS,	DC NY RI VA
3B	PANICUM LAMIATILE	POACEAE	PANIC GRASS,	HI
3B	PANICUM LUSTRIALE	POACEAE	PANIC GRASS,	HI
3B	PANICUM MUNDUM	POACEAE	PANIC GRASS, FERNALD'S	VA
3B	PANICUM SHASTENSE	POACEAE	PANIC GRASS, SHASTA	CA
3C	PAPAVER ALBOROSEUM	PAPAVERACEAE	POPPY, PALE	AK CANADA (BRITISH COLUMBIA, YUKON TERRITORY), U.S.S.R.
3C	PAPAVER WALPOLEI	PAPAVERACEAE	POPPY, WALPOLE	AK CANADA (YUKON TERRITORY), U.S.S.R.
3C	PARONYCHIA CONGESTA	CARYOPHYLLACEAE	WHITLOW-WORT,	TX
3B	PARONYCHIA RUGELII VAR. INTERIOR	CARYOPHYLLACEAE	WHITLOW-WORT,	FL GA
3C	PARRYA NUDICAULIS	BRASSICACEAE		AK MT CANADA U.S.S.R.
3C	PARTHENIUM ALPINUM	ASTERACEAE		CO WY
3C	PARTHENIUM LIGULATUM	ASTERACEAE	FEVERFEW,	CO UT WY
3C	PECTIS RUSBYI	ASTERACEAE	FETID-MARIGOLD, RUSBY'S	AZ
	PEDIOMELUM SUBACAULIS	*** SEE ***	PSORALEA SUBACAULIS	
3A	PELEA ELLIPTICA VAR. MAUIENSIS	RUTACEAE		HI
3A	PELEA OBOVATA	RUTACEAE		HI
3A	PELEA STOREYANA	RUTACEAE		HI
3C	PENSTEMON ABIETINUS	SCROPHULARIACEAE	BEARDTONGUE,	NV UT
3C	PENSTEMON ACAULIS	SCROPHULARIACEAE	BEARDTONGUE, STEMLESS	UT WY
3C	PENSTEMON BACCHARIFOLIUS	SCROPHULARIACEAE		TX MEXICO
3B	PENSTEMON CAESPITOSUS VAR. SUFFRUTICOSUS	SCROPHULARIACEAE	BEARDTONGUE,	UT
3C	PENSTEMON CARYI	SCROPHULARIACEAE	BEARDTONGUE, CARY	MT WY
3C	PENSTEMON CINICOLA	SCROPHULARIACEAE	PENSTEMON, ASH	CA OR
3C	PENSTEMON CLUTEI	SCROPHULARIACEAE	BEARDTONGUE,	AZ
3C	PENSTEMON COBAEA VAR. PURPUREUS	SCROPHULARIACEAE		AR MO
3B	PENSTEMON DECURVUS	SCROPHULARIACEAE	BEARDTONGUE,	NV UT
3C	PENSTEMON DISSECTUS	SCROPHULARIACEAE		GA
3C	PENSTEMON HUMILIS VAR. BREVIFOLIUS	SCROPHULARIACEAE		UT
3C	PENSTEMON LEIOPHYLLUS	SCROPHULARIACEAE	BEARDTONGUE,	NV UT
3B	PENSTEMON MULTICAULIS	SCROPHULARIACEAE		AR
3B	PENSTEMON NYEENSIS	SCROPHULARIACEAE	BEARDTONGUE,	NV
3C	PENSTEMON PAYSONIORUM	SCROPHULARIACEAE	BEARDTONGUE, PAYSON	WY
3B	PENSTEMON THURBERI VAR. ANESTIUS	SCROPHULARIACEAE		NV
3C	PENSTEMON UINTAHENSIS	SCROPHULARIACEAE	BEARDTONGUE, UINTAH	UT
3C	PENSTEMON WASHINGTONENSIS	SCROPHULARIACEAE		WA
3A	PEPEROMIA PLINERVATA	PIPERACEAE		HI
3C	PERIDERIDIA LEPTOCARPA	APIACEAE	YAMPAH, NARROW-SEEDED	CA
3C	PERIDERIDIA PRINGLEI	APIACEAE	YAMPAH, ADOBE	CA
3C	PERITYLE CINEREA	ASTERACEAE	ROCK-DAISY, GRAY	TX
3C	PERITYLE GILENSIS VAR. SALENSIS	ASTERACEAE	ROCK-DAISY,	AZ

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	PERITYLE LEMMONII	ASTERACEAE		AZ NM
3C	PERITYLE STAUROPHYLLA	ASTERACEAE		NM
3B	PERSICARIA PALUDICOLA	POLYGONACEAE		FL
	PETALOSTEMUM GATTINGERI	*** SEE ***	DALEA GATTINGERI	
	PETALOSTEMUM SCARIOSUM	*** SEE ***	DALEA SCARIOSA	
3C	PETERIA THOMPSONAE	FABACEAE		AZ ID NV UT
3C	PHACELIA CONSTANCEI	HYDROPHYLLACEAE		AZ UT
3C	PHACELIA DEMISSA VAR. HETEROTRICHA	HYDROPHYLLACEAE	PHACELIA,	UT
3C	PHACELIA DUBIA VAR. GEORGIANA	HYDROPHYLLACEAE		AL GA
3C	PHACELIA INTEGRIFOLIA VAR. TEXANA	HYDROPHYLLACEAE		NM TX
3C	PHACELIA MUSTELINA	HYDROPHYLLACEAE	PHACELIA, ROUND LEAF, DEATH VALLEY	CA NV
3C	PHACELIA PECKII	HYDROPHYLLACEAE		OR
3C	PHACELIA RAFAELENSIS	HYDROPHYLLACEAE	PHACELIA,	AZ UT
3C	PHACELIA SERRATA	HYDROPHYLLACEAE		AZ
3C	PHILADELPHUS MEARNSII	SAXIFRAGACEAE		NM
3C	PHIPPSIA ALGIDA	POACEAE	ICE GRASS	AK CO WY CANADA U.S.S.R.
3B	PHLOX GRAHAMII	POLEMONIACEAE	PHLOX,	UT
3B	PHLOX JONESII	POLEMONIACEAE	PHLOX,	UT
3C	PHLOX MISSOULENSIS	POLEMONIACEAE	PHLOX,	MT
3B	PHLOX MOLLIS	POLEMONIACEAE	PHLOX,	ID OR WA
3C	PHLOX OKLAHOMENSIS	POLEMONIACEAE	PHLOX,	KS OK TX
3C	PHOLISMA ARENARIUM	LENNOACEAE	PHOLISMA	CA MEXICO (BAJA CALIFORNIA)
3A	PHYLLOSTEGIA LEDYARDII	LAMIACEAE		HI
3A	PHYLLOSTEGIA LONGIMONTIS	LAMIACEAE		HI
3C	PHYSARIA GRAHAMII	BRASSICACEAE	TWINPOD, GRAHAM'S	UT
3B	PHYSOSTEGIA VERONICIFORMIS	LAMIACEAE	DRAGONHEAD, FALSE	FL GA
3C	PIERIS PHILLYREAEFOLIA	ERICACEAE		AL FL GA MS SC
3C	PILOSTYLES THURBERI	RAFFLESIACEAE	PILOSTYLES, THURBER'S	AZ CA NV TX MEXICO (BAJA CALIFORNIA)
3C	PINCKNEYA PUBENS	RUBIACEAE		FL GA SC
3B	PITTOSPORUM ACUMINATUM VAR. LEPTOPODUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM ACUMINATUM VAR. MAGNIFOLIUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM ACUMINATUM VAR. WAIMEANUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM AMPLECTENS	PITTOSPORACEAE		HI
3B	PITTOSPORUM ARGENTIFOLIUM VAR. ARGENTIFOLIUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM ARGENTIFOLIUM VAR. SESSILE	PITTOSPORACEAE		HI
3C	PITTOSPORUM CAULIFLORUM VAR. CAULIFLORUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM CAULIFLORUM VAR. CLADANTHOIDES	PITTOSPORACEAE		HI
3B	PITTOSPORUM CLADANTHUM VAR. GRACILIPES	PITTOSPORACEAE		HI
3B	PITTOSPORUM CONFERTIFLORUM VAR. MICROPHYLLUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM GLABRUM VAR. GLOMERATUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM GLABRUM VAR. INTERMEDIUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM GLABRUM VAR. TINIFOLIUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM HALOPHILOIDES	PITTOSPORACEAE		HI
3B	PITTOSPORUM HALOPHILUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM HELLERI	PITTOSPORACEAE		HI
3B	PITTOSPORUM HOSMERI VAR. HOSMERI	PITTOSPORACEAE		HI
3B	PITTOSPORUM HOSMERI VAR. SAINT-JOHNII	PITTOSPORACEAE		HI
3B	PITTOSPORUM INSIGNE VAR. MICRANTHUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM KAHANANUM	PITTOSPORACEAE		HI
3B	PITTOSPORUM KAUAIENSE VAR. REPENS	PITTOSPORACEAE		HI
3B	PITTOSPORUM TERMINALIOIDES VAR. LANAIENSE	PITTOSPORACEAE		HI
3B	PITTOSPORUM TERMINALIOIDES VAR. MACROPUS	PITTOSPORACEAE		HI
3B	PITTOSPORUM TERMINALIOIDES VAR. MAUIENSE	PITTOSPORACEAE		HI
3C	PITYOPUS CALIFORNICUS	ERICACEAE		CA OR

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

	PITYOPUS OREGONA	*** SEE ***	PITYOPUS CALIFORNICUS	
3C	PLAGIOBOTHRYS DISTANTIFLORUS	BORAGINACEAE		CA
3C	PLATANTHERA FLAVA	ORCHIDACEAE	REIN ORCHID, SOUTHERN	AR DE DC FL GA IL IN IA KY LA ME MD MA MI MN MO NH NJ NY NC OH OK PA RI SC SD TN TX VT VA WV WI
3C	PLATANTHERA PERAMOENA	ORCHIDACEAE	ORCHID, PURPLE, FRINGELESS	AL AR DE IL IN KY MD MS MO NJ NY NC OH PA SC TN VA WV
3B	PLATANTHERA UNALASCENSIS SSP. MARITIMA	ORCHIDACEAE	REIN ORCHID, ALASKA	CA OR WA CANADA (BRITISH COLUMBIA)
	PLEOMELE AUREA	*** SEE ***	DRACAENA AUREA	
3C	POLEMONIUM CHARTACEUM	POLEMONIACEAE		CA
3B	POLEMONIUM NEVADENSE	POLEMONIACEAE		NV
3C	POLIOMINTHA GLABRESCENS	LAMIACEAE	ROSEMARY-MINT	TX MEXICO
3C	POLYGALA MARAVILLASENSIS	POLYGALACEAE	MILKWORT, MARAVILLAS	TX
3C	POLYGALA RIMULICOLA	POLYGALACEAE		NM TX
3C	POLYGONELLA PARKSII	POLYGONACEAE	JOINTWEED, PARKS'	TX
3C	POLYGONUM CASCADENSE	POLYGONACEAE		OR
3B	POLYGONUM PENSYLVANICUM VAR. EGLANDULOSUM	POLYGONACEAE	PINKWEED,	OH
3C	POLYGONUM TEXENSE	POLYGONACEAE	KNOTWEED,	TX
3C	POLYSTICHUM KRUCKEBERGII	POLYPODIACEAE		CA ID MT OR WA CANADA (BRITISH COLUMBIA)
3C	PORTULACA SMALLII	PORTULACACEAE		GA NC VA
3B	POTAMOGETON PORTERI	POTAMOGETONACEAE		PA
3C	PRIMULA CUSICKIANA	PRIMULACEAE	PRIMROSE, WALLOWA	ID OR
3C	PRIMULA MISTASSINICA	PRIMULACEAE	PRIMROSE, BIRD'S-EYE	IL IA ME MI MN NY VT WI CANADA
3C	PRIMULA SPECUICOLA	PRIMULACEAE	PRIMROSE,	AZ UT
3C	PRITCHARDIA KAALAE VAR. KAALAE	ARECACEAE	LO'ULU	HI
3C	PRITCHARDIA KAALAE VAR. MINIMA	ARECACEAE	LO'ULU	HI
3C	PRUNUS ALLEGHANIENSIS	ROSACEAE	PLUM, ALLEGHANY	CT MD MI PA VA WV
3C	PRUNUS MINUTIFLORA	ROSACEAE		TX
3C	PSORALEA SUBACAULIS	FABACEAE		AL GA TN
3C	PSOROTHAMNUS ARBORESCENS	FABACEAE		CA
3C	PSOROTHAMNUS KINGII	FABACEAE		NV
3C	PSOROTHAMNUS THOMPSONAE	FABACEAE		AZ UT
3A	PYCNANTHEMUM MONOTRICHUM	LAMIACEAE	MOUNTAIN-MINT,	VA
3C	QUERCUS GEORGIANA	FAGACEAE		AL GA SC
	RAILLIARDIA ARBOREA	*** SEE ***	DUBAUTIA ARBOREA	
	RAILLIARDIA HILLEBRANDII	*** SEE ***	DUBAUTIA HILLEBRANDII	
	RAILLIARDIA LONCHOPHYLLA	*** SEE ***	DUBAUTIA LONCHOPHYLLA	
	RAILLIARDIA SHERFFIANA	*** SEE ***	DUBAUTIA SHERFFIANA	
3C	RANUNCULUS INAMOENUS VAR. SUBAFFINIS	RANUNCULACEAE	BUTTERCUP,	AZ
3C	RANUNCULUS OCCIDENTALIS SSP. NELSONII	RANUNCULACEAE		AK
3C	RHAPIDOPHYLLUM HYSTRIX	ARECACEAE	PALM, NEEDLE	AL FL GA MS SC
3C	RHINANTHUS ARCTICUS	SCROPHULARIACEAE		AK
3C	RHODODENDRON AUSTRINUM	ERICACEAE		AL FL GA MS
3C	RHODODENDRON BAKERI	ERICACEAE	RHODODENDRON, BAKER'S	AL GA KY NC TN VA
3C	RHODODENDRON VASEYI	ERICACEAE	AZALEA, PINK-SHELL	NC
3C	RHODODON CILIATUS	LAMIACEAE		TX
3C	RHUS KEARNEYI	ANACARDIACEAE	SUMAC, KEARNEY'S	AZ
3C	RHYSOPTERUS PLURIJUGUS	APIACEAE		OR
3C	RUBUS BARTONIANUS	ROSACEAE		ID OR
3C	RUBUS DUPLARIS	ROSACEAE	DEWBERRY,	TX
3C	RUBUS MISSOURICUS	ROSACEAE		MO
3B	RUPPIA ANOMALA	RUPPIACEAE	YERBA DE ZANJA	PR

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	SAGERETIA MINUTIFLORA	RHAMNACEAE		AL FL GA MS SC
3C	SALIX FLUVIATILIS	SALICACEAE		OR WA
3B	SALVIA COLUMBARIAE VAR. ZIEGLERI	LAMIACEAE	CHIA, ZIEGLER'S	CA
3C	SALVIA EREMOSTACHYA	LAMIACEAE		CA
3C	SALVIA FUNEREA	LAMIACEAE		CA NV
3C	SANICULA PECKIANA	APIACEAE	SANICLE, PECK'S	CA OR
3C	SANICULA PURPUREA	APIACEAE	SANICLE, PURPLE-FLOWERED	HI
3B	SANTALUM SALICIFOLIUM	SANTALACEAE		HI
3C	SARRACENIA PSITTACINA	SARRACENIACEAE	PITCHERPLANT, PARROT	AL FL GA LA MS
3C	SARRACENIA RUBRA SSP. RUBRA	SARRACENIACEAE	PITCHERPLANT, SWEET, RED-FLOWERED	AL FL GA MS NC SC
3C	SCAEVOLA GAUDICHAUDI	GOODENIACEAE	NAUPAKA, MOUNTAIN	HI
3C	SCHIEDEA GLOBOSA VAR. GLOBOSA	CARYOPHYLLACEAE	MA'OLI'OLI	HI
3C	SCHIEDEA GLOBOSA VAR. GRAMINIFOLIA	CARYOPHYLLACEAE	MA'OLI'OLI	HI
3C	SCHIEDEA MANNII	CARYOPHYLLACEAE		HI
3C	SCHISANDRA GLABRA	SCHISANDRACEAE		AL AR FL GA LA MS NC SC TN
3B	SCHIZACHYRIUM RHIZOMATUM	POACEAE		FL
	SCHMALTZIA KEARNEYI	*** SEE ***	RHUS KEARNEYI	
	SCHOENOLIRION TEXANUM	*** SEE ***	SCHOENOLIRION WRIGHTII	
3C	SCHOENOLIRION WRIGHTII	LILIACEAE	SUNNYBELL, TEXAS	AL AR TX
3C	SCIRPUS FLACCIDIFOLIUS	CYPERACEAE		NC VA
3C	SCLEROCACTUS SPINOSIOR	CACTACEAE		AZ CO UT
3C	SEDUM LAXUM SSP. HECKNERI	CRASSULACEAE		CA OR
3C	SEDUM NIVEUM	CRASSULACEAE		CA
3B	SEDUM RADIATUM SSP. DEPAUPERATUM	CRASSULACEAE		CA OR
3C	SENECIO CARDAMINE	ASTERACEAE		AZ NM
3B	SENECIO HALLII VAR. DISCOIDEA	ASTERACEAE	GROUNDSEL,	CO
3B	SENECIO LYNCEUS VAR. LEUCOREUS	ASTERACEAE		NV
3C	SENECIO MILLEFOLIUM	ASTERACEAE		GA NC SC
3C	SENECIO PORTERI	ASTERACEAE	GROUNDSEL, PORTER'S	CO OR
3B	SHORTIA GALACIFOLIA VAR. BREVISTYLA	DIAPENSIACEAE	OCONEE-BELLS, SHORT-STYLED	GA NC SC
3C	SIBARA ROSULATA	BRASSICACEAE		CA
3C	SIDALCEA CANDIDA	MALVACEAE		CO NV NM UT WY
3C	SIDALCEA MALVAEFLORA SSP. ELEGANS	MALVACEAE		CA OR
3C	SILENE APERTA	CARYOPHYLLACEAE		CA
3C	SILENE SCAPOSA VAR. LOBATA	CARYOPHYLLACEAE		ID NV OR
3B	SILPHIUM INTEGRIFOLIUM VAR. GATTINGERI	ASTERACEAE	ROSINWEED,	TN
3B	SISYMBRIUM KEARNEYI	BRASSICACEAE		AZ
3C	SMELOWSKIA HOLMGRENII	BRASSICACEAE		NV
3C	SOLANUM NELSONII VAR. NELSONII	SOLANACEAE	NIGHTSHADE, NELSON	HI
3C	SOLIDAGO LINDHEIMERIANA	ASTERACEAE		TX
3C	SOLIDAGO MOLLIS VAR. ANGUSTATA	ASTERACEAE		TX
3A	SOPHORA CHRYSOPHYLLA VAR. LANAIENSIS	FABACEAE		HI
3B	SOPHORA FORMOSA	FABACEAE		AZ
3B	SPHAERALCEA FENDLERI VAR. ALBESCENS	MALVACEAE	GLOBE-MALLOW,	AZ
	STEIRONEMA CILIATUM	*** SEE ***	STEIRONEMA LAEVIGATUM	
3C	STEIRONEMA LAEVIGATUM	PRIMULACEAE	LOOSESTRIFE, FRINGED	AL AZ CO CT FL ID LA ME MA MS MT NH NM OR RI TX VT WA CANADA (BRITISH COLUMBIA, NOVA SCOTIA)
3C	STELLARIA IRRIGUA	CARYOPHYLLACEAE	CHICKWEED, (STARWORT,)	CO NM U.S.S.R.
3C	STENANDRIUM FASCICULARIS	ACANTHACEAE		TX MEXICO
3B	STENOGYNE SALICIFOLIA	LAMIACEAE		HI
3C	STIPA CURVIFOLIA	POACEAE		NM
3C	STREPTANTHUS FARNSWORTHIANUS	BRASSICACEAE	JEWELFLOWER, EVALYN'S	CA
3C	STREPTANTHUS GLANDULOSUS VAR. PULCHELLUS	BRASSICACEAE		CA

3B	STYPHELIA TAMEIAMEIAE VAR. HEXAMERA	EPACRIDACEAE		HI
3C	STYRAX PLATANIFOLIA VAR. STELLATA	STYRACACEAE	SILVERBELLS,	TX
3C	SULLIVANTIA HAPEMANII	SAXIFRAGACEAE		MT WY
3C	SULLIVANTIA PURPUSII	SAXIFRAGACEAE		CO
3C	SULLIVANTIA RENIFOLIA	SAXIFRAGACEAE	SULLIVANTIA, KIDNEY-LEAVED	IL IA MN MO WI
3C	SYNTHYRIS CANBYI	SCROPHULARIACEAE		MT
	SYNTHYRIS HENDERSONII	*** SEE ***	SYNTHYRIS PINNATIFIDA VAR. CANESCENS	
3C	SYNTHYRIS MISSURICA SSP. STELLATA /INED.	SCROPHULARIACEAE		OR WA
3C	SYNTHYRIS PINNATIFIDA VAR. CANESCENS	SCROPHULARIACEAE		ID MT
3C	SYNTHYRIS PLATYCARPA	SCROPHULARIACEAE		ID
3C	SYNTHYRIS SCHIZANTHA	SCROPHULARIACEAE		OR WA
3C	TAGETES LEMMONII	ASTERACEAE		AZ
3C	TALINUM MENGESII	PORTULACACEAE		AL GA
3C	TAUSCHIA GLAUCA	APIACEAE	TAUSCHIA, GLAUCOUS	CA OR
3B	TETRAMOLOPIUM KAVAIENSIS VAR. KOLOANA	ASTERACEAE		HI
3B	TETRAMOLOPIUS KAVAIENSIS VAR. KOLOANA	ARALIACEAE		HI
3B	TETRAPLASANDRA GYMNOCARPA VAR, PUPUKEENSIS	ARALIACEAE	'OHE,	HI
3B	TETRAPLASANDRA KAHANANA	ARALIACEAE		HI
3C	THALICTRUM DEBILE	RANUNCULACEAE		AL AR GA MS TX
3C	THELYPODIUM LAXIFLORUM	BRASSICACEAE		AZ CO NV UT
3C	THELYPODIUM TEXANUM	BRASSICACEAE	THELYPODY,	TX
3B	THELYPODIUM VERNALE	BRASSICACEAE		NM
3B	TOFIELDIA GLUTINOSA SSP. ABSONA	LILIACEAE		ID
3C	TOWNSENDIA MENSANA	ASTERACEAE		UT
3C	TOWNSENDIA ROTHROCKII	ASTERACEAE		CO
3C	TOWNSENDIA SPATHULATA	ASTERACEAE	TOWNSENDIA, SWORD	WY
3C	TRADESCANTIA WRIGHTII	COMMELINACEAE		NM TX
3C	TRIFOLIUM PLUMOSUM VAR, AMPLIFOLIUM	FABACEAE		ID
3C	TRIFOLIUM PLUMOSUM VAR. PLUMOSUM	FABACEAE		OR WA
3C	TRILLIUM PUSILLUM VAR. VIRGINIANUM	LILIACEAE	TRILLIUM, LEAST, VIRGINIA	MD VA
3C	TRITELEIA DUDLEYI	LILIACEAE		CA
3C	TRITELEIA LEMMONAE	LILIACEAE		AZ
3B	VACCINIUM COCCINEUM	ERICACEAE	BILBERRY, SISKIYOU MOUNTAINS	CA OR
3B	VACCINIUM VACILLANS VAR. MISSOURIENSE	ERICACEAE		MO
3C	VANCOUVERIA CHRYSANTHA	BERBERIDACEAE		CA OR
3C	VERATRUM FIMBRIATUM	LILIACEAE		GA
	VERATRUM INTERMEDIUM	*** SEE ***	VERATRUM WOODII	
3C	VERATRUM WOODII	LILIACEAE	HELLEBORE, FALSE	AR FL GA IL IN IA KY MO OH OK TN TX
3C	VERNONIA PULCHELLA	ASTERACEAE		GA
3C	VERONICA COPELANDII	SCROPHULARIACEAE	SPEEDWELL, COPELAND'S	CA
3B	VERONICA SHERWOODII	SCROPHULARIACEAE		OR
3B	VICIA REVERCHONII	FABACEAE	VETCH, HAIRY POD	OK TX
3C	VIGUIERA PORTERI	ASTERACEAE		AL GA
3B	VIOLA ADUNCA VAR. CASCADENSIS	VIOLACEAE		OR WA
3C	VIOLA EGGLESTONII	VIOLACEAE		AL GA KY TN
3C	VIOLA TOMENTOSA	VIOLACEAE	VIOLET, FELT-LEAF	CA
3C	WALDSTEINIA IDAHOENSIS	ROSACEAE		ID
3C	WAREA SESSILIFOLIA	BRASSICACEAE		AL FL
3B	WOODSIA ABBEAE	POLYPODIACEAE		MI MN WI
3C	XYLORHIZA COGNATA	ASTERACEAE		CA
				MEXICO (BAJA CALIFORNIA)
3C	YUCCA ANGUSTISSIMA VAR. TOFTIAE	LILIACEAE		UT
	YUCCA TOFTIAE	*** SEE ***	YUCCA ANGUSTISSIMA VAR, TOFTIAE	
	ZAMIA FLORIDANA	*** SEE ***	ZAMIA INTEGRIFOLIA	
3C	ZAMIA INTEGRIFOLIA	CYCADACEAE	COONTIE, FLORIDA	FL GA
3C	ZEPHYRANTHES SIMPSONII	LILIACEAE		FL GA SC

TABLE 4 (CONTINUED) TAXA NO LONGER UNDER REVIEW

3C	ZEPHYRANTHES TREATIAE	LILIACEAE	FL

TABLE 5 FAMILY AND GENUS CROSS REFERENCE

FAMILY	GENERA				
ACANTHACEAE	DICLIPTERA	ELYTRARIA	RUELLIA		
	DYSCHORISTE	JUSTICIA	STENANDRIUM		
ACERACEAE	ACER				
AIZOACEAE	SESUVIUM				
ALISMATACEAE	SAGITTARIA				
AMARANTHACEAE	ACHYRANTHES	AERVA	AMARANTHUS	CHARPENTIERA	NOTOTRICHIUM
ANACARDIACEAE	RHUS	SCHMALTZIA			
ANNONACEAE	ASIMINA	DEERINGOTHAMNUS	PITYOTHAMNUS		
APIACEAE (UMBELLIFERAE)	ALETES	EURYTAENIA	MUSINEON	PERIDERIDIA	RHYSOPTERUS
	ANGELICA	LEIBERGIA	NEOPARRYA	PEUCEDANUM	SANICULA
	CICUTA	LIGUSTICUM	OREONANA	PODISTERA	SIUM
	CYMOPTERUS	LILAEOPSIS	OSMORHIZA	PSEUDOTAENIDIA	TAUSCHIA
	ERYNGIUM	LOMATIUM	OXYPOLIS	PTILIMNIUM	ZIZIA
APOCYNACEAE	AMSONIA	CYCLADENIA	PTERALYXIA		
	APOCYNUM	OCHROSIA	RAUVOLFIA		
AQUIFOLIACEAE	ILEX	NEMOPANTHUS			
ARALIACEAE	CHEIRODENDRON	PANAX	TETRAMOLOPIUS		
	MUNROIDENDRON	REYNOLDSIA	TETRAPLASANDRA		
ARECACEAE (PALMAE)	CALYPTRONOMA	PRITCHARDIA	RHAPIDOPHYLLUM	ROYSTONEA	
ARISTOLOCHIACEAE	ASARUM	HEXASTYLIS			
ASCLEPIADACEAE	ASCLEPIAS	CYNANCHUM	MATELEA		
	CYCLODON	MARSDENIA	VINCETOXICUM		

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE

FAMILY	GENERA				
ASTERACEAE (COMPOSITAE)	ACTINEA	CHAETOPAPPA	HAPLOPAPPUS	LYGODESMIA	RUDBECKIA
	ACTINELLA	CHAMAECHAENACTIS	HARTWRIGHTIA	MACHAERANTHERA	SAUSSUREA
	AGERATINA	CHROMOLAENA	HAZARDIA	MADIA	SENECIO
	AJANIA	CHRYSOPSIS	HELENIUM	MALACOTHRIX	SILPHIUM
	AMBROSIA	CHRYSOTHAMNUS	HELIANTHELLA	MARSHALLIA	SOLIDAGO
	ANTENNARIA	CIRSIUM	HELIANTHUS	MELANTHERA	SPHAEROMERIA
	APLOPAPPUS	CONYZA	HELIOMERIS	MICROSERIS	STEPHANOMERIA
	ARGYROXIPHIUM	COREOPSIS	HEMIZONIA	MIKANIA	TAGETES
	ARNICA	CORETHROGYNE	HESPEROMANNIA	MUNZOTHAMNUS	TANACETUM
	ARTEMISIA	DUBAUTIA	HETEROTHECA	OONOPSIS	TARAXACUM
	ASTER	DYSSODIA	HIERACIUM	OSMIA	TETRAMOLOPIUM
	ASTRANTHIUM	ECHINACEA	HOLOCARPHA	PALAFOXIA	TITHONIA
	BACCHARIS	ENCELIA	HULSEA	PARTHENIUM	TOWNSENDIA
	BAHIA	ENCELIOPSIS	HYMENOPAPPUS	PECTIS	TRACYINA
	BALDUINA	ERICAMERIA	HYMENOXYS	PENTACHAETA	VERBESINA
	BALSAMORHIZA	ERIGERON	JAMESIANTHUS	PERITYLE	VERNONIA
	BENITOA	ERIOPHYLLUM	KOANOPHYLLON	PLUMMERA	VIGUIERA
	BIDENS	EUPATORIUM	LAPHAMIA	POLYMNIA	WILKESIA
	BLENNOSPERMA	FLAVERIA	LASTHENIA	POROPHYLLUM	WYETHIA
	BOLOPHYTA	GAILLARDIA	LAYIA	PRENANTHES	XANTHOCEPHALUM
	BOLTONIA	GALINSOGA	LEPIDOSPARTUM	PSEUDOBAHIA	XYLORHIZA
	BRICKELLIA	GNAPHALIUM	LESSINGIA	PYRROCOMA	
	CACALIA	GREENELLA	LIATRIS	RAILLARDELLA	
	CALYCADENIA	GRINDELIA	LIPOCHAETA	RAILLIARDIA	
	CHAENACTIS	GUTIERREZIA	LUINA	REMYA	
BERBERIDACEAE	BERBERIS	MAHONIA	VANCOUVERIA		
BETULACEAE	ALNUS	BETULA	OSTRYA		
BIGNONIACEAE	CRESCENTIA				
BORAGINACEAE	AMSINCKIA	CRYPTANTHA	HACKELIA	LITHOSPERMUM	ONOSMODIUM
	CORDIA	DASYNOTUS	HELIOTROPIUM	MERTENSIA	PLAGIOBOTHRYS
BRASSICACEAE (CRUCIFERAE)	ARABIS	DRABA	LESQUERELLA	SISYMBRIUM	THYSANOCARPUS
	BRAYA	ERYSIMUM	NASTURTIUM	SMELOWSKIA	TROPIDOCARPUM
	CARDAMINE	EUTREMA	PARRYA	STANLEYA	WAREA
	CAULANTHUS	GLAUCOCARPUM	PHYSARIA	STREPTANTHUS	
	CAULOSTRAMINA	HALIMOLOBOS	RORIPPA	THELYPODIOPSIS	
	DENTARIA	LEAVENWORTHIA	SELENIA	THELYPODIUM	
	DITHYREA	LEPIDIUM	SIBARA	THLASPI	
BROMELIACEAE	HECHTIA	TILLANDSIA			
BURMANNIACEAE	THISMIA				
BUXACEAE	BUXUS				
CACTACEAE	ANCISTROCACTUS	CORYPHANTHA	ESCOBARIA	NAVAJOA	RHIPSALIS
	CEPHALOCEREUS	ECHINOCACTUS	FEROCACTUS	NEOLLOYDIA	SCLEROCACTUS
	CEREUS	ECHINOCEREUS	HARRISIA	OPUNTIA	THELOCACTUS
	COCHISEIA	ECHINOMASTUS	LEPTOCEREUS	PEDIOCACTUS	TOUMEYA
	COLORADOA	EPITHELANTHA	MAMMILLARIA	PENIOCEREUS	UTAHIA

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE

FAMILY	GENERA				
CAMPANULACEAE	BRIGHAMIA CAMPANULA CLERMONTIA	CYANEA DELISSEA DOWNINGIA	GITHOPSIS HOWELLIA LEGENERE	LOBELIA NEMACLADUS ROLLANDIA	TREMATOLOBELIA
CANELLACEAE	PLEODENDRON				
CANNACEAE	CANNA				
CAPPARACEAE	CAPPARIS	CLEOME	CLEOMELLA		
CAPRIFOLIACEAE	SYMPHORICARPOS	VIBURNUM			
CARYOPHYLLACEAE	ALSINODENDRON ARENARIA	CERASTIUM GEOCARPON	LOEFLINGIA MINUARTIA	PARONYCHIA SCHIEDEA	SILENE STELLARIA
CELASTRACEAE	MAYTENUS	PACHISTIMA	PACHYSTIMA	PAXISTIMA	
CERATOPHYLLACEAE	CERATOPHYLLUM				
CHENOPODIACEAE	APHANISMA	ATRIPLEX	CHENOPODIUM	NITROPHILA	SUAEDA
CISTACEAE	HELIANTHEMUM	HUDSONIA	LECHEA		
COCHLOSPERMACEAE	AMOREUXIA				
COMMELINACEAE	COMMELINA	TRADESCANTIA			
CONVOLVULACEAE	BONAMIA BREWERIA	CALYSTEGIA DICHONDRA	IPOMOEA JACQUEMONTIA	OPERCULINA	
CRASSULACEAE	DUDLEYA ECHEVERIA	GRAPTOPETALUM LENOPHYLLUM	PARVISEDUM SEDUM	STYLOPHYLLUM	
CROSSOSOMATACEAE	APACHERIA	CROSSOSOMA	FORSELLESIA		
CUCURBITACEAE	ANGURIA	CLADOCARPA	CUCURBITA	SICYOS	TUMAMOCA
CUPRESSACEAE	CUPRESSUS	FITZROYA			
CUSCUTACEAE	CUSCUTA				
CYATHEACEAE	ALSOPHILA	CYATHEA			
CYCADACEAE	ZAMIA				
CYPERACEAE	CAREX CYMOPHYLLUS	CYPERUS ELEOCHARIS	FIMBRISTYLIS GAHNIA	MARISCUS RHYNCHOSPORA	SCIRPUS SCLERIA
DIAPENSIACEAE	PYXIDANTHERA	SHORTIA			
DROSERACEAE	DIONAEA				
EPACRIDACEAE	STYPHELIA				
EPHEDRACEAE	EPHEDRA				

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE

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FAMILY	GENERA				
ERICACEAE	ARCTOSTAPHYLOS	GONOCALYX	KALMIOPSIS	PIERIS	VACCINIUM
	AZALEA	HYPOPITYS	MONOTROPA	PITYOPUS	
	ELLIOTTIA	KALMIA	MONOTROPSIS	RHODODENDRON	
ERIOCAULACEAE	ERIOCAULON	LACHNOCAULON			
EUPHORBIACEAE	ANDRACHNE	CLAOXYLON	EUPHORBIA	PHYLLANTHUS	TRAGIA
	ANTIDESMA	CROTON	JATROPHA	STILLINGIA	
	ARGYTHAMNIA	DITAXIS	MANIHOT	TETRACOCCUS	
	CHAMAESYCE	DRYPETES	NEOWAWRAEA	TITHYMALUS	
FABACEAE (LEGUMINOSAE)	ACACIA	CASSIA	GALACTIA	MEZONEURON	SESBANIA
	AESCHYNOMENE	CENTROSEMA	GENISTIDIUM	OXYTROPIS	SOPHORA
	AMORPHA	CHAMAECRISTA	HEDYSARUM	PEDIOMELUM	STAHLIA
	APIOS	CLADRASTIS	HOFFMANNSEGGIA	PETALOSTEMUM	TEPHROSIA
	ASTRAGALUS	CLITORIA	LATHYRUS	PETERIA	THERMOPSIS
	BAPTISIA	COURSETIA	LESPEDEZA	PHASEOLUS	TRIFOLIUM
	BRONGNIARTIA	DALEA	LOTUS	PSORALEA	VICIA
	CAESALPINIA	DESMANTHUS	LUPINUS	PSOROTHAMNUS	VIGNA
	CALLIANDRA	DESMODIUM	LYSILOMA	RHYNCHOSIA	
	CANAVALIA	ERRAZURIZIA	MARINA	SCHRANKIA	
FAGACEAE	CASTANEA	QUERCUS			
FLACOURTIACEAE	BANARA	XYLOSMA			
FLAGELLARIACEAE	JOINVILLEA				
FRANKENIACEAE	FRANKENIA				
FUMARIACEAE	CORYDALIS	DICENTRA			
GENTIANACEAE	BARTONIA	FRASERA	GENTIANELLA		
	CENTAURIUM	GENTIANA	SWERTIA		
GERANIACEAE	GERANIUM				
GESNERIACEAE	CYRTANDRA	GESNERIA			
GOMPHACEAE	GLOEOCANTHARELLUS				
GOODENIACEAE	SCAEVOLA				
HALORAGACEAE	GUNNERA	MYRIOPHYLLUM			
HAMAMELIDACEAE	FOTHERGILLA				
HYDROCHARITACEAE	ELODEA				
HYDROPHYLLACEAE	ERIODICTYON	HYDROPHYLLUM	NAMA	PHACELIA	ROMANZOFFIA
HYMENOPHYLLACEAE	HYMENOPHYLLUM	TRICHOMANES			
HYPERICACEAE	CLUSIA	HYPERICUM	SANIDOPHYLLUM		
ICACINACEAE	OTTOSCHULZIA				

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE

FAMILY	GENERA				
ILLICIACEAE	ILLICIUM				
IRIDACEAE	IRIS	NEMASTYLIS	SISYRINCHIUM	SPHENOSTIGMA	
ISOETACEAE	ISOETES				
JUGLANDACEAE	JUGLANS				
JUNCACEAE	JUNCUS	LUZULA			
LAMIACEAE (LABIATAE)	ACANTHOMINTHA	DICERANDRA	MONARDA	POLIOMINTHA	SCUTELLARIA
	AGASTACHE	HAPLOSTACHYS	MONARDELLA	PYCNANTHEMUM	STACHYS
	BRAZORIA	HEDEOMA	PHYLLOSTEGIA	RHODODON	STENOGYNE
	CALAMINTHA	LEPECHINIA	PHYSOSTEGIA	SALVIA	SYNANDRA
	CONRADINA	MACBRIDEA	POGOGYNE	SATUREJA	TRICHOSTEMA
LAURACEAE	CRYPTOCARYA	LINDERA	LITSEA	PERSEA	
LEITNERIACEAE	LEITNERIA				
LENNOACEAE	AMMOBROMA	PHOLISMA			
LENTIBULARIACEAE	PINGUICULA				
LILIACEAE	ABAMA	CALOCHORTUS	HARPEROCALLIS	NOLINA	TRITELEIA
	AGAVE	CAMASSIA	HELONIAS	PLEOMELE	TRITELEIOPSIS
	ALLIUM	CHLOROGALUM	HYMENOCALLIS	POLIANTHES	VERATRUM
	ANTHERICUM	DICHELOSTEMMA	HYPOXIS	SCHOENOLIRION	YUCCA
	ASTELIA	DRACAENA	LILIUM	SMILAX	ZEPHYRANTHES
	BLOOMERIA	ERYTHRONIUM	MUILLA	TOFIELDIA	ZIGADENUS
	BRODIAEA	FRITILLARIA	NARTHECIUM	TRILLIUM	
LIMNANTHACEAE	LIMNANTHES				
LINACEAE	HESPEROLINON	LINUM			
LOASACEAE	MENTZELIA	PETALONYX			
LOGANIACEAE	LABORDIA	SPIGELIA			
LORANTHACEAE	ARCEUTHOBIUM	DENDROPEMON			
LYCOPODIACEAE	LYCOPODIUM	UROSTACHYS			
LYTHRACEAE	CUPHEA	HEIMIA	LYTHRUM	NESAEA	
MAGNOLIACEAE	MAGNOLIA				
MALPIGHIACEAE	BYRSONIMA	MALPIGHIA			
MALVACEAE	ABUTILON	CALLIRHOE	HIBISCUS	LAVATERA	SPHAERALCEA
	ALLOWISSADULA	GAYA	ILIAMNA	MALACOTHAMNUS	
	ANODA	GOSSYPIUM	KOKIA	SIDA	
	BATESIMALVA	HIBISCADELPHUS	KOSTELETZKYA	SIDALCEA	
MARSILEACEAE	MARSILEA				

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE 86

FAMILY	GENERA				
MELASTOMATACEAE	GRAFFENRIEDA	MICONIA	RHEXIA		
MELIACEAE	TRICHILIA				
MENISPERMACEAE	COCCULUS				
MYRICACEAE	MYRICA				
MYRSINACEAE	EMBELIA	MYRSINE			
MYRTACEAE	CALYPTRANTHES EUGENIA	MARLIEREA METROSIDEROS	MYRCIA MYRCIANTHES	PSIDIUM	
NAJADACEAE	NAJAS				
NYCTAGINACEAE	ABRONIA ACLEISANTHES	ALLIONIA BOERHAVIA	HERMIDIUM MIRABILIS	PISONIA WEDELIA	
NYMPHAEACEAE	NUPHAR				
OLACACEAE	SCHOEPFIA				
OLEACEAE	CHIONANTHUS	FORESTIERA	FRAXINUS		
ONAGRACEAE	CAMISSONIA	CLARKIA	EPILOBIUM	GAURA	OENOTHERA
OPHIOGLOSSACEAE	BOTRYCHIUM	CHEIROGLOSSA	OPHIOGLOSSUM		
ORCHIDACEAE	BASIPHYLLAEA BRACHIONIDIUM BRASSIA CYPRIPEDIUM	ENCYCLIA EPIDENDRUM EULOPHIA HABENARIA	HEXALECTRIS ISOTRIA LEPANTHES LEPANTHOPSIS	LISTERA MESADENUS ONCIDIUM ORCHIS	PLATANTHERA SPIRANTHES TRIPHORA
OROBANCHACEAE	OROBANCHE				
PAPAVERACEAE	ARCTOMECON	ARGEMONE	DENDROMECON	ESCHSCHOLZIA	PAPAVER
PASSIFLORACEAE	PASSIFLORA				
PEDALIACEAE	PROBOSCIDEA				
PINACEAE	ABIES	PINUS			
PIPERACEAE	PEPEROMIA	RHYNCHOPHORUM			
PITTOSPORACEAE	PITTOSPORUM				
PLANTAGINACEAE	PLANTAGO				
PLUMBAGINACEAE	LIMONIUM				

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE

FAMILY	GENERA				
POACEAE (GRAMINEAE)	AGROSTIS	CHLORIS	ERAGROSTIS	NEOSTAPFIA	SCHIZACHYRIUM
	ALOPECURUS	COELORACHIS	ERIOCHLOA	ORCUTTIA	SPOROBOLUS
	ANDROPOGON	CTENIUM	FESTUCA	ORYZOPSIS	STIPA
	ARISTIDA	DICHANTHELIUM	GLYCERIA	PANICUM	SWALLENIA
	BOTHRIOCHLOA	DIGITARIA	GYMNOPOGON	PHIPPSIA	TRIPSACUM
	BROMUS	DISSANTHELIUM	HYSTRIX	PLEUROPOGON	TRISETUM
	CALAMAGROSTIS	DISSOCHONDRUS	ISCHAEMUM	POA	WILLKOMMIA
	CALAMOVILFA	ECTOSPERMA	MANISURIS	PTILAGROSTIS	ZIZANIA
	CENCHRUS	ELYMUS	MUHLENBERGIA	PUCCINELLIA	
POLEMONIACEAE	COLLOMIA	GILIA	LEPTODACTYLON	NAVARETTIA	PHLOX
	ERIASTRUM	IPOMOPSIS	LINANTHUS	NAVARRETIA	POLEMONIUM
POLYGALACEAE	POLYGALA				
POLYGONACEAE	CENTROSTEGIA	DEDECKERA	GILMANIA	PERSICARIA	POLYGONUM
	CHORIZANTHE	ERIOGONUM	OXYTHECA	POLYGONELLA	RUMEX
POLYPODIACEAE	ADENOPHORUS	CTENITIS	GYMNOCARPIUM	POLYSTICHUM	THELYPTERIS
	ASPLENIUM	DIELLIA	LEPTOGRAMMA	PTERIS	WOODSIA
	ASPLENOSORUS	DIPLAZIUM	NOTHOLAENA	SCHIZOSTEGE	
	CHEILANTHES	GRAMMITIS	PHYLLITIS	TECTARIA	
PORTULACACEAE	CALYPTRIDIUM	LEWISIA	PORTULACA		
	CLAYTONIA	MONTIA	TALINUM		
POTAMOGETONACEAE	POTAMOGETON				
PRIMULACEAE	DODECATHEON	DOUGLASIA	LYSIMACHIA	PRIMULA	STEIRONEMA
RAFFLESIACEAE	PILOSTYLES				
RANUNCULACEAE	ACONITUM	CIMICIFUGA	HYDRASTIS	THALICTRUM	
	ANEMONE	CLEMATIS	MYOSURUS	TROLLIUS	
	AQUILEGIA	DELPHINIUM	RANUNCULUS		
RHAMNACEAE	ALPHITONIA	COLUBRINA	GOUANIA		
	CEANOTHUS	CONDALIA	SAGERETIA		
ROSACEAE	ACAENA	CRATAEGUS	IVESIA	POTENTILLA	VAUQUELINIA
	AGRIMONIA	FILIPENDULA	LYONOTHAMNUS	PRUNUS	WALDSTEINIA
	CERCOCARPUS	GEUM	NEVIUSIA	ROSA	
	COWANIA	HORKELIA	PETROPHYTUM	RUBUS	
RUBIACEAE	ANTIRHEA	ERITHALIS	GOULDIA	MITRACARPUS	PSYCHOTRIA
	BOBEA	GALIUM	HEDYOTIS	MORINDA	RANDIA
	COPROSMA	GARDENIA	HOUSTONIA	PINCKNEYA	
RUPPIACEAE	RUPPIA				
RUTACEAE	CHOISYA	PELEA	PLATYDESMA	RAVENIA	ZANTHOXYLUM
SALICACEAE	POPULUS	SALIX			
SANTALACEAE	BUCKLEYA	EXOCARPUS	NESTRONIA	SANTALUM	

TABLE 5 (CONTINUED) FAMILY AND GENUS CROSS REFERENCE 88

FAMILY	GENERA				
SAPINDACEAE	ALECTRYON	DODONAEA			
SAPOTACEAE	BUMELIA	PLANCHONELLA	POUTERIA		
SARRACENIACEAE	DARLINGTONIA	SARRACENIA			
SAXIFRAGACEAE	ASTILBE	CHRYSOSPLENIUM	LITHOPHRAGMA	RIBES	
	BENSONIELLA	GROSSULARIA	PARNASSIA	SAXIFRAGA	
	CARPENTERIA	HEUCHERA	PHILADELPHUS	SULLIVANTIA	
SCHISANDRACEAE	SCHISANDRA				
SCHIZAEACEAE	ACTINOSTACHYS	SCHIZAEA			
SCROPHULARIACEAE	AGALINIS	CASTILLEJA	GERARDIA	MIMULUS	SCROPHULARIA
	AMPHIANTHUS	CHELONE	GRATIOLA	ORTHOCARPUS	SEYMERIA
	ANTIRRHINUM	COLLINSIA	LIMOSELLA	PEDICULARIS	SYNTHYRIS
	AUREOLARIA	CORDYLANTHUS	LINDERNIA	PENSTEMON	VERONICA
	BACOPA	DIPLACUS	MAURANDYA	RHINANTHUS	WULFENIA
	BESSEYA	GALVESIA	MICRANTHEMUM	SCHWALBEA	
SELAGINELLACEAE	SELAGINELLA				
SOLANACEAE	BRUNFELSIA	LYCIUM	NOTHOCESTRUM	PHYSALIS	
	GOETZEA	MARGARANTHUS	ORYCTES	SOLANUM	
STEMONACEAE	CROOMIA				
STERCULIACEAE	FREMONTODENDRON	NEPHROPETALUM	WALTHERIA		
STYRACACEAE	STYRAX				
TAXACEAE	TAXUS	TORREYA			
THEACEAE	EURYA	FRANKLINIA	LAPLACEA	TERNSTROEMIA	
THEOPHRASTACEAE	JAQUINIA				
THYMELAEACEAE	DAPHNOPSIS	WIKSTROEMIA			
URTICACEAE	HESPEROCNIDE	NERAUDIA	PILEA	URERA	URTICA
VALERIANACEAE	VALERIANA	VALERIANELLA			
VERBENACEAE	CALLICARPA	CORNUTIA	PRIVA	VERBENA	
VIOLACEAE	ISODENDRION	VIOLA			
XYRIDACEAE	XYRIS				

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Part V

Department of Energy

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

DEPARTMENT OF ENERGY

10 CFR Ch. II

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of interpretations.

SUMMARY: Attached are interpretations and a response to a petition for reconsideration issued by the Office of General Counsel of the Department of Energy (DOE) during the period November 1, 1980 through November 30, 1980.

Appendix C identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 5E052, Washington, D.C. 20585, (202) 252-2931.

SUPPLEMENTARY INFORMATION: Interpretations issued by the DOE are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation and may be rescinded or modified at any time. Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them. An interpretation is modified by a subsequent amendment to the regulation or ruling interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation or ruling. The interpretations published below are not subject to administrative appeal.

The response to the petition for reconsideration published herein have been issued in accordance with the provisions set forth in 10 CFR 205.85(f). It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

Issued in Washington, D.C., December 10, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix A—Interpretations

Number	To	Date	Category	File No.
1980-42	Associated Electric Cooperative	Nov. 10	FUA	A-556
	Deseret Generation & Transmission Cooperative			A-593
	Detroit Edison Company			A-548
	Public Service Electric and Gas Company			A-481
	Sunflower Electric Cooperative, Inc			A-605
	Western Farmers Electric Cooperative			A-597
1980-43	Cities Service Company	Nov. 13	Allocation and price	A-565
1980-44	Basin, Inc. and St. Joe Petroleum Corporation	Nov. 14	Allocation	A-459
1980-45	Robert A. Henderson, et al	Nov. 14	Allocation	A-576
1980-46	State of Alaska	Nov. 25	Price	A-409
1980-47	Master Contracting Stevedore Association	Nov. 26	Allocation	A-562

Interpretation 1980—42

To:

Associated Electric Cooperative
Deseret Generation & Transmission Co-operative
Detroit Edison Company
Public Service Electric and Gas Company
Sunflower Electric Cooperative, Inc.
Western Farmers Electric Cooperative

Statute and Regulation Interpreted:

Powerplant and Industrial Fuel Use Act of 1978, § 103(a)(7)(A), (a)(10), (a)(15), 10 CFR 500.2(a)

Code: GCW—FU—Auxiliary Units, Electric Powerplant, Major Fuel-burning Installation, Primary Energy Source

Facts

Associated Electric Cooperative (Associated Electric), Deseret Generation & Transmission Co-operative (Deseret), Detroit Edison Co. (Detroit Edison), Public Service Electric and Gas Co. (Public Service), Sunflower Electric Cooperative (Sunflower), and Western Farmers Electric Cooperative (Western Farmers) operate electric generating facilities which are defined as electric powerplants under the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, Pub. L. No. 95-620 (November 9, 1978). As a result, each firm is subject to the prohibitions against the use of petroleum and natural gas contained in the FUA.

Associated Electric operates the Thomas Hill Generating Station and is constructing a new Unit No. 3 at the Thomas Hill site. Unit No. 3 will be a 670 megawatt coal-fired steam electric powerplant accompanied by two auxiliary oil-fired package boilers [1] which were contracted for on November 30, 1978. Each of the two auxiliary boilers serving Unit No. 3 has a maximum fuel heat input rate of 158 million Btu's per hour. The two auxiliary units will be used as follows: to preheat air used for combustion in Unit No. 3 during startup and during low load operation (if required), to provide startup steam for the feed pump turbine driver of Unit No. 3, to warm condensate during Unit No. 3's startup, and to heat the building (only when Unit No. 3 and existing Units 1 and 2 are out of service and cannot provide the steam to heat the building). Associated Electric projects that the sum of the fuel oil used during startup in Unit No. 3 and in the two auxiliary boilers will not exceed five percent of Unit No. 3's annual Btu input.

Deseret is currently designing a new 400 megawatt coal-fired steam electric generating station in eastern Utah known as Bonanza Station. Construction is scheduled to begin in March 1981, and commercial operation is scheduled to begin in December 1984. Bonanza Station is designed to operate with the assistance of an auxiliary oil-fired package boiler with a maximum fuel heat input rate of 191 million Btu's per hour. The auxiliary boiler will be used to provide stand by startup for the coal-fired boiler if the main boiler feed pump is out of service and to provide standby building heat if the coal-fired boiler is out of service. Deseret estimates that the oil used by the auxiliary boiler will not exceed fifteen percent of the total annual heat input of both the auxiliary and the main coal-fired unit.

Detroit Edison will operate the new Belle River electric power facility. The Belle River facility consists of two 650 megawatt coal-fired powerplants. These powerplants are designed to operate with the assistance of two auxiliary boilers. Each of the two auxiliary boilers

[1] The term "auxiliary boiler" or "auxiliary unit" is widely used by electric powerplant operators to describe units designed to produce steam or otherwise to perform ignition, testing, control and other functions for units that are electric powerplants, which in turn perform the function of primary energy production by producing electric power for sale or exchange.

has a maximum fuel heat input of 215,110,000 Btu's per hour. The auxiliary boilers will be used to supply steam for starting the main boiler and to provide steam during emergency situations for the prevention of equipment damage when the main boiler is not operating. Detroit Edison estimates that the fuel consumed by the auxiliary boilers represents approximately .03 percent of the annual Btu heat input of the Belle River facility.

Public Service owns and operates the Hudson Generating Station. The Hudson Generating Station consists of the Hudson No. 1 Unit, which is a 383 megawatt oil-fired unit with natural gas capability, and the Hudson No. 2 Unit, which is a 600 megawatt coal-fired unit with both natural gas and oil capability. Both units are presently served by oil-fired auxiliary boilers, known as the Marion Boilers. Public Service plans to replace the Marion Boilers with three identical, new, more efficient, oil-fired auxiliary boilers. Each new auxiliary boiler will have a heat input rate of 103 million Btu's per hour. The three auxiliary units will be used as follows: to supply auxiliary steam when both Hudson No. 1 and Hudson No. 2 are shut down; to supply steam to start either one of the main units when both main units are shut down; to provide steam for the boiler feed pump turbines and the turbine gland seals; to heat fuel, machinery, buildings and water; to clean burners and boiler acid, and to flush turbine oil. Public Service estimates that the three auxiliary boilers will consume less than one percent of the fuel consumed by the Hudson Generating Stations.

Sunflower is currently constructing a new 280 megawatt (net) coal-fired steam electric generating station in western Kansas known as the Holcomb Plant. Commercial operation is scheduled to begin in November 1983. The Holcomb Plant is designed to operate with the assistance of an auxiliary oil-fired boiler with a maximum fuel heat input rate of 76.4 million Btu's per hour. The auxiliary boiler will be used to start the main coal-fired boiler and to provide auxiliary steam heat when the main boiler is out of service. Sunflower estimates that the oil used by the auxiliary boiler would not exceed fifteen percent of the total annual heat input of both the auxiliary and the main coal-fired unit.

Western Farmers is currently constructing a new 400 megawatt coal-fired steam electric generating station in southeastern Oklahoma known as the Hugo Station. Commercial operation is scheduled to begin in April 1982. Hugo Station is designed to operate with the assistance of an auxiliary oil-fired package boiler with a maximum fuel heat input rate of 205 million Btu's per hour. The auxiliary boiler will be used to preheat steam to start the main coal-fired boiler and to provide standby building heat when the coal-fired boiler is out of service. Western Farmers estimates that the oil used by the auxiliary boiler would not exceed fifteen percent of the total annual heat input of both the auxiliary and the main coal-fired unit.

Issues

I. Is a unit employed for auxiliary purposes and located at the site of an electric powerplant a "major fuel-burning installation" (MFBI)?

II. Is the fuel used by a unit for auxiliary purposes a "primary energy source" subject to the prohibitions of Titles II and III of the FUA?

Interpretation

A unit used to supply auxiliary steam and located at a powerplant site is a new or existing MFBI if it is within the jurisdictional limits defined by section 103(a) of the FUA. Auxiliary units which are MFBI's and which serve electric powerplants by performing specified auxiliary functions may use minimum amounts of natural gas or petroleum without being subject to the prohibitions of the FUA because such fuel is not covered by the definition of "primary energy source" when used for the specified non-primary energy producing functions, i.e. auxiliary functions, of unit ignition, startup, testing, flame stabilization and control. However, auxiliary units which are MFBI's that perform a back-up function for the primary energy production of an electric powerplant or functions other than unit ignition, startup, testing, flame stabilization and control remain subject to the FUA prohibitions on the use of natural gas and petroleum.

I. *Units Operating for Auxiliary Purposes That Are MFBI's*

Auxiliary units that serve electric powerplants are not themselves electric powerplants subject to regulation pursuant to the FUA and the implementing regulations. For the purpose of determining which electric powerplants are subject to the prohibitions in sections 201 and 301 of the FUA against using natural gas and petroleum as a primary energy source, section 103(a)(7)(A) of the FUA, entitled "Definitions," states as follows:

> The terms "electric powerplant" and "powerplant" mean any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which *produces electric power for purposes of sale or exchange* * * *. [Emphasis added.]

The definitions of "electric powerplant" and "powerplant" set forth in 10 CFR 500.2(a) contain the same language. Accordingly, a unit which performs auxiliary functions that does not produce steam to drive an electric turbine and generator, does not produce electric power for purposes of sale or exchange, and is not a powerplant subject to regulation by the FUA.

However, a unit employed for auxiliary purposes that is located at a powerplant site may be a new or existing MFBI as defined by section 103(a) of the FUA. Section 103(a)(10) of the FUA provides in pertinent part:

> (A) The terms "major fuel-burning installation" and "installation" means [sic] a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—
>
> (i) has a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or
>
> (ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.
>
> (B) The terms "major fuel-burning installation" and "installation" do not include—
>
> (i) any electric powerplant * * *.

A boiler, gas turbine unit, combined cycle unit, or internal combustion engine within the jurisdictional limits of the FUA, determined by design capability to consume fuel at rates set forth in the above definition, is a MFBI, regardless of its location or function in relation to an electric powerplant, providing it is not an electric powerplant. Indeed, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has stated in the preamble to the promulgation of final rules for 10 CFR Part 500—Definitions, and Part 501—Administrative procedures and sanctions, that "[f]or purposes of the final rule, ERA believes that an auxiliary boiler is a MFBI," 45 FR 38276, 38277 (June 6, 1980). Accordingly, all of the auxiliary boilers operated by Associated Electric, Deseret, Detroit Edison, Public Service, Sunflower and Western Farmers are within the jurisdictional limits prescribed by the above definition and are therefore MFBI's.

II. *Fuel Used by Units for Auxiliary Purposes That Does Not Constitute a "Primary Energy Source"*

Although fuel used as a "primary energy source" by MFBI's is subject to the prohibitions of the FUA, fuel used by units that are MFBI's which perform

auxiliary functions may not be subject to the FUA prohibitions. The manner in which an auxiliary unit uses fuel may place it outside the scope of the prohibitions against using natural gas and petroleum.

Congress stated in § 102(b) (6) of the FUA that it intended "to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a *primary energy source* and to conserve such gas and petroleum for the benefit of the present and future generations." (Emphasis added.) Pursuant to this stated purpose, the FUA excepts several uses of fuels from its prohibitions against using natural gas or petroleum as a primary energy source. This exception was set forth in § 103(a)(15) of the FUA as follows:

> The term "primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel-burning installation, except it does not include, as determined under rules prescribed by the Secretary—
>
> (A) the minimum amounts of fuel required for unit ignition, startup, testing, flame stabilization, and control used * * *.

If an auxiliary unit consumes fuel only for the auxiliary functions of unit ignition, startup, testing, flame stabilization, and other control uses, its use of minimum amounts of natural gas or petroleum is not prohibited by the FUA, despite the fact that such a unit is a MFBI.

The definition of "primary energy source" as set forth in 10 CFR 500.2 of the regulations implements the statutory definition by specifying what will be considered to be a minimum amount of fuel, as follows:

> "Primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel burning installation, except:
>
> (1) *Minimum amounts of fuel, not to exceed fifteen (15) percent, unless otherwise demonstrated, of the total annual Btu heat input of the unit,* required for unit ignition, startup, testing, flame stabilization, and control uses * * *. [Emphasis added.]

For the purpose of effectively implementing the specified statutory and regulatory exception from any FUA prohibitions on the use of minimum amounts of natural gas or petroleum for unit ignition, startup, testing, flame stabilization, and control uses, while fulfilling the purpose of the FUA to conserve natural gas and petroleum, the DOE must interpret the expression "minimum amounts of fuel" used in both the statutory and regulatory definition of "primary energy source."

The use of "minimum amounts" of natural gas and petroleum by any primary energy-producing electric powerplant or MFBI means that each unit will be held to the use of no more than the smallest possible quantity of natural gas or petroleum for the purposes of unit ignition, startup, testing, flame stabilization and control uses. The ERA has already stated in 10 CFR 500.2 that up to fifteen (15) percent of any unit's current year Bfu input of fuel is "presumptively excluded from the definition of primary energy source" and, therefore, is not subject to the prohibitions of the FUA. 45 FR 38276, 38278 (June 6, 1980). ERA also has stated that:

> ERA expects units to use only the minimum amount necessary for the enumerated purposes. ERA will receive evidence which rebuts this presumption where more than 15 percent is needed and, upon a satisfactory showing, will exclude the additional amount of fuel required.

Id. Thus, for an electric powerplant operating without the assistance of an auxiliary unit, fifteen percent of that unit's current year Btu input is the upper limit on what the DOE may regard as a minimum amount of natural gas or petroleum required to perform the non-primary energy-producing functions, *i.e.* auxiliary functions, specified in the definition of "primary energy source" set forth at § 500.2.

In the case of an auxiliary unit that serves an electric powerplant, the minimum amount is the amount of natural gas or petroleum used by the auxiliary unit for the auxiliary functions of unit ignition, startup, testing, flame stabilization, and control. In such a case the "unit's current year Btu input" refers to the sum of the Btu input of natural gas or petroleum used by both the auxiliary unit, when it is performing the specified auxiliary functions, together with any one of the primary energy-producing electric powerplants served by the auxiliary unit and designated by the operator. Therefore, up to fifteen (15) percent of the sum of the total annual Btu heat input of the auxiliary unit plus any one electric powerplant is the "minimum amount" of natural gas or petroleum that may be used by an auxiliary unit for auxiliary functions without being subject to the prohibitions of the FUA.

Where more than one electric powerplant is served by a single auxiliary unit, the DOE interprets the limitation "minimum amounts" of natural gas or petroleum "required for unit startup, testing, flame stabilization and control uses" to require the interconnection of primary energy-producing units to perform these auxiliary functions for each other whenever possible. Such interconnections among primary energy-producing units will limit the amount of natural gas or petroleum used by an auxiliary unit when it is performing the specified auxiliary functions to the minimum amount necessary for the proper operation of any one electric powerplant served by such a unit as explained in the preceding paragraph.

Accordingly, the auxiliary units operated by Associated Electric, Dessert, Detroit Edison, Public Service, Sunflower, and Western Farmers may use minimum amounts of natural gas or petroleum for the non-primary energy producing functions, *i.e.*, auxiliary functions, of unit ignition, startup, testing, flame stabilization and control, without being subject to the prohibitions of the FUA because such fuel is not covered by the definition of "primary energy source." Nevertheless, auxiliary units employed for purposes other than those excepted from the definition of "primary energy source" remain subject to the prohibitions and the exemption provisions of the FUA.[2]

III. *Conclusion*

The proper application of the provisions of the FUA and the implementing regulations set forth in 10 CFR Part 500 to the factual situations presented by Associated Electric, Deseret, Detroit Edison, Public Service, Sunflower, and Western Electric is as follows:

(1) Each of the auxiliary units described above and operated by Associated Electric, Deseret, Detroit Edison, Public Service, Sunflower, and Western Farmers is a MFBI as defined

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[2] In addition, the ERA has previously noted that: several exemptions consisting primarily of a simple certification may be available for such [auxiliary] units. In particular, ERA has provided that where a petitioner certifies such a unit will operate 600 hours per year or less it will receive a general exemption due to the lack of an alternate fuel supply. 45 FR 38276, 38277 (June 6, 1980). Thus, auxiliary units operated by Associated Electric, Deseret, Detroit Edison, Public Service, Sunflower, and Western Farmers and otherwise subject to the FUA as MFBI's, may be granted exemptions from the FUA prohibitions if the auxiliary units operate 600 hours per year or less.

Additional exceptions from the definition of "primary energy source" under § 103(a)(15)(B) of the FUA and as set forth in 10 CFR 500.2 are as follows:

"Primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel burning installation except:

* * * * *

(2) Minimum amounts of fuel required to alleviate or prevent:

(i) Unanticipated equipment outages as defined in § 501.191 of these regulations; and

(ii) Emergencies directly affecting the public health, safety, or welfare that would result from electric power outages as defined in § 501.191.

However, this interpretation does not address the additional exceptions from the prohibitions of the FUA pursuant to this second portion of the "primary energy source" definition.

by § 103(a)(10) of the FUA and 10 CFR 500.2(a), and

(2) The prohibitions of the FUA do not apply to minimum amounts of fuel that each of the auxiliary units subject to this interpretation uses for the auxiliary functions specified by § 103(a)(15) of the FUA and 10 CFR 500.2. For the purposes of this interpretation, minimum amounts of fuel may be used as follows:

(a) By Associated Electric to preheat air used for combustion in the main unit during startup and during low load operation, to provide startup steam for the feed pump turbine driver of the main unit, to warm condensate during startup of the main unit, and to heat the plant building when the main units are out of service;

(b) By Deseret to provide standby startup for the main boiler if its feedpump is out of service and to provide standby plant building heat if the main unit is out of service;

(c) By Detroit Edison to supply steam for starting the main boiler and to provide steam during emergency situations to prevent equipment damage when the main boiler is not operating;

(d) By Public Service to supply auxiliary steam when the main units are shut down; to supply steam to start either main unit when both main units are shut down; to provide steam for the boiler feed pump turbines and the turbine gland seals; to heat fuel, machinery, water and plant buildings; to clean burners and boiler acid, and to flush turbine oil;

(e) By Sunflower to start the main boiler and to provide auxiliary steam heat for the plant when the main boiler is out of service;

(f) By Western Farmers to preheat steam to start the main boiler and to provide standby plant building heat when the main boiler is out of service.

Issued in Washington, D.C. on November 10, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980-43

To: Cities Service Company

Regulations and Satutes Interpreted: 10 CFR 211.67(g); 211.67(j); 210.62(b) and (c); 205.202; 212.131(a), (b) and (c); 212.83; 18 U.S.C. §§ 1001 and 371

Code: GCW-AI-Crude Oil Exchanges; Entitlements Program; Certification, Refiner Price Rule; Criminal Violations

Facts

Cities Service Company (Cities), which maintains its corporate headquarters in Tulsa, Oklahoma, qualifies as a refiner of petroleum products under the Mandatory Petroleum Allocation and Price Regulations, 10 CFR Parts 211 and 212. The firm is required to participate in the domestic crude oil allocation (entitlements) program under § 211.67 and to compute the maximum allowable selling price for covered products pursuant to the refiner price rule, Part 212, Subpart E. Cities has requested an interpretation regarding the proper method of reporting and pricing a pending crude oil transaction involving Cities and the Firm X.

The proposed contractual agreement would obligate Cities to sell to Firm X a volume of — barrels of — oil comprised of — percent lower tier crude oil and — percent upper tier crude oil at a price equal to Cities' posted price for such crude oil. Cities states that the posted price for such crude oil is presently estimated to be an average of — per barrel for the lower tier and upper tier crude oil plus transportation costs which are actually incurred by Cities to the point of delivery. The agreement would require the crude oil sold by Cities to be delivered into the — for the account of Firm X. As part of the same agreement, Cities would agree to purchase an equal volume of — oil from Firm X for delivery during the same time period. The crude oil, which would be sold by Firm X and delivered by the — into Cities' facilities at — would be comprised entirely of stripper well crude oil at a price of — per barrel. In addition, in the contract each seller would agree to deliver a certification of the proper tier of crude oil sold pursuant to § 212.131 and a declaration that the price of the crude oil sold does not exceed the maximum lawful selling price under the Department of Energy (DOE) regulations.

Cities maintains that it entered into the proposed transactions in an attempt to reduce the overall cost of crude oil that it obtains as a refinery feedstock. While the price to be paid by Cities for the stripper well crude oil is higher than the price to be received by Cities for the lower tier and upper tier crude oil, the stripper well crude oil price is less than — its present market value. Cities anticipates that these transactions will result in reduced crude oil costs because Cities claims that the stripper well crude oil to be received by Cities would not entail an obligation to purchase entitlements under § 211.67.

Issues

(1) If Cities were to implement the terms of the proposed reciprocal sales agreement with Firm X should Cities exclude from its crude oil receipts the actual volumes of crude oil sold to Firm X, and include in its crude oil receipts the volumes of crude oil received from Firm X and retained for refining?

(2) After acquiring the crude oil from Firm X, how should Cities treat the cost of that crude oil for purposes of 10 CFR 212.83?

(3) Does the described reciprocal sales agreement comply with all other DOE regulations and other applicable law?

Discussion

In a lawful matching purchase and sale or exchange transaction in which a differential other than quality or location is given effect in establishing the exchange ratio, the actual volumes and costs of crude oil given up by one party to the transaction may be excluded from that firm's crude oil receipts and costs, and the actual volumes and costs of the crude oil received by that party may be included in that firm's crude oil receipts and costs. However, the lawfulness of Cities' proposed reciprocal sales agreement with Firm X cannot be determined in the interpretive process.

The crude oil pricing system was first instituted by the Cost of Living Council pursuant to the Economic Stabilization Act of 1970, as amended, Pub. L. 91-379 (August 15, 1970) [1] and was subsequently adopted by the Federal Energy Office, a predecessor to the DOE on January 15, 1974 at 10 CFR Part 212, Subpart D. 39 FR 1924 (January 15, 1974). This pricing system, which initially was a two "tiered" or "price level" program and which currently involves three separate tiers or price levels for crude oil, was needed to minimize the economic impact of rising oil prices, and yet provide continuing incentives for increased crude oil production. However, the difference in access by refiners to controlled and uncontrolled crude oil prices resulted in disparate prices of finished products. As a means of solving the problem of a "tier" crude oil pricing system, the agency promulgated the domestic crude oil allocation program, or entitlements program. 39 FR 42246 (December 4, 1974). The rationale and operation of that program as envisioned by the agency was set forth in *Cities Service Co. v. FEA*, 529 F.2d 1016 (TECA 1975), which upheld the validity of the program. The Court stated:

> The basic purpose of the Entitlements Program was to spread the benefit of access to old price-controlled oil and the burden of dependence on uncontrolled oil among all sectors of the petroleum industry, all regions of the country, and among all consumers of

[1] 12 U.S.C. § 1904 note (1976) (expired April 30, 1974).

petroleum products, while retaining the incentives for increased production and anti-inflationary measures which the two-tier price system provided.

The Entitlements Program essentially requires petroleum refiners to shift their overall reliance on controlled or uncontrolled oil to a more balanced position among all the refiners. A refiner must, under the Entitlements Program, have one entitlement for each barrel of old oil which it refines during any month. The FEA issues a certain number of entitlements to each refiner each month, based on that refiner's proportionate share of all old oil refined on a nation-wide basis, adjusted somewhat by the small refiner bias. The program thus commenced on the premise that all refiners should be including an equal proportionate share of price-controlled oil in their refinery runs each month.

Entitlement purchase obligations are imposed on a refinery when, on the basis of information supplied to the FEA, it has been determined that the refiner was running more old oil as a percentage of its total crude oil refinery runs than the national average and consequently does not have sufficient entitlements for all of the old oil it has refined during that month. Those refiners with less old oil in their refinery runs than the national average would receive more entitlements than necessary for compliance, which they may sell to those refiners which have purchase obligations under the regulations. (Footnotes omitted).

Id. at 1021. *See also Pasco, Inc.* v. *FEA*, 525 F. 2d 1391 (TECA 1975). This system of cost equalization enabled refiners with a limited access to lower priced domestic crude oil to achieve a cost of crude oil comparable to a refiner with a greater access to lower priced domestic crude oil, since a refiner's cost of crude oil must include the value of any entitlements benefits or obligations that it incurs. *See* § 211.67(m).

Section 211.67(g)(1) governs the treatment of exchanges of crude oil for entitlements purposes and provides:

Subject to the provisions of paragraph [(g)] (3) below, in any exchange of crude oil in which only quality and location differentials are given effect in the calculation of the exchange ratio, or in any matching purchase and sale transaction which has the same effect as such an exchange, no volumes of domestic crude oil shall be deemed to have been transferred. Any volumes of domestic crude oil exchanged away or sold pursuant to any such exchange or matching purchase and sale transaction shall be considered as having been retained by the refiner or other firm that has so exchanged away or sold such volumes, regardless of the volume of crude oil received or purchased by that refiner or other firm in such exchange or transaction.

The provisions of § 211.67(g)(1) therefore apply to those exchanges or matching purchases and sales in which only quality and location differentials are given effect in the computation of an exchange ratio. If a differential factor other than quality and location is given effect in a lawful matching purchase and sale or exchange transaction, the actual volumes and costs accruing to the crude oil will be transferred by the parties. Thus, under Cities' proposed transaction, the party to the transaction that sold controlled domestic crude oil for stripper well crude oil, would have at the completion of the transaction, stripper well crude oil at the price paid for that crude oil. Similarly, the other party to the transaction would have price controlled crude oil at the price paid for that crude oil. Both parties to the transaction would also be required to transfer lawful certifications for their respective volumes of crude oil pursuant to § 212.131(a), if the firm involved is a crude oil producer, or § 212.131(b), if the firm is acting as a crude oil reseller.

In order for such a transaction to be treated as a matching purchase and sale or exchange transaction, in which a factor other than quality or location is given effect, both parties must agree that the actual crude oil costs and volumes, along with the appropriate certification for the crude oil under § 212.131 are to transfer upon the completion of the transaction. A clear statement to this effect in the contract for the sale or exchange signed by both parties or any other agreement signed by both parties, prior to the execution of the transaction, is required and assures that the parties would each treat the transaction in the same manner for purposes of § 211.67(g) and § 212.131.

In reporting the effects of a lawful purchase and sale or exchange transaction in which crude oil volumes and costs transfer, a refiner is required to compute the net costs for the acquired crude oil under the provisions of § 212.83. Any sales revenues received from entitlements sold as a result of such a transaction must be subtracted from the cost of crude oil, as described in § 211.67(m).

In the instant case, Cities has presented a proposed reciprocal sales agreement which it has entered into with Firm X. Although the agreement itself is clear concerning the costs of the crude oil involved and the treatment of the crude oil certifications for the volumes of crude oil to be sold in conformance with § 212.131, there is some question concerning Cities' acquisition cost for the crude oil which it proposes to sell to Firm X as well as questions involving the source of Firm X's crude oil, and the rationale behind the below market price for the stripper well crude oil sold to Cities. Therefore, the lawfulness of the proposed agreement cannot be determined in the interpretive process because many pertinent portions of the transaction are factually unclear. The interpretive process is not designed to make factual determinations when significant facts are unclear and cannot be clarified in this process, if these facts are critical to the result. Accordingly, the question of whether the proposed reciprocal sales agreement constitutes a lawful matching purchase and sale transaction in which a differential factor other than quality and location will be given effect, cannot be addressed within the narrow parameters of the interpretive process.

Whether this type of transaction would be lawful would involve an analysis of all of the facts of a transaction in conjunction with many aspects of the Mandatory Petroleum Allocation and Price Regulations, as well as other provisions of law. Some of the regulations and other laws that might make such a transaction unlawful are set forth below.

Section 210.62(c) provides:

Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter or to impose terms or conditions not customarily imposed upon the sale of an allocated product is a violation of these regulations. Such practices include, but are not limited to devices making use of inducements, commissions, kickbacks, retroactive increases, transportation arrangements, premiums, discounts, special privileges, tie-in agreements, trade understandings, falsification of records, substitution of inferior commodities or failure to provide the same services and equipment previously sold.

Therefore, any activity that results in a firm obtaining a higher price than that permitted in the regulations is prohibited. For example, if one party to an alleged matching purchase and sale transaction receives an unexplained discount from the market price of uncontrolled domestic crude oil, while selling its own controlled domestic crude oil at its maximum lawful price, the difference between the uncontrolled crude oil's market value and the discounted price could be extra consideration above the maximum price for the controlled crude oil.

Similarly, depending upon the source of the domestic crude oil in any such reciprocal sales agreement, the producer price rule set forth at 10 CFR Part 212, Subpart D, or the crude oil reseller price rule, set forth at 10 CFR Part 212, Subpart L, may have been violated as a result of one firm's receipt of consideration in excess of its maximum lawful price.

In addition, § 210.62(b) provides in pertinent part:

No supplier shall engage in any form of discrimination among purchasers of any allocated product. For purposes of this paragraph, "discrimination" means extending any preference or sales treatment which has the effect of frustrating or impairing the objectives, purposes and intent of this chapter or of the Act * * *.

The sale by any firm of crude oil that is uncontrolled in its first sale at a price that is substantially below the market value for that crude oil, may constitute the type of price discrimination discussed in § 210.62(b). If such a sale should be made as part of a purported matching purchase and sale transaction in which a differential other than quality and location is given effect, it could render the entire transaction unlawful. Moreover, if the seller of the unusually low priced uncontrolled domestic crude oil were a crude oil reseller, the transaction might constitute price discrimination pursuant to § 212.183(a) which provides that a "reseller shall not unreasonably discriminate or grant unreasonable preferences in the pricing of crude oil among its purchasers."

Section 212.131(c) of the certification provisions may apply in certain exchange situtations. That provision makes unlawful the sale of domestic crude oil without a proper certification. Receipt of an allegedly valid certification does not relieve the purchaser of its responsibility under the law. Actual knowledge of improper certifications or acts which facilitate the transfer of false certifications may present violations of criminal laws prohibiting false statements to federal departments and agencies, 18 U.S.C. 1001, or conspiracy to commit such acts, 18 U.S.C. 371.

Section 211.67(j) concerns the monthly reports of crude oil runs and products produced which are required of refiners. That regulaton provides in pertinent part:

(1) Refiners and eligible firms shall correct any errors contained in reports filed pursuant to § 211.66 by filing an amended report for the particular month * * *.

* * * * *

(3) For purposes of this paragraph, errors required to be corrected by the filing of amended reports include (i) clerical errors, and (ii) inaccurate estimates as to the domestic crude oil pricing composition of a particular volume of crude oil where the refiner had no basis, in prior experience or otherwise, on which to make that estimate.

This regulation creates a continuing obligation to correct inaccurate certifications whenever discovered. A firm may not rely on its actual knowledge of certifications at a given time in the past, but rather must update the monthly reports any time an error is discovered.

Section 205.202 is a general regulation which provides:

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this chapter or any order issued pursuant thereto is a violation of the FEA regulations stated in this chapter.

This provision may limit conduct not explicitly covered by more specific regulations. Section 205.202 also authorizes the agency to review the substance of any transaction to assure that the transaction is indeed lawful and not undertaken merely to contravene the requirements of the Mandatory Petroleum Allocation and Price Regulations.

Therefore, firms entering into a purported matching purchasing and sale or exchange transaction in which a factor other than quality or location is allegedly given effect in the computation of the exchange ratio, may be actively engaging in unlawful conduct, or acting as an accessory or co-conspirator to violations of the law, if either firm knew or should have known that certifications exchanged in a transaction were invalid in light of the unusually low price of any uncontrolled domestic crude oil offered in the exchange, since such crude oil may have unlawfully priced under Part 212, Subparts D or L or improperly certified under § 212.131. Furthermore, if subsequent titleholders to any controlled crude oil sold in such a transaction are engaged in a scheme to obtain and sell controlled crude oil in order to falsify crude oil certifications, the firm selling the controlled crude oil may also be liable as an accessory or co-conspirator in such a scheme.

Accordingly, in a lawful matching purchase and sale or exchange transaction in which a differential other than quality and location is given effect in the computation of an exchange ratio, the actual volumes and costs of crude oil given up by one party to the transaction may be excluded from the firm's crude oil receipts and costs, and the actual volumes and costs of the crude oil received by that party may be included in the firm's crude oil receipts and costs. However, the lawfulness of Cities' proposed reciprocal sales agreement with Firm X cannot be resolved in the interpretive process.

Issued in Washington, D.C., on November 13, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980-44

To: Basin, Inc. and St. Joe Petroleum Corporation

Regulation Interpreted: 10 CFR 211.63

Code: GCW-AI-Part 211, Subpart C; Supplier/Purchaser Rule; Termination of Supplier/Purchaser Relationship

Facts

Basin, Inc. (Basin) is a crude oil reseller that purchases crude oil from producers and transports and resells that crude oil to refiners and other resellers. St. Joe Petroleum Corporation (St. Joe) and Anadarko Production Company (Anadarko) are crude oil producers. St. Joe and Anadarko sold stripper well crude oil to Tesoro Crude Oil Company (Tesoro) under supplier/purchaser relationships maintained pursuant to 10 CFR 211.63 until 1979 when each notified Tesoro of termination of their relationship pursuant to § 211.63(d)(1)(ii). Each producer effected that termination in order to begin selling its crude oil to Basin, which in turn sold that crude oil to a small refiner or sold it for resale to a small refiner.

St. Joe formally notified Tesoro of the termination of their supplier/purchaser relationship by a letter dated June 13, 1979, in which it cited § 211.63(d)(1)(ii) as the applicable regulatory provision. Anadarko notified Tesoro of its termination by a letter dated April 27, 1979, also specifically citing § 211.63(d)(1)(ii) as the applicable regulatory provision. Tesoro responded to Anadarko and St. Joe with written notices which stated that it deemed the termination provisions of § 211.63(d)(1)(ii) and (iii) to be conjunctive, and that Tesoro was therefore entitled to meet any lawful bona fide price offered by Basin in excess of the current price being paid for the crude oil by Tesoro.

In their submission, Basin and St. Joe request an interpretation that § 211.63(d)(1)(ii) was independent of § 211.63(d)(1)(iii) when St. Joe and Anadarko gave notice of termination of their supplier/purchaser relationships with Tesoro.[1]

[1] Section 211.63(d) has been amended effective October 1, 1980. However, Basin and St. Joe request an interpretation of the regulation which was applicable in April and June 1979 when Anadarko and St. Joe, respectively, effected notice of termination of their supplier/purchaser relationships with Tesoro.

Issue

Did § 211.63(d)(1)(ii) apply independently to permit St. Joe and Anadarko to terminate their supplier/purchaser relationships with Tesoro in April and June 1979 without regard for § 211.63(d)(1)(iii)?

Interpretation

Section 211.63(d), which was adopted effective June 11, 1976, specifies four distinct ways in which a crude oil supplier/purchaser relationship may be terminated. Accordingly, §§ 211.63(d)(1)(ii) and (iii) are applied independently. Therefore, Tesoro was not entitled to an opportunity to retain its supplier/purchaser relationships with Anadarko and St. Joe, which would have been permitted under the provisions of § 211.63(d)(1)(iii).

The Mandatory Petroleum Allocation Regulations in effect during the relevant period provide for the maintenance of supplier/purchaser relationships, and further provide for termination of such relationships under certain conditions. Section 211.63(d)(1), the applicable regulation governing termination of crude oil supplier/purchaser relationships at the time St. Joe and Anadarko notified their purchaser of termination, provided in pertinent part:

Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(i) at the option of the purchaser, as evidenced by its written consent thereto together with notice of the termination date given to the producer, provided all subsequent purchasers of the crude oil involved have consented to such termination in writing;

(ii) by a producer with respect to any crude oil produced from a stripper well lease (as defined in § 212.74 of Part 212 of this chapter), provided that the production from a stripper well lease is upon termination immediately sold or sold for resale to any small refiner and continuously thereafter supplied to that small refiner purchaser for processing by that small refiner; and

(iii) by a producer (as defined in Part 212 of this chapter), if the present purchaser as to any crude oil subject to a supplier/purchaser relationship refuses, within a fifteen day period after receipt of written notice of any bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser, to meet that offer.

(iv) by a producer (as defined in Part 212 of this chapter) as to a reseller purchasing crude oil from that producer: *Provided*, That: [The regulation proceeds to enumerate several conditions generally requiring that the subject crude oil continue to be supplied to the same refiner, but permitting a producer to substitute resellers with consent of the refiner, unless the proposed new reseller offers the same or lower transportation and handling charges in which case no consent is required.]

Section 211.63(d)(1) describes four circumstances in clauses (i) through (iv) in which a supplier/purchaser relationship established under § 211.63(b) may be terminated. Each clause is complete in itself and describes conditions of termination without reference to the other clauses. The first provides that the relationship may be terminated upon written consent of the purchaser of the crude oil concerned and all subsequent purchasers in the chain of supply. The second clause provides that a producer of crude oil from a stripper well lease may terminate a supplier/purchaser relationship if the crude oil concerned is sold or sold for resale to a small refiner immediately and continuously thereafter. The third clause permits a producer to terminate a supplier/purchaser relationship if it receives a bona fide written offer to purchase the crude oil concerned at a lawful price that is higher than the price being paid by the present purchaser, and the present purchaser fails to meet that higher bona fide offer within 15 days after written notice of the offer. The fourth clause permits a producer to terminate a supplier/purchaser relationship by substituting a reseller between it and the refiners of the crude oil concerned when the refiners consent, or without such consent if the transportation and handling charges of the proposed new reseller do not exceed those of the current reseller and the new reseller offers to supply the subject crude oil to the refiners involved.

Basin and St. Joe ask whether the word "and," at the end of the second clause, means that clauses (ii) and (iii) must be read together so that a producer of stripper well lease crude oil would be required to meet the conditions of both clauses in order to terminate a supplier/purchaser relationship involving that crude oil. Section 211.63(d)(1) introduces the methods of termination and is immediately followed by the four separate subordinate clauses (i) through (iv). Those clauses are separated by drafting, by their enumeration and also by their express terms which are not interdependent. Absent any further expression or reference that would support a joint reading of (ii) and (iii), the term "and" does not require such a reading. It is simply a term of transition.

Section 211.63(d)(1)(ii) originated as a proposal to permit any seller of crude oil to terminate a supplier/purchaser relationship if the crude oil was thereafter supplied to a small refiner. Notice, Amendments to Crude Oil Supplier/Purchaser Rule, 41 FR 16662 (April 21, 1976). That notice contained a proposal that would have also permitted any seller of upper tier or stripper well crude oil to terminate its supplier/purchaser relationship if the current purchaser failed to meet a bona fide offer of a lawful price above the price that was being paid by the current purchaser. These two proposed methods of termination were clearly separate and distinct, as demonstrated by the statement that:

A seller of crude oil would also be permitted to terminate a supplier/purchaser relationship where (1) the crude oil involved is thereafter supplied to a small refiner with a refinery capacity of 50,000 barrels per day or less or (2) the crude oil involved in (sic) new or stripper well oil and the present purchaser refuses after notice by the seller, to meet any bona fide offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser.

41 FR at 16663.

Most comments received in response to this proposal were unfavorable and it was therefore issued in modified form. The preamble to the final amendments addressed the unfavorable comments, and explained the termination provision in its final form, with the following statement:

Taking these comments into consideration and weighing the concern of the refiners for assured sources of domestic supplies against the problems encountered by producers locked into undesirable supplier/purchaser relationships, FEA is adopting this proposal in a modified form for stripper well producers.

* * * * *

The amendments adopted hereby in this regard provide that a producer may terminate a supplier/purchaser relationship for any stripper well production if that production will immediately upon termination be sold to or sold for resale to a small refiner (as defined in § 211.62, i.e., with a refinery capacity not exceeding 175,00 barrels per day), for processing by that small refiner. FEA believes that adoption of the proposal limited to stripper well production will minimize its possiblity that the undesirable supply disruption effects mentioned by refiners in the comments may occur, while offering the benefits of greater marketing flexibility to the largest member of producers and thereby serving to alleviate potential distortions in the domestic crude oil market generally. FEA also believes that modifying this proposal to allow stripper well producers to terminate a relationship in order to supply any refiner with a refinery capacity not exceeding 175,000 barrels per day rather than 50,000 barrels per day will give such producers additional flexibility while avoiding any discrimination among small refiners as defined in the EPAA.

41 FR 24338, 39 (June 16, 1976).

It is therefore clear from the preamble that the agency did not intend to make termination more difficult for producers of stripper well crude oil. A joint reading of §§ 211.63(d)(1) (ii) and (iii) would be clearly contrary to the preamble statement that these provisions were intended to offer marketing flexibility to producers of stripper well crude oil.

Accordingly, at the time St. Joe and Anadarko notified Tesoro of termination of their supplier/purchaser relationships with Tesoro, § 211.63(d)(1)(ii) applied independently of § 211.63(d)(1)(iii).

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

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980-45

To: Robert A. Henderson, et al.[1]

Rules and Regulations Interpreted: 10 CFR 211.51; Ruling 1975-8

Code: Definition of Wholesale Purchaser-Reseller

Facts

The Union Oil Company of California (Union) supplies refined petroleum products to Robert A. Henderson, et al., eighteen consignees (the Union consignees) operating in California. All of the consignees, except two, operate pursuant to the terms and conditions of a "Commercial Consignment Agreement." The remaining two Union consignees conduct business pursuant to a "Wholesale Consignment Agreement," which was the predecessor agreement to the Commercial Consignment Agreement and is identical in all respects relevant to a determination of wholesale purchaser-reseller status.[2]

The agreements provide that the consignees will handle, advertise for sale and sell within prescribed geographic areas those products provided by Union as consignor. Union retains title to all consigned products until the products are sold by the consignees, at which time the consignees are entitled to commissions specified in Union's applicable schedule of commissions.

The agreements further provide that the consignees are obligated to sell the consigned products at prices established by Union; use their best efforts to promote the sale of the products; furnish, maintain and operate trucks and other equipment; hire, pay the wages of and maintain sole responsibility for necessary employees; bear expenses incurred in the handling, storage, transportation and distribution of the consigned products; indemnify Union for any liability arising from operation of any workmen's compensation, unemployment, pension or retirement program; pay all license and other fees incident to the business; assume responsibility for loss or damage to the consigned products; and keep accurate records of all consigned products.

Union, as consignor, is obligated by the terms of the agreement to deliver whatever quantity of product each consignee requires for sale and to pay the scheduled commissions for product sold.

The consignees seek classification under the Mandatory Petroleum Allocation Regulations as wholesale purchaser-resellers. Such a classification would entitle them to receive a base period allocation of motor gasoline from Union pursuant to 10 CFR 211.9.

Issue

Are the Union consignees wholesale purchaser-resellers as defined in 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations?

Interpretation

The Union consignees that sell and distribute motor gasoline under the Commercial Consignment Agreement and Wholesale Consignment Agreement are wholesale purchaser-resellers, as that term is defined in 10 CFR 211.51.

A wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

The phrase "as by consignment" in the definition of wholesale purchaser-reseller, was discussed in Ruling 1975-8, 40 FR 30037 (July 17, 1975). That Ruling determined that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition of wholesale purchaser-reseller merely on the ground that they fail to take legal title to the product. Those consignees which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between the supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers. See *Remington Blue Flame*, Interpretation 1979-6, 44 FR 29431 (May 21, 1979); *Kellermyer's Inc.*, Interpretation 1977-39, 42 FR 61271 (December 2, 1977).

Ruling 1975-8 further provides that the following characteristics will qualify a consignee as a wholesale purchaser-reseller: (a) appropriate facilities and equipment for the conduct of the business of selling and distributing his supplier's products; (b) responsibility, independent of his supplier for internal financial management and physical and other administrative operations; (c) responsibility for expenses and liabilities arising from and connected with the business of transfer and sale of his supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than solely being restricted to distributing product to customers designated by the supplier. In order to qualify as a wholesale purchaser-reseller, however, all four of the preceding requirements need not be met.

In order to determine the status of these eighteen Union consignees it is necessary to determine whether they have a "substantial degree of operational independence". In this case, the eighteen Union consignees do possess a significant measure of operational autonomy in distributing and selling Union's petroleum products. They are responsible for essentially all aspects of conducting their respective businesses. They do not simply provide a delivery service, but rather, actively solicit customers for consigned products, negotiate terms and conditions for sales, own the trucks used to deliver the motor gasoline, hire necessary employees and pay the expenses of delivery. Indeed, the obligations imposed on the consignees by the agreement with Union fully satisfy the first three elements in Ruling 1975-8. The only restrictions imposed by the agreements are that the consignees must account for the consigned products and sell the products at authorized prices. There is no limitation expressed regarding sales to particular customers or in specified amounts. Instead, the agreement urges the consignees to develop sales and states that Union will provide product in "such quantity * * * as consignee requires for sale * * *." Commercial Consignment Agreement at page 1.

Moreover, the facts and circumstances in this case, as well as the relevant contractual provisions

[1] Conan Fuel Service Inc.; Richard H. James; William L. Harrington; D. D. Small; Harold R. Justice; Stohlman & Rogers Inc.; James C. Stanley; Glen H. Rofssel; Mount Hood Oil Co. Inc.; Eugene Toney Inc.; Lawrence M. Renner; Maui Petroleum Co. Inc.; Victorville Oil Co. Inc.; Joseph H. Weese; George H. Cooper; William Besch; W. D. Smith.

[2] Because the relevant provisions are essentially the same, the eighteen individual agreements between the consignees and Union will be considered together.

under which these eighteen consignees operate, are in all pertinent respects identical to those of the six Union consignees which were the subject of *Francis O. Scarpulla/Esq.*, Interpretation 1977-17, 42 FR 39960 (June 6, 1977). In *Scarpulla, supra*, it was determined that the six Union consignees were wholesale purchaser-resellers as that term is defined in 10 CFR 211.51. The agency observed that the Union consignees in *Scarpulla* possessed a full measure of authority in distributing and selling Union's products, as they actively solicited customers for consigned products, negotiated terms and conditions for sales, and drafted orders.

Similarly, in this case the eighteen Union consignees solicit customers, negotiate terms for sales, draft orders and are responsible for all other aspects of conducting their respective businesses.

Accordingly, the eighteen Union consignees are wholesale purchaser-resellers as that term is defined in 10 CFR 211.51 and explained in Ruling 1975-8, and are therefore entitled to a base period allocation of motor gasoline from Union pursuant to § 211.9.

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

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980-46

To: State of Alaska

Regulations Interpreted: 10 CFR § 212.73, 212.74

Code: GCW-PI—Posted Price; Offshore Posted Price; Gravity Differential

Facts

The State of Alaska leases state-owned property for crude oil production in the Cook Inlet Basin of Alaska, and receives royalty oil in kind from the lessee-operators. Alaska is therefore a "producer" of crude oil as that term is defined in 10 CFR 212.31, and is governed by the price regulations at 10 CFR Part 212, Subpart D of the Mandatory Petroleum Price Regulations.

There are five major crude oil producing fields in the Cook Inlet Basin, four offshore fields located in the inlet and one onshore field. The offshore fields are the Granite Point Field, the Trading Bay Field, the McArthur River Field and the Middle Ground Shoal Field. The fifth producing field in the Cook Inlet area is the Swanson River Field, located on the east side of the inlet. Crude oil from the offshore fields is produced from production platforms which are linked to onshore production facilities by platform-to-shore pipelines. These pipelines are not common carriers. Two common carrier pipelines onshore link the crude oil production facilities of the Cook Inlet area with the refineries and shipping terminals that serve the area. The Cook Inlet Pipe Line Company operates a common carrier pipeline on the west shore where the Drift River Terminal is located, and provides transportation between that terminal and the west side production facilities. The Kenai Pipe Line Company operates a common carrier pipeline on the east shore where the Nikiski Terminal is located, and connects that terminal and the Swanson River Field, the east shore refineries and the east side production facilities.

According to Alaska's submission, prices for the same grades of crude oil from the Cook Inlet Basin differ based upon the shore to which the crude oil is delivered. The posted prices for crude oil delivered to the east shore on May 15, 1973, and on September 30, 1975, were higher than the posted prices for the same grade of crude oil delivered to the west shore.

Alaska's request concerns production from the Granite Point Field. This field is produced from three platforms known as the "Anna," the "Bruce" and platform "C."[1] The Anna and the Bruce are operated by Amoco Oil Company (Amoco) on behalf of several firms known as the Chakachatna Group. These platforms are connected to both the east and the west shores of the inlet by crude oil and gas pipelines constructed by and serving only that group. From a time prior to May 15, 1973, and up to March 1975, the Anna and the Bruce platforms were connected only to the east shore of the inlet by a long crude oil pipeline. That pipeline proved difficult and expensive to maintain and operate because of the strong tides and rough bottom of the inlet. After repeated breaks, a new crude oil line to the west shore of the inlet was constructed, and the old line to the east shore was not used after June 1975. Alaska states that a gas pipeline also connected the Anna and Bruce platforms to the east shore and was used continuously for a period of time that includes November 1973 through December 1977 to transport entrained condensate, *i.e.*, condensate that is not separated from the gas in which it is carried. Alaska contends that this unseparated condensate qualifies as "crude oil" as defined in § 212.31.

[1] Platform "C" is not involved in this request for interpretation. It is operated by Mobil Oil Company (Mobil) on behalf of itself and Union Oil Company of California (Union), and is connected to the west shore by a pipeline constructed and owned by Mobil and Union.

Alaska states that it has continuously sold its royalty crude oil from the Granite Point Field to Tesoro-Alaska Petroleum Corporation, under a contractual agreement and court approved settlement, from a time prior to May 1973 until the present. Alaska delivered this crude oil to Tesoro only at the east shore of the inlet until March 1975 when its platform-to-shore pipeline was completed to the west shore. Alaska then began selling its royalty crude oil on the west shore, and discontinued use of the platform-to-shore crude oil pipeline to the east shore after June 1975. However, Alaska states that entrained condensate was continuously transported through the gas line that connects the Anna and Bruce platforms to the east shore during a period that included September 30, 1975. This condensate was separated and sold on the east shore at prices determined under 10 CFR Part 212, Subpart D.

Alaska requests an interpretation of the upper and lower tier ceiling price regulations at 10 CFR Part 212, Subpart D concerning the "posted price" component in the calculation of ceiling prices. Alaska contends that in calculating the ceiling prices for crude oil produced from the Granite Point Field and delivered on the west shore of the Cook Inlet, the "posted price" component may be a posting that applies to crude oil delivered to the east shore. Alaska acknowledges that the highest applicable posted prices for crude oil delivered on the west shore on the base dates of the ceiling price regulations were lower than the highest postings for delivery on the east shore. Nevertheless, Alaska asserts that because it was actually selling crude oil on the east shore on the base dates, it subsequently should be permitted to calculate its ceiling prices based on east shore postings without regard for the fact that the crude oil concerned is actually delivered on the west shore. Alaska also requests an interpretation of § 212.73(c) that would permit it to include the 12 cents price adjustment for the gravity differential between 40 degrees API and 34 degrees API when it sells Alaska lower tier crude oil that has a gravity less than 34 degrees API.

Issues

1. May Alaska determine the upper and lower tier ceiling prices for crude oil produced in the Granite Point Field and delivered on the west shore of the Cook Inlet, based on posted prices which were conditioned upon delivery on the east shore?

2. May Alaska include the 12 cents price adjustment for the gravity

differential between 40 degrees API and 34 degrees API when it sells Alaska lower tier crude oil that has a gravity less than 34 degrees API?

Interpretation

Alaska generally may not determine the applicable ceiling price for crude oil delivered on the west shore of the Cook Inlet based on posted prices in effect on May 15, 1973, and September 30, 1975, that specified delivery on the east shore of the inlet. However, if the east shore posted price provides a means for determining the difference in value when the crude oil is delivered on the west shore, Alaska may use the east shore posting as adjusted to reflect this difference in value. The provisions of § 212.73(c) permit Alaska to charge the 12 cents cumulative price adjustment applicable to crude oil between 40 degrees API and 34 degrees API, as well as the applicable adjustments for each degree below 34 degrees API, for crude oil that has a gravity below 34 degrees API.

I. Posted Price

The applicable lower tier ceiling price rule for crude oil produced in Alaska and California provides:

In Alaska and California, the lower tier ceiling price for a particular grade of domestic crude oil in a particular field is the sum of: (1) the highest posted price at 6 a.m., local time, May 15, 1973, for transactions in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; plus (2) $1.35 per barrel; plus (3) 2 cents for each degree API gravity between 34 degrees API gravity and 40 degrees API gravity that the domestic crude oil being offered for sale is below 40 degrees API gravity, plus (4) 3 cents for each degree API gravity that the domestic crude oil being offered for sale is below 34 degrees API gravity [as adjusted by § 212.77].[2]

10 CFR 202.73(c). The upper tier ceiling price rule applicable to production from the Granite Point Field provides:

The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel [as adjusted by § 212.77].

10 CFR 212.74(b). Thus, determination of the upper and lower tier ceiling prices applicable to crude oil production from the Granite Point Field depends on the highest posted price for the same grade of crude oil in that field on the base dates indicated in the rules. Actual sales on the base dates are not required by the rules, and therefore Alaska's sales on May 15, 1973, and September 30, 1975, are inmaterial. Alaska need only establish the terms of an actual posted price that was in effect and applicable to the field concerned on the base date in order to use that posting as the basis for its ceiling price determination.

"Posted price" is defined in § 212.31 as "a written statement of crude oil prices circulated publicly among sellers and buyers of crude oil in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field." "Posted prices" are interpreted in Ruling 1977-1 as "bona fide public offers of general applicability to all crude oil producers" in the field concerned. 42 FR 3628 (January 19, 1977). The term "posted price," as used in the ceiling price rules, therefore has been interpreted to include general offers to purchase crude oil. However, a particular posted price that specifies conditions to the purchase may not be used to determine the ceiling price for crude oil which does not meet those conditions. *Cf. Spartan Petroleum Company*, Interpretation 1978-30, 43 FR 29531 (July 10, 1978).

The ceiling price for offshore production has been interpreted to include delivery at a point distant from the producing platform if it is based on a posted price that included delivery to that point. *Pennzoil Offshore Gas Operators, Inc.*, Interpretation 1978-17, 43 FR 19826 (May 9, 1978). The posted price that Pennzoil used to determine its ceiling price included delivery to a point 70 miles from the producing platform. The *Pennzoil* interpretation determined that the ceiling price for crude oil includes all services that were included in the referenced posted price on the base date for that tier of crude oil, and any reduction of the services that were included in the posting on the base date must be accompanied by a corresponding reduction in the price for the crude oil. That interpretation explained the application of the price rule as follows:

This rule applies by virtue of the fact that the ceiling price for crude oil is established with reference to a historic price bulletin which provides, either expressly or by implication, that price include certain customary services, such as delivery. Thus, if the prices in the applicable bulletin for September 30, 1975, are delivered prices, the delivery services customarily provided by the producer on September 30, 1975, in connection with its sale of crude oil, must continue to be provided to the purchaser if the producer wishes to charge the ceiling price applicable to that sale. Any reduction in such services must be accompanied by a corresponding reduction in the sale price.

Pennzoil at 19827.

The facts submitted by Alaska in its request for interpretation are similar to those in the *Pennzoil* interpretation. Alaska is attempting to base its upper and lower tier ceiling prices on posted prices that were conditioned on delivery of the crude oil to a different location from the point where Alaska currently delivers the crude oil. Alaska acknowledges that the higher east shore postings specified delivery on that shore. Nevertheless, Alaska requests that §§ 212.73 and 212.74 be interpreted so that the upper and lower tier ceiling prices may be calculated using the higher posted prices without regard for the specified terms of those postings. However, as the *Pennzoil* and *Spartan* interpretations explained, a producer may not base its ceiling price determination on a particular posted price unless it meets the conditions of that posting. Accordingly, unless Alaska meets the conditions discussed below, it may not determine its ceiling price for crude oil delivered on the west shore based on a posted price that specified delivery on the east shore.

The *Pennzoil* interpretation also explained that a reduction in services from those services that were specified in the price bulletin on the base date must be accompanied by a corresponding adjustment of the sale price. With respect to Alaska's submission, if the east shore posting provides a means for determining the difference in value when the crude oil is delivered to the west shore of the inlet, then Alaska may use the east shore posting, adjusted to reflect this difference, to determine its ceiling price. The posted price, as adjusted, would then become the "posted price" component in the ceiling price calculation.

II. Gravity Differential

The royalty oil that Alaska sells from the Granite Point Field includes crude oil below 34 degrees API. Alaska asks for a clarification of the amendment to the lower tier ceiling price rule for domestic crude oil, effective October 1, 1976, which established price adjustments for gravity differentials

[2] The price adjustments for gravity differentials were established in November 1976. 41 FR 48324 (November 3, 1976). Prior to that time, California and Alaska crude oil was subject to the lower tier ceiling price rule for all domestic crude oil, which was substantially the same as the rule quoted above with the exception of the gravity adjustments.

below 40 degrees API. That amendment, quoted above, provides for the addition of 2 cents for each degree API gravity below 40 degrees API, and the addition of 3 cents for each degree below 34 degrees API gravity. These provisions are expressed in the conjunctive.

The preamble to this amendment states as follows:

> Accordingly, FEA hereby adopts an amendment to the lower tier ceiling price rule which will permit the ceiling price for "lower tier" California and Alaska crude oil to be increased by 2 cents per barrel for each degree API between 34 degrees API, and 40 degrees API that it falls below 40 degrees API, and by 3 cents per barrel for each degree API that it falls below 34 degrees API.

41 FR 48324 (November 3, 1976).

The purpose of the amendment establishing price adjustments for gravity differentials is to provide increasing positive incentives for production of crude oil as the API gravity declines below 40 degrees API. It was also determined that less incentive was needed for gravities above 34 degrees API than for gravities below that level. 41 FR 48324 (November 3, 1976). Thus, 34 degrees API was established as a base level to distinguish the 2 cents price differential add-on from the 3 cents price differential add-on. Therefore, both the language and the express purpose of the amendment demonstrate that the price adjustments from the two base points of 40 degrees API and 34 degrees API are cumulative.

III. Conclusion

For the reasons set forth above, Alaska may not determine the applicable ceiling price for Granite Point Field crude oil production delivered on the west shore of the Cook Inlet based on a posted price that was conditioned upon delivery on the east shore unless it makes an appropriate adjustment to the base date posted price for the east shore. In addition, the price adjustments for the gravity differentials for Alaska crude oil under § 212.73(c) are cumulative below 40 degrees API gravity, so that lower tier crude oil below 34 degrees API gravity may receive the 12 cents cumulative price adjustment for crude oil between 40 degrees API and 34 degrees API.

Issued in Washington, D.C., on November 25, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Interpretation 1980–47

To: Master Contracting Stevedore Association

Rules Interpreted: 10 CFR 211.103

Code: GCW—AI—Priority Allocation Levels; Cargo, Freight and Mail Hauling by Truck, def.

Facts

The Master Contracting Stevedore Association of the Pacific Coast, Inc., (MCSA) is a trade association comprised of all stevedore and terminal operators located on the West Coast of the United States. Members of the Association are responsible for transferring incoming goods from ships to land transportation carriers. A variety of vehicles are employed by the stevedore and terminal operator industry in unloading and loading cargo and freight, including forklift trucks, straddle carriers, flatbed trucks and tractor-trailer rigs. Many of these vehicles have either a gross weight rating, or an "actual loaded weight capacity," [1] in excess of 20,000 pounds.

In light of the difficulty that its members have experienced in securing adequate supplies of motor gasoline, MCSA seeks a determination that stevedore and terminal operators are entitled to a first priority allocation under the Mandatory Petroleum Allocation Regulations.

MCSA contends that the definition of "truck" set forth in 10 CFR 211.102 includes within its scope, in addition to vehicles with a gross weight rating in excess of 20,000 pounds, those vehicles having an actual loaded capacity exceeding 20,000 pounds. MCSA thus asserts that because its members are engaged in the hauling of cargo and freight by truck, they are entitled to an allocation of motor gasoline equal to 100 percent of their base period use pursuant to 10 CFR 211.103(b)(8).[2]

According to MCSA, a different interpretation would contravene the purposes of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. 93–159 (November 27, 1973).[3]

Issue

(1) Are vehicles having an actual loaded capacity in excess of 20,000 pounds "trucks" within the meaning of § 211.102?

(2) Are the transportation operations performed by MCSA's members eligible for a first priority allocation of motor gasoline as "cargo and freight hauling by truck" under § 211.103(b)(8)?

Interpretation

Members of MCSA that are also bulk purchasers or wholesale purchaser-consumers are entitled to a first priority allocation level of motor gasoline not subject to reduction by an allocation fraction, to the extent that the vehicles used in hauling cargo and freight are "trucks" as that term is defined in § 211.102.

The term "truck" is defined in § 211.102 as follows:

> [A] motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a *gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds, or in the case of trucks designed primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and the load so drawn, with a gross combination weight rating (the value specified by the manufacturer as the loaded weight of the combination vehicle) or the equivalent thereof in excess of 20,000 pounds.* [Emphasis added.]

The definition expressly applies to both those single vehicles that are designed to carry a load and those "designed primarily for drawing other vehicles" if the weight requirement is satisfied. Such motor vehicles are "trucks" if specified by the manufacturer to possess a gross vehicle weight rating in excess of 20,000 pounds or if they

[1] MCSA defines "actual loaded weight capacity" as the "actual weight of the vehicle *plus* the vehicles load capacity."

[2] Under 10 CFR 211.103(a), priority allocation levels are only available to end-users that qualify as bulk purchasers or wholesale purchaser-consumers.

The term "bulk purchaser" is defined in 10 CFR 211.102 which provides:

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, or (b) with respect to use in agricultural production, receives delivery into a storage tank with capacity not less than 50 gallons substantially under the control of that firm.

The term "wholesale purchaser-consumer" is defined in 10 CFR 211.51 as:

... any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

MCSA has not stated whether its members are bulk purchasers or wholesale purchaser-consumers, but would have to satisfy this condition in order to preliminarily qualify for a priority allocation of motor gasoline according to the terms of § 211.103(a).

[3] 15 U.S.C. 751 *et seq.* (1976).

weigh the equivalent of the rating specification, i.e., in excess of 20,000 pounds. The gross weight rating is the value designated by the manufacture as the loaded weight of a single vehicle, or, for a vehicle designed to "draw" another vehicle, such as the straddle carrier described by MCSA, the loaded weight of the combination vehicle.

Since the manufacturer determines rating specifications based on a cargoless product, the gross vehicle weight rating constitutes the manufacturer's judgment regarding the "capacity" of its vehicle to transport the cargo for which it is designed. However, Section 211.102 also permits an equivalent rating to be used in determining whether a vehicle qualifies as a "truck." In the absence of express limitations, the "equivalent" of a gross vehicle weight rating in excess of 20,000 pounds would include vehicles with an actual loaded weight capacity over 20,000 pounds. Thus, if the vehicles employed by the stevedores and terminal operators have either a gross vehicle weight rating or an actual loaded weight capacity in excess of 20,000 pounds, they qualify as "trucks" for purposes of § 211.103(b).

Section 211.103(b) provides in pertinent part:

(b) Allocation levels not subject to an allocation fraction. One hundred (100) percent of base period use for the following uses:

* * * * *

(8) Cargo and freight hauling by truck and mail hauling, * * *.

MCSA contends that the cargo and freight hauling activities of its member companies entitle them to a priority allocation of motor gasoline pursuant to § 211.103(b)(8). "Cargo and freight hauling" are defined in § 211.102 as "the transportation of goods in the regular course of business."

As MCSA states in its submission, the companies that make up MCSA are engaged in, as their primary business activity, the transporting of cargo from ocean vessels through their warehouses to various land transportation vehicles. MCSA members thus transport cargo and mail in their regular course of business. As MCSA observes, the extension of priority status to such uses of motor gasoline is wholly consistent with the objectives set forth in Section 4(b)(1) of the EPAA. The EPAA authorizes allocation and price regulations and articulates specific purposes for those regulations to achieve to the maximum extent practicable, including "economic efficiency" and the "minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms."[4]

Accordingly, those members of MCSA that are bulk purchasers or wholesale purchasers-consumers qualify for a first priority allocation of motor gasoline not subject to reduction by an allocation fraction to the extent that their cargo and freight hauling activities are performed by "trucks" meeting the definitional requirements of § 211.102.

Issued in Washington, D.C., on November 26, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

Appendix B.—*Responses to Petitions for Reconsideration*

Petitioner	Interpretation	Date of response
Union Texas Petroleum Corp.	Allied Chemical Corp., 1980-26, 45 FR 61568 (Sept. 16, 1980).	Nov. 14.

Petition for Reconsideration

Interpretation: Allied Chemical Corporation

Petitioner: Union Texas Petroleum Corporation

Date: November 14, 1980

This responds to your petition on behalf of Union Texas Petroleum Corporation (UTP) seeking reconsideration of *Allied Chemical Corporation,* Interpretation 1980-26, 45 FR 61568 (September 16, 1980.)[1] For the reasons discussed below, we have concluded that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In such cases, the burden is on the petitioner to demonstrate that the interpretation was erroneous in fact or in law or that the result reached in the interpretation was arbitrary or capricious. 10 CFR 205.85(f).

Interpretation 1980-26 concluded that UTP may not include costs associated with natural gas or natural gas liquid gathering facilities and transportation lines at its gas plants for purposes of § 212.165 and § 212.164(e) due to the fact that it was the first seller of natural gas liquid products at the plant and has a beneficial interest in the residue gas produced from the plant.

In its petition for reconsideration, UTP contends that the beneficial interest rule which prevents recovery of costs associated with gathering facilities and transportation lines is highly discriminatory as applied to it because it has only a minority interest in the gas sold from the plants it operates and is in virtually the same economic position as gas processors that have no beneficial interest in residue gas. UTP further states that the only way to avoid such discrimination would be for the Department of Energy to issue an interpretation of § 212.162 which would permit recovery of gathering system expenses in proportion to a firm's non-beneficial interest in the residue gas.

The allocation of gathering costs between residue natural gas and natural gas liquid products which UTP seeks is not permitted under the express provisions of 10 CFR § 212.162. Moreover, the application of the beneficial interest rule as explained in Interpretation 1980-26 does not have a discriminatory effect upon the business of UTP.

Since UTP has failed to demonstrate that the interpretation is erroneous in fact or in law, or that the interpretation is arbitrary or capricious, we deny the petition for reconsideration. The denial of UTP's petition for reconsideration is a final order of the Department of Energy from which petitioners may seek judicial review.

Appendix C.—*Cases Dismissed*

File No.	Requester	Category	Date dismissed
A-434	Norwegian Oil Corp.	Price	Nov. 24.

[FR Doc. 80-38714 Filed 12-12-80; 8:45 am]

BILLING CODE 6450-01-M

[4] EPAA, §§ 4(b)(1)(H) and (I).

[1] The original request for interpretation was submitted by Allied Chemical Corporation for and on the behalf of its Union Texas Petroleum division which owned and operated all of Allied's gas processing plants. Since UTP filed the Petition for Reconsideration on its own behalf, all references to the original request will refer to UTP.

Federal Register

Monday
December 15, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Motor Gasoline Allocation Revision

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-16]

Motor Gasoline Allocation Revision

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing amendments to its gasoline allocation program which are intended to foster the equitable distribution of gasoline. These admendments will:

1. Allow resellers and refiners increased flexibility to reassign base period volumes of company-operated and closed independent retail outlets so long as the proportional share of the gasoline each supplier provides to independent dealers will be preserved. The supplier will be permitted to use at its discretion the volumes that had been supplied to the closed outlets to supply new retail outlets or to shift such volumes to other existing outlets. If a firm reassigns volumes to an outlet in a state other than the one from which the allocation came, it will be required to afford 30 days advance notice to ERA which could disallow such a shift.
2. Not revise the current unusual growth adjustment provision.
3. Permit resellers which receive more than one brand of motor gasoline to maintain separate allocation fractions for their different brands of gasoline supplied to purchasers that maintain the same respective brands.
4. Allow state governors to require suppliers to shift gasoline supplies within states on the same basis that suppliers can take such actions.
5. For purposes of the allocation regulations *only*, classify vehicle leasing firms as wholesale purchaser-consumers with an allocation level dependent on the activity of the vehicle users.
6. Make other miscellaneous revisions.

DATE: Effective January 14, 1981.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055.

William Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3256.

Alan T. Lockard (Office of Petroleum Operations), Economic Regulatory Administration, Room 2104, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3701.

William Funk or Joel M. Yudson (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6736 or 252-6744.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Unusual Growth Adjustment.
III. Refiner and Marketer Flexibility.
IV. Separate Allocation Fractions.
V. Miscellaneous Amendments.
VI. Governors' Redirection Authority.
VII. Vehicle Leasing Firms.
VIII. Allocation Deregulation.
IX. Procedural Requirements.

I. Background

On June 6, 1980, the ERA issued a notice of proposed rulemaking (45 FR 40078, June 12, 1980) that proposed changes to the gasoline allocation regulations and requested comments on related topics, such as allocation deregulation. The proposed revisions resulted from concern on the part of the ERA that the allocation regulations may not be operating in the best manner to meet the objectives of the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159, EPAA). After publication of the proposal, the ERA held public hearings throughout the United States and invited both oral and written comments from all sectors of the economy.

This final rule will effect some of the necessary changes to the allocation program. In general these amendments attempt to meet the EPAA objectives of providing for the equitable distribution of gasoline, the preservation of competition in the petroleum industry, as well as other objectives of that Act.

We are continuing to evaluate certain of the proposed changes. A final rule addressing the interim supply rule and adjustments and assignments for existing and new stations is expected to be issued in the near future. The rulemaking is continued with regard to such issues.

Many members of the petroleum industry, including gasoline refiners, wholesalers, and retailers, commented on the major issues of the proposals. Responses from groups outside the petroleum industry were received from members of Congress, State and local governments, Federal agencies, and non-petroleum related companies and trade associations. In general, non-industry respondents addressed only changes directly affecting them or those groups they represent. The state governments, which responded specifically to almost every issue, were a notable exception.

II. Unusual Growth Adjustment

A. Comments Received

The notice proposed changes to the unusual growth adjustment provision of 10 CFR 211.104. All classes of commenters overwhelmingly opposed any change to that provision. There was concern over the considerable administrative burden and disruption such a change would cause with a year to go in the program. Some commenters stated that a ten percent deductible would reduce supplies to firms and areas that need it.

Most refiners commenting on this issue were opposed to making any change in the current provision. Seventeen of twenty-four wholesalers were opposed to a change in the provision. Twelve of fourteen retailers commenting on the issue opposed the change as well as others, including the U.S. Department of Justice.

B. Agency Response

For the reasons cited in the majority of comments received, no change to the unusual growth adjustment provision is being adopted.

III. Refiner and Marketer Flexibility

A. Comments Received

Most commenters in all categories favored additional refiner and wholesaler flexibility. This proposal would allow both refiners and wholesalers greater flexibility in transferring supplies from company-operated and closed independent outlets. The proposed geographic limitation on such flexibility received attention from commenters. Refiners that commented favored no limitation, while wholesalers were split among no limitation, statewide limitation for refiners only, and other smaller geographic limitations. The U.S. Department of Justice commented that the imposition of a geographical constraint both may be unnecessary and may not promote the competitive distribution of gasoline.

B. Amendments Adopted

In view of the widespread support, we are adopting this provision generally as proposed. A firm will be able to reassign volumes without advance ERA approval from one company-operated retail sales outlet to other outlets it supplies and from closed independent retail outlets to other independent retail outlets. Volumes reassigned under this provision will create the same rights and

obligations as if DOE had issued an assignment order. Reassignment of volumes supplied pursuant to interim supply arrangements under § 211.105(a) will not be permitted.

The volumes from a closed independent outlet may be reassigned only if the volumes do not transfer to the former operator on another site under § 211.106 (c)(1) or (d) or to a successor on the same site under § 211.106(f). Thus, if a reseller that supplied an independent outlet that closed wishes to insure that a reassignment it will make to another outlet will remain effective, it could attempt to ascertain (1) whether the former operator will reestablish the business on another site or will adjust the allocation at one or more of its other locations or (2) whether a successor will open on the original site. Any of those situations would take precedence over a reassignment by the reseller.

If the former operator of a retail outlet that operated two or more stations reassigned the volumes to one or more of its other locations, then the allocation for the closed retail sales outlet will not transfer to a successor on the site. There has been concern that resellers that operate more than one outlet may attempt to manipulate the reassignment provision to obtain new assignments by closing outlets temporarily. For instance, a reseller could close a company-operated outlet and reassign the volumes to another of its outlets. It could then agree to supply an independent dealer at the original location which, because it would not succeed to the original allocation, could apply for a new assignment for that location. This sequence could occur even if the refiner-supplier for the original location would be unwilling to supply the additional product. To alleviate this concern, we are providing that when firms reassign volumes from company-operated outlets that they close to other outlets they operate or supply, ERA will limit new assignments at the old sites. When such reassignments occur, no firm may apply for new allocations at the sites of the outlets that closed, nor will ERA make such assignments, unless all the prospective suppliers to the formerly closed outlets (including the refiner-suppliers to the outlets) are willing to supply the outlets. Because no application may be made in situations involving an unwilling supplier, there will be no applications pending within ERA that would trigger in such cases for those locations the interim supply provisions of § 211.105.

We are also amending § 211.106(d) to clarify the existing provision concerning the right to the allocation of a closed outlet when there are competing claims by the former operator (which did not have more than one outlet) and an independent successor on the site. The regulation provides that when a retail sales outlet closes, and the other conditions are satisfied, the allocation will transfer to the former operator on a new site if it reestablishes its business while the former site is closed or operated by a non-independent marketer.

In addition, reassignments will only be permitted if the reassignment will not increase any firm's supply obligations. The firm making an adjustment to the base period use of an independent outlet will be required to provide a written notification of the adjustment to the recipient of the adjustment. For volumes shifted among company-operated outlets, a firm will be required to maintain a contemporaneous written record of the adjustment.

Geographical Limit

We are not convinced that the flexibility should necessarily be limited by geographical constraints. However, because in certain cases the loss of product from an area could leave the area with inadequate supply protection, ERA will maintain an oversight role. If the reassignments are to outlets in a state other than the one from which the allocations came, firms making reassignments will be required to give 30 days advance notice to the ERA Regional Office for the state from which the product is taken. Advance permission is not required, nor will ERA be required to evaluate in detail the circumstances behind each notification. However, if particular reassignments from one state to another would appear to cause inequitable distribution, ERA will have the discretion to disallow such actions.

Relation to Downward Certification

In the notice of proposed rulemaking, we asked what the proper relationship should be between the existing downward certification provision in § 211.13(f) and the proposed marketer flexibility provision. Section 211.13(f) requires a marketer, after it receives an upward adjustment, to certify, a downward adjustment only to the extent its needs have declined. In the past, this has been interpreted to mean that after an adjustment is made for a firm to supply increased needs at a particular facility, a downward adjustment would be required if its need to supply the same facility has been reduced, e.g., if the facility has closed.

The final rule we are adopting today will allow firms to reassign volumes from closed retail outlets to others. We do not believe that particular reassignments should be disallowed solely because the reseller wishing to make the reassignment had received an upward adjustment for the closed outlet to which it no longer has any need to supply product. Thus, we are amending § 211.13(f) to provide that, for retail outlets that close *in the future*, reassignments under § 211.106(c) will not be impeded by the downward certification requirement of § 211.13(f).

Section 211.106(c) may not be used to justify failures to certify downward past reductions in need if such action was required. Thus, for example, if a retail outlet received an assignment of or an upward adjustment to a base period use since the close of the base period for which its supplier received an adjustment and it closed prior to the effective date of this rule, the supplier should have obtained a downward adjustment under § 211.13(f). It may not reassign such volumes under § 211.106(c).

In addition, if a retail sales outlet for which an upward adjustment has been made closes and no reassignment is made under § 211.106(c), then a downward adjustment will continue to be required under § 211.13(f). Similarly, if the reassigned volumes are never purchased at the location to which they are reassigned, the reassignment will be invalid. In any month, reassigned volumes will be deemed to be purchased last.

IV. Separate Allocation Fractions

A. Comments Received

Few comments were received on the proposal concerning separate allocation fractions. The proposal would allow wholesalers to maintain different allocation fractions with respect to the different gasoline brands they supply to outlets. Under existing regulations, all outlets, regardless of brand, are required to receive product according to the wholesaler's, rather than the refiner-supplier's, allocation fraction. Nearly all commenters either made no comment on or approved of the multiple allocation fraction proposal.

The proposal contained a feature that would have required suppliers to maintain minimum and maximum allocation fractions for their unbranded purchasers. Commenters, desiring maximum flexibility, opposed fixed minimum or maximum fractions. One commenter stated that requiring a minimum allocation fraction for unbranded customers equal to the

lowest fraction of any of its branded customers would impose a substantial burden on independent resellers. It claimed that it would have to meet this requirement by purchasing high-priced product on the spot market.

It was asserted that the requirement that resellers not supply product to unbranded customers at a fraction above the highest fraction that they supply product could actually draw product out of an area during a shortage. For instance, under the proposal, resellers with enough product to maintain a fraction for their unbranded customers higher than the fractions of their branded customers would have to offer equivalent amounts of product to their branded customers. However, because of state branding laws and contracts against commingling of branded product, the only practical option the resellers would have would be to offer less product to their unbranded customers.

B. Amendments Adopted

For the reasons stated in the notice of proposed rulemaking and in view of the comments received in support of the proposal, we are adopting it. The provision will permit resellers which receive more than one brand of motor gasoline to maintain separate allocation fractions for their different brands of gasoline supplied to purchasers that maintain the same respective brands. Marketers will thus be able to supply branded independent dealers at the same allocation fraction of the refiner-supplier of each brand.

In addition to the arguments raised by commenters as to maximum and minimum allocation fractions, such provisions would add considerable complexity to the operation of the rule. Thus, neither maximum nor minimum fractions for unbranded customers are included as a part of this rule.

As proposed, the final rule will also permit resellers maintaining separate allocation fractions for separate brands to certify adjustments to the supplier of branded product which the reseller sells under that brand. As a result of this change, resellers will be able to pass through adjustments to their respective branded suppliers that provide the branded product rather than prorating the certification to all of their suppliers. The provision permitting this will be included in 10 CFR 211.13(c)(2), the general upward certification section, rather than in § 211.107 as proposed.

V. Miscellaneous Amendments

A. Proposal

Four miscellaneous amendments were proposed. The first would make explicit the cross-branding authority of states in administering state set-aside programs. The second would eliminate the authority of local jurisdictions to set end user priorities without obtaining state approval. The third would allow ERA to "fill in" missing base period months for retail outlets that did not purchase gasoline in all months of the base period year. The fourth would classify as first priority the repair, operation, and maintenance of common carrier telecommunications facilities at all times rather than just during periods of substantial disruption of normal service.

B. Comments Received

Of the ten state governments commenting on the issue, all approved of the proposal permitting states to assign any prime supplier to supply set-aside volumes regardless whether the supplier maintains a brand different from the firm which would receive it. The state set-aside, the states believed, was a useful tool to combat shortages and should be made as flexible as possible. Refiners generally opposed the cross-branding provision. They stated that permitting states to direct volumes of one brand to firms selling other brands would lead to violations of state branding laws and trademark protection provisions of supply contracts.

The amendment to delete the sentence permitting local governments and suppliers together to set priorities for end users was supported by State governments, nine in favor, one against. Their position was that end-user priorities within a State could be handled adequately by the State energy offices and that allowing local governments to set priorities would be unnecessarily confusing and complex.

C. Amendments Adopted

The amendments regarding cross-branding, end user priorities and telecommunications services are all being adopted as proposed. A specific description of each of these amendments is set forth in the notice of proposed rulemaking.

The cross-branding authority was already provided by § 211.17 and is only being made explicit by this amendment. We expect that it will be used judiciously by the States in meeting hardship and emergency requirements which could not be met without such action.

In response to commenters' contentions that actions taken under this provision would necessarily conflict with State branding laws, we believe such actions would not. State branding statutes typically require disclosure to the public of the brand of product that is being sold, but generally do not prohibit firms from selling different brands of product if there is no misrepresentation to the purchaser at the time of sale. Our regulations do not prevent separate identification of or sale of State set-aside volumes and thus would not conflict with such provisions or similar provisions of supply contracts. If there are contractual provisions which do prohibit firms from selling more than one brand of product, then such provisions would be superseded by this regulation.

With respect to the amendment concerning retailers' base period volumes in "missing months," we are deferring resolution of this issue pending our general determination on how to handle assignments and adjustments for retail outlets.

VI. Governors' Redirection Authority

A. Proposal and Comments Received

We proposed to allow State governors to require suppliers to shift gasoline supplies within States on the same basis that suppliers can presently take such actions.

While few refiners and wholesalers commented on this proposal, those that did opposed its adoption. They objected to a further loss of control over the disposition of their supplies. State and local government favored this proposal as possibly being a useful tool to relieve future intrastate shortages.

B. Amendment Adopted

We are adopting the proposed change to § 211.14(b) which would allow governors to require suppliers to shift gasoline to alleviate intrastate supply shortages. The State set-aside program was one of the most effective regulatory means of dealing with supply problems during the Spring and Summer of 1979. Providing States with this additional authority should also be an effective means of dealing with local imbalances, particularly when the State set-aside, the first recourse, would be exhausted.

Ruling 1979-2, which permitted States to insulate refiners from DOE review if refiners chose to make intrastate supply shifts under § 211.14(b), did not adequately encourage refiners to take such actions. The amendment we are adopting today should be a further incentive to refiners to attempt actively to work with State energy offices to alleviate supply problems within States

before the States would actually order such action.

VII. Vehicle Leasing Firms

A. Proposal and Comments Received

ERA proposed an amendment under which firms engaged in vehicle leasing would be classified as wholesale purchaser-consumers for purposes of the allocation regulations and thus be eligible to receive allocations. We further proposed creating a separate second priority allocation level for vehicle leasing firms of 100 percent of base period use subject to an allocation fraction.

Commenters generally were in favor of, or did not object to, vehicle leasing firms being treated as wholesale purchaser-consumers for purposes of the allocation regulations. Firms engaged in truck and automobile leasing supported the proposal with two suggested modifications. First, it was stated that ERA should only permit those vehicle leasing firms which purchase gasoline at the wholesale level to be classified as wholesale purchaser-consumers. Second, it was asserted that the proposed second priority allocation level for such firms would be unfair to those firms which lease vehicles for first priority activities, such as trucks used for mail hauling or cargo and freight hauling. It was requested that the proposed second priority allocation level which would have applied to all vehicle leasing activities be deleted and that the allocation level for such firms be determined with respect to the activity of the vehicles involved.

B. Amendments Adopted

We are adopting the proposal with the above-suggested changes which we believe to be meritorious. Vehicle leasing firms that receive gasoline into storage tanks substantially under their control at a fixed location will be deemed to be wholesale purchaser-consumers for purposes of the allocation regulations.

The proposed separate second priority allocation level for vehicle leasing firms will not be adopted. Instead, the regulation in § 211.103(a)(3) will specifically provide that the allocation level for vehicle leasing firms shall be determined with reference to the activities of the vehicles leased which use the motor gasoline and shall be no lower than 100 percent of base period use subject to an allocation fraction, the second priority. For motor gasoline, the first priority allocation level is 100 percent of base period use not subject to an allocation fraction. Trucks that are leased typically are engaged in cargo and freight hauling, a first priority activity for trucks in excess of 20,000 pounds, and a second priority activity for trucks of less than that weight. Firms leasing autos and trucks for activities such as industrial or commercial uses would qualify for a second priority allocation level. The second priority allocation level would also apply when the vehicles are leased for activities that are not entitled to either a first or second priority allocation level, such as for personal use. The allocation level for automobiles leased is intended to be sufficient to restore a full tank of gasoline at the end of each lease term but is not intended to represent volumes that would be used for refueling during the term of a lease.

VIII. Allocation Deregulation

We also solicited comments on whether it was feasible for DOE to exempt gasoline from the allocation regulations. Many commenters addressed this issue. Refiners advocated the elimination of both allocation and price controls. A number of independent marketers opposed immediate deregulation until they could obtain some type of supply protection. Some members of Congress and the U.S. Department of Justice also supported deregulation.

In light of the comments received, deregulation remains under consideration.

IX. Procedural Requirements

A. FERC Review

The Federal Energy Regulatory Commission (FERC) was notified of the proposed rule and given an opportunity, under section 404 of the Department of Energy Organization Act, Pub. L. 95-91 (DOE Act), to the close of the comment period to make a determination whether the proposed rule may significantly affect a matter within its jurisdiction under sections 402(a)(1), (b) and (c)(1) of the DOE Act. We were notified by the FERC on August 20, 1980 that it has declined to exercise its jurisdiction in this matter.

B. NEPA Review

In the proposal, we stated that the agency would take the action necessary to comply with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.

DOE has concluded that the potential environmental impacts associated with price and allocation regulations concerning motor gasoline were covered by the environmental impact statement entitled *Motor Gasoline Deregulation and the Gasoline Tilt*. This rulemaking does not result in changes in supply and distribution patterns such that the environmental effects of these revisions would be different than the environmental impacts discussed in the above-named environmental impact statement. Therefore, DOE has determined that this rulemaking does not require a supplement to the above-mentioned environmental impact statement nor the preparation of any additional document.

C. Executive Order No. 12044

In accordance with Executive Order No. 12044 (43 FR 12661, March 24, 1978) and DOE's implementing procedures, set forth in DOE Order 2030.1 (44 FR 1032, January 3, 1979), a draft regulatory analysis of the proposal was prepared and made available at the time the notice was published. The analysis contained in the draft regulatory analysis of the rules adopted today remains valid.

When a final rule likely to have a major impact is published, the summary portion of a final regulatory analysis should be included, together with a statement of how members of the public can obtain the supporting documentation. It has been determined that the issues addressed in this final rule are not likely to have a major impact under the criteria set forth in DOE Order 2030.1. Thus no regulatory analysis of these issues is required.

Although not required, an analysis of the rules being adopted will be included in the final regulatory analysis addressing the issues set forth in the proposal that are not dealt with in this final rule. That final regulatory analysis is expected to be made publicly available when we issue the final rule dealing with the other proposals remaining under consideration.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 et seq., Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 et seq., Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 et seq., Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. § 7101 et seq., Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 14, 1981.

Issued in Washington, D.C., December 5, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Subparagraph (d)(2) of § 211.10 is amended to read as follows:

§ 211.10 Supplier's method of allocation.

* * * * *

(d) *Purchasers without allocation levels.*

* * * * *

(2) The second priority for each supplier shall be to distribute equitably the remainder of the supplier's allocable supply among all end-users or wholesale purchaser-consumers which are not entitled to an allocation level. A state may require or authorize priorities to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Priority treatment, per se, when granted in accordance with the provisions of this subparagraph, shall not be considered a form of discrimination among purchasers or any other prohibited conduct under § 210.62 of this chapter.

* * * * *

2. Paragraphs (c) and (f) of § 211.13 are amended by revising subparagraph (c)(2) and paragraph (f) to read as follows:

§ 211.13 Adjustments to base period volume.

* * * * *

(c) *Adjustments to a wholesale purchaser-reseller's base period use for new and increased allocation entitlements of purchasers.*

* * * * *

(2) A wholesale purchaser-reseller which is entitled to receive an adjustment to its base period use pursuant to paragraph (c)(1) of this section or § 211.85 may certify to and shall receive an upward or downward adjustment to its base period use from its supplier or suppliers:

(i) In proportion to that part of its base period use received from each supplier; or

(ii) From whom it purchases the particular brand of motor gasoline supplied to the firm which receives the assignment or adjustment, provided that it maintains a separate allocation fraction for that brand under § 211.107(b) of this Part.

* * * * *

(f) *Certifications and downward adjustments of base period uses.* The chief executive officer (or his authorized agent) of a purchaser applying to a supplier for an adjustment under this section shall certify such application for accuracy. Such application shall contain a statement that increased allocations shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application for a downward adjustment to its base period use. Downward adjustments are not required for volumes reassigned under § 211.106(c) of this part with respect to retail outlets that close subsequent to December 31, 1980.

* * * * *

3. Paragraph (b) of § 211.14 is amended to read as follows:

§ 211.14 Redirection of products.

* * * * *

(b) Refiners and importers are authorized to reduce the monthly allocable supply to purchasers of those allocated products covered under Subparts D, E, F, G, H (except Civil Air Carriers) and I (except utilities) for any region or area by up to five (5) percent and to increase the total quantity of any of these allocated products available in another region or area experiencing shortages significantly greater than are being experienced elsewhere in the nation to meet regional imbalances due to weather variation, seasonal demand, or other circumstances beyond their control. Such action may be accomplished without prior approval from the Administrator, ERA, and may be required by a state governor with respect to redirection of product within that state, but must be reported immediately after the adjustment occurs to the National ERA, the appropriate regional ERA, and the State Office of any State within a region or area directly affected by the reduction or increase. Redistribution involving reduction of product volumes greater than five (5) percent from any State shall require approval from the Administrator, ERA, prior to any action by any refiner or importer. The adjustment provided for in this section shall not be cumulative. Allocation fractions for a region or area which are reduced by such a reduction of an allocated product shall be returned to prereduction levels as soon as practicable.

* * * * *

4. Subparagraph (d)(2) of § 211.17 is amended to read as follows:

§ 211.17 State set-aside.

* * * * *

(d) *State action.*

* * * * *

(2) If a State Office approves a hardship or emergency application, it shall assign a prime supplier and amount from the state set-aside to the applicant. Any prime supplier to the state may be assigned regardless of whether its brand, if any, is different from the brand of the applicant. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of the prime suppliers.

* * * * *

5. Section 211.51 is amended by revising the definition of "telecommunications services" to read as follows:

§ 211.51 General definitions.

* * * * *

"Telecommunications services" means the repair, operation, and maintenance of voice, data, telegraph, video, and similar communications services to the public by a communications common carrier, excluding sales and administrative activities.

* * * * *

6. Section 211.103 is amended by revising paragraph (a) to read as follows:

§ 211.103 Allocation levels.

(a)(1) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(2) For purposes of this section, a firm which is a wholesale purchaser of motor gasoline and resells motor gasoline solely to end-users for a use set forth in paragraph (b) of this section shall be deemed to be a wholesale purchaser-consumer with respect to the volumes so sold.

(3) For purposes of this part only, a firm which receives gasoline into a storage tank substantially under its control at a fixed location and is engaged in the business of vehicle leasing shall be deemed to be a wholesale purchaser-consumer with respect to the gasoline provided to the leased vehicles. The allocation level for such firms shall be determined with reference to the activities of the vehicles leased which use the motor gasoline and shall be no lower than second priority.

* * * * *

7. Section 211.106 is amended to read as follows:

§ 211.106 Retail sales outlets.

(a) *General.* Notwithstanding the provisions of § 211.11, the provisions of this section shall apply to retail sales outlets which sell motor gasoline.

(b) *Retail sales outlets as a firm.* (1) Each firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of this subpart and, therefore, shall be a separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates the ongoing business shall not be considered the wholesale purchaser-reseller with respect to that outlet.

(2) A supplier's obligation to provide motor gasoline shall be determined separately for each retail sales outlet for which it has a supply obligation without distinguishing between retail sales outlets operated by the supplier and retail sales outlets not operated by the supplier.

(c) *Refiner and marketer flexibility.* (1) Each entity which operates two or more retail sales outlets may reassign without advance ERA approval all or any part of the allocation entitlement of a retail sales outlet which it operates (including the allocation from a retail sales outlet which it intends to close) to another retail sales outlet which it operates or supplies or will operate or supply, provided that:

(i) The reassignment will not increase any firm's supply obligations;

(ii) The firm making the adjustment maintains a contemporaneous written record of the adjustment; and

(iii) If the reassignment is to an outlet in a State other than the one from which the allocation came, the firm making the reassignment gives 30 days advance notice to the ERA Regional Office for the State from which the product is taken.

(2) The supplier of an independent retail sales outlet that closes may reassign without advance ERA approval all or any part of the allocation of the outlet to other independent retail sales outlets that it supplies, or will supply, provided that:

(i) The reassignment will not increase any firm's supply obligation;

(ii) The allocation is not transferred to the former operator under paragraph (d) of this section or to a successor on the same site under paragraph (f) of this section;

(iii) The allocation is not reassigned under subparagraph (c)(1) of this section to other outlets operated by the same entity that operated the closed outlet;

(iv) The firm making the adjustment provides a contemporaneous written notification of the adjustment to the firm receiving the adjustment; and

(v) If the reassignment is to an outlet in a State other than the one from which the allocation came, the firm making the reassignment gives 30 days advance notice to the ERA Regional Office for the State from which the product is taken.

(3) ERA may disallow a reassignment under subparagraphs (1) or (2) of this paragraph (c) from one State to another if such reassignment would cause inequitable distribution of gasoline.

(4) Reassignments of volumes supplied pursuant to interim supply arrangements under § 211.105(a) are not permitted.

(5) If the volumes reassigned under this paragraph (c) are never purchased at the location to which they are reassigned, the reassignment will be invalid. In any month, reassigned volumes will be deemed to have been purchased last.

(6) When a reassignment is made under subparagraph (c)(1) of this section from an outlet that closes, no firm may apply for an allocation assignment at the site of the closed outlet nor may ERA grant such an assignment unless all suppliers to that site (including the refiner-suppliers) are willing to supply the outlet.

(d) *Loss of allocation entitlement for going out of business.* A wholesale purchaser-reseller which operates a retail sales outlet shall be deemed to have gone out of business with respect to that outlet for purposes of § 211.11 if it vacates the site on which it conducts such business. Notwithstanding the foregoing, an independent marketer shall not be deemed to have gone out of business if (1) the independent marketer vacates the site on which it formerly operated a retail sales outlet, (2) the independent marketer that occupied the former site, within a reasonable period of time, as determined by ERA, reestablishes another retail sales outlet at another location serving substantially the same customers or market that was served by the former site and (3) at the time the former operator satisfies subparagraph (d)(2) of this section the former site is closed as a retail sales outlet or is operated as such by a firm that is not an independent marketer.

(e) *Suppliers of retail sales outlets.* (1) The supplier of a retail sales outlet shall be that firm which actually furnishes or physically delivers the gasoline to the retail sales outlet. The operator of one or more retail sales outlets shall not be considered the supplier of its own retail sales outlets unless it operates a terminal facility from which it furnishes a product to each outlet or unless it otherwise physically delivers the gasoline to each outlet.

(2) Whenever an operator of a retail sales outlet goes out of business with respect to that retail sales outlet under paragraph (d) of this section, the supplier of that outlet shall, in calculating its allocation fraction, remove the amount of the allocation entitlement of that retail sales outlet from its supply obligation, unless the right to such allocation has transferred to a successor wholesale purchaser-reseller under paragraph (f) of this section or has been reassigned to other retail sales outlets under paragraph (c) of this section.

(f) *Transfer of entitlement.* Whenever a wholesale purchaser-reseller is deemed to have gone out of business in accordance with paragraph (d) of this section, the right to an allocation with respect to the retail sales outlet shall be deemed to have transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by ERA, after its predecessor vacates the premises unless the allocation has been reassigned by the former operator to one or more of its other locations under subparagraph (c)(1) of this section..

8. Paragraph (b) of § 211.107 is amended to read as follows:

§ 211.107 Method of allocation.

* * * * *

(b)(1) *General.* Except as provided in this paragraph, allocations of motor gasoline to retail sales outlets and other purchasers shall be made as specified in § 211.10.

(2) *Separate fractions for separate brands.* (i) A Wholesale purchaser-reseller that supplies branded marketers with different brands of motor gasoline may maintain separate allocation fractions with respect to the different brands of motor gasoline supplied to those branded marketers.

(ii) A wholesale purchaser-reseller shall maintain a contemporaneous written record of its determination to maintain separate allocation fractions.

* * * * *

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Part VII

Office of Management and Budget

Office of Federal Procurement Policy

Policies for Establishing the Profit or Fee Prenegotiation Objectives; Establishment of Procurement Data Reporting Requirements

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Profit and Fee Negotiation Objectives

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Policy directive.

SUMMARY: This directive sets forth policies for establishing the profit or fee portion of the government's prenegotiation objective in acquisitions which require cost analysis. The General Services Administration is to implement this policy directive within 120 days of the effective date of the Policy Letter by revisions to the Federal Procurement Regulations (FPR), for compliance by executive departments and establishments subject to the FPR. The Defense Acquisition Regulation (DAR), and the National Aeronautics and Space Administration Procurement Regulation (NASA PR) are also to be amended as necessary within the same time frame to implement these policies. The policy directive also requires those agencies with large procurement programs to adopt by January 1, 1982 a structured approach for determining profit and fee objectives. Ending adoption of a structured approach, or in situations where the structured approach is not applicable, specific profit or fee analysis factors are prescribed for consideration. In addition, the directive sets forth a uniform cost principle for contracts with commercial organizations pertaining to facilities capital cost of money. Clarification of issues concerning this imputed cost is set forth in this notice and the policy directive.

EFFECTIVE DATE: January 9, 1981.

FOR FURTHER INFORMATION CONTACT: Conroy B. Johnson, Deputy Associate Administrator for Regulatory Policies and Practices, (202) 395-6166.

SUPPLEMENTARY INFORMATION:

(1) Background

This policy directive is the outgrowth of material published for comment in 44 FR 76828 December 28, 1979. Background data concerning the need for, and earlier efforts directed at development of, a uniform procurement policy governing the establishment of profit and fee negotiation objectives are set forth in that notice. The comments received as a result of the Federal Register notice are available for public review.

OFPP takes this opportunity to express its appreciation for the helpful suggestions and criticisms which the commentors furnished. These have resulted in a number of changes to the policy directive. The comments below summarize the more significant issues and changes.

(2) Federal Acquisition Regulation Coverage

The Office of Federal Procurement Policy (OFPP) has under development a uniform Federal Acquisition Regulation (FAR). OFPP had intended to promulgate the coverage set forth in this policy directive as segments of the FAR. Several commentors advised against piecemeal promulgation of the FAR. OFPP agrees. The regulatory material will be issued as an OFPP Policy Letter for implementation in the FPR, DAR and NASA PR. The FAR coverage of this material should not result in any substantive changes.

(3) Structured Approach

A number of commentors expressed disappointment in that a common structured approach was not being prescribed for Government-wide use. As noted in 44 FR 76828, differences in agencies' missions and marketplace environments preclude this for now. However, as additional experience is acquired in the application and use of structured approaches for determining prenegotiation profit and fee objectives, OFPP will consider the practicability of promulgating a common structured approach.

(4) Facilities Capital Cost of Money

By far the most controversial issue was whether the imputed cost of facilities capital employed in contract performance (i.e., Cost Accounting Standard No. 414) should be uniformly treated as an allowable cost with respect to contracts with commercial organizations. Those favoring the allowability of this imputed cost cited uniformity as their reason. Those opposed stated that the primary purpose in applying such a cost principle was to promote facilities investments which is a consideration not particularly germane to their agency's mission. Presently, only the Department of Defense and NASA have elected to make this cost allowable.

OFPP is persuaded to recognize facilities capital cost of money uniformly as allowable. Prior to this refinement in cost accounting practices, the cost of money of facilities capital was included in profits and fees. Therefore, it is necessary to ensure that contractors are not compensated for facilities capital cost of money both as a direct or indirect cost and in profits and fees. This need was recognized in the Cost Accounting Standards Board's comments pertaining to Cost Accounting Standard No. 414 (see 41 FR 22241, June 2, 1976) and Senator Proxmire's views expressed in his letter of May 27, 1976 to the Secretary of Defense. This will be accomplished by means of offsets; that is, (i) by using a dollar-for-dollar offset in the Government's prenegotiation profit or fee objective, or (ii) by incorporating a common offset factor under an agency's structured approach. However, an offset may not be necessary where the profit rates applied to the profit analysis factors under an agency's structured approach take into account the allowability of facilities capital cost of money.

The end results might be relatively meaningless if there were no further consideration of facilities capital to be employed in contract performance. For this reason, a specific profit/fee analysis factor for facilities is prescribed. Use of this factor is intended to result in profit and fee differentials depending on the levels of capital investments required for contract performance.

(5) Contents of Policy Letter

The Policy Letter has been expanded to include coverage regarding agency responsibility which was formerly set forth in the regulatory coverage. Also, the example of a structured approach was deleted from the regulatory coverage. In lieu thereof, the Policy Letter cites agency procurement regulations where examples of structured approaches can be found. These changes make for a better division of policy direction to the agencies and regulatory material for inclusion in procurement regulations.

(6) Terminology

Several commentors noted that the term "mark-up" should be substituted for profit and fee. OFPP agrees that "mark-up" better describes the context wherein the terms profit and fee have historically been employed for contract pricing purposes. However, there are various statutes and contract types which also use the terms "profit" or "fee." Since it is impractical, at least for now, to change these, a preamble to the regulatory coverage is set forth to explain the meaning of profit and fee as used for contract pricing purposes.

(7) Profit and Fee Analysis Factors

The common analysis factors have been extended to include (1) capital investments, (2) cost-control and other past accomplishments, and (3) independent development. These were initially proposed as optional factors for

consideration. OFPP concluded that these factors should be considered whenever present along with the factors for contractor effort, risk, and Federal socio-economic programs. Also, past performance was added as an additional aspect of cost-control accomplishments and the capital investment factor now encompasses both facilities and operating capital.

OFPP recognizes that the inclusion of additional mandatory factors may necessitate some changes to existing structured approaches agencies have prescribed for determining profit and fee negotiation objectives. However, these additions will be meaningful in tailoring the profit and fee objectives to individual procurement situations and help foster efficient and economical performance of agency missions through profit motivation.

Executive Office of the President,
Office of Management and Budget,
Washington, D.C., December 9, 1980.

OFPP Policy Letter 80-7.

To: The heads of Executive Departments and Establishments.

Subject: Policies for establishing the profit or fee prenegotiation objective.

Government procurement policy should be uniform and consistent in application. This directive sets forth (1) uniform policies for establishing the profit or fee portion of the Government prenegotiation objective [Appendix A], (2) a facilities capital cost-of-money cost principle for contracts with commercial organizations [Appendix B], and (3) interim guidance [Attachment 1 to Appendix B], to assist civil agencies in applying Appendix B. GSA is requested to implement this directive within 120 days of its effective date by revisions to the FPR, for compliance by executive departments and establishments. Executing this task will involve, among other things, rescinding FPR Temporary Regulation No. 40. DOD and NASA are requested to amend the DAR and the NASA PR within the same period as necessary to implement these policies.

Unless exempt or granted an extension, each agency shall adopt, no later than January 1, 1982, a structured approach for determining the profit or fee portion of the Government prenegotiation objective in acquisitions requiring cost analysis. Each agency approach shall be (1) conceptually sound, (2) practicable to apply, (3) equitable to both the Government and its suppliers in the market environment from which the agency draws its sources of supplies and services, and (4) consistent with Appendix A.

Agencies may request from OFPP an extension of up to 12 months if it is considered necessary for testing and refining the structured approach. Agencies that awarded a total of less than $50 million in noncompetitive contracts over $100,000 during their most recently completed fiscal year are not required to adopt a structured approach for the succeeding fiscal year but may do so if they wish.

The structured approach an agency adopts shall allow the tailoring of profit or fee on an individual contract to fit the particular circumstanes of that contract. The agency's implementation may include specific exemptions for situations in which mandatory use of its structured approach would be clearly inappropriate.

Agencies are encouraged to adopt a weighted-guidelines approach but may prescribe another structured approach if it incorporates a logic and rationale similar to that of the weighted-guidelines method, examples of which can be found in DAR 3-808 (see DAC #76-23, dated 26 February 1980), NASA PR 3.808, and DOE-PR 9-3.808-50.

Before (1) adopting procedures for determining profit or fee prenegotiation objectives or (2) making any substantive changes to such procedures, agencies shall make the proposed procedures or changes available to interested parties for comment. Agencies with established procedures adopted before the effective date of this policy letter that are consistent with, or require only minor refinements to be consistent with, Appendix A need not make them available for comment. Any modifications required to existing structured approaches shall be accomplished by January 1, 1982.

Instead of independently establishing its own structured approach, an agency may adopt another agency's approach if that approach is consistent with, or is appropriately modified to be consistent with, Appendix A. The agency shall publish for public comment notice of its intent to adopt another agency's procedures, specifying any changes to the adopted approach other than agency identification.

Each agency shall give OFPP a copy of (1) its regulations implementing this policy letter and (2) any future changes.

Effective Date. This policy letter is effective January 9, 1981, and shall remain in effect until issuance of the FAR or until January 1, 1984, whichever occurs earlier.

Concurrence. This policy letter has the concurrence of the Director of the Office of Management and Budget.

Karen Hastie Williams,
Administrator.

Appendix A: Profit or Fee Prenegotiation Objective.

Appendix B: Facilities Capital Cost-of-Money Cost Principle for Contracts with Commercial Organizations, with Attachment 1.

Appendix A—Profit or Fee Prenegotiation Objective

1. Profit or Fee

(a) Fundamental to an understanding of profit policy is the fact that profit or fee prenegotiation objectives do not necessarily represent net income to contractors. Rather, they represent the potential remuneration contractors *may* receive for contract performance. This remuneration and the Government's estimate of allowable costs to be incurred in contract performance together equal the Government's total prenegotiation objective. Just as actual costs may vary from estimated costs, the contractor's actual profit may also vary from negotiated profit or fee, as a result of such factors as efficiency of performance, incurrence of costs the Government does not recognize as allowable, complexity of work, or contingencies.

(b) It is in the Government's interest to offer contractors opportunities for financial rewards sufficient to (1) stimulate efficient contract performance, (2) attract the best capabilities of qualified large and small business concerns to Government contracts, and (3) maintain a viable industrial base.

(c) Both the Government and contractors should be concerned with profit as a motivator of efficient and effective contract performance. Negotiations aimed merely at reducing prices by reducing profit, without proper recognition of the function of profit, are not in the Government's best interest. Negotiation of extremely low profits, use of historical averages, or automatic application of predetermined percentages to total estimated costs do not provide proper motivation for optimum contract performance. Therefore, agencies shall not (1) establish ceilings on profits or fees, (2) create administrative procedures that could be represented to contractors as de facto ceilings, or (3) otherwise unduly constrain the application of judgment in negotiating fair and reasonable prices (but see paragraph 2. (e)).

(d) Structured approachs for determining profit or fee prenegotiation objectives provide a discipline for

ensuring that all relevant factors are considered. Each agency making noncompetitive contract awards over $100,000 totaling $50 million or more a year—

(1) Shall prescribe a structured approach for determining the profit or fee objective in those acquisitions that require cost analysis;

(2) May prescribe specific exemptions for situations in which mandatory use of a structured approach would be clearly in appropriate; and

(3) Shall exercise management oversight to ensure that the agency's approach is appropriately structured and applied.

(e) (1) Cost Accounting Standard (CAS) 414 (Cost of Money as an Element of the Cost of Facilities Capital) provides a means of allocating to individual contracts an imputed cost of facilities capital employed, making it practical for the Government to differentiate among contracts with respect to the level of contractor-furnished facilities to be employed in contract performance. This imputed cost is an allowable cost under contracts subject to the cost principles for commercial organizations (see Appendix B).

(2) Agencies shall ensure that contractors are not compensated for facilities capital cost of money both as a direct or indirect cost and in profit or fee. Before the allowability of facilities capital cost of money, this cost was included in profits and fees. Therefore, profit and fee prenegotiation objectives shall be reduced if necessary to reflect this refinement in cost accounting practices. This reduction may be accomplished by means of offsets; that is, by (i) using a dollar-for-dollar offset in the Government's prenegotiation profit or fee objective or (ii) incorporating a common offset factor under an agency's structured approach. No offset is necessary when the profit rates applied to the profit analysis factors under an agency's structured approach already take into account the allowability of facilities capital cost of money.

(3) When a prospective contractor does not propose or identify facilities capital cost of money in a proposal for a contract under which this cost could be allowed, it is presumed that consideration for facilities capital to the employed in contract performance is included, but not identified, in the contractor's profit or fee objective. Accordingly, the contractor may not later claim this cost as allowable (see paragraph 2.(c) below).

2. Contracting Officer Responsibilities

(a) When the price negotiation is not based on cost analysis, contracting officers are not required to analyze profit.

(b) When the price negotiation is based on cost analysis, contracting officers in agencies that have a structured approach shall analyze profit, using their agency's structured approach except as specifically exempted under the agency's procedure. When not using a structured approach (because the agency does not have one or because a specific exemption applies), contracting officers shall comply with paragraph 3.(a) below in developing profit or fee prenegotiation objectives.

(c) Contracting officers shall use the Government prenegotiation cost objective amounts as the basis for calculating the profit or fee prenegotiation objective. Before applying profit or fee factors, the contracting officer shall exclude any facilities capital cost of money included in the cost objective amounts. If the prospective contractor fails to identify or propose facilities capital cost of money in a proposal for a contract that will be subject to the cost principles for commercial organizations, the contracting officer shall include the following clause in the resulting contract:

Waiver of Facilities Capital Cost of Money (1980 Oct)

The Contractor is aware that facilities capital cost of money is an allowable cost but waives the right to claim it under this contract.

(d) Contracting officers are not required to use an overall profit or fee objective higher than that proposed by the prospective contractor.

(e) (1) The contracting officer shall not negotiate a price or fee that exceeds the following statutory limitations, imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b);

(i) For experimental, developmental, or research work performed under a cost-plus fixed-fee contract—the fee shall not exceed 15 percent of the contract's estimate cost, excluding fee.

(ii) For architect-engineering services for public works or utilities—the contract price or the estimated cost and fee for production and delivery of designs, plans, drawings, and specifications shall not exceed 6 percent of the estimated cost of the public work or utility, excluding fees.

(iii) For other cost-plus-fixed-fee contracts—the fee shall not exceed 10 percent of the contract's estimated cost, excluding fee.

(2) The limitations in subdivisions (i) and (iii) above shall apply also to the maximum fees on cost-plus-incentive-fee and cost-plus-award-fee contracts. The agency head or designee may waive the maximum-fee limitation for a specific cost-plus-incentive-fee or cost-plus-award-fee contract.

(f) The contracting officer shall not require any prospective contractor to submit details of its profit or fee objective but shall consider them if they are submitted voluntarily.

(g) If a change or modification (1) calls for essentially the same type and mix of work as the basic contract or (2) is of relatively small dollar value compared to the total contract value, the contracting officer may use the basic contract's profit or fee rate as the prenegotiation objective for that change or modification.

3. Profit-Analysis Factors

(a) *Common factors.* Unless it is clearly inappropriate or not applicable, each factor outlined in subparagraphs (1) through (6) following shall be considered by agencies in developing their structured approaches and by contracting officers in analyzing profit when not using a structured approach.

(1) *Contractor effort.* This factor measures the complexity of the work and the resources required of the prospective contractor for contract performance. Greater profit opportunity should be provided under contracts requiring a high degree of professional and managerial skill and to prospective contractors whose skills, facilities, and technical assets can be expected to lead to efficient and economical contract performance. Subfactors (i) through (iv) following shall be considered in determining contractor effort, but they may be modified in specific situations to accommodate differences in the categories used by prospective contractors for listing costs:

(i) *Material acquisition.* This subfactor measures the managerial and technical effort needed to obtain the required purchased parts and material, subcontracted items, and special tooling. Considerations include (A) the complexity of the items required, (B) the number of purchase orders and subcontracts to be awarded and administered, (C) whether established sources are available or new or second sources must be developed, and (D) whether material will be obtained through routine purchase orders or through complex subcontracts requiring detailed specifications. Profit consideration should correspond to the managerial and technical effort involved.

(ii) *Conversion direct labor.* This subfactor measures the contribution of direct engineering, manufacturing, and other labor to converting the raw materials, data, and subcontracted items into the contract items. Considerations include the diversity of engineering, scientific, and manufacturing labor skills required and the amount and quality of supervision and coordination needed to perform the contract task.

(iii) *Conversion-related indirect costs.* This subfactor measures how much the indirect costs contribute to contract performance. The labor elements in the allocable indirect costs should be given the profit consideration they would receive if treated as direct labor. The other elements of indirect costs should be evaluated to determine whether they (A) merit only limited profit consideration because of their routine nature or (B) are elements that contribute significantly to the proposed contract.

(iv) *General management.* This subfactor measures the prospective contractor's other indirect costs and general and administrative (G&A) expense, their composition, and how much they contribute to contract performance. Considerations include (A) how labor in the overhead pools would be treated if it were direct labor, (B) whether elements within the pools are routine expenses or instead are elements that contribute significantly to the proposed contract, and (C) whether the elements require routine as opposed to unusual managerial effort and attention.

(2) *Contract cost risk.* (i) This factor measures the degree of cost responsibility and associated risk that the prospective contractor will assume (A) as a result of the contract type contemplated and (B) considering the reliability of the cost estimate in relation to the complexity and duration of the contract task. Determination of contract type should be closely related to the risks involved in timely, cost-effective, and efficient performance. This factor should compensate contractors proportionately for assuming greater cost risks.

(ii) The contractor assumes the greatest cost risk in a closely priced firm-fixed-price contract under which it agrees to perform a complex undertaking on time and at a predetermined price. Some firm-fixed-price contracts may entail substantially less cost risk than others because, for example, the contract task is less complex or many of the contractor's costs are known at the time of price agreement, in which case the risk factor should be reduced accordingly. The contractor assumes the least cost risk in a cost-plus-fixed-fee level-of-effort contract, under which it is reimbursed those costs determined to be allocable and allowable, plus the fixed fee.

(iii) In evaluating assumption of cost risk, contracting officers shall, except in unusual circumstances, treat time-and-materials, labor-hour, and fixed-price level-of-effort contracts as cost-plus-fixed-fee contracts.

(3) *Federal socioeconomic programs.* This factor measures the degree of support given by the prospective contractor to Federal socioeconomic programs, such as those involving small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, handicapped sheltered workshops, labor surplus areas, and energy conservation. Greater profit opportunity should be provided under contracts with contractors adhering to the spirit and intent of these programs.

(4) *Capital investments.* This factor takes into account the contribution of contractor investments to efficient and economical contract performance. The following subfactors shall be considered in the analysis:

(i) *Facilities.* This subfactor, which may be either a negative or a positive consideration, includes consideration of the equipment's and facilities' (A) age, (B) undepreciated value, (C) cost-effectiveness, (D) general or special purpose, and (E) remaining life compared with the length of the contemplated program. Also to be considered are any undue reliance on Government-owned facilities and equipment, any contractor failure to provide the kinds or quantities of facilities required for efficient contract performance, and any special contract provisions that will affect the contractor's facilities capital investment risk. When applicable, the prospective contractor's computation of facilities capital cost of money for pricing purposes under CAS 414 (see Appendix B) can help the contracting officer identify the level of facilities investment to be employed in contract performance.

(ii) *Operating capital.* This subfactor includes consideration of the level of the contractor's operating capital investment required for effective contract performance. This level will vary, depending on such circumstances as (A) the nature of the work and duration of the contract, (B) contract type and dollar magnitude, (C) the reimbursement or progress payment rate, (D) the contractor's financial management practices, and (E) the frequency of and time lag between billings and Government payments. Such circumstances should be taken into account in determining what profit adjustment, if any, is appropriate under this subfactor.

(5) *Cost-control and other past accomplishments.* This factor allows additional profit opportunities to a prospective contractor that has previously demonstrated its ability to perform similar tasks effectively and economically. In addition, consideration should be given to (i) measures taken by the prospective contractor that result in productivity improvements and (ii) other cost-reduction accomplishments that will benefit the Government in follow-on contracts.

(6) *Independent development.* Under this factor, the contractor may be provided additional profit opportunities in recognition of independent development efforts relevant to the contract end item, including manufacturing or engineering processes, specialized or unique services, or other technologies. The contracting officer should consider the extent of the Government's contribution to the contractor's independent research and development program during the contractor fiscal years in which the applicable development was taking place.

(b) *Additional factors.* In order to foster achievement of program objectives, each agency may include additional factors in its structured approach or take them into account in the profit analysis of individual contract actions.

Appendix B—Facilities Capital Cost-of-Money Cost Principle for Contracts With Commercial Organizations

1. General

(a) Facilities capital cost of money is an imputed cost determined by applying a cost-of-money rate to facilities capital employed in contract performance. A cost-of-money rate is uniformly imputed to all contractors (see paragraph (b) below). Capital employed is determined without regard to whether its source is equity or borrowed capital. The resulting cost of money is not a form of interest on borrowings.

(b) Cost Accounting Standard 414 (Cost of Money as an Element of the Cost of Facilities Capital) establishes criteria for measuring and allocating, as an element of contract cost, the cost of capital committed to facilities. Cost-of-money factors are developed on Form CASB–CMF, broken down by overhead pool at the business unit, using (1) business-unit facilities capital data, (2) overhead allocation base data, and (3)

the cost-of-money rate, which is based on interest rates specified by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2).

2. Allowability

(a) Whether or not the contract is otherwise subject to the cost accounting standards, and except as specified in paragraph (b) below, facilities capital cost of money is allowable if—

(1) The contractor's capital investment is measured and allocated in accordance with Cost Accounting Standard 414;

(2) The contractor maintains adequate records to demonstrate compliance with this standard; and

(3) The estimated facilities capital cost of money is specifically identified or proposed in cost proposals relating to the contract under which this cost is to be claimed.

(b) Facilities capital cost of money is not allowable in cost-sharing contracts (see DAR 3-405.3 or FPR 1-3.405-3) or in cost (no-fee) contracts (see DAR 3-405.2 or FPR 1-3.405-2).

3. Accounting

The facilities capital cost of money need not be entered on the contractor's books of account. However, the contractor shall (a) make a memorandum entry of the cost and (b) maintain, in a manner that permits audit and verification, all relevant schedules, cost data, and other data necessary to support the entry fully.

4. Payment

Facilities capital cost of money that is (a) allowable under Section 2 above and (b) calculated, allocated, and documented in accordance with this cost principle shall be an "incurred cost" for reimbursement purposes under applicable cost-reimbursement contracts and for progress payment purposes under fixed-price contracts.

Attachment 1: Interim Guidance Concerning Application of Facilities Capital Cost-of-Money Cost Principle.

Attachment 1 To Appendix B—Guidance Concerning Application of Facilities Capital Cost-of-Money Cost Principle

Set forth in this appendix are the NASA PR 3.1300, Cost of Money for Facilities Capital Employed, and DD Form 1861. Pending issuance of the Federal Acquisition Regulation civil agencies should find these documents useful as interim guidance concerning the application of the Facilities Capital Cost of Money cost principle.

Subpart 13—Cost of Money for Facilities Capital Employed

3.1300 Cost of Facilities Capital Employed.

3.1300-2 Definitions, Measurement and Allocation. Cost Accounting Standard (CAS) No. 414, "Cost of Money as an Element of the Cost of Facilities Capital," incorporated in Appendix O, establishes criteria for the measurement and allocation of the cost of capital committed to facilities, as an element of contract cost for historical cost determination purposes. Important features of the CAS are its definitions, techniques for application, and a prescribed Form CASB-CMF with instructions. This Subpart adopts the techniques of CAS 414 as the approved method of measurement and allocation of facilities cost of money to overhead pools at the business unit level, and adds only such supplementary procedures as are necessary to extend those techniques to contract forward pricing and administration purposes. Therefore, these procedures are intended to be completely compatible with, and an extension of, the definitions, criteria and techniques of CAS 414. Contractors who computerize their financial data are encouraged to meet the requirements of both CAS 414 and this Subpart from the same data bank and programs.

3.1300-3 Estimating Business Unit Facilities Capital and Cost of Money. The method of estimating the business unit facilities capital and cost of money utilizes the techniques of CAS 414. Cost of money factors (CMF) by overhead pools at the business unit are developed using Form CASB-CMF. Three elements are required to develop cost of money factors: business unit facilities capital data, overhead allocation base data, and the interest rate promulgated by the Secretary of the Treasury pursuant to Public Law 92-41. These elements are discussed below.

(a) *Business Unit Facilities Capital Data.* The net book value (acquisition cost less accumulated depreciation) is used for each cost accounting period. The net book value used is the total of (i) the net book value of facilities recorded on the accounting records of the business unit, (ii) the capitalized value of leases (see 15.205-34 and 15.205-48), and (iii) the net book value of facilities at the corporate or group level that support depreciation charges allocated to the business unit in accordance with the provisions of CAS 403. Projections of facilities capital will be supported by budget plans and/or similar type documentation and the estimated depreciation will be the same as used in projected overhead rates. Projections will accommodate changes in the level of facilities net book value, *e.g.*, facilities additions, deletions of facilities by sale, abandonment or other disposal, idle facilities (see 15.205-12).

(b) *Overhead Allocation Bases.* The base data used to compute the CMF must be the same as that used to compute the proposed overhead rates. CMFs should be submitted and evaluated as part of the proposal.

(c) *Interest Rate.* For purpose of projection, the cost recent interest rate promulgated by the Secretary of the Treasury will be used as the cost of money rate in Column 1 of Form CASB-CMF. Where actual costs are used in definitization actions, the actual treasury rate(s) applicable to the period(s) of the incurred costs will be recognized by development of a composite rate.

(d) *Determination of Final Cost of Money.* CMFs estimated in accordance with the above procedures are used to develop the facilities investment base used in forward pricing. Actual CMFs are required when it is necessary to determine final allowable costs for cost settlement and/or repricing in accordance with CAS 414 and 15.205-50.

3.1300-4 Contract Facilities Capital Estimates. (a) After the appropriate forms CASB-CMF have been analyzed and CMFs have been developed, the contracting officer is in a position to estimate the facilities capital cost of money.

(b) DD Form 1861 provides for listing overhead pools and direct-charging service centers (if used) in the same structure they appear on the contractor's cost proposal and Forms CASB-CMF. The structure and allocation base units-of-measure must be compatible on all three displays. The base for each overhead pool must be broken down by year to match each separate Form CASB-CMF. Appropriate contract overhead allocation base data are extracted by year from the evaluated cost breakdown or pre-negotiation cost objective, and are listed against each separate Form CASB-CMF. Each allocation base is multiplied by its corresponding cost of money factor to get the Facilities Capital Cost of Money estimated to be incurred each year. The sum of these products represents the estimated Contract Facilities Capital Cost of Money for the year's effort. Total contract facilities cost of money is the sum of the yearly amounts.

3.1300-5 Pre-Award Facilities Capital Applications. Facilities Capital Cost of Money as determined above is applied in establishing cost and price objectives as follows.

(1) *Cost Objective.* This special, imputed cost of money shall be used, together with normal, booked costs, in establishing a cost objective or the target cost when structuring an incentive type contract. Target costs thus established at the outset, shall not be adjusted as actual cost of money rates become available for the periods during which contract performance takes place.

(2) *Profit Objective.* See 3.808–3.

3.1300–6 Post Award Facilities Capital Applications. (a) Interim Billings Based on Costs Incurred. Contract Facilities Capital Cost of Money may be included in cost reimbursement and progress payment invoices. The amount that qualifies as cost incurred for purposes of the "Cost Reimbursement, Fee and Payment" or "Progress Payment" clause of the contract is the result of multiplying the incurred portions of the overhead pool allocation bases by the latest available Cost of Money Factors. Like applied overhead at forecasted overhead rates, such computations are interim estimates subject to adjustment. As each year's data are finalized by computation of the actual Cost of Money Factors under CAS 414 and 15.205–50, the new factors should be used to calculate contract facilities cost of money for the next accounting period.

(b) *Final Settlement.* Contract facilities capital cost of money for final cost determination or repricing is based on each year's final Cost of Money Factors determined under CAS 414 and supported by separate Forms CASB–CMF. Contract cost must be separately computed in a manner similar to yearly final overhead rates. Also like overhead costs, the final settlement will include an adjustment from interim to final contract cost of money. However, estimated or target cost will not be adjusted.

3.1300–7 Administrative Procedures. (a) Contractor submission of Forms CASB–CMF will normally be initiated under the same circumstances as Forward Pricing Rate Agreements (see 3.807–12(b)), and evaluated as complementary documents and procedures. Separate Forms are required for each prospective cost accounting period during which Government contract performance is anticipated. If the contractor does not annually negotiate FPRA's, submissions may nevertheless be made annually or with individual contract pricing proposals, as agreed to by the contractor and the cognizant contract administration office. The cognizant contract administration office shall, with the assistance of the cognizant auditor, evaluate the cost of money factors, and retain approved factors with other negotiated forward pricing data and rates.

(b) The contracting officer will complete a DD Form 1861 "Contract Facilities Capital and Cost of Money" after evaluating the contractor's cost proposal and determining his pre-negotiation cost objective, but before determining his pre-negotiation profit objective. At his option, a contracting officer may request the cognizant contract administration office to complete the DD Form 1861 in connection with normal field pricing support under 3.801–5, and include it in his field pricing support report with appropriate evaluation comments and recommendations.

(c) A final Form CASB–CMF must be submitted by the contractor under CAS 414 as soon after the end of each cost accounting period as possible, for the purpose of final cost determinations and/or repricing. The submission should accompany the contractor's proposal for actual overhead costs and rates, and be evaluated as complementary documents and procedures.

BILLING CODE 3110-01-M

DD Form 1861. Contract Facilities Capital and Cost of Money

CONTRACT FACILITIES CAPITAL AND COST OF MONEY

CONTRACTOR
BUSINESS UNIT
ADDRESS

RFP/CONTRACT PIIN NO
PERFORMANCE PERIOD

1 OVERHEAD POOLS	2 COST ACCOUNTING PERIOD	3 CONTRACT OVERHEAD ALLOCATION BASE	FACILITIES CAPITAL COST OF MONEY	
			4 FACTORS	5 AMOUNT

Establishment of Procurement Data Reporting Requirements to Comply With Public Law 96-39,

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget..

ACTION: OFPP Policy Letter.

SUMMARY: OFPP Policy Letter 80-8, estabilshes procurement data reporting requirements to be incorporated in the Defense Acquisition Regulation (DAR), the Federal Procurement Regulations (FPR), the National Areonautics and Space Administration Procurement Regulation (NASAPR) and appropriate agency directives.

This Policy Letter establishes procedures for agency compliance with the data reporting provisions of the international Agreement on Government Procurement. Public Law 96-39, the Trade Agreements Act of 1979, committed the United States to the terms of the Agreement. To provide a basis for evaluating its operation, the Agreement requires that participating countries collect certain data regarding procurement actions. The unique aspects of these requirements are:

—That they involve both appropriated and nonappropriated funds;

—That the dollar threshold for collecting detailed information about individual contracts is $175,000;

—That each sole cource contract in excess of $175,000 must be tied to one of the exceptions to the use of competitive procedures specified in the Agreement.

To ensure uniform reporting of the needed data, the Policy Letter requires affected agencies to prepare two brief consolidated reports on a quarterly basis. A Standard Form 279A, the "Individual Contract Report for Contracts Exceeding $175,000 for the Purchase of Supplies and Equipment", has been developed for use in procurement offices to facilitate agencies' collection of data needed for one of the quarterly reports.

The Policy Letter will not affect state or local governments or the private sector.

DATE: The reporting requirements established in the Policy Letter will be effective January 1, 1981, in accordance with Pub. L. 96-39.

FOR FURTHER INFORMATION CONTACT: William J. Maraist, Assistant Administrator for Regulations, (202) 395-3300.

Karen Hastie Williams,

Administrator.

December 11, 1980.

OFPP Policy Letter 80-8

To the Heads of Executive Departments and Establishments

Subject: Establishment of Pocurement Data reporting requirements to Comply with Public Law 96-39

Government procurement policy should be uniform and consistent in application. This Policy Letter provides the uniform policy for the implementation of section 2 of Public Law 96-39, which formally committed the United States to implementing the international Agreement on Government Procurement. The Defense Acquisition Regulation (DAR), the Federal Procurement Regulations (FPR), and the National Aeronautics and Space Administration Procurement (NASAPR) shall be amended to conform to this policy.

The Agreement on Government Procurement imposes procurement data reporting requirements on the federal government agencies listed in enclosure 1. The procurement data, described below, will be collected for ultimate use by all parties to the Agreement in evaluating the operation of the Agreement and considering the furtherance of its objectives.

The data requirements are:

1. The total dollars obligated by contracts for goods purchased by agencies covered by the agreement using either appropriated or nonappropriated funds.

2. The total number of and dollars obligated by individual contracts over $175,000 for goods purchased by agencies covered by the agreement through solicitation of a single source. The justification for each sole source contract must be tied to one of the excetpions to the use of competitive procedures specifically described in the international Agreement on Government Procurement.

4. The total number of and dollars obligated by individual contracts over $175,000 for goods purchased by covered agencies under small business set asides and special "8(a)" procedures. (This data must be available by FSC.)

The Federal Procurement Data System (FPDS) Policy Advisory Board unanimously recommended that these statutory data elements be collected by the Federal Procurement Data Center (FPDC) as precribed in this Policy Letter.

The "Letter Report of Total Procurement of Supplies and Equipment", described in enclosure 2, "Reporting Instructions", shall be submitted by covered agencies in reporting the total dollars obligated by all contracts, regardless of their individual dollar amounts, for goods purchased with either appropriated or nonappropriated funds. This report has been cleared in accordance with Federal Property Management Regulation (FPMR) 101-11.11 and assigned interagency report control number 0260-GSA-QU.

The "Individual Contract Report for Contracts Exceeding $175,000 for the Purchase of Supplies and equipment" (Standard Form 279A) shall be used whenever a covered agency awards a contract exceeding $175,000 for the purchase of supplies or equipment. Each covered agency is responsible for accumulating this data and providing a consolidated quarterly report to the FPDC in accordance with the instructions in enclosure 2. This report has also been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 0261-GSA-QU. The content of the SF 279A is presented i rough form as enclosure 3 for information. A printed version of the form will be available in early December. The FPDC will oversee its distribution to agencies.

These reporting requirements are effective January 1, 1981 as required by P.L. 96-39. Therefore, covered agencies must ensure that appropriate procedures and copies of the Standard Form 279A are available for use in purchasing and contracting offices by that date.

Compliance with this Policy Letter will be considered complete when its requirements are reflected in the DAR, the FPR, the NASAPR, and appropriate agency directives. A copy of each implementing regulation or directive should be sent, when issued, to: Mr. William J. Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503.

Concurrence: This Policy Letter has been concurred in by the Director of OMB.

Karen Hastie Williams,

Administrator.

Enclosures:

Enclosures1: List of Agencies Required to Report Data in Accordance with Pub. L. 96-39 (Trade Agreements Act of 1979)

Enclosures2: Reporting Instructions

Enclosures3: SF 279A

List of Agencies Required to Report Data In Accordance with Public Law 96-39 (Trade Agreements Act of 1979)

1. ACTION

2. Administrative Conference of the Unied States
3. American Battle Mouments Commission
4. Board for International Broadcasting
5. Civil Aeronautics Board
6. Commission on Civil Rights
7. Commodity Futures Trading Commission
8. Community Services Administration
9. Consumer Product Safety Commission

Department of—
10. Agriculture
11. Commerce
12. Defense
13. Education
14. Health and Urban Development
15. Housing and Urban Development
16. Interior
17. Justice
18. Labor
19. State
20. Treasury
21. Environmental Protection Agency
22. Equal Employment Opportunity Commission
23. Executive Office of the President
24. Export-Import Bank of the United States
25. Farm Credit Administration
26. Federal Communications Commission
27. Federal Deposit Insurance Corporation
28. Federal Home Loan Bank Board
29. Federal Maritime Commission
30. Federal Mediation and Conciliation Service
31. Federal Trade Commission
32. General Services Administration
33. Indian Claims Commission
34. Inter-State Commerce Commission
35. Merit Systems Protection Board
36. National Aeronautics and Space Administration
37. National Credit Union Administration
38. National Labor Relations Board
39. National Mediation Board
40. National Science Foundation
41. National Transportation Safety Board
42. Nuclear Regulatory Commission
43. Office Personnel Management
44. Overseas Private Investment Corporation
45. Panama Cnal Company and Canal Zone Government
46. Railroad Retirement Board
47. Renegotiation Board
48. Securities and Exchange Commission
49. Selective Service System
50. Smithsonian Institution
51. United States Arms Control and Disarmament Agency
52. United States International Communication Agency
53. United States International Trade Commission
54. Veterans Administration

a. The Agreement on Government Procurement does not apply to procurement of agricultural products made in furtherance of agricultural support programs or human feeding programs.

b. Excludes Corps of Engineers. Also, the Agreement does not apply to various types of purchases by DOD (see the United States coverage in Annex I of the Agreement for details.)

c. Excludes the Bureau of Reclamation.

d. Purchase by the Automated Data and Telecommunications Service, the National Tool Center, and the Region 9 Office (San Francisco, California) are not included.

Reporting Instructions

Agency consolidated submission of data collected on the "Individual Contract Report for Contracts Exceeding $175,000 for the Purchase of Supplies and Equipment" (Standard Form 279A).

A. *Nature of Report.* Each agency covered by the Agreement on Government Procurement shall consolidate all SF 279A's on contracts awarded during the reporting period, and submit consolidated data directly to the Federal Procurement Data Center (FPDC). (A SF 279A is to be completed each time a contract exceeding $175,000 is awarded for the purchase of supplies or equipment with either appropriated or nonappropriated [1] funds.)

B. *Reporting Period.* Each quarter of each fiscal year is a reporting period. For any one fiscal year, the reporting periods are:

October 1 through December 31
January 1 through March 31
April 1 through June 30
July 1 through September 30

The first reporting period is January 1 through March 31, 1981.

C. *Report Due Date.* Each report is due 45 calendar days after the end of the reporting period it represents. The first report is due May 15, 1981.

D. *Negative Reports.* Negative reports are required in the form of a letter from the responsible agency official to the FPDC whenever a covered agency did not award any contracts meeting the reporting criteria during a reporting period.

E. *Report Format.* 1. For submissions on magnetic tape or punched card, this format shall be used.

Item No.	Data element	Type data	Number characters	Tape positions or card columns
1	Reporting agency	AN	4	1-4
2	Contract number	AN	15	5-19
3A	Total dollars obligated or deobligated (in thousands of dollars).	N	8	[2]20-27
4	Principal product	AN	4	28-31
5	Preference action	N	1	32
6	Reason for single source	N	1	33
7	Country of origin of foreign components of products manufactured in the United States.	A	2	34-35
8	Country of origin of imported product	A	2	36-37

[2] Deobligations must be signed as negative in position 27.

2. Hard-copy submissions shall consist of one copy of the SF 279A for each contract awarded awarded during the reporting period

F. *Technical Instructions.*

1. Agencies must use these required publications to submit data properly.

FIPS PUB 2-1 Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI)
ANS X3.27-1977 Magnetic Tape Labels and File Structure for Information Interchange
FIPS PUB 14 Hollerith Punched Card Code
FIPS PUB 5-1 States and Outlying Areas of the United States
NBS LC 1067 Codes for the Names of Countries and Outlying Areas of the United States
FPDS Publications: Organization Designation Code Manual Product and Service Code

a. The Federal Information Processing Standard (FIPS) publications required to make data entry to the Federal Procurement Data System should be ordered from the National Technical Information Service. 5285 Port Royal. Springfield, VA 22161, telephone (703) 557-4763.

b. American National Standards Institute (ANSI) and International Organization for Standardization (ISO) standards not covered by FIPS standards are available from the American National Standards Institute, Sales Department, 1430 Broadway, New York, NY 10018, telephone (212) 354-3300.

c. Information concerning cited FIPS, ANSI, ISO and NBS standards may be obtained from the National Bureau of Standards (NBS, office of ADP Standards Management, Washington, DC 20234, telephone (301) 921-3157.

d. Federal Procurement Data System (FPDS) publications may be obtained from the General Services Administration (GSA-ADTS), Federal Procurement Data Center, 1815 N. Lynn Street, Room 320, Arlington, VA 22209.

2. *Hard Copy.* Agencies with large volumes of individual reports are urged to submit data on computer magnetic tape or punched card. However, agencies with small volumes may submit hard copy reports.

3. *Computer Magnetic Tape.* 9 track, 800 CPI/1600 CPI, EBCDIC or ASCII, odd parity, block factor of 10 are applicable. Tape reels shall have an external lable identifying the contents as Report of Contracts Exceeding $175,000 for the Purchase of Supplies and Equipment and the name and mailing address of the office to which the reel is to be returned. Enclosed with the tape reel shall be a summary showing the number of records and the total dollar amount in the tape. Tape labels shall be in accordance with ANS X3.27-1977. The data records shall follow the header labels and tape mark. Length of each data record is 37 characters.

4. *Punched Card.* FIPS Pub 14 (Hollerith Punched Card Code) applies. Cards shall be

[1] Note that purchases made with nonappropriated funds of supplies or equipment for resale should *not* be reported. However, all purchases of supplies or equipment for the Government's use *are* to be reported.

securely wrapped and identified by agency, report title, and period.

II. "Letter Report of Total Procurement of Supplies and Equipment".

A. *Nature of Report.* Each agency covered by the Agreement on Government Procurement shall report the total dollars obligated by all contracts awarded during the reporting period, regardless of their individual dollar amounts, for goods purchased with either appropriated or nonappropriated [3] funds.

B. *Reporting Period.* Each quarter of each fiscal year is a reporting period. The first reporting period is January 1 through March 31, 1981.

C. *Report Due Date.* Each report is due 45 calendar days after the end of the reporting period it represents. The first report is due May 15, 1981.

D. *Negative Reports.* Every agency must enter into contracts on a continuing basis to maintain operating capabilities. Therefore, every covered agency will have something to report.

E. *Report Format.* All reports shall be submitted by letter to the FPDC. The required data shall be presented as follows:

For the period ——— through ———, 198 .

Total Dollars Obligated:

[3] Note that purchases made with nonappropriated funds of supplies or equipment for resale should *not* be reported. However, all purchases of supplies or equipment for the Government's use *are* to be reported.

BILLING CODE 3110-01-M

FPDS-INDIVIDUAL CONTRACT REPORT FOR CONTRACTS EXCEEDING $175,000 FOR THE PURCHASE OF SUPPLIES AND EQUIPMENT

(Both appropriated and nonappropriated funds)

DATA ELEMENT	CODING INSTRUCTIONS
1. Reporting Agency (1 2 3 4)	1. Enter the appropriate code from the Federal Procurement Data System (FPDS) Organization Designation Code Manual.
2. Contract Number (5 6 7 8 9 10 11 12 13 14 15 16 17 18 19)	2. Enter the contract number, placing the first letter or digit in the box numbered "5". If the contract number does not fill all available boxes, leave the unnecessary boxes blank. Do not include any dashes or blank spaces which may ordinarily appear in the contract number. For example, a contract number N00023-80-C-1234 should be entered as N0002380C1234, leaving boxes 18 and 19 blank.
3. Total Dollars Obligated or Deobligated (in thousands of dollars) (20 21 22 23 24 25 26 27)	3. Enter the appropriate number, representing thousands of dollars, so that the last digit is in the box numbered "27". Do not use any commas or other punctuation marks in the dollar amount entered. If any of the boxes on the left are unnecessary, enter zeros in them. For example, an award of $950,125 should be entered as 00000950.
3.a. Type of Obligation	3.a. Enter a "1" if the action obligated dollars; enter a "2" if the action deobligated dollars.
4. Principal Product (28 29 30 31)	4. Enter the appropriate code from the FPDS Product and Service Codes Manual, Section 1, Part C, Supplies and Equipment.
5. Preference Action (32)	5. Determine whether the procurement involved the use of any preference program(s), and enter the appropriate code from the following list:
6. Reason for Single Source (33)	6. Reason for Single Source: (These phrases identify specific exceptions to the use of competitive procedures in the international trade agreement on government procurement. Read the full description of each on the back of this form before assigning a code.)
7. Country of Origin of Foreign Components of Products Manufactured in the United States (34 35)	7. If the product is manufactured in the U.S. and 50% or more of the cost of all its components is for foreign components, enter the code from NBS-LC-1067 of the country providing the greatest part of the foreign components. In all other cases, leave these boxes blank.
8. Country of Origin of Imported Product (36 37)	8. If the product is imported from a foreign country, enter the code from NBS-LC-1067 of the country of origin of the imported product. If the product is not imported, leave these boxes blank.

Code	Preference Action
1	Small business (SB) set-aside
2	Labor Surplus Area (LSA) set-aside
3	Combined LSA/SB set-aside
4	Award to a disadvantaged 8(a) firm through the Small Business Administration
5	Other preference
6	None of the above

Code	Reason for Single Source
1	Not applicable (i.e., competitive)
2	No Other Offers Received or Acceptable
3	Exclusive Rights
4	Extreme Urgency
5	Standardization/Interchangeability
6	Prototype or First Product

Contracting Officer or Representative	Telephone No.	Date Submitted

STANDARD FORM 279A

BILLING CODE 3110-01-C

Notice: Coding sources and instructions are consistent with those used in the reporting manual of the Federal procurement data system. Current editions of the manual are available from: General Services Administration (GSA–ADTS), Federal Procurement Data Center, 1815 N. Lynn St., Room 320, Arlington, VA 22209.

Instructions for Data Element 6:

If competition was not obtained in the process leading to award of the contract, you must indicate the reason by entering in coding Box 33 (on the front of the form) the number of the item below that best describes the circumstances.

1. *Not applicable.* The procurement was competitive.

2. *No Other Offers Received or Acceptable.* There were no offers in response to a competitive solicitation, or the offers submitted were either collusive or did not conform to the essential requirements in the solicitation or were from suppliers who did not comply with the solicitation's conditions for participation in the procurement. The requirements of the initial solicitation are not substantially modified in the contract as awarded.

2. *Exclusive Rights.* For works of art or for reasons connected with protection of exclusive rights, such as patents or copyrights, the products can be supplied only by a particular supplier and no reasonable alternative or substitute exists.

4. *Extreme Urgency.* For reasons of extreme urgency brought about by events unforeseeable by the agency, the products could not be obtained in time by means of competitive procedures.

5. *Standardization/Interchangeability.* The contract is for additional deliveries by the original supplier which are intended either as replacement parts for existing supplies or installations, or as the extension of existing supplies or installations where a change of supplier would compel the agency to purchase equipment not meeting requirements of interchangeability with already existing equipment.

6. *Prototpye or First Product—Part of Larger Effort.* The agency is purchasing a prototype or a first product which is developed at the agency's request in the course of, and for a particular contract for research, experiment, study, or original development.

[FR Doc. 80-39037 Filed 12-12-80; 10:04 am]
BILLING CODE 3110-01-M

federal register

Monday
December 15, 1980

Part VIII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals as of December 1, 1980

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals, December 1, 1980

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of December 1, 1980 of 22 deferrals contained in the first special message for fiscal year 1981. This message was transmitted to the Congress on October 1, 1980.

Deferrals (Table A and Attachment A)

As of December 1, 1980, $576.1 million in 1981 budget authority was being deferred from obligation and another $5.5 million in 1981 obligations was being deferred from expenditure. Attachment A shows the status of the deferrals reported by the President in the first special message for fiscal year 1981 transmitted to the Congress on October 1, 1980.

Information from special messages

The special message containing information on the deferrals covered by the cumulative report is printed in the Federal Register of: Monday, October 6, 1980 (Part VIII, Vol. 45, No. 195)

James T. McIntyre, Jr.,
Director.

TABLE A

STATUS OF 1981 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$ 619.1
Routine Executive releases (-37.5 million) and adjustments (-0-) through December 1, 1980	-37.5
Overturned by the Congress	-0-
Currently before the Congress	581.6 a.

a. This amount includes $5.5 million in outlays for a Department of the Treasury deferral (D81-19).

Attachments

PAGE 1 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 12/02/80 17:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-80
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D81- 1	16,481		10 1 80				16,481
Expenses, brush disposal	BA	D81- 2	37,342		10 1 80				37,342
DEPARTMENT OF AGRICULTURE TOTAL	BA		53,823						53,823
DEPARTMENT OF COMMERCE									
General Administration									
Participation in U.S. expositions	BA	D81- 3	2,867		10 1 80				2,867
National Oceanic and Atmospheric Administration									
Construction	BA	D81- 4	10,230		10 1 80				10,230
DEPARTMENT OF COMMERCE TOTAL	BA		13,097						13,097
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Procurement activities	BA	D81- 5	139,700		10 1 80				139,700
Research, Development, Test, and Evaluation									
RDT&E Activities	BA	D81- 6	46,500		10 1 80				46,500

PAGE 2 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 12/02/80 17:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-80
Military Construction								
Military construction, all services BA	D81- 7	6,983		10 1 80	-1,565			5,418
Family Housing, Defense								
Family housing, Defense BA	D81- 8	18,651		10 1 80	-18,651			
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		211,834			-20,216			191,618
DEPARTMENT OF DEFENSE-CIVIL								
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services BA	D81- 9	667		10 1 80	-136a			531
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital BA	D81-10	10,698		10 1 80				10,698
Office of Assistant Secretary for Health								
Special foreign currency program BA	D81-11	8,000		10 1 80				8,000
Human Development Services								
White House Conference on Children and Youth BA	D81-12	562		10 1 80				562
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA		19,260						19,260
DEPARTMENT OF THE INTERIOR								
Heritage Conservation and Recreation Service								

PAGE 3 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 12/02/80 17:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-80
Land and water conservation fund	BA	D81-13	30,000		10 1 80				30,000
Geological Survey									
Payments from proceeds, sale of water	BA	D81-14	41		10 1 80				41
Bureau of Mines									
Drainage of anthracite mines	BA	D81-15	765		10 1 80				765
DEPARTMENT OF THE INTERIOR TOTAL	BA		30,806						30,806
DEPARTMENT OF JUSTICE									
Federal Prison System									
Buildings and facilities	BA	D81-16	15,750		10 1 80				15,750
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities & equip. (Airport & airway trust fund)	BA	D81-17	133,823		10 1 80				133,823
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance fund	BA	D81-18	111,773		10 1 80	-154			111,619
	O	D81-19	5,485		10 1 80				5,485
Bureau of the Mint									
Construction of mint facilities	BA	D81-20	5,730		10 1 80				5,730

PAGE 4 ATTACHMENT A - STATUS OF DEFERRALS - FISCAL YEAR 1981 AS OF 12/02/80 17:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-80
DEPARTMENT OF THE TREASURY								
TOTAL BA		117,503			-154			117,349
TOTAL O		5,485						5,485
OTHER INDEPENDENT AGENCIES								
Federal Emergency Management Agency								
Emergency planning, preparedness, and mobilization								
BA	D81-21	80		10 1 80				80
Tennessee Valley Authority								
Tennessee Valley Authority fund								
BA	D81-22	17,000		10 1 80	-17,000			
OTHER INDEPENDENT AGENCIES								
TOTAL BA		17,080			-17,000			80
TOTAL BA		613,643			-37,506			576,137
TOTAL O		5,485						5,485

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to the Congress.

[FR Doc. 80-38851 Filed 12-12-80; 8:45 am]
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federal register

Monday
December 15, 1980

Part IX

Environmental Protection Agency

Investigation of Averaging for Heavy-Duty Engine and Light-Duty Truck NO_x Emissions; Public Workshop

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-1701-4]

Investigation of Averaging for Heavy-Duty Engine and Light-Duty Truck NO_x Emissions; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces the time, place and agenda for a workshop on the issues identified in the EPA Advance Notice of Proposed Rulemaking entitled "Investigation of Averaging for Heavy-Duty Engine and Light-Duty Truck NO_x Emissions," (45 FR 79382, November 28, 1980). These issues are expanded upon in an EPA report.[1]

DATES: The workshop will be convened at 9:00 a.m., Thursday, January 29, 1981, and reconvened at 9:00 a.m., Friday, January 30, 1981. Sessions will be adjourned at 5:00 p.m. each day, or at a later time if necessary to complete the business of the workshop.

Requests to make a presentation, as described below, must be submitted to EPA by January 21, 1981 to secure registration as a participant. The record of the workshop will be left open for subsequent written submissions for 30 days following the close of the workshop, and thus will close on March 2, 1981.

ADDRESSES: The workshop will be held at the EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105.

Supporting material relevant to this workshop is available in Public Docket No. A-80-49. The docket is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Single copies of the EPA report cited above are available for no charge through the public contact.

FOR FURTHER INFORMATION CONTACT: Glenn Passavant, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4408.

[1] "Criteria for Development of Emissions Averaging for Heavy-Duty Engines and Light-Duty Trucks," Passavant, France and Anderson, December 1980.

SUPPLEMENTARY INFORMATION: EPA recently published an Advanced Notice of Proposed Rulemaking (ANPRM) announcing its intention to investigate the application of emissions averaging for NOx emissions from heavy-duty engines and light-duty trucks. By giving manufacturers flexibility in developing emission reductions, needed environmental benefits can be obtained at a lesser economic burden for the industry.

In the ANPRM, we identified several basic issues which must be dealt with in the establishment of a successful averaging program. These and other subissues are expanded upon in the EPA report mentioned previously. From those issues, the report develops seven specific design criteria which should ideally be met by an acceptable averaging concept.

Because of the far-reaching impacts of averaging we feel that it is necessary to focus clearly on the issues involved, and ways to resolve those issues. Therefore, we have avoided presentation at this time of any specific schemes for implementing averaging. We desire more fundamental and creative inputs than might arise from workshop participants reacting to an EPA proposed scheme already developed for discussion. While we have some tentative approaches that compare favorably against the design criteria, we believe that there may be a variety of approaches possible. Some of them may be substantially better than what we have yet devised.

We want to encourage workshop participants to evaluate the issues and design criteria described in the aforementioned EPA report, and to present their own solutions in terms of those issues and criteria. If a specific averaging concept is presented, it should be analyzed in terms of its ability to resolve the issues and meet the design criteria.

To help accomplish this end, the workshop is being organized in a "roundtable" format. Participants, who will have preregistered, will be seated around a common table. An audience area will be available for nonparticipants. The agenda for the first day will consist of a discussion of major issue areas and the design criteria. The issues and criteria will be discussed individually, with each participant being asked to present their analysis of, and position on, that item. Following these presentations, there will be a general discussion of the issue and an attempt to see if there is agreement among the non-EPA participants. The specific agenda is as follows:

I. Opening remarks by the moderator

II. Issues and Design Criteria

A. Issue: Can an averaging concept be designed consistent with the Clean Air Act?

Design Criterion: Any averaging program for mobile source emissions must have a valid legal base.

B. Issue: Can an averaging concept be successfully integrated with other EPA mobile source programs?

Design Criteria: 1. Any averaging program must be administratively practical and compatible with existing EPA programs.

2. Each engine family would have a certification emission limit which it must meet at a high pass rate.

3. Any averaging program should be true "regulatory reform," i.e., it should make compliance less difficult for the industry and reduce compliance costs for consumers and industry alike.

C. Issue: Can an averaging concept be designed to maintain reasonable equity among manufacturers?

Design Criteria: 1. Any averaging program should benefit members of the regulated industry without causing a disproportionate level of advantage or disadvantage.

2. Any averaging program should not increase any manufacturer's economic jeopardy which might be caused by emission control regulations.

D. Issue: Can averaging be implemented without adverse environmental effects?

Design Criterion: Any averaging program must give equivalent air quality benefits to a nonaveraging approach and must not allow any substantial localized impacts.

III. Other issues not yet identified.

For background prior to the workshop, participants should refer to discussions of these issues and criteria found in the ANPRM and in the criteria paper placed in the public docket.

The second day of the workshop will be devoted to the presentation of specific concepts which the participants believe would best satisfy the various issues and design criteria. These presentations should conform to the following outline:

1. Describe the concept.

2. Relate it to each issue and design criterion.

3. Describe, in quantitative terms as much as possible, expected benefits and costs (or cost savings). Where possible, apply this analysis to the individual components of the concept.

Following each presentation there will be a period for questions and discussion by the other participants.

Any person desiring to make a presentation at the workshop should submit a written request to Mr. Glenn

Passavant at the address given above at least one week in advance of the workshop (by January 21, 1981). Your request should include your initial positions and rationale on each of the issues for the first day's agenda. If an appropriate request is received by Janaury 21, 1981, you will be allocated two chairs at the roundtable and registered as a participant. An audience area will be available for nonparticipating observers. Please indicate whether you intend to present a concept for the second day, any audio-visual equipment you will need and the approximate amount of time desired to make you presentation. It will be the responsibility of the presenter to provide sufficient copies of all materials presented at the workshop for other participants. A transcript will be made of both day's proceedings. Persons desiring to purchase copies for their own use should make arrangements with the transcription service at the workshop.

The workshop will be conducted informally. Mr. Michael P. Walsh, Deputy Assistant Administrator for Mobile Source Air Pollution Control, will act as moderator. EPA will also be represented by its Office of Enforcement, Office of General Counsel, and Office of Planning and Management.

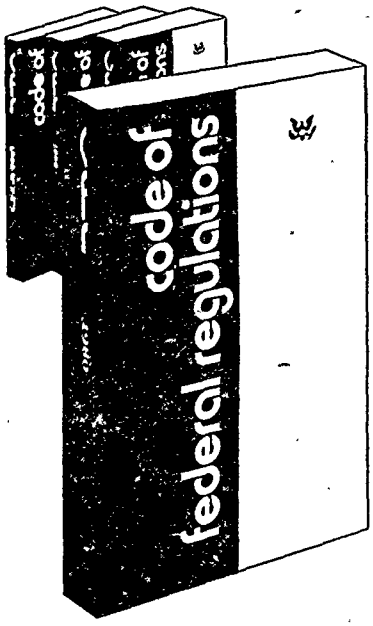
Dated: December 8, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-38857 Filed 12-12-80; 8:45 am]

BILLING CODE 6560-26-M



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