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federal register

Monday
April 27, 1981

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23586 **Automotive Fuel Economy Program** DOT/NHTSA issues report to Congress.

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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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Presidential Documents

Title 3—

The President

Proclamation 4841 of April 23, 1981

National Day of Recognition for Veterans of the Vietnam Era

By the President of the United States of America

A Proclamation

The decade which has come to be known as the Vietnam era was a time of trial for our Nation. Nearly every citizen was touched in some way by the war in Southeast Asia.

As in all wars, the brunt of the conflict was borne by the soldiers, sailors, airmen, and marines who served in our Armed Forces during that time, particularly the millions who saw duty in Vietnam. Beyond the 57,000 who died during the Vietnam war, we have among us millions of veterans who have yet to receive the full measure of thanks for having accepted the call to arms when such service was not popular with all Americans. More than 300,000 of these were wounded in Vietnam, many suffering permanent disabilities.

The cold statistics are empty, however, unless we keep in mind the individual and personal drama which accompanies each Vietnam-era veteran and casualty. Much has been said about the sacrifice made by those who served, but full recognition of the Nation's debt of gratitude to them is long overdue.

Our first national commemoration of the Vietnam-era veteran was in 1974, when Vietnam Veterans Day was proclaimed pursuant to a joint resolution of the Congress. I believe it is appropriate again to recognize and commemorate those men and women who did their duty in a time of crisis. No one should doubt the nobility of the effort they made.

By their demonstrations of loyalty and courage, Vietnam veterans have earned our esteem. A recent survey revealed that the American public overwhelmingly admires the Vietnam-era veteran. Certainly, those veterans who suffer from physical and psychic aftereffects can look to their fellow citizens for understanding and help.

In these times of economic hardship and budget restriction every citizen should be aware that showing our gratitude to the Vietnam veteran will take more than leaving it up to the Federal Government to provide money and programs. Each of us must do his or her part in reaching out in a personal way to these brave men and women. This recognition will mean much to the Vietnam veterans who never received the thanks they deserved when they originally returned home from war.

In honor of those who deserve the profound gratitude of their countrymen, the Congress, by joint resolution, has requested the President to issue a proclamation designating Sunday, April 26, 1981, as a National Day of Recognition for Veterans of the Vietnam Era.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, call upon all Americans, and upon patriotic and civic organizations, to observe Sunday, April 26, 1981, as a National Day of Recognition for Veterans of the Vietnam Era. I urge my fellow citizens to observe this day with appropriate programs, ceremonies, and activities dedicated to those issues of concern to Vietnam veterans.

I call upon officials of the Government to display the flag of the United States on all Government buildings and grounds on that day in testimony of our respect for the contributions of Vietnam veterans.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of April, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and fifth.

Ronald Reagan

[FR Doc. 81-12684
Filed 4-23-81; 3:47 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 69-WE-26-AD; Amdt. 39-4056]

Hughes Helicopters Model 269 Series; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment rescinds an existing Airworthiness Directive (AD) applicable to certain Hughes Helicopter Model 269 Series Helicopters which required inspection for cracks in the two main rotor mast lugs and mast replacement if necessary. Amendment 39-925 is being rescinded because the FAA has subsequently determined that the castings are not faulty. The FAA has further determined that the probable cause of the cracks was preloading the mast lugs during assembly.

DATE: Effective April 27, 1981.

ADDRESSES: The applicable service information may be obtained from: Hughes Helicopters, Division of Summa Corporation, Centinela and Teale Streets, Culver City, California 90230.

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

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

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

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

SUPPLEMENTARY INFORMATION: Amendment 39-925 [35 FR 760] AD 70-02-07 requires repetitive dye penetrant inspection of main rotor mast P/N 269A2020 for cracks in the lugs which connect with the collective pitch mixer bell crank. Subsequent to the adoption of Amendment 39-925, the FAA determined that the castings were not faulty. The FAA has further determined that the probable cause for cracks was preloading of the mast lugs during installation of the collective pitch mixer bell crank. In 1973, Hughes included Installation Instructions in Drawing 269A7515 and the Hughes Maintenance Instructions (HMI). There have been no reported cases of cracked lugs since that time. Since the basis for this airworthiness directive has been modified and an unsafe condition does not exist, the need for the AD 70-02-07 is obviated.

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

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by rescinding Amendment 39-925 [35 FR 760] AD 70-02-07.

This amendment becomes effective April 27, 1981.

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

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) or major under Executive Order 12291. It has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule, at promulgation, will not have a significant impact on a substantial number of small entities.

Issued in Los Angeles, California on April 1, 1981.

H. C. McClure,
Acting Director, FAA Western Region.

[FR Doc. 81-11315 Filed 4-24-81; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-CE-5-AD; Amdt. 39-4096]

Airworthiness Directives; Cessna Models 335, 340 and 340A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, revision.

SUMMARY: This amendment revises existing Airworthiness Directive (AD) 81-07-11, Amendment 39-4078, applicable to Cessna Models 335, 340 and 340A airplanes by excluding therefrom Cessna Model 340A (S/Ns 340A1204 thru 340A1252 airplanes. This action is appropriate since these airplanes will be modified in accordance with the AD instructions at the manufacturer's production facility prior to the issuance of their original airworthiness certificates.

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

EFFECTIVE DATE: April 17, 1981.

Compliance schedule: As previously prescribed in the body of the AD.

SUPPLEMENTARY INFORMATION: This amendment revises Amendment 39-4078, AD 81-07-11 (46 FR 20533, 20534), applicable to Cessna Models 335, 340 and 340A airplanes. Cessna Model 340A (S/Ns 340A0001 thru 340A1252) airplanes were included in the applicability of the AD after coordination with the manufacturer. Subsequent to the issuance of AD 81-07-11, the manufacturer advised the FAA that S/Ns 340A1204 thru 340A1252 airplanes were being held at its facility to install the corrective tail configuration as called out in the AD prior to issuance of initial airworthiness certificates. The manufacturer further states it has established Special Production Inspection Record Documents to assure that these airplanes conform to the new tail

configuration. Accordingly, action is taken herein by revising AD 81-07-11 to exclude therefrom Cessna Models 340A (S/Ns 1204 thru 1252) airplanes.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than thirty (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39-4078 (46 FR 20533, 20534), AD 81-07-11, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended as follows:

(1) Revise the Applicability Statement so that it now reads:

Cessna: Applies to Model 335 (S/N 335-0001 thru 335-0065), Model 340 (S/N 340-0001 thru 340-0555) and Model 340A (S/N 340A0001 thru 340A1203) airplanes certificated in any category.

(2) In paragraph (A)1.b. delete the first line thereof and in its place add the line "On Model 340A (S/Ns 340A1039 thru 340A1203 airplanes,".

(3) In paragraph (A)2 delete those portions of lines 3 and 4 which read "On Models 340A (S/Ns 340A1036 thru 340A1252)" and in place thereof add the words "on Model 340A (S/Ns 340A1036 thru 340A1203)".

This amendment becomes effective April 17, 1981.

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

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

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

Issued in Kansas City, Missouri, on April 17, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-12478 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-SO-15; Amdt. No. 39-4094]

Airworthiness Directives; Piper Model PA-44-180 (Seminole) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the modification of ailerons on certain Piper Model PA-44-180 airplanes. The AD is needed to stiffen the aileron spar in order to reduce aileron spar deflection which could result in cracking of the aileron spar web and loss of aileron control.

DATES: Effective April 30, 1981. Compliance required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (717) 748-6711.

A copy of the service bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, ASO-212, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of abnormal deflection and cracks in the aileron spar web on certain Piper PA-44-180 airplanes. This condition, if not corrected, may result in loss of aileron control which could cause the loss of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires modification of the aileron system on certain Piper PA-44-180 airplanes.

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

Adoption of the Amendment

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

Piper Aircraft Corporation: Model PA-44-180 (Seminole), serial numbers 44-7995001 through 44-8095006, airplanes certificated in all categories.

Compliance is required within the next 50 hours time in service after the effective date of the AD, unless already accomplished. To reduce aileron spar deflection and cracking which could result in loss of aileron control, accomplish the following:

a. Modify the ailerons in accordance with Piper Aircraft Corporation Service Bulletin No. 702, dated December 4, 1980, and Piper Rework Kit P/N 764 088V.

b. Make appropriate maintenance record entry.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment become effective April 30, 1981.

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

Note.—The FAA has determined that this regulation is an emergency regulation under the President's memorandum of January 29, 1981, and an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "For Further Information Contact."

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

Issued in East Point, Georgia, on April 15, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-12479 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 372 and 386

Amendments to Clarify Procedures for the Return of Validated Export Licenses

AGENCY: Office of Export Administration, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Unless otherwise authorized, an exporter must obtain a validated export license from the Office of Export Administration in order to export commodities or technical data subject to the Export Administration Regulations. The Regulations state the conditions under which the licensee must return a validated export license to the Office of Export Administration. This rule amends the Regulations to establish a more specific time frame for the return of such licenses and clarifies the actions the Office of Export Administration will take if the license is not returned. This rule also deletes a reference to the Periodic Requirements (PR) License, a licensing procedure discontinued because of insufficient exporter use and because alternate licensing procedures can be substituted for the PR procedure.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that to the extent practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose new controls on exports. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

This rule will not have a significant economic impact on a substantial number of small business entities because it does not impose any additional costs or other regulatory burdens on them. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Accordingly, Parts 372 and 386 of the Export Administration Regulations are amended as follows:

1. Section 372.9(f) is revised to read as follows:

§ 372.9 Issuance of validated licenses.

* * * * *

(f) *Return of Revoked, Suspended or Unused Licenses.* If a licensee determines that a license will not be used, or if the Office of Export Administration revokes or suspends a license, the licensee shall return the license immediately to the Office of Export Administration in accordance with the instructions in § 386.2(d).

2. Section 386.2 is amended by removing and reserving paragraph (d)(3), revising paragraph (d)(4), and adding a new paragraph (d)(5) as follows:

§ 386.2 Use of validated license.

* * * * *

(d) * * *

(3) [Reserved]

(4) *Return of licenses.* The licensee shall return a license to the Office of Export Administration within 30 calendar days after—

(i) The license expires,

(ii) The full quantity authorized for export under that license is exported, or

(iii) The licensee determines that the license will not be used or will no longer be used.

However, if the Office of Export Administration revokes or suspends the license, the licensee shall return it immediately upon notification that the license has been revoked or suspended. The licensee shall complete the certification on the reverse of the license document and attach copies of any license amendments to the license, and return it to the Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. Until the license is forwarded, the licensee shall be prepared to make it and all other related export records available for inspection by the U.S. Government. (See § 387.13.)

(5) *Failure to return a license.* If the licensee fails to return a validated export license within 30 calendar days of expiration, or fails to provide a satisfactory written explanation within the 30 day period, the Compliance Division of the Office of Export Administration may impose sanctions provided for in § 387.1 of the Export Administration Regulations.

(Secs. 13 and 15, Pub. L. 96-72, U.S.C. app. 2401 *et seq.*; Exec. Ord. No. 12214 (45 FR 29783, May 6, 1980); Dept. Org. Ord. 10-3 (45 FR 6141, Jan. 25, 1980); International Trade Administration Org. and Function Ord. 41-1 (45 FR 11882, January 30, 1980) and 41-4 (45 FR 65003, October 1, 1980))

William V. Skidmore,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 81-12466 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8824]

Glendinning Companies, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the cease and desist order issued against the company in The Matter of The Coca-Cola Company, et al. on October 26, 1976, 88 F.T.C. 656, 41 FR 53653, by deleting the language "including all entry forms submitted by participants therein," from Paragraph 1(c), which required the company to keep all entry forms submitted in connection with both games of chance and games of skill, and adding to Paragraph 2 of the order specified language which limits the firm's record-keeping obligation to maintaining only those entry forms submitted for games of skill.

DATES: Decision issued October 26, 1976. Modifying order issued February 24, 1981.

FOR FURTHER INFORMATION CONTACT: FTC/PC, William S. Sanger, Washington, D.C. 20580. (202) 254-6128.

SUPPLEMENTARY INFORMATION: In the Matter of Glendinning Companies, Inc., a corporation. Codification under 16 CFR Part 13, appearing at 41 FR 53653, remains unchanged.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The Order Reopening the Proceeding and Modifying Cease and Desist Order is as follows:

Petitioner, Glendinning Companies, Inc., seeks the modification of a record-keeping provision of the Order to Cease and Desist issued on October 26, 1976. Petitioner is engaged in the manufacture, promotion, sale, and distribution of promotional games used to induce the sale of products. On October 23, 1980, petitioner sought from the Commission an advisory opinion, pursuant to Rule 2.41 of the Federal Trade Commission's Rules of Practice, interpreting the phrase "all entry forms" in Paragraph 1(c) of the Order to apply solely to games of skill, and not to games of chance. On November 7, 1980, petitioner was informed that an advisory opinion was not the appropriate vehicle for the requested relief, and that the request would be treated as a Petition to Reopen and Modify the Order pursuant to Rule 2.51 of the Rules of Practice. The petition was accordingly placed on the public record for comment for thirty days. No comments were received.

Paragraph 1(c) now orders petitioner to cease and desist from:

1. Engaging in, promoting the use of, or participating in any such promotional game, contest, sweepstake or similar device, by means of any announcement, notice of advertisement, unless:

(c) There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in such connection therewith, full and adequate records *including all entry forms submitted by participants therein,* which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes, and the facts as to the receipt of such prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative. (Emphasis supplied.)

Thus, petitioner is currently required to save, for two years, all entry forms submitted in both chance and skill contest promotions. Petitioner asserts that while this requirement makes sense when applied to games of skill, it serves no useful purpose in the case of games of chance. In skill contests, entry forms can be inspected by the Commission to determine whether prizes were awarded to contestants who submitted the correct entries. In games of chance, however, all entry forms are identical, and winners are selected by random drawing. The forms are therefore of no value in determining whether the promotion was fairly conducted. The storage of these forms does, however, impose significant costs upon petitioner.

Petitioner and Compliance staff have agreed upon proposed modifications to the Order that would limit petitioner's obligation to maintain all entry forms to those submitted in games of skill. This would be accomplished by moving the language requiring petitioner to maintain entry forms from Paragraph 1 of the Order, which governs both skill and chance promotions, to Paragraph 2, which only concerns skill contests. The Commission, having considered the Petition, determines that petitioner has made a satisfactory showing that the public interest requires that the Order be reopened and modified as requested.

It is therefore ordered that the proceeding is hereby reopened and the Decision and Order issued on October 26, 1976, is hereby modified by:

(1) Deleting the language in italics from Paragraph 1(c):

There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in such connection therewith, full and adequate records *including all entry forms submitted by participants therein,* which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative; and

(2) Adding the following language to Paragraph 2:

(f) Respondent or its designee maintains for at least two years after the closing of each skill contest and the awarding of all prizes in connection therewith, in addition to the records required by Paragraph 1(c), all entry forms submitted by participants in such skill contests.

It is further ordered that the foregoing modification shall become effective upon service of this Order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-12546 Filed 4-24-81; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1804-5]

Approval and Promulgation of Implementation Plans; Alabama: Air Quality Surveillance Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving the air quality surveillance plan revision submitted by the State of Alabama on January 9, 1980, including the air monitoring site descriptions that were submitted May 15, 1980. The revision updates Alabama's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes a commitment to update their monitoring network and to utilize all required quality assurance methods to ensure data accuracy. The revision also includes provisions for Emergency Episode Monitoring. Since the revision meets all EPA requirements, EPA is approving the revision.

EFFECTIVE DATE: May 27, 1981.

ADDRESSES: Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130

Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20460

EPA Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Preston, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110 (a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA

as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The State of Alabama has responded by submitting to EPA a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network such that the monitors will be properly sited and the data quality assured. The network will be reviewed annually for needed modifications and descriptions containing information such as location, operating schedule, and sampling and analysis method. On January 7, 1981 (46 FR 1760) EPA proposed approval of Alabama's plan.

ACTION: Since no public comments were received and since the revision meets the requirements of 40 CFR Part 58, EPA is today approving the air quality surveillance plan submitted by Alabama.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The action relates only to air quality surveillance to be carried out by one state and will not cause any significant economic impacts.

The Office of Management and Budget has exempted this regulation from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that order.

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

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: April 21, 1981.

Walter C. Barber,

Acting Administrator.

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

Subpart B—Alabama

1. § 52.50 is amended by adding paragraph(c)(26) as follows:

§ 52.50 Identification of plan.

* * * * *

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

* * *

(26) Revision to the State Implementation Plan for an air quality surveillance network was submitted by the Alabama Air Pollution Control Commission on January 9, 1980.

[FR Doc. 81-12600 Filed 4-24-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-8-FRL 1804-6]

Approval and Promulgation of State Implementation Plans; Revision to Wyoming Opacity Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On July 18, 1980, the State of Wyoming submitted a revision to the Wyoming Air Quality Standards and Regulations which provides for the establishment of source specific opacity limits for large fuel burning units. The State's mass emission limit remains unchanged. EPA proposed to approve the State's revision on November 21, 1980 (45 FR 77075), and solicited comments on whether this revision meets the requirements of 40 CFR Part 51 and the Clean Air Act. No comments were received. In today's action we are approving the Wyoming SIP revision.

DATE: This action is effective May 27, 1981.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

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

The Office of the Federal Register, 110 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-3711

SUPPLEMENTARY INFORMATION: On July 18, 1980, the State of Wyoming submitted a revision to the Wyoming Air Quality Standards and Regulations which provides for the establishment of source specific opacity limits for large fuel burning units upon petition from the operator that the unit is unable to meet the otherwise applicable opacity limit (20 percent) but is meeting the applicable mass emission limit. This provision applies to fuel burning units with heat input of greater than 2500 × 10^6 Btu per hour, and the newly established opacity limit may not exceed 40 percent.

Since the proposed exemption requires that the mass emission limit be met by the source, this provision will not result in increased emissions and will not jeopardize attainment and maintenance of the national ambient air quality standards in Wyoming.

Interested persons were invited to comment on the revision and whether it was adopted and submitted in accordance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 (Requirements for the Preparation, Adoption, and Submission of State Implementation Plans). EPA's notice of proposed rulemaking was published on November 21, 1981 (45 FR 77075). No comments were received. Since no new issues were raised during the comment period, EPA is approving the proposed revision.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. Section 605(b)) I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper.

Under Section 30(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 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it merely approves existing State requirements and imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at: EPA Region 8, 1860 Lincoln Street, Denver, Colorado 80295.

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

Dated: April 21, 1981.

Walter C. Barber,

Acting Administrator.

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

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

Subpart ZZ—Wyoming

1. In § 52.2620, paragraph (c)(12) is added as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(12) A revision to Section 14 of the Wyoming Air Quality Standards and Regulations was submitted on July 18, 1980, and October 27, 1980.

[FR Doc. 81-12599 Filed 4-24-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL 1802-1]

Connecticut; Approval and Promulgation of Implementation Plans; Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan revision, submitted by the state of Connecticut, which allows a temporary variance to Federal Paperboard Company, Inc., from Connecticut Regulation 19-508-19(a)(2)(i) concerning fuel sulfur content. This variance allows, until March 27, 1983, the sale and delivery of fuel oil containing up to 2.2% sulfur by weight to the company's manufacturing facility in Sprague, Connecticut, and also allows burning by the facility of fuel oil containing up to 1.7% sulfur.

EFFECTIVE DATE: April 27, 1981.

ADDRESSES: Copies of the Connecticut 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 St., SW., Washington, D.C. 20460; Office of the Federal Register, 110 L Street NW., Room 8401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Miriam Fastag, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On November 20, 1980 EPA proposed approval (45 FR 76714) of a revision to the Connecticut State Implementation Plan (SIP) for a variance until March 27, 1983, for Federal Paperboard Company, Inc. regarding the purchase, storage, and burning of non-conforming fuel. Specifically, the company may purchase, store, otherwise take delivery of and use (but not burn) fuel oil containing sulfur in excess of 0.5% by weight but not more than 2.2% at its paperboard manufacturing facility in Sprague, Connecticut. The revision also allows this facility to burn fuel oil containing up to 1.7% sulfur. Fuel merchants similarly may sell, store, and deliver to the facility fuel oil containing up to 2.2% sulfur.

A thorough discussion of the SIP revision and EPA's reasons for approving it were presented in the Notice of Proposed Rulemaking, cited above, and will not be repeated here. No comments have been received and EPA is now taking final action to approve the revision.

EPA finds good cause for making this revision immediately effective, since EPA approval imposes no additional regulatory burden and the immediate use of less expensive, higher sulfur content fuel oil 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.

After evaluation of the State's submittal, the Administrator has determined that the Connecticut revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision of the Implementation Plan.

Under Executive Order 12291, EPA must judge whether a rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it imposes no additional regulatory burden, and eases an economic burden. It is therefore unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the EPA, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

(Secs. 110(a) and 301 of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601)

Dated: April 21, 1981.

Walter C. Barber,

Acting Administrator.

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

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

Subpart H—Connecticut

1. Section 52.370 is amended by adding paragraph (c)(12) as follows:

§ 52.370 Identification of plan.

* * * * *

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

* * *

(12) A revision to Regulation 19-508-19(a)(2)(i), submitted by the Commissioner of the Connecticut Department of Environmental Protection on September 8, 1980, granting a variance until March 27, 1983 to the Federal Paperboard Company, Inc.

[FR Doc. 81-12517 Filed 4-24-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A7 FRL 1802-8]

Approval and Promulgation of Missouri State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: As required by Section 110 of the Clean Air Act and the October 5, 1978 (43 FR 46246) promulgation of National Ambient Air Quality Standards for lead, the State of Missouri has submitted for approval to EPA a State Implementation Plan (SIP) for lead. The lead SIP provides for the attainment of the National Ambient Air Quality Standards (NAAQS) for lead in all areas of the State. A notice of Proposed Rulemaking (PRM) on this action

appeared in the Federal Register on December 29, 1980 (45 FR 85481). The PRM contained a discussion of the basis for the proposed action. The present action is a final rulemaking which approves the Missouri lead SIP with the exceptions discussed below, and amends the Code of Federal Regulations at Subpart AA-Missouri, §§ 52.1320, 52.1323, 52.1331 and 52.1335.

EFFECTIVE DATE: April 27, 1981.

ADDRESSES: Copies of the Missouri submission, the minutes of the public hearings, the PRM, the public comments, and the technical support memo which explains the rationale for EPA's action on the Missouri lead SIP are available for public review during normal business hours at the following locations:

Environmental Protection Agency, Region VII, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106
Public Information Reference Unit, Room 2922, EPA, 401 M Street, S.W., Washington, D.C. 20460
Kansas City, Missouri Health Department, Air Pollution Control, 21st Floor, City Hall, Kansas City, Missouri 64106
Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102
City of St. Louis, Division of Air Pollution Control, 419 City Hall, St. Louis, Missouri 64103
St. Louis County, Department of Community Health and Medical Care, 801 S. Brentwood Boulevard, Clayton, Missouri 63105

A copy of the State submission only is available for public review during normal business hours at: The Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. 20460

FOR FURTHER INFORMATION: Contact Ken Greer at 816 374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, National Ambient Air Quality Standards (NAAQS) for lead were promulgated by the Environmental Protection Agency (EPA) (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms lead per cubic meter of air (μg lead/m^3), averaged over a calendar quarter. As required by section 110(a)(1) of the Clean Air Act (the Act), within nine months after promulgation of a NAAQS each State is required to submit a State implementation plan (SIP) which provides for attainment and maintenance of the primary and secondaray NAAQS within the State. The State of Missouri has developed and submitted a SIP for the attainment of the lead NAAQS. The plan includes a strategy for attainment and maintenance of the lead NAAQS in all parts of the State. The lead standards have been exceeded in three areas of the State: in St. Louis County, around the St. Joe lead smelter in Herculaneum, Missouri, and around the AMAX Lead Company smelter near Boss, Missouri.

II. Description of Previous Actions Concerning Missouri Lead SIP

A. Basic Requirements

SIP requirements are outlined in Section 110(a) of the Act and in 40 CFR Part 51, Subpart B. These provisions require the submission of air quality data, emission inventory data, air quality modeling, a control strategy, a demonstration that the NAAQS will be attained within the time frame specified in the Act, and provisions for ensuring maintenance of the NAAQS. Specific requirements for developing a SIP for lead are outlined in 40 CFR Part 51, Subpart E.

B. Description of SIP and PRM

A description of the Missouri lead SIP was presented in the PRM published in the Federal Register on December 29, 1980 (45 FR 85481). Also presented was a discussion of the adequacy of the SIP submission, and a description of EPA's proposed actions. The SIP meets EPA requirements for an approvable lead SIP except for two major deficiencies and several minor deficiencies. As explained in the PRM, the major deficiencies are: (1) the SIP stated an incorrect attainment date for attaining the lead NAAQS which EPA requested the State to correct within 60 days of EPA's final approval/disapproval action (today's action); and (2) the modeling in the SIP for the three primary lead smelters in Missouri was inadequate and the State was requested to submit complete modeling for each primary lead smelter within twelve months of EPA's final action.

The minor deficiencies of the SIP, as explained in the PRM, are: (1) the need for a compliance order, or other legally enforceable agreement stating that the rotary dryer operation has been closed down at the St. Joe Co. lead mine at Viburnum, Missouri and will remain inactive; (2) the need for mobile source emission information for the area near the St. Joe Co. lead smelter and for the area near the AMAX Co. lead smelter; (3) the need for a clarification of the procedures that Missouri will follow to allow for a public comment period of at least 30 days on new source review actions for new air pollution sources of lead; (4) the need for information to clarify that the State will require the sources to submit in writing any requests for extensions in the consent order schedules; and (5) the need for a commitment from the State that EPA will be provided with quarterly reports which outline the sources' progress toward installation of the control measures described in the consent orders. EPA requested that the information on the minor deficiencies be submitted to EPA by the State before EPA final action.

C. Information Submitted by Missouri

The State of Missouri submitted letters to EPA on February 11, 1981, and February 13, 1981, which addressed the two major deficiencies of the Missouri lead SIP, and which provided information and commitments which corrected most of the minor deficiencies of the lead SIP.

Concerning the attainment date for the lead NAAQS, the State stated that it believes it correctly interprets the Act to require attainment of the lead NAAQS within three years of EPA's actual approval of the Missouri lead SIP. As stated in the PRM, EPA believes that the State's interpretation of the lead attainment date is incorrect. Further discussion of the issue plus EPA's actions are outlined in following sections.

Concerning the modeling deficiency for the three primary lead smelters in Missouri the State committed to perform complete modeling within 12 months of EPA's final action on the lead SIP. The State pointed out that the additional modeling will be useful in determining monitoring locations around each smelter, and will be useful in an analysis of a demonstration of attainment of the lead NAAQS. Even though the State agreed to perform modeling for each of the three primary smelters, the State also reiterated its position on the modeling around the smelters as stated in the lead SIP. The State explained that the modeling previously done was not useful to the State, that the State knows of no new information that is available which would compel the State to assume any position other than as stated in the lead SIP, and that the situation will not change after 12 months. The State also stated its position that monitoring information will be the "final demonstrator of attainment" of the lead NAAQS.

EPA will assist the State in performing complete modeling for each primary lead smelter in Missouri. EPA acknowledges the State's intention for monitoring information to be the final determining factor in demonstrating attainment. However, as discussed elsewhere in this notice, the State has not submitted its modeling to EPA, and has not demonstrated to EPA that adequate modeling cannot be performed. EPA believes that modeling of lead emissions from lead smelters is possible and should be considered in a demonstration of attainment of the lead NAAQS. EPA believes that both long-term monitoring information and modeling around sources should be used to show attainment, and both considered in revising control strategies if present control strategies are later determined inadequate to attain the lead NAAQS by the attainment date.

The State also provided information to EPA which clarified and corrected the minor deficiencies of the lead SIP. (1) The State submitted to EPA a letter from St. Joe Minerals Corporation which stated that the rotary dryer operation has been closed down, dismantled, and removed from the lead mining operation in Viburnum, Missouri. In light of this new information, EPA believes this deficiency is corrected without the necessity of the State obtaining an enforceable order requiring shutdown of the rotary dryer operation. (2) The State provided mobile source emission information showing that the lead emissions from motor vehicles in the Herculaneum and Boss area are indeed minor (between 1,000 and 30,000 times smaller) compared to lead smelter emissions for the areas around the St. Joe Co. lead smelter and the Amax Co. lead smelter. (3) Concerning the review process for new lead sources in Missouri, the State submitted information which explained that all new sources of lead with 5 tons or more of lead emissions per year will be required to obtain a permit to operate. The State also explained that the permit process will allow for 30 days of public review of the State's actions on new lead source permits. The State is amending its existing regulations for new source review to expressly require such public review. EPA believes that the pending changes to the State regulations correct the minor deficiency concerning the review of permits for lead sources in Missouri. EPA's action on the Missouri revisions to its new source review regulations will be announced in a separate Federal Register notice in the near future. (4) The State provided a determination by the Attorney General of Missouri that explained that automatic extensions in the consent order schedules are not allowed under the force majeure clause in the consent orders. Under Missouri law the burden of proof rests on the sources, which, to avoid the possibility of sanctions for failure to meet a compliance schedule deadline, must prove to the State that the failure to meet a deadline was caused by an event covered by the force majeure clause. (5) The State provided a commitment to EPA to provide quarterly reports for each of the three smelters. The reports will outline the progress each source has made during the previous three months regarding the installation of control measures by specified dates in the consent orders.

Concerning EPA's request in the PRM that the State submit additional monitoring data from the short-term monitoring network around the three primary lead smelters in Missouri, the State explained in its letter to EPA that no additional data has been obtained from the smelter-run monitoring system. As stated in the PRM, EPA believes that any additional short-term monitoring information should be made available for EPA and public review. The State has explained that the information is not available, and EPA does not intend to delay its action on the Missouri lead SIP since EPA believes that with the implementation of the long-term monitoring network around each smelter, the public, EPA and the State will be sufficiently informed as to the ambient air concentrations of lead around the sources and the sources' progress in attaining the lead NAAQS.

III. Public Comments

In addition to the State's submittal of information which has been described previously, four sets of comments were received by EPA. Two sets of comments were received from St. Joe Lead Co., and two sets of comments were received from AMAX Lead Co. Each comment letter is available for public review at each of the addresses listed in the ADDRESSES section of this rulemaking, and the letters have been placed in the rulemaking docket which is on display at the EPA Region VII office. EPA has reviewed all of the comments and has considered each one in the development of today's action. The major comments do not differ significantly from the state's comments on the attainment date issue and the modeling issue which were discussed earlier in this rulemaking. A detailed discussion of the comments and the Agency's responses can be found in the Technical Support Document which is also available for public review at each of the addresses listed in the ADDRESSES section of this notice. As part of a continuing attempt to reduce government Federal Register printing costs, the following paragraphs summarize only the major issues of the comments and present a brief discussion of EPA's responses.

A. Attainment Date

Three commenters challenged the attainment date for lead and the October 5, 1978 [43 FR 46246] promulgation of the NAAQS for lead. The three commenters disagree with the attainment date for lead of October 31, 1982, and believe that the attainment date should be 3 years from EPA actual approval of the lead SIP. As mentioned above, the State also has commented and disagreed with the October 31, 1982 attainment date.

As stated in the PRM and in the promulgation notice for the lead NAAQS, the attainment date for the lead NAAQS is October 31, 1982, three years after the mandated EPA approval date for all lead SIPs of October 31, 1979. In addition to effectuating the Congressional intent that the standards be attained as soon as possible after promulgation, the nationwide attainment date does not allow competitive advantages to be obtained in the marketplace by lead sources located in states which have failed to submit lead SIPs in a timely fashion which provide for attainment of the lead NAAQs by the national attainment date for lead. Also, since EPA is approving the State's control strategy for attainment by the required date, as described in this notice and the PRM, the national attainment date imposes no additional burden on the affected sources in Missouri, or the State, beyond those to which the sources and the State have already committed in the consent orders. EPA is allowing the State of Missouri 60 days from today to revise the attainment date in the SIP to the correct one of October 31, 1982 (or October 31, 1984 for areas where a two year extension is granted).

B. Modeling

Three commenters challenged EPA's disapproval of the section of the SIP that deals with modeling of the three primary lead smelters in Missouri. The commenters pointed out that modeling was attempted by the state, but was not successful. Each commenter argued that state of art modeling techniques cannot yield meaningful information for the three primary lead smelter situations in Missouri. The commenters stated that EPA should approve the State's

attempted modeling, and not request any additional modeling. The commenters also concurred with the State's intention that monitoring information should be used for the demonstration of attainment around each source.

As explained in the PRM and in 40 CFR 51.84, the State is required to do atmospheric dispersion modeling around each primary lead smelter and is required to submit the modeling to EPA in the lead SIP. EPA is aware that the State did some modeling but the modeling was deemed unusable by the state since no correlation was found between modeling and monitoring data. However, the State did not submit the modeling in the SIP for EPA review. EPA cannot approve an anlaysis that it has not reviewed, expecially when EPA is unsure that the State used the state of the art in modeling for lead emissions around point sources. EPA believes that modeling for lead emissions is possible for primary lead smelters and EPA intends to assist the State during the coming months in developing modeling for each of the primary lead smelter situations in Missouri. The State has committed to performing complete modeling and submitting the information to EPA within 12 months of today's acton. EPA will review the modeling when submitted and will announce in a future Federal Register notice whether the modeling is adequate and approvable in relation to the requirements of 40 CFR 51.84.

EPA Actions

EPA approves all parts of the Missouri lead SIP except for two sections. EPA's approval includes the consent orders for the State's three lead smelters. As indicated in the PRM, certain compliance dates in two of the consent orders are based on the date EPA approves the Missouri lead SIP. EPA considers today's action an approval of the lead SIP for purposes of establishing these compliance dates. EPA's approval also includes the State's attainment date extension request for the area around the AMAX and St. Joe primary lead smelters. The attainment date for these two areas is October 31, 1984, which is the required attainment date for the lead standard of October 31, 1982 plus the two year extension.

The two sections that are disapproved are: the section concerning the State's attainment date for the lead standard, and the section concerning modeling done for the three primary lead smelters in Missouri. EPA is allowing the state 60 days from today's rulemaking to correct the attainment date to be October 31, 1982 for all parts of the State except the areas around the AMAX and St. Joe primary lead smelters, for which the attainment date is October 31, 1984. If the State does not revise the SIP accordingly and submit the revision to EPA within 60 days from today's rulemaking, the EPA will promulgate the correct attainment date for the Missouri lead SIP in accordance with § 110(c)(1)(B) and (C) of the Act. EPA is allowing the State twelve months from today's rulemaking to submit to EPA complete modeling for each primary lead smelter in Missouri as required by 40 CFR 51.84.

The Administrator's decision to approve or disapprove the appropriate sections of the Missouri lead SIP was based on the information received from the State, the information received during the public comment period, and on a determination whether the SIP meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA finds that good cause exists for making this rulemaking effective immediately for the following reason:

1. Portions of the schedules in the consent orders in the SIP are keyed to EPA approval of the SIP. Immediate effectiveness allows the implementation of the control strategies outlined in the consent orders to begin immediately; and

2. The immediate effectiveness enables sources to proceed with certainty in conducting their affairs, and persons seeking judicial review of EPA's actions may do so without delay.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it is only approving the State's plan to implement control strategies on affected sources in the state of Missouri, the implementation of which the sources have agreed to. Hence, this rule is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national econony. In addition, the two disapprovals outlined in this notice impose no new regulatory requirements. Therefore, the disapprovals are unlikely to have significant adverse economic impacts.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

Under Section 307(b)(1) of the Clean Air Act, as amended, 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), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: April 21, 1981.

Walter C. Barber,

Acting Administrator.

Title 40, Part 52, Subpart AA—Missouri, of the Code of Federal Regulations is amended to include the following:

1. Section 52.1320 is amended by adding paragraph (c)(26) as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(26) On September 2, 1980, the Missouri Department of Natural Resources submitted the State Implementation Plan for Lead. On February 11 and 13, 1981, the Missouri Department of Natural Resources submitted two letters containing additional information concerning the State Implementation Plan for Lead.

2. Section 52.1323 is amended by adding a sentence at the end of the paragraph as follows:

§ 52.1323 Approval status.

* * * The attainment date for attainment of the lead standard as stated in the Lead plan is disapproved.

3. Section 52.1331 is amended by adding paragraph (e) as follows:

§ 52.1331 Extensions.

* * * * *

(e) Missouri's request for an extension to attain the lead standard in the vicinity of the St. Joe primary lead smelter and the AMAX primary lead smelter to not later than October 31, 1984 is approved. The St. Joe Lead Co. smelter is located in Herculaneum, Missouri, which is within the Metropolitan St. Louis Interstate AQCR, and the AMAX Lead Co. smelter is located in Boss, Missouri, which is within the Southeast Missouri Intrastate AQCR.

4. Section 52.1335(a) is amended by adding at the end of the table as follows:

§ 52.1335 Compliance schedules.

(a) * * *

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
St. Joe Lead Co.	Herculaneum, Mo.	§ 203.050.1(5), RSMO1978.	August 15, 1980	Immediately	(42 months from final rulemaking date).
AMAX Lead Co.	Boss, MO	do	do	do	(48 months from final rulemaking date).
ASARCO, Inc.	Glover, MO	do	do	do	Dec. 31, 1980.

* * * * *

[FR Doc. 81-12519 Filed 4-24-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 58

[A-2-FRL 1802-7]

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval by the Environmental Protection Agency of revisions to the State Implementation Plans of New York, New Jersey, Puerto Rico and the Virgin Islands. The revisions were submitted in response to the requirements of a new Part 58, "Ambient Air Quality Surveillance," of Title 40 of the Code of Federal Regulations.

EFFECTIVE DATE: This action is effective on April 27, 1981.

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

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

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

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

State of New Jersey Department of Environmental Protection, Division of Environmental Quality, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625

Environmental Quality Board, 204 Del Parque Street, Santurce, Puerto Rico 00910

Virgin Islands Department of Conservation and Cultural Affairs, Division of Environmental Health, Charlotte Amalie, St. Thomas 00801

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

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

SUPPLEMENTARY INFORMATION: On May 10, 1979, the Environmental Protection Agency (EPA) promulgated Ambient Air Quality Monitoring, Data Reporting and Surveillance Provisions (44 FR 27558). This action revoked the requirements for air quality monitoring in Part 51 of Title 40 of the Code of Federal Regulations (CFR) and established a new Part 58 entitled "Ambient Air Quality Surveillance."

By August 1980, the New York State Department of Environmental Conservation, the State of New Jersey Department of Environmental Protection, the Puerto Rico Environmental Quality Board, and the Virgin Islands Department of Conservation and Cultural Affairs submitted revisions to their respective State Implementation Plans (SIPs) to provide for a comprehensive air quality monitoring plan designed to meet the ambient air quality monitoring and data reporting requirements of the new 40 CFR Part 58.

Receipt and proposed approval of the revisions to the four SIPs was announced in the Federal Register on February 12, 1981 (46 FR 12022), where the applicable CFR requirements are discussed in more detail. In that notice, EPA advised the public that comments would be accepted as to whether the proposed SIP revisions should be approved or disapproved.

One comment was received, from Allied Chemical, questioning whether a particular monitor designated as a National Ambient Monitoring System (NAMS) site meets applicable NAMS siting criteria. Since this notice concerns a commitment to establish and operate a network of monitoring stations rather than an approval of specific monitoring locations, EPA finds the comment not relevant to today's rulemaking.

EPA has reviewed the four SIP revisions submitted and has determined that they meet the requirements of Sections 110 and 319 of the Clean Air Act, as amended, and EPA regulations at 40 CFR Part 58. EPA is therefore approving the revised monitoring plans for New York, New Jersey, Puerto Rico and the Virgin Islands. This action is being made immediately effective because it imposes no regulatory burden.

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.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The action relates only to air quality surveillance to be carried out by the States of New York and New Jersey, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands and will not cause any significant economic impacts. Furthermore, this action comes within the terms of the certification issued on January 27, 1981 (46 FR 8709).

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because the revised air monitoring systems submitted by the States to meet the requirements of new 40 CFR Part 58, will be derived from existing state networks with adjustments and additions where necessary. Consequently, this rule does not impose any substantial increase in resources for the states or local government agencies.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at: U.S. Environmental Protection Agency, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278 (212) 264-2517.

(Secs. 110, 319, Clean Air Act, as amended (42 U.S.C. 7410))

Dated: April 22, 1981.

Walter C. Barber,

Acting Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the State Implementation Plans for the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands was approved by the Director of the Federal Register on July 1, 1980.

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

Subpart HH—New York

1. Section 52.1670 is amended by adding a new paragraph (c)(59) as follows:

§ 52.1670 Identification of plan.

* * * * *

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

* * * * *

(59) Supplemental information to "New York State Air Quality Implementation Plan—Statewide Summary and Program," June 1979, submitted on December 18, 1980 by the New York State Department of Environmental Conservation dealing with provisions which commit the State to meet the Subpart C requirements of 40 CFR Part 58 pertaining to State and Local Air Monitoring Stations (SLAMS) including the air quality assurance requirements of Appendix A, the monitoring methodologies of Appendix C, the network design criteria of Appendix D and the probe siting criteria of Appendix E.

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding a new paragraph (c)(28) as follows:

§ 52.1570 Identification of plan.

* * * * *

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

* * * * *

(28) A supplementary submittal from the State of New Jersey Department of Environmental Protection, consisting of an Ambient Air Quality Monitoring SIP revision dated August 1.

Subpart BBB—Puerto Rico

3. Section 52.2720 is amended by adding a new paragraph (c)(28) as follows:

§ 52.2720 Identification of plan.

* * * * *

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

* * * * *

(28) A submittal by the Puerto Rico Environmental Quality Board entitled, "Revised Provisions for SIP Air Quality Monitoring Plan," April 1980.

Subpart CCC—Virgin Islands

4. Section 52.2770 is amended by adding a new paragraph (c)(11) as follows:

§ 52.2770 Identification of plan.

* * * * *

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

(11) A document entitled "Air Monitoring Plan," November 1979, submitted on February 23, 1981, by the Virgin Islands Department of Conservation and Cultural Affairs.

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BILLING CODE 6560-38-M

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40 CFR Part 65

[EN-9-FRC 1789-3]

Delayed Compliance Order for Guam Power Authority, Agana, Guam

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Federal Delayed Compliance Order (DCO) to Guam Power Authority (GPA), Agana, Guam. The DCO requires GPA to bring its two fossil-fuel fired steam generators at Piti, Guam, into compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations, part of the Federally approved State Implementation Plan for the Territory of Guam. GPA's compliance with the DCO will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulation covered by the DCO during the period the DCO is in effect.

EFFECTIVE DATE: This rule takes effect on April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Robert G. Kuykendall, Chief, Air and Hazardous Materials Branch, Enforcement Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, phone: (415) 556-6150.

ADDRESSES: The DCO, supporting materials, and public comment are available for public inspection and copying during normal business hours at: Enforcement Division Offices, EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION: On September 9, 1980, the Regional Administrator of EPA's Region IX Office published in the Federal Register, (45 FR 59341), a notice setting out the provisions of a proposed DCO for GPA. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed DCO. During the period for public comment, GPA submitted comment on October 7, 1980, in which GPA requested that the proposed delayed compliance order be revised to incorporate an eight-month delay in the startup of the pilot plant, which is one of the critical pathways toward achieving compliance with the proposed DCO. On November 26, 1980, GPA submitted supplemental comments requesting an additional one-month extension due to delays in delivery and shipping of the pilot plant. After a thorough evaluation of GPA's submittals, EPA has determined that GPA's request for delays is reasonable because the delays appear to be due to circumstances beyond GPA's control. Therefore, a revised DCO effective this date is issued to GPA by the Administrator of EPA pursuant to Section 113(d)(4) of the Clean Air Act, as amended, 42 U.S.C. 7413(d)(4) (hereinafter referred to as the "Act"). The DCO places GPA on a schedule to bring two fossil-fuel fired steam generators at Piti, Guam, into compliance as expeditiously as practicable with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control standards and Regulations, part of the Federally approved SIP. The DCO also imposes interim requirements which satisfy section 113(d)(7) of the Act, and reporting requirements. If the conditions of the DCO are met, it will permit GPA to delay compliance with the SIP regulation covered by the DCO until February 15, 1985. The company is unable to immediately comply with this regulation.

EPA has determined that the DCO shall be effective upon publication of this notice because of the need to immediately place GPA on a schedule for compliance with the applicable requirements of the SIP.

Under Executive Order 12291, EPA must judge whether an action is a "Major Rule" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not a Rule because it does not establish any policy of general applicability and future

effect. It only issues an order affecting a single source.

This action was submitted to the Office of Management and Budget for review under Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection at EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

(Sections 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: April 14, 1981.

Walter C. Barber,

Acting Administrator, Environmental Protection Agency.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

§ 65.90 [Amended]

1. By amending the table in § 65.90 Federal Delayed Compliance Orders issued under Sections 113(d) (1), (3), and (4) of the Act, by adding the following entry:

Source	Location	Order No.	SIP regulation involved	Date of proposal	Final compliance date
Guam Power Authority	Agana, Guam	9-80-8	Section 13.4 of Chapter 13, Guam Air Pollution Standards and Regulations.	Sept. 9, 1980	Feb. 15, 1985.

2. The text of the DCO reads as follows:

United States Environmental Protection Agency Region IX

In the matter of Guam Power Authority, Piti, Guam, proceeding under section 113(d)(4) of the Clean Air Act, as Amended, Docket No. 9-80-8, delayed compliance order.

This Order is issued this date pursuant to Section 113(d)(4) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) (hereinafter referred to as the "Act") and contains a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty (30) days notice to the Territory of Guam have been provided pursuant to Section 113(d)(1) of the Act.

Findings

On April 11, 1980, Mr. John L. Kerr, Chairman of the Board, Guam Power Authority (hereinafter referred to as "GPA"), Agana, Guam, sent a letter to Mr. Clyde B. Eller, Director, Enforcement Division, Region IX, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), concerning the operation of Units 1 and 2 of the Cabras Steam Power Plant at Piti, Guam (hereinafter referred to as Cabras Units 1 and 2). Mr. Kerr states in the April 11, 1980 letter that Cabras Units 1 and 2 are in violation of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations and further states that GPA waives any right it may have to a Notice of Violation, to a thirty-day waiting period, and to an administrative conference under section 113 of the Act. Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations is a part of the Federally approved implementation plan for Guam.

On April 15, 1980, the Administrator, Guam Environmental Protection Agency (hereinafter referred to as "Guam EPA"), sent a letter to Paul De Falco, Jr., the Regional Administrator, Region IX, U.S. EPA requesting that a delayed compliance order (DCO) adopted on June 23, 1979 by GEPA and applicable to GPA with respect to the Cabras Units 1 and 2 and submitted to EPA for approval be withdrawn, and that, instead, EPA issue a Federal DCO pursuant to section 113(d)(4) of the Act. The letter further requested that the supporting documents previously submitted by GEPA be considered by EPA in issuing the Federal DCO and fulfilling the requirements of section 113(d)(4).

After a thorough investigation of all relevant facts, U.S. EPA has determined that:

1. GPA is unable to immediately comply with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations;
2. The control system proposed is a new means of emission limitation for control of sulfur dioxide emissions from fossil-fuel fired steam generators;
3. The use of this innovative technology is likely to be demonstrated upon expiration of this Order;
4. This means of emission reduction has a substantial likelihood to achieve final compliance at lower cost in terms of economic and energy savings and with substantial non-air quality environmental benefit over conventional method and technology.
5. Such new means are not likely to be used without this Order.
6. Compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations is impractical prior to or during installation of the new means; and,
7. That the issuance of this Order is consistent with the policy and intent of Section 113(d)(4) of the Act.

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule set forth in this Order is as expeditious as practicable, and that terms of the Order comply with Section 113(d) of the Act. Therefore, it is hereby Agreed and Ordered that:

A. GPA shall proceed on a program of biological and environmental research on the marine ecosystem at Piti, such research to be directed toward an ultimate determination of the environmental feasibility of installing the Flakt Hydro Flue Gas Desulfurization system (hereinafter referred to as "seawater scrubber") on Cabras Units 1 and 2 as a means of continuous emission control in order to comply with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations.

B. The research program set out in Paragraph A shall be carried out in accordance with the detailed scope of work document (hereinafter referred to as "the Plan") which GPA submitted on July 2, 1979 to the Director, Enforcement Division, Region IX, U.S. EPA.

C. GPA shall submit quarterly progress reports on the Plan to U.S. EPA in accordance with the following schedule:

(1) Dec. 15, 1980—Quarterly Report summarizing progress to Nov. 15, 1980
(2) Feb. 15, 1981—Completion of: Pilot Plant, Ecological Survey, Bioassay Schedule
(3) Mar. 15, 1981—Quarterly Report summarizing progress to Feb. 15, 1981
(4) June 15, 1981—Quarterly Report summarizing progress to May 15, 1981
(5) Sept. 15, 1981—Quarterly Report summarizing progress to Aug. 15, 1981
(6) Dec. 15, 1981—Quarterly Report summarizing progress to Nov. 15, 1981
(7) Feb. 15, 1982—Completion of: Bioassay Studies, Engineering Analysis
(8) Apr. 15, 1982—Phase III Report summarizing progress to Mar. 15, 1982
(9) May 15, 1982—Completion of: Data Evaluation, General Guidelines
(10) June 15, 1982—Quarterly Report summarizing progress to May 15, 1982
(11) Aug. 15, 1982—Final Report

D. If any delay is anticipated in meeting any requirements of this Order, GPA shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay. All submittals and notifications to U.S. EPA, pursuant to this Order, shall be made to Clyde B. Eller, Director, Enforcement Division, Region IX, U.S. EPA, 215 Fremont Street, San Francisco, California 94105. In addition, all submittals and notifications required in this Order shall simultaneously be transmitted to the Guam EPA.

E. If at any time GPA shall decide not to complete the research program, then GPA should immediately notify U.S. EPA and the marine studies shall be deemed to have shown that the seawater scrubber will not meet applicable clean water requirements, and the provisions of Paragraph F(2) shall be immediately applicable.

F. By August 15, 1982, GPA shall advise U.S. EPA:

(1) that it has entered into a firm undertaking for the installation of a seawater scrubber, such installation to commence within three months and to be completed

within two and one-half years of such notice; or

(2) if the marine studies shall have demonstrated that the seawater scrubber will not meet applicable clean water requirements, that GPA has entered into a firm undertaking for the installation or utilization of some alternate means of continous emission reduction, such alternate means to be fully operational within two years from the date of such notice, except that if such alternate means shall be the continuous burning of low sulfur fuel oil, such means shall be fully operational within six months from the date of such notice.

G. At the time GPA notifies U.S. EPA that it will install the seawater scrubber or alternate means of continuous emission reduction pursuant to Paragraph F (1) or (2), it will also submit a compliance schedule to U.S. EPA with increments of progress toward final compliance (as specified in 40 CFR 51.1(q)), said compliance schedule, subject to approval by U.S. EPA, to become part of this Order. Further GPA shall certify to the Director, no later than fifteen (15) days after each increment of progress specified by such compliance schedule whether compliance has or has not been achieved and, if not, the reasons therefor.

H. Within 30 days of completion of construction of the seawater scrubber or alternate control means, GPA shall achieve full compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations. GPA shall submit performance test results to U.S. EPA to demonstrate such compliance. The performance tests shall be conducted in accordance with 40 CFR 60.8 and 60.46.

I. GPA shall provide the U.S. EPA and Guam EPA at least 30 days notice prior to conducting any performance tests in order to afford EPA and Guam EPA an opportunity to evaluate the test methods and procedures to be used and to enable the Agencies to have an observer present to such testing.

J. Pursuant to section 113(d)(7) of the Act, during the period of this Order GPA shall comply with the Air Quality Contingency Plan Island-wide Power System, Piti-Cabras Complex as adopted November 1, 1978 and approved on January 31, 1979 by Guam Power Authority, U.S. Navy Public Works Center, Guam, Guam Environmental Protection Agency, and the Island-wide Power System Joint Coordinating Committee. The ambient sulfur dioxide monitoring method used by GPA in accordance with the Contingency Plan should be a Federal reference or equivalent method as defined by 40 CFR 50.1 and 40 CFR Part 53. GPA shall not only calibrate and maintain the monitors as recommended by manufacturers, but also follow the quality assurance and probe siting criteria for ambient air quality monitoring as specified in Appendices A and E to 40 CFR Part 58—Ambient Air Quality Surveillance. If such Contingency Plan is amended at anytime during the pendency of this Order a copy of such amended contingency plan shall be immediately submitted to U.S. EPA for approval. Until such approval by EPA, Guam Power Authority shall be required to comply with the Contingency Plan as adopted November 1, 1978. U.S. EPA has determined that the use of a low sulfur fuel oil during adverse air quality conditions as required by the Contingency Plan represents the best practicable system of interim emission reduction during the pendency of this Order and therefore satisfies the requirements of section 113(d)(7) of the Act.

K. Nothing contained in these Findings or Order shall affect GPA's responsibility to comply with Territory of Guam laws or regulations or other Federal laws or regulations during the pendency of this Order.

L. GPA is hereby notified that its failure to meet the interim requirements of this DCO or to achieve final compliance by February 15, 1985 (or such earlier date as may be required in a revised compliance schedule established in accordance with Paragraph G) at the source covered by this Order may result in a requirement to pay a noncompliance penalty in accordance with Section 120 of the Act, 42 U.S.C. 7420. In the event of such failure, GPA will be formally notified pursuant to section 120(b)(3), 42 U.S.C. 7420(b)(3), and any regulations promulgated thereunder of its noncompliance.

M. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record, after notice and hearing, that an inability to comply with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations no longer exists.

N. Violation of any requirement of this Order shall result in one or more of the following actions:

(1) Enforcement of such requirement pursuant to Section 113 (a), (b), or (c), of the Act, 42 U.S.C. 7413 (a), (b), or (c), including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

(2) Revocation of this Order, after notice and opportunity for public hearing, and subsequent enforcement of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations in accordance with the preceding paragraph.

O. GPA is protected by Section 113(d)(10) of the Act against Federal enforcement action under section 113 of the Act and citizen suits under section 304 of the Act for violation of Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations during the period the Order is in effect and GPA remains in compliance with the terms of such Order.

P. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Act, including, but not limited to Section 303 of the Act, 42 U.S.C. 7603.

Q. This Order shall become effective upon final promulgation in the Federal Register.

Dated: April 14, 1981.

Walter C. Barber,

Acting Administrator, U.S. Environmental Protection Agency.

GPA has reviewed this Order, consents to the terms and conditions of this Order, and believes it to be reasonable means by which GPA can achieve final compliance with Section 13.4 of Chapter 13, Control of Sulfur Dioxide, Guam Air Pollution Control Standards and Regulations.

Dated: December 16, 1980.

G. G. Becher,

Acting General Manager, Guam Power Authority.

[FR Doc. 81-12217 Filed 4-24-81; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 81

[A-1-FRL 1803-6]

Designations of Areas for Air Quality Planning Purposes; Attainment Status Redesignation: Fitchburg, Massachusetts

AGENCY: Environmental Protection Agency.

ACTION: Final rule

SUMMARY: The Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted on September 10, 1979, a request to redesignate the city of Fitchburg as attainment with respect to the secondary Total Suspended Particulate (TSP) National Ambient Air Quality Standard (NAAQS). Additional technical support was submitted on April 18, 1980. No letters of comment were received on EPA's proposed approval published on October 16, 1980 (45 FR 68692). EPA is today approving the redesignation of the city of Fitchburg from non-attainment to attainment with respect to the secondary TSP NAAQS.

EFFECTIVE DATE: April 27, 1981.

ADDRESSES: Copies of the Massachusetts document which is incorporated by reference are availbale 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, D.C. 20460; Office of the Federal Register, 110 L Street, N.W. Room 8401, Washington, D.C. and the Department of Environmental Quality Engineering, 1 Winter Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On October 16, 1980 (45 FR 68692) EPA proposed approval of the redesignation of the city of Fitchburg from non-

attainment to attainment with respect to the secondary TSP NAAQS standard.

The redesignation and EPA's reasons for approving it were explained in the Notice of Proposed Rulemaking, cited above, and will not be repeated here. No comments have been received. EPA is now taking final action to approve the redesignation.

EPA finds good cause for making this action immediately effective because it only changes on air quality designation and imposes no additional regulatory burden.

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.

"Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that attainment status redesignations under Section 107(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule constitutes an attainment status redesignation under Section 107(d) within the terms of the January 27 certification. This action imposes no regulatory requirements but only changes area air quality designation. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action."

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because this action imposes no regulatory requirements but only changes an area air quality designation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, MA 02203.

Accordingly this redesignation is approved.

(Sec. 107(d) of the Clean Air Act, as amended 42 U.S.C. 7407(d))

Dated: April 21, 1981.

Walter C. Barber,

Acting Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.322, the table entitled "Massachusetts—TSP" is amended by removing the entire line for Fitchburg.

[FR Doc. 81-12549 Filed 4-24-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP OF2366/R312; PH-FRL 1769-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N-Methylpyrrolidone

Correction

In FR Doc. 81-6952, appearing at page 15123 in the issue of Tuesday, March 3, 1981, make the following change:

On page 15123, third column, first full paragraph, seventeenth line, the word "theratology" should read "teratology".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Phoenix, Arizona

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Phoenix, Arizona. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Phoenix, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410 (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 040051 Panel 0055B, published on October 6, 1980, in 45 FR 66116, indicates that Lots 15 through 17, Singletree Ranch, Unit Two, Phoenix, Arizona, as recorded in Book 192, Page 25, in the Office of the Recorder, Maricopa County, Arizona, is within the Special Flood Hazard Area.

Map No. H & I 040051 Panel 0055B is hereby corrected to reflect that Lots 15 through 17, Singletree Ranch, Unit Two, are not within the Special Flood Hazard Area identified on December 4, 1979. These lots are in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 13, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12593 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Scottsdale, Arizona

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street S.W., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b): Map No. H & I 045012A Panel 20, published on October 6, 1980, in 45 FR 66116, indicates that La Casa Rica, La Casa Rica II, and La Casa Rica III, Scottsdale, Arizona, as recorded in Book 200, Page 42; Book 204, Page 23; and Book 212, Page 38, respectively, in the Office of the Recorder, Maricopa County, Arizona, are within the Special Flood Hazard Area.

Map No. H & I 045012A Panel 20 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on January 9, 1976. These properties are in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12594 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Scottsdale, Arizona

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 045012A Panel 22, published on October 6, 1980, in 45 FR 66116, indicates that The Gardens Apartments, Scottsdale, Arizona, as recorded in Book 226, Page 46, in the Office of the Recorder, Maricopa County, Arizona, is within the Special Flood Hazard Area.

Map No. H & I 045012A Panel 22 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on January 9, 1976. This property is in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12593 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Hot Springs, Arkansas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Hot Springs, Arkansas. It has been determined by the Federal Insurance

Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Hot Springs, Arkansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 050084 Panels 0008A and 0009A, published on October 6, 1980, in 45 FR 66091, indicates that Lots 1 through 8, 11 through 19, 121 through 137, 197, 198, and 202 through 204, Units I and II, Pine Meadows Subdivision, Hot Springs, Arkansas, as recorded in Book 4, Page 239, and Book 5, Page 42, respectively, in the Office of the Circuit Clerk, Garland County, Arkansas, are within the Special Flood Hazard Area.

Map No. H & I 050084 Panels 0008A and 0009A are hereby corrected to reflect that the above mentioned lots, with the exception of the areas designated for Utility and Drainage Easement as shown on the recorded plat map cited above, are not within the Special Flood Hazard Area identified on December 18, 1979. These lots are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12598 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Livermore, California

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Livermore, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Livermore, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Adminstrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060008 Panel 02, published on October 6, 1980, in 45 FR 66117, indicates that Lots 27, 58B, 79, 80, 88 through 93, 94A, 94B, and 95 through 100, Tract 3940, Livermore, California, as recorded in Book 118 of Maps, Pages 62 through 67, in the Office of the Recorder, Alameda County, California, are within the Special Flood Hazard Area.

Map No. H & I 060008 Panel 02 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 5, 1977. These lots are in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12597 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Milpitas, California

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Milpitas, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Milpitas, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within

the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060344 Panel 0004D, published on October 6, 1980, in 45 FR 66118, indicates that Lot 427, Tract No. 2625, Milpitas Manor, Unit No. 7, Milpitas, California, recorded as File No. 6693380 in Volume F-245, Page 1, in the Office of the Recorder, Santa Clara County, California, is within the Special Flood Hazard Area.

Map No. H & I 060344 Panel 0004D is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area Identified on July 16, 1980. This lot is in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12593 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Aurora, Colorado

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Aurora, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 08002 Panel 0015A, published on October 6, 1980, in 45 FR 66109, indicates that Lots 29 through 33, Block 2, Calico Subdivision, Filing No. 1, Aurora, Colorado, as recorded in Book 45, Pages 46 and 47, in the Office of the Recorder, Arapahoe County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 080002 Panel 0015A is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on June 1, 1978. These lots are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12593 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Overland Park, Kansas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Overland Park, Kansas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Overland Park, Kansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition

of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 200174A Panel 02, published on October 6, 1980, in 45 FR 66104, indicates that Units 5 through 10 and 13 through 15, Block 1; Units 20 through 23, Block 2; and Units 27, 28, 30, 31, and the Community Building, Block 3, Parkway 103 Condominium, Overland Park, Kansas, recorded as Document No. 977302 in Book 36, Pages 23 through 26, in the Office of the Register of Deeds, Johnson County, Kansas, are within the Special Flood Hazard Area.

Map No. H & I 200174A Panel 02 is hereby corrected to reflect that the above mentioned buildings are not within the Special Flood Hazard Area identified on September 30, 1977. These buildings are in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12584 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Alexandria, La.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Alexandria, Louisiana. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Alexandria, Louisiana, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 220146 Panel 0005B, published on October 6, 1980, in 45 FR 66092, indicates that Lots 24 through 26, Economy Homes, Alexandria, Louisiana, as recorded in Plat Book 8, Page 58, in the Office of the Clerk of Court, Rapides Parish, Louisiana, are within the Special Flood Hazard Area.

Map No. H & I 220146 Panel 0005B is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 17, 1978. These lots are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12585 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Under National Flood Insurance Program; Letter of Map Amendment for East Baton Rouge Parish, La.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included East Baton Rouge Parish, Louisiana. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for East Baton Rouge Parish, Louisiana, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410 (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda,

Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 220058 Panel 0095A, published on October 6, 1980, in 45 FR 66092, indicates that Lot 49A, Resubdivision of lot 49, Pine Park Subdivision, First Filing, East Baton Rouge Parish, Louisiana, recorded as Original 477, Bundle 9368, in the Office of the Deputy Clerk and Recorder, East Baton Rouge Parish, Louisiana, is within the Special Flood Hazard Area.

Map No. H & I 220058 Panel 0095A is hereby corrected to reflect that existing structure located on the above mentioned property is not within the Special Flood Hazard Area identified on July 2, 1979. This structure is in Zone B.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12586 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for St. Louis County, Mo.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Louis County, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Louis County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 290327 Panel 0150A, published on October 6, 1980, in 45 FR 66107, indicates that Lots 7 and 8, West Port Industrial Subd., 5th Addn.; and Part of Lot 1, West Plains Industrial Park, Plat No. 1, St. Louis County, Missouri, as recorded in Book 125, Pages 86 and 87; and Book 132, Pages 4 and 5, respectively, in the Office of the Recorder, St. Louis County, Missouri, is within the Special Flood Hazard Area.

Map No. H & I 290327 Panel 0150A is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on September 15, 1978. These lots are in Zone C.

(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; delegation of authority to Federal Insurance Adminstrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12587 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Oklahoma City, Okla.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 405378A Panel 50, published on October 6, 1980, in 45 FR 66095, indicates that Lots 1 through 6, Block 1; Lots 1 through 6, Block 2; and

Lots 1 through 3, 30, and 31, Block 3, Northaven, Oklahoma City, Oklahoma, as recorded in Book 48, Page 95, in the Office of the Clerk, Oklahoma County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 50 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12588 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Under National Flood Insurance Program; Letter of Map Amendment for City of Oklahoma City, Okla.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquistion purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 405378A Panel 26, published on October 6, 1980, in 45 FR 66095, indicated that Lots 21 through 40, Block 17, Fair Hill Addition, Oklahoma City, Oklahoma, as recorded in Book 30, Page 8, in the Office of the Clerk, Oklahoma County, Oklahoma; are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 26 is hereby correced to reflect that the existing structures on the above mentioned lots are not within the Special Flood Hazard Area identified on February 2, 1979. These structures are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12579 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909

National Flood Insurance Program; Letter of Map Amendment for City of Garland, Tex.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Garland, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Garland, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agency or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485471 Panel 0030B, published on October 6, 1980, in 45 FR 66098, indicates that Lot 1, Block 3, Meadowcreek Square No. 3, Garland, Texas, as recorded in Volume 77121, Pages 2209 through 2216, in the Office of the Recorder, Dallas County, Texas, is within the Special Flood Hazard Area.

Map No. H & I 485471 Panel 0030B is hereby corrected to reflect that the above mentioned lot is not within the Special Flood Hazard Area identified on November 1, 1979, with the exception of the Drainage Easement as shown on the Recorded Plat Map cited above. This property is in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 15, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12580 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for Harris County, Texas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480287 Panel 0300C, published on October 6, 1980 in 45 FR 66098 indicates that Lots 1 through 23, Block 7; and Lots 1 through 17, Block 10, Highland Creek Village, Section One, Harris County, Texas, as recorded in Volume 277, Page 115, in the Office of the Clerk, Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287 Panel 0300C is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on February 24, 1981. The lots are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued: April 13, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12581 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

National Flood Insurance Program; Letter of Map Amendment for City of Selma, Tex.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Selma, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Selma, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755-6570.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 480046 Panel 0002A, published on October 6, 1980, in 45 FR 66100, indicates that lots 7 through 30, 34, 35, and 44, Block 16, Olympia Unit 4, Selma, Texas, as recorded in Volume 8900, Pages 22 through 24 of Deed and Plats, in the Office of the County Clerk, Bexar County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480046 Panel 0002A is hereby corrected to reflect that Lots 7, 35, and 44, Block 16, of the above mentioned property are not within the Special Flood Hazard Area identified on July 2, 1980. These lots are in Zone C.

Map No. H & I 480046 Panel 0002A is also corrected to reflect that Lots 8 through 30 and 34, Block 16, of the above mentioned property, with the exception of the area designated for Drainage Easement as shown on the recorded plat map cited above, are not within the Special Flood Hazard Area identified on July 2, 1980. These lots are in Zone C.

(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; delegation of authority to Federal Insurance Administrator)

Issued April 14, 1981.

Robert G. Chappell,

Acting Assistant Administrator, Federal Insurance Administration.

[FR Doc. 81-12582 Filed 4-24-81; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 160

[CGD 76-033a]

Lifesaving Equipment for Great Lakes Vessels; Exposure Suits; Editorial Change

AGENCY: Coast Guard, DOT.

ACTION: Final rule; editorial change.

SUMMARY: The Coast Guard is amending its specification regulation for exposure suits by changing the terminology that identifies the procedures for determining the buoyancy of these devices. This is necessary to prevent confusion with similar terminology that is given a different meaning in a standard incorporated by reference into the specification regulation.

EFFECTIVE DATE: These amendments are effective on May 27, 1981.

FOR FURTHER INFORMATION CONTACT: Robert Markle, Office of Merchant Marine Safety (G-MMT-3/12), Department of Transportation, U.S. Coast Guard Headquarters, Washington, DC 20593, (202) 426-1444.

SUPPLEMENTARY INFORMATION: On Tuesday, April 10, 1980, the Coast Guard published a final rule that included a specification regulation for Coast Guard approved exposure suits (45 FR 24471). This has since been codified in Title 46, Code of Federal Regulations. Section 160.071-17(h) of the regulation prescribes a procedure for determining the "corrected buoyancy" of an exposure suit. This is defined as the measured buoyancy of the suit reduced by the "buoyancy correction factor" of the suit material. Underwriters Laboratories Standard UL 1191 is referenced in the section as the source of this "buoyancy correction factor." The standard contains a buoyancy rating for foam material which is comprised of two factors, the first indicating the buoyancy of the material, and the second indicating the maximum buoyancy loss, in percent, due to either heat aging or compression. "Buoyancy correction factor" is the expression used in the specification regulation to identify this second factor. The Coast Guard has been informed by Underwriters Laboratories that use of this expression, as well as the expression "corrected buoyancy," can lead to confusion since UL 1191 uses "corrected buoyancy" to refer to a different procedure that corrects a buoyancy test measurement for the temperature and humidity at the place where the test is conducted. To prevent this confusion, the Coast Guard is changing the expression "corrected buoyancy" wherever it appears in the specification regulation to "adjusted buoyancy." The expression "buoyancy loss factor" is being substituted for "buoyancy correction factor" to conform with the terminology in UL 1191. These changes do not affect the test in any way.

Since this amendment only makes editorial changes, the Coast Guard has found that the requirements for notice and public comment under 5 U.S.C. 553 do not apply. Likewise, this action has not been found to have sufficient economic impact to warrant preparation of a final evaluation under the Department of Transportation's Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5).

In consideration of the foregoing, Part 160 of Title 46 of the Code of Federal Regulations is amended as set forth below.

1. By revising § 160.071-11(a)(1) to read as follows:

§ 160.071-11 Performance.

(a) * * *

(1) The adjusted buoyancy of each adult size suit must be at least 100 N (22 lb.). The adjusted buoyancy of each child size suit must be at least 50 N (11 lb.).

* * * * *

2. By revising § 160.071-17 (g)(2) and (h) to read as follows:

§ 160.071-17 Approval testing for adult size exposure suit.

* * * * *

(g) * * *

(2) *Test procedure.* The basket is submerged so that its top edge is 50 mm (2 in.) below the surface of the water. The basket is then weighed. Thereafter, a suit is submerged in water and then filled with water, folded, and placed in the submerged basket. The basket is tilted 45° from the vertical for five minutes in each of four different directions to allow all entrapped air to escape. The basket is then suspended with its top edge 50 mm (2 in.) below the surface of the water for 24 hours. At the end of this period, the basket and suit are weighed underwater. The measured buoyancy of the suit is the difference between this weight and the weight of the basket as determined at the beginning of the test. The measured buoyancy is used to determine adjusted buoyancy as described in paragraph (h) of this section.

(h) *Adjusted buoyancy.* The adjusted buoyancy of a suit is its measured buoyancy reduced by the percentage buoyancy loss factor of the buoyant suit material. The percentage buoyancy loss factor is part of the buoyancy rating code determined in accordance with UL 1191, except that the minimum number of samples required to determine each property is 10 instead of 75.

* * * * *

(46 U.S.C. 375, 391a, 416, and 481; 49 U.S.C. 1655(b); 49 CFR 1.46)

Dated: April 21, 1981.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 81-12574 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 87 and 90

[Gen. Docket No. 79-188; RM-3247; FCC 81-18]

Amendment of the Commission's Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Digital Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition by the Xerox Corporation the Commission allocates the 10.55-10.68 GHz frequency band for use by digital termination systems (DTS) for radio local distribution of digital communications. For a limited period of time, separate areas of this spectrum are set aside for DTS networks of nationwide scope and for systems of a regional or local nature. The Commission adopts technical rules for the operation of DTS. Other rules and policies are adopted authorizing an end-to-end common carrier service using DTS, which is called Digital Electronic Message Service (DEMS) which would meet the needs of widely dispersed business and governmental organizations for document distribution, data communications, and teleconferencing within and among the major U.S. cities.

EFFECTIVE DATE: April 17, 1981. After April 16, 1986 when all DTS channels will be 2.5 MHz any DTS applicant may access any remaining spectrum.

ADDRESS: Federal Communications Commission, 1919 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

J. Bertron Withers, Jr., Policy & Management Staff, Office of Science & Technology, 2025 M Street NW., Washington, D.C. 20554 (202) 653-8100, Room 7002.

Kevin J. Kelley, Domestic Facilities Division, Common Carrier Bureau, 1229 20th Street NW., Washington, D.C. 20554 (202) 632-6430, Room A 326.

SUPPLEMENTARY INFORMATION:

First Report and Order

Adopted: January 14, 1981.

Released: April 17, 1981.

By the Commission: Commissioner Fogarty issuing a separate statement.

I. Introduction

1. On November 16, 1978, the Xerox Corporation (hereinafter "Xerox") filed a Petition for Rulemaking ("Petition") requesting the reallocation of the 130 MHz of radio frequency spectrum between 10.55 and 10.68 GHz and the adoption of the necessary rules and policies to permit the establishment of nationwide common carrier digital telecommunications networks that would provide for the high-speed, end-to-end, two-way transmission of digitally encoded information. As proposed by Xerox, these networks would consist of intercity facilities employing satellites and terrestrial point-to-point microwave and intracity facilities which would include Digital Termination Systems (DTS)[1] and internodal links. Xerox proposed that these facilities be employed to provide a new end-to-end common carrier radio service (which we call Digital Electronic Message Service or DEMS) which would meet the needs of widely dispersed business and governmental organizations for document distribution, data communications, and teleconferencing within and among the major U.S. cities.

2. In response to the Petition and the comments filed regarding it, the Commission, on August 29, 1979, issued a *Notice of Proposed Rulemaking and Inquiry* (hereinafter "Notice").[2] In that Notice, we tentatively concluded that establishment of such networks offering service on a competitive basis would serve the public interest. We proposed a reallocation of 60 MHz for immediate assignment to DTS, and of 30 MHz for reserve in adjacent bands within the 10.55–10.68 GHz frequency band. The Notice also proposed technical rules and requested comments on a wide range of policy issues. Extensive public comments were filed regarding those proposals. This First Report and Order ("Order") sets forth our conclusions as to the allocation of frequencies and establishment of rules for use by DTS licensees.

II. Background

3. The networks Xerox proposes would employ satellite and terrestrial microwave facilities for intercity transmission. These facilities are presently provided for in the Commission's Rules. For intracity transmission, such networks would use DTS facilities to provide the terminating radio link to subscribers' premises. The Xerox system concept (Xerox Telecommunications Network or XTEN), would employ a "cellular" configuration with omnidirectional transmitting and receiving stations (called "local nodes" by the petitioner) located throughout a metropolitan area to provide direct two-way communication with transceivers located at the subscribers' premises. As indicated, we are designating this portion of the network the Digital Termination System (DTS). The local node stations would be linked on a city-wide basis to a collection and distribution station called a "city node" using conventional narrow beam microwave radio links (these are referred to as internodal links). The XTEN concept offers the potential for a high degree of flexibility in providing complete area coverage and the potential for spectrum conservation through frequency reuse.

4. To meet these requirements, Xerox proposed that 100 MHz of spectrum be allocated for the communication links between the subscribers and the local nodes. The remaining 30 MHz requested in the Xerox petition would be used for the internodal transmission links, with the total of 130 MHz of spectrum to be made available by reallocating the 10.55–10.68 GHz band. Xerox also proposed a number of technical and licensing rule changes. The rules included eligibility criteria for becoming a DTS licensee. Only applicants who were committed to operating facilities in the top 100 U.S. Standard Metropolitan Statistical Areas (SMSA's) and to constructing those facilities within 84 months after receipt of Section 214 authorization would qualify for such licenses.

5. In the Notice we determined that a new allocation would be necessary for the communication links between subscribers and the local nodes since existing allocations would not be adequate. The point-to-multi-point, omni-directional nature of the transmissions from the local node stations, as envisioned by Xerox, is not conducive to spectrum sharing with other services including fixed point-to-point, mobile, and other radio services. The Notice therefore proposed a reallocation of 60 MHz in the very lightly used 10.55–10.68 GHz mobile service band (*See* Section 2.106 of the Rules) with an additional 30 MHz in reserve for DTS. No allocation was proposed for the internodal links, however. The fixed point-to-point, internodal portion of the system would not constitute a new service and appeared to be compatible with the services already provided for in existing authorized fixed microwave frequency bands. Since Xerox did not show why these presently allocated bands could not be used, the Notice did not propose a separate allocation for this requirement.

III. Summary of Decision

6. As stated previously, the Notice proposed a number of technical rules and requested comment on a wide range of policy issues in addition to proposing a spectrum reallocation. We stated in the Notice that we intended to adopt appropriate rules and policies without requesting further public comment if justified by the record developed in response to the Notice.[3] Comments were filed by twenty-nine parties and reply comments by eleven parties. All comments have been evaluated and considered in the preparation of the rules contained herein. A list of commenters and a summary of the comments is set forth in Appendix A. On the basis of these comments and the record that has been established, this Order sets forth our findings and conclusions, allocates spectrum in the 10.55–10.68 GHz (10.6 GHz) band for DTS and the internodal links, and adopts rules for common carriers using DTS. The key conclusions set forth are the following:

- We allocate 130 MHz in the 10.6 GHz band, including 100 MHz for DTS (with 70 MHz of this spectrum available for immediate assignment) and 30 MHz

[1] The term Digital Termination System (DTS) refers to two-way point-to-multipoint microwave radio facilities made up of local collection and distribution stations, each providing two-way transmission links to multiple outlying stations located at user premises.

[2] FCC 79-464, released August 29, 1979, 44 FR 51257 (1979).

[3] Several experimental (developmental) licenses were issued with the expectation that we might use the results of the experiments in this proceeding. Only preliminary data and reports have been received relative to these authorizations and therefore these data were not useful in nor were they considered in arriving at our decisions in this Report and Order. We have placed the license files including these data and reports in this docket file. Parties wishing to comment on this material may do so in any further proceedings in this docket.

for internodal links. Sections IV. A, B and F.

• We set aside for 5 years 40 MHz of the 100 MHz for Extended DEMS networks, systems providing service among at least 30 SMSA's. Paragraphs 28 and 36.

• Limited DEMS networks, those providing service in fewer than 30 SMSA's, would be assigned channels within 30 MHz of the 100 MHz. Paragraphs 28 and 36.

• Only DTS applicants for Extended DEMS may access the remaining 30 MHz reserve in the 100 MHz on an as needed basis before 5 years. Paragraph 37.

• After 5 years, any DTS applicant may access any remaining spectrum in the 30 MHz reserve or in the 70 MHz. Paragraph 37.

• We do not mandate a cellular design for DTS, nor do we specify sub-channel bandwidths or set nationwide interconnection standards. Paragraphs 45–47 and 72–74

In a forthcoming item, a Further Notice of Proposed Rulemaking (Further Notice), we separately address the allocation of spectrum and establishment of rules for DTS in the 17.7–19.7 GHz (18 GHz) band, and the use of DTS by non-common carriers.

7. As in the Notice, our treatment of the issues in the discussion portions of this Order is divided into two major sections. The first deals with spectrum management and frequency allocation matters while the second deals with common carrier regulatory concerns and other policy issues. Many of the matters involving spectrum management have far-reaching consequences in matters of common carrier regulation and development of broad policy concerns and we therefore treat these matters accordingly.

IV. Discussion: Spectrum Management Issues

8. The comments submitted in response to the Notice support our conclusion that a reallocation of spectrum for Digital Termination Systems is in the public interest. The services to be provided over DTS offer the potential for satisfying digital communications needs that are presently unmet as well as providing a competitive alternative to monoply carriers providing existing local distribution services. In addition, we now find it necessary to reallocate spectrum for the internodal links.

A. Where in the Spectrum Should the Allocation for DTS be Made?

9. The tentative conclusion reached in the Notice that the 10.6 GHz band was the most appropriate has not changed. In reaching this conclusion, we determined that it would be both feasible and practical to operate DTS in either the 10.55–10.68 GHz band or the 17.7–19.7 GHz band. We proposed, however, to allocate spectrum in the 10.6 GHz band primarily because of the availability of more technologically proven equipment for use at 10.6 GHz and the greater rainfall attenuation problems at 18 GHz. The Notice stated, however, that the 18 GHz band had not been ruled out and solicited comments on its possible use.

10. Most of the comments supported the allocation at 10.6 GHz while failing to comment on 18 GHz. Several of the commenting parties explicitly agreed with the Commission's reasons for our proposal to employ 10.6 GHz for DTS. While a few of these favored the use of 18 GHz as a supplement to 10.6 GHz—as a reserve or as a second band for DTS operation—virtually no opposition was expressed for primary use of the 10.6 GHz band. Because of the considerable support for our proposal to use the 10.6 GHz band as expressed in the comments, the fact that state-of-the-art equipment at 10.6 GHz appears more readily available and proven, and that DTS networks at 18 GHz would be more expensive in areas of high rainfall, we select 10.6 GHz. In this Order we therefore reallocate the 10.55–10.68 GHz band for DTS and common carrier point-to-point communications.

11. Several parties did, however, present favorable comments on the use of 18 GHz for DTS. Among them, Farinon,[4] a manufacturer of 18 GHz equipment, while not questioning our 10.6 GHz proposal, strongly recommended that we not foreclose the alternative of allocating spectrum at 18 GHz, and particularly noted the abundance of spectrum there to accomodate DTS growth as well as other services. Our view is that while 18 GHz may be less attractive than 10.6 GHz, 18 GHz use for DTS should not be foreclosed. Advances in the state-of-the-art have taken place and rainfall attenuation is only a severe problem in a few regions in the country. Consequently, in the Further Notice, where this topic is addressed more fully, we propose an additional allocation for DTS at 18 GHz.

[4] Farinon has also filed a Petition for Rulemaking, RM-3497, proposing a narrowband channelling plan for the entire 18 GHz band. This proposal is currently being reviewed by our staff.

12. In the Notice, we made our 10.6 GHz allocation proposal consistent with the U.S. frequency allocation proposals submitted to the 1979 World Administrative Radio Conference (WARC). This was done because we anticipated that the WARC would adopt the U.S. proposals. We recognized, however, that the domestic allocation of spectrum to accomodate new or expanded radio services was dependent on the adoption of the U.S. proposals by the WARC and inclusion in the international table of frequency allocations. The U.S. proposal to impose a priority for maritime safety services in the 10.55–10.57 GHz band was not adopted by the WARC.[5] The prospect of the WARC adoption of this priority was the prime rationale for avoiding this 20 MHz in making our DTS allocation proposal. Since this restraint did not, in fact, materialize, we allocate herein (*See* paragraphs 40 and 43 *infra*) this portion of the 10.6 GHz spectrum for DTS and internodal links.[6] The other U.S. proposal for the 10.6 GHz band to provide for the operation of environmental passive sensors was adopted by the WARC. (*See* paragraph 52 *infra*).

B. Total Amount of Spectrum Allocated at 10.6 GHz for Local Distribution

13. In its Petition, Xerox based its estimate of the amount of spectrum required for DEMS local distribution on a market analysis. This analysis projected a peak busy hour rate of information (raw data) transfer of approximately 105 megabits per second (Mb/s) within the geographical area of highest demand (the New York SMSA) in the year 1990. In addition to the raw data requirements, Xerox noted that additional data transfer capacity is needed for system operation and control, system overhead, error control, future growth, and unforeseen applications; however, no quantification

[5] The WARC also did not authorize an allocation for industrial, scientific, and medical (ISM) equipment at 10.6 GHz. An ISM allocation in this band internationally would have permitted microwave cooking that would have posed an excessive interference potential to DTS. Although the U.S. had not included a provision for ISM use at 10.6 GHz as a part of its proposals to the WARC, a then-pending rulemaking petition for such use by Litton, Inc., was not denied until the final results of WARC became known (since WARC, could conceivably have adopted another nation's proposal for the use of microwave ovens in this band). The petition (RM-2788) was later denied on April 9, 1980. Industrial, Scientific and Medical Equipment, 78 F.C.C. 2d 431 (1980).

[6] We appreciate that the need identified for maritime safety services presumably still exists. Possible accommodation of this need will be dealt with when the issue arises in the appropriate context, e.g., as part of a rulemaking petition.

of this additional capacity was provided. Xerox estimated that with an expected modulation spectral efficiency of 0.8 bit per second per Hertz (bps/Hz) for the radio transmission system, and with the benefits of frequency reuse available with the XTEN cellular concept, a total allocation of 100 MHz would be required for DTS local distribution.

14. Since Xerox did not quantify either the amount of additional capacity needed for overhead or the benefits of frequency reuse, it was not possible for us to determine fully what impact these factors would have on spectrum requirements. Furthermore, we could not determine to what degree Xerox had included these factors in its analysis. In an effort to quantify the benefits of frequency reuse, for the Notice we performed an analysis of the geographical distribution of potential users within the New York SMSA, assuming a uniform distribution of users within each county. Based on this analysis we estimated that approximately 60 percent of the total projected information rate for the New York SMSA would exist within the assumed busiest cell of a radius of about 10 kilometers (6 miles) centered on Manhattan.

15. Accepting the Xerox market forecast (and the information rate derived therefrom) we applied an assumed modulation spectral efficiency of 1.0 bps/Hz [7] and the 60 percent factor for the busiest cell and, because of frequency reuse, would be sufficient to handle the information rate of the whole of the New York SMSA in 1990. We recognized that any market forecast is subject to large error, and that if DEMS were to experience dramatic growth, a 60 MHz allocation might be inadequate. We therefore proposed in the Notice an immediate allocation of 60 MHz for DTS with a reserve of 30 MHz to provide for future allocation flexibility to accommodate any unforeseen expansive growth in the market.

16. In its comments to the Notice, Xerox has quantified the "Overhead" requirements, which its analysis shows will be over 50 percent. Additionally, based on a detailed demographic analysis, Xerox found that nearly 70 percent of potential DEMS users in the New York SMSA are found within the 10-kilometer cell centered on Manhattan instead of the 60 percent derived by our analysis. These factors have convinced us to make 70 MHz for DTS local distribution available for immediate assignment. In addition we shall allocate an additional 30 MHz for DTS to provide flexibility should the market be greater than we envision. To accommodate the total of 100 MHz for DTS and the spectrum required at 10.6 GHz for internodal links (*See* Part IV. F. *infra*) we reallocate the full 130 MHz between 10.55 and 10.68 GHz.

17. Comments received in response to the Notice support our concern regarding the uncertainty of the market forecast. Some, including Tymnet, Inc., and Microband Corporation of America (Microband), contended that Xerox has overestimated the digital communications market in 1990. The National Telecommunications and Information Administration (NTIA), on the other hand, generally agreed with and supported our 60 MHz proposal because of uncertainties as to cost, demand, and varying system designs. Others, including GTE Service Corporation (GTE Service), Central Committee on Telecommunications of the American Petroleum Institute (API), and Satellite Business Systems (SBS), supported the 60 MHz proposal, as well as the establishment of a spectrum reserve to handle unforeseen demand for DTS. Compounding the uncertainty is the need to acommodate both large-scale, intercity and smaller, more limited systems (*See* Part IV. D. *infra*).

18. Another element of uncertainty is the effect advances in modulation systems, coding schemes, and related technologies will have on the prospect for more intensive and economical uses of the spectrum. We will monitor these advances closely so that if substantial market demand does materialize, we can accommodate it by a combination of the imposition of modulation spectral efficiency standards greater than presently required (*See* paragraphs 48 and 49 *infra*) of other new technical standards, and, lastly, allowing applicants access to the 30 MHz not available for initial assignment. Establishment of a segment of the 100 MHz not for immediate assignment commits the spectrum to DTS so that it can be made available as the need develops. If the need does not develop, this 30 MHz is kept intact so that this spectrum may be more readily reallocated to other uses, should the public interest dictate.

19. When Xerox included "overhead" in the data handling requirements for DTS, it forecasted that a capacity of 160 Mb/s will be needed by the year 1990 during the peak busy hour and 240 mb/s will be needed by the year 2000. We recognize that should these projections materialize, the 70 MHz, plus the remaining 30 MHz we are allocating at 10.6 GHz, might not be adequate. For this reason and others presented in a forthcoming Further Notice, we are proposing an additional allocation at 18 GHz for local distribution.

C. Nationwide vs. Regional DEMS

20. We support the concept that there be singly owned and operated DEMS networks providing an extended intercity digital communications capability. This conclusion is based on a generally accepted view of the market development for digital communications and on the expected technical difficulties in implementing such networks through the interconnection of smaller DTS licensees. With regard to the development of the market, our monitoring of the growth of all forms of radio communications services, Xerox's market projections presented in its Petition, and those of studies conducted by The National Aeronautics and Space Administration (NASA) [8] lead us to conclude that there is a market demand for DEMS networks providing an extended intercity communications capability. These studies confirm our expectations that by 1990 the bulk of the demand for digital communications will be of a long-haul (or intercity) variety. This growth will be further accelerated by the increasingly digital nature of communications traffic (including voice).

21. The reasons we support Xerox's initial proposal to provide for extended intercity networks licensed to single entities are two-fold. First, a plethora of applications to provide service by smaller local or regional carriers could lead to mutually exclusive hearings in certain key markets, which would not only delay service in these markets but could block one or more extended intercity carriers from operating there and providing a truly nationwide kind of service. Second, the initiation of service could be hampered or delayed by difficulties encountered in fully interconnecting smaller DTS licensees. Xerox argues that interconnected DTS facilities could not provide nationwide service with the same level of enhanced services a single nationwide system could. The numerous protocols, standardized formats, message forwarding, and other software functions would be difficult for

[7] Rule § 21.122(a)(1), 47 C.F.R. § 21.122(a)(1), requires that microwave transmitters using digital modulation and operating below 15 GHz shall have a modulation spectral efficiency of 1.0 bps/Hz.

[8] *See* ITT, *30/20 GHz Fixed Communications Systems Service Demand Assessment*, NASA Report CR 159620, August 1979; and Western Union, 18/30 GHz Fixed Communications Systems Service Demand Assessment, NASA Report CR 159547, July 1979. Both studies are referenced in Xerox's Reply Comments to our Notice.

independent. interconnected systems to handle. The Multipoint Distribution Service (MDS) interests, however, advised the Commission to rely on the dictates of the marketplace. They insisted that a nationwide service should evolve as a function of marketplace demand as other nationwide telecommunications services have done. We accept Xerox's argument and reject the MDS position because, while it may be technically possible, such networks of independent, smaller-scale licensees would be very difficult to implement, requiring a very high degree of standardization and flexibility. The benefits of providing for nationwide service seem clear, and therefore to facilitate and expedite the availability of the DEMS networks, we shall make explicit reservation of spectrum for extended intercity networks. At the same time, we do not foreclose the establishment of networks providing this service through interconnection agreements among DTS licensees not nationwide in scope.

22. In order to ensure the existence of intercity networks like the ones proposed by Xerox, we shall mandate the service of some minimum number of market areas as Xerox proposes. At the same time, however, we are mindful of the allegedly anti-competitive nature of such an entry criterion. Virtually every party commenting in this proceeding took issue with Xerox's proposed entry criteria. Of particular concern are the criteria that carriers provide service in at least 50 Standard Metropolitan Statistical Areas (reduced from 100 SMSA's proposed in the Xerox petition), and construct the facilities in these cities within 84 months of the issuance of a Section 214 authorization. The commenters express concern that the criteria for qualifying as a nationwide carrier might preclude prospective entrants without the resources to build a nationwide network from becoming DTS licensees. While many, including Justice, NTIA, AT&T, and GTE Service, recognized the value of nationwide service provided by single licensees, they urged the Commission to provide for regional systems as well. Even Xerox agreed in its comments that separate allocations should be made for nationwide and regional systems. We agree that since the market for the service is not known, nationwide and regional systems should be encouraged, but that any spectrum reservation made for nationwide systems should only be temporary.

23. We share the concerns of these commenters that entry not be limited to the very few large corporations with sufficient resources to construct and operate networks in a great number of markets. High entry barriers would likely leave these firms free of competitive pressures from smaller entrepreneurs. That would be undesirable since competition would stimulate firms to innovate and to tailor their DEMS services to the highly specialized needs of various subscribers. Servicing these specialized needs occasionally leads to significant non-obvious technological and service innovations. Such innovations might not be uncovered without a diversity of DTS carriers each free to make individual business judgments on whether to provide customized communications services. We therfore adopt the suggestions of the commenters in this proceeding, including Xerox, that in addition to nationwide networks, we provide for regional or limited networks.

D. Extended (Nationwide) and Limited (Regional) Systems

24. We have adopted the terms "Extended" and "Limited" to distinguish more accurately the nature of the service that we believe will be provided by the two types of systems. Xerox has proposed, and most of the commenting parties concur, that the criteria for this service distinction be the construction and operation of facilities in a specified number of SMSA's or their population equivalents. When a DTS licensee serves a number of SMSA's less than some minimum to qualify for "nationwide" status, but these SMSA's extend across the nation, it would not be appropriate to refer to this network as "regional". Accordingly, we classify any DEMS network serving less than a certain minimum number of SMSA's a "Limited" DEMS. "Extended" DEMS networks provide service to a number of cities equal to or greater than this minimum.

25. In deciding what the minimum number of SMSA's should be for Extended service, we must balance a number of competing factors. We want to encourage competition among different sized licensees by lowering barriers to entry. Doing so, however, increases the potential for an excessive number of applications in desirable markets, which in turn may result in comparative hearings. We also wish to encourage the establishment of Extended DEMS networks with their great potential for offering a truly nationwide digital communications capability, and at the same time avoid the implications of anti-competitiveness of only the largest corporate entities being able to afford the capital expense of constructing DTS facilities in a significant number of cities.

26. NTIA proposed that Extended systems should serve a minimum of 50 of the top 200 SMSA's. Xerox supported this proposal in its comments. Justice, while supporting the 50-SMSA criterion, recognized the restraints on competition the 50-SMSA limit might impose, but accepted them because it would minimize the possibility of comparative hearings and provide technical benefits. None of the other commenting parties suggested a minimum. They did, however, express their uneasiness with our setting a rigid minimum number. Microband and Tymnet opposed any setting of a minimum, arguing that the forces of the marketplace should determine the number of markets served. However, GTE Telenet supported the Extended criterion, and SBS generally supported the establishment of entry criteria, but only to the extent that it would ensure efficient use of the spectrum. We now turn to the criteria that we will use to determine the number of SMSA's to distinguish between Extended and Limited DEMS.

27. As Xerox and others have pointed out, the prime users of Extended DEMS are expected to be those entities in government and industry that have a need to communicate on a regular basis with their dispersed plants, and sales and branch offices. A good starting point for establishing the minimum number of cities for Extended DEMS is the number of cities having at least several major corporate headquarters. Twenty-eight of the largest SMSA's ranked by population have three or more headquarters of business organizations listed in the "Fortune 500."[9] We believe that three "Fortune 500" corporate headquarters (along with other possibly large institutional entities such as universities and federal or state government offices) within a given SMSA would provide sufficient nationwide traffic to motivate an Extended DEMS carrier to build the necessary facilities. For the purposes of this analysis we assume that many of the offices not located in the headquarters SMSA are also located in the largest SMSA's and provide the bulk of the communications traffic to their headquarters. Additionally, we would expect that the volume of traffic in the headquarters SMSA would enhance the potential for a diversity of service offerings by competing carriers in that market. Therefore, at least one criterion

[9] 1980 Rand-McNally Commercial Atlas and Marketing Guide.

is suggested for establishing an Extended-Limited market dichotomy. We must now establish a balance between this 28–SMSA criterion, the 50–SMSA proposal, and other factors to decide the minimum number of SMSA's for an Extended system.

28. Despite Justice's acceptance of the 50-SMSA proposal as not outweighing its anticompetitive implications, we are requiring Extended systems to be operated in a lesser number of cities, reducing measurably the capital expenditures required to build and operate an Extended DEMS network. Balancing the anti-competitiveness concerns with the techical advantages of singly owned or managed DEMS networks, and the likelihood that significant cross-country traffic would be generated and received in a minimum of 30 of the top SMSA's, we define an Extended DEMS as one in which a commonly owned and managed integrated DEMS network operates DTS facilities in at least 30 SMSA's. A Limited DEMS carrier may operate and have facilities in as few as one SMSA. Of course, Limited carriers may expand to serve 30 or more SMSA's. Only after beginning operations over a significant part of its initially authorized network may a Limited carrier apply for authority to expand to serve 30 or more SMSA's, consistent with our reasons for a Limited-Extended bifurcation as set out in paragraph 21 *supra. See also* paragraph 49 *infra.*

29. We further decide that it is unnecessary to require that the 30 SMSA's be chosen from among the two hundred largest SMSA's. It appears that generally it would not be economically feasible for a DTS licensee to seek to operate networks that exclude most major population centers. Of the 284 identified SMSA's in the U.S.,[10] however, some of the smallest are also locations of potential users, including major corporations, universities, research centers, and large medical facilities. We believe the decisions as to which of these markets to serve would be best left to the forces of the marketplace.

E. DTS Allocation for Extended and Limited Networks

30. We have decided that there will be separately designated Extended and Limited DEMS networks, that service in 30 or more SMSA's will be the distinguishing feature between them, and that a total of 100 MHz will be allocated for DTS with only 70 MHz of the spectrum made immediately available for DTS assignments. We believe that to preclude the possibility of Limited DEMS applications preempting most or all of the spectrum, and to ensure that some Extended service does commence expeditiously, it is in the public interest to require that there be at least temporary reservations of spectrum for Extended networks.

31. The basis for determining how much spectrum to set aside for Extended networks is as uncertain as the decision to allocate a certain amount of spectrum for DTS local distribution, and for the same reason: it is virtually impossible to foretell the eventual development of the DEMS market. Although the parties commenting in this proceeding generally supported the Extended-Limited dichotomy, only two suggested how much spectrum should be allocated to either system. Xerox proposed in its comments to provide for a maximum of 9 Extended DEMS carriers, each employing a two-way 10 MHz channel, and a maximum of 10 Limited DEMS carriers, each using a two-way 2 MHz channel. GTE Telenet proposed an allocation plan with six 10 MHz two-way channels for Extended DEMS and either six 5 MHz or fifteen 2 MHz two-way channels for Limited DEMS. As a consequence of our relaxed entry criteria for Limited DEMS carriers, enterpreneurs with relatively meager resources could qualify as Limited carriers, choosing to operate even within a single SMSA. As we stated in paragraph 20 *supra,* the predominent public interest appears to be for an extended intercity digital communications capability. We conclude, therefore, that while the number of applications for Limited systems, because of the smaller initial investment required, may be greater than the number of applications for Extended systems, the public interest demands that we provide for approximately the same number of Extended and Limited channels.

32. The amount of spectrum required for each type of network is related to the number of channels and the channel bandwidth required for each. Our first step, then, in recognition of the nationwide character of the demand for DEMS is to determine the appropriate bandwidth for Extended DEMS. Studies have shown that there is an increasing trend toward higher data transmission speeds, particularly those of 56 kilobits per second (kb/s) and greater.[11] Even user data rates at 1.544 Mb/s would appear to be in significant demand by 1990. The assignment of broadband channels would more easily allow single Extended licensees to handle higher-speed data transfer, the expected increase in electronic document distribution, and teleconferencing for subscribers having requirements for an intercity or interregional communications capability. More important, the use of broadband channels results in more efficient channel utilization or throughput, a significant consequence of which is an increase in spectrum efficiency.

33. Overwhelming support for the Xerox-proposed 5 MHz one-way channel width for DTS was expressed by the commenting parties. In light of this strong support and the unmistakably strong trend to greater user data rates, we shall make available for Extended DEMS a wideband one-way channel of 5 MHZ. We reject the proposals for not fixing a channel bandwidth pending development of market experience, because this could lead to regulatory uncertainty and inefficiencies in channel assignment for DTS. We also reject recommendations for assignment of variable-sized bandwidths because we perceive no special advantages in doing so, since a carrier may subdivide a single assignable channel as desired. GTE Service's proposal for a 6.3 MHz channel in lieu of 5 MHz appears to contemplate use of transmitters of 1.0 bps/Hz modulation spectral efficiency to accommodate a T–2 data rate (6.3 Mb/s). When that rate is required, however, modulation techniques well within the state-of-the-art can accommodate a T–2 rate within a 5MHz channel. With respect to smaller bandwidths, we agree with the great majority of the commenters who cite the increased costs of administering interconnection, system compatibility concerns, and the relatively large costs of assigning smaller bandwidths due to the decline in throughput efficiency. Xerox echoes this concern by asserting that smaller bandwidth channels would lead to increased complexity of DTS networks, thereby increasing system costs inordinately. These concerns, combined with market projections of a need for ever increasing channel bandwidths, are persuasive.

34. We expect that the assignable DTS channel for Limited DEMS networks will require a lesser bandwidth than that for extended systems because the traffic demands will probably be less for a licensee serving less than 30 SMSA's. As a consequence of the smaller scale of Limited DEMS, the expected volume of traffic justifies a channel of significantly

[10] Office of Statistical Policy and Standards, Department of Commerce. The list of SMSA's may be revised as a result of the 1980 census.

[11] *See,* e.g., Western Union and ITT studies done for NASA referenced in footnote 7.

less bandwidth than the 5 MHz Extended channel. Xerox proposed that one-way channels for Limited DEMS be only 1.0 MHz. GTE Telenet suggested bandwidths from 1.0 to 2.5 MHz for Limited systems. Other commenters also suggested assignments (though not of specific bandwidths) to Limited DEMS of lesser bandwidth than for Extended DEMS. We agree with certain of the commenters that Limited DEMS carriers should at least have the capability of offering its customers a standard T-1 rate (1.544 Mb/s). Accordingly, we believe that the bandwidth of the channel should be 1.5 MHz at minimum, so that even with a transmitter modulation spectral efficiency of only slightly more than 1.0 bps/Hz, a Limited DEMS carrier can handle, with relative ease, at least a T-1 data rate.

35. In light of the fact that we cannot predict how the market for DEMS local distribution will develop and consequently how the 30 MHz reserve will be used (whether for Extended or Limited systems or for some other more socially desirable purpose), we believe that administrative efficiency requires that we choose 2.5 MHz as the Limited DEMS one-way channel. We make this choice because it not only satisfies the perceived minimum bandwidth requirements (of providing a T-1 data rate), but it also serves as a suitable bandwidth to channelize the reserved 30 MHz not initially available for assignment. One of these paired bands in that 30 MHz could be assigned to a Limited system (if, after 5 years, the reserve has not been exhausted by Extended DEMS) and two 2.5 MHz paired bands could be assigned to an Extended system. With regard to any spectrum available for Limited DEMS, applicants may simultaneously apply for more than one of the 2.5 MHz channel pairs, provided they show that the service to be rendered will fully utilize the additional spectrum requested. We recognize that for the Limited network licensee who wishes to become an Extended licensee there is a likelihood that an adjacent 2.5 MHz channel pair may not be available. Employing two non-contiguous 2.5 MHz channel pairs may pose some operational difficulties and result in increased cost for the DTS licensee with a requirement for a broadband subchannel. This prospect, however, may provide additional incentive for prospective Limited DEMS licensees to consider qualifying initially as applicants for Extended systems. The predominant market need for Extended systems according to market analyses should provide the prime incentive. As further recognition of the need for Extended networks, in the event of an application by an Extended and a Limited system for the same 2.5 MHz paired channels all other things being equal, we would award the spectrum to the Extended applicant.

36. As we indicated in paragraph 31 *supra*, and as Xerox and Telenet suggested in their comments, the applications for Limited DTS may outnumber those for Extended systems. Therefore, we must strike a proper balance between the expected greater numbers of Limited DEMS applicants and the predominant public need for Extended DEMS networks. This public need is again reflected in the Western Union demand assessment study referenced in footnote 8 *supra*. At page 83, figure II-11, the study projects that the volume of data traffic of transmission distances greater than 500 miles [12] will comprise the bulk (65.3%) of all data transfer in 1990. Conversely, the study shows that data traffic demand on a per route basis will be greater for shorter length routes than for longer ones (greater than 500 miles route length). Specifically, the study indicates that the long-haul route density [13] for routes less than 500 miles in length is over 50% more than that for routes between 501 and 2700 miles. This might suggest that a greater number of Limited channels than Extended DEMS channels should be made available for assignment. The predominant public need for wideband Extended DEMS, however, would call for our making a greater amount of spectrum available for Extended rather than Limited DEMS. We reconcile these two spectrum requirements with the following assignment scheme. We make available for immediate assignment 6 two-way 5 MHz Limited channels and 4 two-way 10 MHz Extended channels. Thus, 30 MHz is made available for Limited and 40 MHz is made available for Extended systems. The 70 MHz total for immediate assignment favors Limited DEMS 3 to 2 as far as the numbers of channels available, and favors Extended DEMS 4 to 3 in the amount of spectrum available. The remaining 30 MHz of the local distribution spectrum will be made available for assignment to Extended systems during the first 5 years as demand dictates. After 5 years, this spectrum will be available to any DTS applicant.

37. In sum, we make 70 MHz available for immediate assignment to DTS (40 MHz for Extended DEMS networks and 30 MHz for Limited DEMS networks), and the remaining 30 MHz available for assignment to Extended systems in response to the market therefor and to Limited systems after a minimum of 5 years. These bands are channelized as follow: 5 MHz for one-day Extended channels and 2.5 MHz for one-way Limited channels and for the channels in the 30 MHz reserve. If the Extended spectrum is not utilized within given market areas at the end of 5 years it reverts to a 2.5 MHz channelization. This spectrum, plus any unassigned Limited network channels and any unassigned channels in the 30 MHz to be assigned as demand warrants, would then become available to either Limited or Extended network applicants. The forthcoming staff recommendation to propose reallocation of portions of the 18 GHz band to DTS would include making equally sized channels available to Extended and Limited DEMS. Such availability may also have the salutary effect of reducing prospects for mutually exclusive DTS applications, especially for Limited systems during the initial 5 years when their expansion into the reserve is precluded.

F. Allocation for Internodal Links

38. In the Notice we did not propose a separate allocation for internodal links noting that Xerox had not provided sufficient justification for its proposed allocation at 10.6 GHz for this particular point-to-point use. In its comments to the Notice, however, Xerox offered sufficient justification for the separate allocation for internodal links. Other commenting parties generally agreed with Xerox on this matter. For example, GTE Telenet insisted that it would be poor spectrum management to allocate spectrum to DTS and restrict the effectiveness of the services provided by forcing internodal links into overcrowded or unsuitable frequency bands. Other commenters even cited the use of 18 GHz as a possibility. We believe, as Xerox has stated, that DTS operators would realize significant cost benefits through commonality of equipment and engineering services by using the same frequency band for both local distribution and internodal links. We do not, therefore, provide for the use of 18 GHz for the internodal links for 10.6 GHz DTS. However, in the Further Notice, we do propose the use of 18 GHz

[12] We assume for purposes of this discussion that most routes greater than 500 miles in length are part of an Extended system. We further assume that data traffic transmitted over these routes is far more characteristic of digital information transfer than either voice or video (the other two categories of information transfer cited in the study).

[13] Route density was defined as the ratio of the percent of total traffic demand over routes of different length categories to the percent of the total number of routes for each category. Route lengths greater than 40 miles were defined by Western Union as long-haul.

for the internodal links to be used with 18 GHz DTS.

39. In the Notice we raised the possibility of using already allocated common carrier point-to-point frequency bands at 4, 6, and 11 GHz for the internodal links. As we noted, the 4, and 6 GHz common carrier point-to-point microwave bands are extremely congested, which makes their use for internodal links not feasible. Although, as we noted, there is lighter use of the common carrier 11 GHz band, it is becoming increasingly congested in the major urban areas, which are the prime areas of intended DTS use. Additionally, as AT&T points out, the 4, 6, and 11 GHz bands are subject to the minimum path length and loading requirements of Secton 21.710. Short of a special exemption from the Rules, DTS licensees could not meet those requirements. We have also considered the 2110–2130 MHz and 2160–2180 MHz [14] bands which permit narrow channeling up to 3.0 and 3.5 MHz, respectively. Their use for point-to-point microwave, however, appears to have been concentrated in less populous areas, which generate a volume of communications traffic that can be readily accommodated by these relatively narrow channels. The larger traffic volume in the major urban areas necessitates channel widths of 20, 30, or 40 MHz. Consequently, telephone companies as the predominant users of these channels have employed 2 GHz channels to a limited extent in most major urban areas. Despite this fact, the 2 GHz common carrier bands are being used increasingly for control and repeater operations for land mobile base stations, whose licensees are emerging as carriers of other voice and data traffic. With a total of only 20 MHz in each band available for assignment, it is doubtful that these 2 GHz bands could accommodate the internodal links as well as significant use of current services in many areas of the country. Consequently, we conclude that the 2, 4, 6, and 11 GHz frequency bands are unsuitable for internodal links.

40. Therefore, because of the inefficiencies of operating internodal links in already crowded bands and the economies to be achieved by using common equipment, we allocate 30 MHz of spectrum to be shared with other fixed common carrier services in two 15 MHz bands, from 10.550 to 10.565 GHz and from 10.615 to 10.630 GHz. Because of this sharing, we make 30 MHz available for internodal links instead of 20 MHz as Xerox proposed in its comments. We agree with Xerox that 2.5 MHz should be more than sufficient to accommodate the communications traffic generated between nodes for an Extended DEMS assigned a 5 MHz channel pair for local distribution. Likewise, for Limited DEMS with a 2.5 MHz one-way channel, 1.25 MHz should be sufficient to handle the traffic carried over the internodal links. Since, from a functional standpoint, the internodal links represent a point-to-point microwave use, and in accord with our desire to allow usage of this spectrum by other technically compatible applications, we make these frequencies available to other common carrier point-to-point microwave radio uses. We recognize that the narrow channeling we are adopting may make these frequencies unsuitable for many point-to-point services. However, while we intend these bands to be used primarily for internodal links, we do not mean to discourage use in the Point-to-Point Microware Radio Service for other purposes.

G. The Allocation Adopted by this Order

41. The frequency plan for the 10.55–10.68 GHz frequency band is hereby adopted (*See* Appendix B). This plan includes spectrum for DTS local distribution and for internodal links. DTS will have 100 MHz of spectrum for local distribution available to meet the market demand for services provided over DTS. In recognition of the uncertainty in the market forecast for a new service whose development is difficult to predict, we make, however, only 70 MHz of it initially available for assignment. When and if it becomes apparent that the demand for services provided over DTS facilities does not justify assignments in the remaining 30 MHz set aside for DTS local distribution, that spectrum could be reallocated to a service satisfying a greater public need.

42. While the allocation itself does not provide for the Extended-Limited dichotomy, common carrier assignment rules will reserve for 5 years separate portions of the spectrum for Extended DEMS assignments. At the end of 5 years, the remaining spectrum, if any, and the 30 MHz reserve would both become available for use by either Limited or Extended systems. We will make this 30 MHz available to Extended DEMS before the expiration of the 5-year period, should demand for Extended DEMS network service dictate.

43. The allocation at 10.6 GHz for internodal links, which are point-to-point microwave radio links, would allow for other uses in the Point-to-Point Microwave Radio Service. We believe that 30 MHz is ample for internodal links as well as for other narrowband common carrier point-to-point links.

44. Use of the 10.6 GHz band has been very light. There are only 24 current, non-experimental licenses according to our records. While the licensees will not be denied reasonable expansion of their systems in accord with the conditions imposed by their licenses, no new licenses will be issued in the band. Having provided for spectrum to be used for DTS, we must now establish the other minimum technical standards necessary to ensure an efficient use of the spectrum.

H. Other Technical Standards

45. Xerox's XTEN system design uses the cellular concept of frequency reuse. In the Notice, at paragraph 26, we proposed that DTS licensees be required to employ the cellular reuse concept. We did, however, request comments on the technical feasibility of the design and whether more efficient or equally efficient system designs exist. While a significant number of commenters did agree that the cellular concept was the most spectrally efficient approach, some commenters questioned our proposal to mandate cellular radio for DTS. The reason most often cited for this opposition was that it would foreclose system designs other than XTEN's. NTIA declined to recommend adoption or rejection of a cellular design requirement and opted for a marketplace determination.

46. While we remain optimistic that the cellular design for DTS may prove to be very useful in maximizing frequency use, especially in metropolitan areas, we have decided not to require a cellular design for DTS. We do not wish to restrict technological development to only one type of system. In addition, since we believe that strictly controlling the amount of spectrum available to any single licensee will lead to reuse as licensees attempt to maximize the number of potential users per assigned channel, this incentive need not be augmented by Commission Rules. Licensees will, therefore, be free to present plans employing a cellular design or any other design that will yield an efficient use of spectrum, subject only to our requirements as to efficiency and noninterference.

47. In the Notice at paragraph 28, we proposed to adopt an assignable channel bandwidth of 250 kHz. Alternatively, we requested comments on the feasibility of adopting a flexible

[14] In the top 50 cities 2160–2162 MHz is allocated for Multipoint Distribution Service (the complete band in these cities is 2150–2162 MHz).

policy that would allow system designers to choose the subchannel width that would be best for their particular designs as long as the 1.0 bit per second per Hertz (bps/Hz) efficiency standard was met. The commenters generally favored a flexible design approach, and for this reason almost universally rejected specification of a subchannel bandwidth. We have concluded that subchannelization specification would significantly reduce the system design flexibility available to the licensee. We have also concluded that many narrower channels in lieu of fewer wider ones would be inherently less efficient in the use of the spectrum as is explained in paragraph 33 *supra*. Licensees are, therefore, free to subchannelize their assignments to accommodate best their particular system designs and service offerings.

48. An important issue directly related to our concerns about the efficient use of the spectrum is that of modulation spectral efficiency. Xerox had proposed in its Petition a reduction for DTS in the spectral efficiency standard of 1.0 bps/Hz for digitally modulated transmitters operating below 15 GHz.[15] In its comments, Xerox now states that XTEN would meet this standard.[16] Furthermore, none of the other commenting parties demonstrated that meeting this standard would be unduly burdensome, nor did they indicate that the standard itself lacked validity. Their primary criticism seemed to be that the 1.0 bps/Hz standard is not a complete measure of spectrum efficiency but that spectrum efficiency should instead be a measure of total information throughput.

49. We do not intend to relax the 1.0 bps/Hz transmitter spectral efficiency standard. This standard was adopted several years ago and represented the state-of-the-art at that time. The art has advanced since that time and will continue to do so. Meeting this standard should present no problem for licensees. We recognize that this standard addresses only one facet of the spectral efficiency of a system and may be misleading. It appears to be less administratively burdensome to enforce, however, than any of the suggested alternatives. We shall expect applicants to detail the expected information throughput of their systems per unit of spectrum over a given geographical area under actual operating conditions. More exacting requirements as to spectral efficiency need not be codified since the competitive pressures generated by other providers of DTS services should provide a constant incentive for each to offer as much service as possible at the lowest cost. If the competitive pressure mechanism is to function properly and promote spectral efficiency, there must be several carriers in the market or easy entry into the market or both. We reserve the right to consider at a future date whether there should be limitations on the number of channels any licensee may obtain. Applicants seeking assignment of a second pair of 5 MHz channels, (or 2.5 MHz channels) must demonstrate that they have operated their first pair of channels at or near the expected capacity. Applicants for Limited system authorization may apply simultaneously for more than one channel pair. In the interests of spectral efficiency, such applicants must show that the spectrum requested will be utilized fully.[17]

50. In regard to transmitter power, we stated in the Notice at paragraph 30 that the Xerox-proposed transmitter powers of 0.5 watt and 0.04 watt for the nodal and user stations, respectively, appear to be reasonable for a cellular system. That is, the proposed powers are adequate to support a signalling rate of 256 kilobits per second (kb/s) in a channel approximately 250 kilohertz wide. As is pointed out in paragraph 47 *supra*, however, the licensee is free to subchannelize the assigned 5 MHz channel in any reasonable manner. Clearly the power level required to give the desired performance at 256 kb/s is lower than that which would be required to support a much higher signalling rate in a wide bandwidth channel. We do not wish to artifically constrain the system design by limiting the power available more than is necessary to avoid interference. As is pointed out, however, in paragraph 52 *infra*, there does exist an internationally agreed upon limit of 0.5 watt (−3dBW) for fixed and mobile services operated within the 10.60–10.68 GHz band. For this reason we adopt 0.5 watt as the maximum output power for any DTS transmitter. We stress that this is a maximum level and we shall require that all applications include an engineering analysis of the proposed communications links, fully justifying the power levels requested.

51. Xerox also proposed that user stations be permitted to use standard B antennas that have less side lobe radiation suppression than the normally required Standard A antennas.[18] We believe that this substitution for user stations is a reasonable accommodation of performance requirement and costs. This proposal elicited virtually no opposition from the commenting parties. We therefore adopt this provision that Standard B antennas may be employed at user stations.

52. Finally, the 1979 WARC adopted certain changes to the Table of Frequency Allocations in the international Radio Regulations. While these changes have not as yet been formally implemented in our domestic rules, we expect that most, if not all of them, eventually will be. In that connection, NASA intends to operate environmental passive sensors in the Earth Exploration-Satellite service in the 10.6–10.7 GHz band. The WARC adopted a footnote [19] to the Table of Frequency Allocations extablishing limits on the power of fixed and mobile stations operating in the 10.60–10.68 GHz band to protect these sensors from interference. We therefore adopt the restriction that the effective isotropic radiated power (EIRP) of any DTS station not exceed +40 dBW.[20] NASA also filed comments requesting that we adopt an EIRP limit of +20 dBW for DTS user stations because of the expectation that there may be a proliferation of these stations that could

[15] *See* Rule § 21.122(a)(1), 47 CFR § 21.122(a)(1).

[16] As a consequence of its intended compliance, Xerox proposes that guardbands be allowed at both edges of the assignable channel. This issue is addressed in paragraph 53 and 54 *infra*.

[17] *See* Appendix B, Rule § 21.502.

[18] Rule § 21.108(c) formerly specified that for all stations in areas subject to frequency congestion, Standard A antennas were required. The major urban areas, expected to be the prime areas of DTS use, are areas subject to frequency congestion.

[19] Footnote 3783B established power limits of +40 dBW EIRP and of −3 dBW power delivered to the antenna for fixed and mobile services operated within the 10.60–10.68 GHz band. In the U.S. (and in the great majority of nations) all emissions in the upper adjacent 10.68–10.70 GHz band are also prohibited. The Earth Exploration-Satellite service shares this band with Radio Astronomy and Space Research, both of which are also passive non-emitting services.

[20] It appears that the nodal stations would not pose any problems in remaining within the +40 dBW maximum. In this regard, our adoption of an allocation for nodal stations that extends upward to 10.615 GHz does not follow another of NASA's recommendations. It urged that nodal stations operate at frequencies below 10.600 GHz to insure that DTS and passive sensors may share the 10.6 GHz spectrum. According to the only design parameters we have for DTS, those for XTEN, typically the EIRP of a nodal station would be only +13 dBW (16 dBi antenna gain and −3dBW transmitter power), well below the +40 dBW limit adopted by the WARC. While recognizing that nodal stations may pose a greater interference potential than user stations, we note that the record in this proceeding does not support the greater protection of passive sensors that NASA's recommended restriction would provide. As a partial accommodation of this concern, however, we have allocated for nodal stations only the first 15 MHz of the 60 MHz in the band above 10.6 GHz. As to internodal stations, use of the 1.2 meter parabolic antennas fed by transmitters of typically (per the XTEN design) −14 dBW output power would result in a radiated power of +26 dBW, also below +40 dBW.

be a source of interference to the sensors. We appreciate the requirement that passive sensors not be subjected to harmfull interference. Nevertheless, we are concerned that the EIRP limit for user stations may be unduly restrictive. In some cases, a particular DTS configuration may require more than +20 dBW radiated from the user station. In an attempt to accommodate both of these concerns, we adopt an EIRP limit of +23 dBW for user stations.[21]

I. Interference and Frequency Coordination

53. We are allocating enough spectrum for a maximum of 20 channels or a minimum of 10 channels (depending on the mix of Extended 5 MHz channel pairs and 2.5 MHz Limited channel pairs) in the 10.6 GHz region of the spectrum, and all of these channels are available in each SMSA or service area. Since each channel will be assigned only once in each SMSA or area of operation, any co-channel interference will be caused by a signal from one SMSA being received in another SMSA. That can only happen when two SMSA's or operating areas are so located that there exists a line-of-sight path between them or when a propagation anomaly such as ducting causes a signal from one SMSA or area to be present in another SMSA or area located beyond line-of-sight distance at a high enough signal level to cause interference. We are requiring that each application include an analysis of any harmful interference that might occur with stations or licensees within 80 kilometers (50 miles) of each proposed station. This information will allow us to determine whether the potential for harmful interference exists and to assign spectrum accordingly. Although we have considered issuing protected area standards as is being proposed for the Multipoint Distribution Service *(MDS Technical Rulemaking,* General Docket No. 80-113, released April 24, 1980), we do not believe the potential for harmful co-channel interference is as high for DTS.[22] If this conclusion is subsequently proven to be incorrect, we shall issue such rules as may be necessary to eliminate the harmful co-channel interference.

J. Adjacent Channel Interference

54. The other potential interference problem is between stations operating on adjacent channels in the same SMSA or service area. Here the problem is either one of a station radiating energy outside of its assigned bandwidth at a level high enough to cause interference in an adjacent band, or a receiver not having sufficient in-band selectivity to reject adjacent channel emissions. The latter problem can be solved by better design of the receiving system in all but the most severe cases.

55. Interference caused by out-of-band emissions can arise with several different orientations of the antennas of the respective adjacent channel systems. All of these orientations can be analyzed to determine a maximum tolerable out-of-band emission level. Once this level has been determined, it could be used as a standard that all DTS transmitters would be required to meet. That, however, might result in an unnecessarily severe standard, which would make the transmitter cost too high. Xerox, in its comments, did such an analysis and determined that in all but the most difficult cases, a standard would be adequate that requires the emission level to be 50 dB below the mean in-band power density at the band edge and 80 dB below the in-band power density 250 kHz beyond the band edge. Xerox states, however, that in order to meet this standard at the edges of the assignable channel it would be necessary to employ guardbands. Xerox proposed that guardbands up to 250 kHz wide be permitted at each band edge of the assignable channel and that these guardbands not be considered when determining compliance with the minimum transmitter modulation spectral efficiency mandated by Rule Section 21.122(a)(1). That rule specifies a minimum bit rate of 1.0 bps/Hz that must be achieved within the emission bandwidth of the digitally modulated transmitter itself.[23] This proposed rule provision that guardbands not be considered in determining spectral efficiency would therefore be meaningful only if the transmitter emission bandwidth were the same as the assignable channel bandwidth, i.e., 5 MHz (or 2.5 MHz). According to its presumed prototype design in the Petition, however, XTEN usually would employ transmitters each with a bandwidth that is a sub-multiple of the assignable channel. Such use would result in a bit rate per Hertz of less than 1.0, but only with respect to the overall 5 MHz (2.5 MHz) channel. We are concerned, however, that the guardbands would not serve as information-carrying spectrum. Nonetheless, we deem this use of spectrum to be an acceptable tradeoff since we feel guardbands are needed to confine intersystem interference within an acceptable level. No adverse comment was received on this point. Therefore, we adopt the proposed rule permitting guardbands up to 250 kHz at each edge of the DTS channel and will not consider the guardbands when determining compliance with Section 21.122.

56. The transmitter emission levels proposed by Xerox, nonetheless, are more stringent than the standard presently in the Rules.[24] We received no adverse comment on this proposed standard. Since it would eliminate most of the foreseeable adjacent channel interference problems, we have adopted it as the emission standard for DTS (Rule Section 21.106(a)(3) in Appendix B); even this standard, however, will not eliminate all potential interference. In particular, when an adjacent channel node station is located between a user station and its node station in such a manner that the user antenna is pointed directly at the adjacent channel node station, there is no reasonable emission level standard that could ensure an acceptable level of interference. In this situation we will rely on adherence to DTS frequency interference rules being adopted (see Appendix B, Rule Section 21.504) to prevent the interference. In so doing we adopt Xerox's proposed rule amendment on out-of-band emission levels since it meets our previously expressed concerns that DTS licensees have an affirmative duty to avoid harmful interference. *See,* Notice at paragraph 31.

57. Xerox proposed frequency stability standards of ±0.0003% for the user stations and for the transceivers used for internodal communications, and ±0.0001% for nodal stations transmitting

[21] Under NASA's recommended limit of +20 dBW, a user station with transmitter power output of 40 milliwatts (−14 dBW) could only employ an antenna with a gain not exceeding 34 dBi. That is the gain of the standard commercial 0.6 meter (2 foot) parabolic antenna (most likely to be employed at the user stations) operated at 10.6 GHz. Notwithstanding, it may be necessary to employ 1.2 meter (4 foot) antennas at some user stations in a given system. The gain of the standard commercial 1.2 meter antenna is 40 dBi. Consequently, for such stations not to exceed the +23 dBW EIRP maximum we impose for user stations, the output power of the transmitter could not exceed −17 dBW or 20 milliwatts.

[22] In the MDS situation there are two channels available (two 6 MHz channels in the top fifty cities, and one 6 MHz and one 4 MHz channel elsewhere), thus there is no opportunity to assign different channels to licensees in the same areas so as to minimize co-channel interference.

[23] For the XTEN design, the rule would apply to each of the subchannel transmitters operating within the 5 MHz assignable channel.

[24] For a transmitter with a 250 kHz bandwidth, there is presently no requirement for attenuation at the band edge, however Xerox proposes that it be −50 dB.

to user stations. It is appropriate in the interests of controlling system costs that the stability standards for the expected large number of low-cost subscriber transceivers be less stringent than for the nodal stations. It is likewise appropriate that the frequency stability standard for the internodal transceivers be the same as for the user stations to allow for economic use of common transceiving equipment. Furthermore, we have received no adverse comment on this matter. We, therefore, adopt the Xerox proposed standards for frequency stability. We incorporate them into the new Rule Subpart G for the user and nodal stations, and require that Point-to-Point Microwave Radio transceivers operating in 10.550–10.565 and 10.615 and 10.630 GHz used for internodal links meet with the same standard applying to user stations.

K. Security

58. One major problem confronting all users of data transmission systems is the security of the data in the system. The concern is especially prominent when data is transmitted by radio which can be readily received by any person with the proper receiving equipment located at an appropriate site. Congress has provided that unauthorized reception or interception and beneficial use or unauthorized divulgence of non-broadcast radio transmissions are unlawful. 47 U.S.C. § 605. Courts have stated that the purpose of this provision is to protect the integrity of communication systems.[25]

59. In any DTS, much of the information transmitted may be private or sensitive, and thus, exactly the type of data that unauthorized persons would try to intercept and use. It is, however, not difficult to encrypt digital information so as to make such activity extremely difficult. The easiest point to encrypt information is at the source of the data. Thus, it is clear that in any community system, the originator of the information, the subscriber to a service provided over DTS, is most knowledgeable about the need for data security and is in the best position to decide what level of security is necessary. In addition, the subscriber is best able to decide how much he is willing to pay for data security. Furthermore, DTA licensees can make higher levels of security available to their subscribers at an increased price. If the market demands a high level of security for DTS transmissions, competitive forces will compel licensees to offer it.

[25] Bubis v. United States, 384 F.2d 643 (9th Cir. 1967).

60. We recognize that total reliance on market forces to provide communications security may not always best serve the public interest. The harm to society due to unprotected data communications could exceed the damage to individual users, and some users may be uninformed about the dangers to themselves of using unsecured communications facilities. Nonetheless, we prefer initially to rely on their wisdom to adequately protect their own interests. Users undoubtedly will receive advice and information in this regard from the carriers, which will be selling additional security services to users.

61. We believe that the best role the Commission can play in this area is to monitor developments carefully. After we have observed the development of the services provided over these frequencies, it may be appropriate to consider further actions to serve the public better in the area of DTS communications security. Until this observation takes place, we will rely on individual users to choose the security level best suited to their needs. Regardless of whatever additional actions the Commission may take, the prohibitions in Section 605 of the Act against unauthorized reception and use of non-broadcast communications remain in force.

L. Voice Use of DTS Facilities

62. In its petition, Xerox listed teleconferencing (consisting of still-frame video, high-speed hard copy production, and two-way voice communication) as one of the major projected uses of its proposed digital telecommunications service. It is clear, therefore, that Xerox envisioned at least some voice use of DTS facilities. We anticipate that initially the magnitude of such use will be small. Although small in magnitude, this incidental use is important because of the enhancement of non-voice communications achieved by combining voice with data or images. We expect that only voice traffic that is incidential to data exchange and teleconferencing will be carried in the early years of DTS network implementation.

63. Furthermore, even with a liberal assumption about the bandwidth needed for voice transmission, the spectrum allocated in this Order could support only a small fraction of voice demand. For example, if a telephone circuit required a 4 kHz bandwidth for voice service, the DTS allocation at 10.6 GHz would at most accommodate 12,500 simultaneous voice circuits. Using the XTEN design, this is equivalent to 43 voice circuits per square kilometer (111 circuits/square mile). This is equivalent to less than one percent of the possible telephone connections in New York City. Thus, the initial magnitude of voice use of DTS will be small in comparsion to voice use in the local loop. Furthermore the local loop has been optimized for analog voice whereas DTS will be optimized for the carriage of high-speed digitally encoded information. Therefore because of the inherent limitation of these channels for voice use we shall impose no regulatory restriction on the use of DTS for the provision of voice service.

V. Discussion: Common Carrier Regulatory Issues

64. We wish to make it clear that the allocation of spectrum adopted by this Order is for DTS facilities. This Order addresses use of the spectrum only by common carriers. The question of whether the frequencies allocated by this Order also ought to be available for use by non-common carriers, is not addressed because of the absence of a detailed record on this issue in this proceeding. The question of use of the spectrum by other persons will be addressed in the Further Notice.

A. Entry Criteria

65. Xerox originally proposed in its Petition that entry be limited to entities willing and able to commit themselves to operating in the 100 largest SMSA's within 84 months of receipt of Section 214 authorization, with substantial construction to be performed in the early years. The first criterion (i.e., number of SMSA's) was dealt with in paragraphs 24–29 *supra*, where we required operation in at least 30 SMSA's for Extended networks. Our analysis has shown that the public interest demands an early implementation of Extended networks. Because we have decided that Extended networks may operate in as few as 30 SMSA's, we believe the proposed 84 months is too long to meet this public demand. Instead we adopt 60 months after the receipt of Section 214 authorization as the period in which the facilities for Extended networks must be constructed in the minimum number of SMSA's. With respect to applicants for Limited networks, construction will normally be required within 30 months of the grant of the application.

66. Applicants should detail their proposed construction schedules. We intend to monitor compliance with those schedules. Since applicants do not pay for the spectrum, either through fees or sums paid at auctions, there is no economic penalty for holding spectrum

unused and thereby foreclosing others from using it. Moreover, speculative claim-staking would make it more difficult for the Commission to ascertain the true demand for DTS and would increase the administrative costs of determining whether fallow spectrum should be reallocated to non-DTS users. In the past, permittees in a variety of services have presented a host of economic, personal and climatic justifications for extensions of time to construct. We wish to state at the outset that we intend to avoid this pattern for DTS. While individual instances of unusual hardship may arise that would justify an extension of time, it is our firm intention that facilities be constructed as quickly as possible. We will assume that each applicant warrants by its application that it is ready, willing and able to commence and complete construction of its facilities within the time limits set forth herein. While we are not prescribing explicit schedules since the size of the network, its sophistication, and other matters will vary, we expect schedules to reflect diligence. Failure to meet construction schedules may result in forfeiture of the DTS license.

B. Role of Existing Common Carriers

67. As a general matter, we committed here, as we are for other communications services, to a policy of encouraging multiple entry. Such entry, we believe, is the best means of encouraging the efficient and economical use of DTS channels. The general advantages of multiple entry have been detailed in a number of other Commission proceedings and need not be restated here.[26] A multiplicity of suppliers will allow a DTS customer to select which of a number of different systems would best meet its communications needs. Competition should also lower the cost of service. With respect to non-telephone companies, no persuasive counter arguments have been advanced for prohibiting their acquisition of DTS licenses. Although a few comments suggested that we should prohibit satellite carriers from entering the market, it was not shown that any concrete harm would result from their entry. Therefore, we shall place no restrictions on the acquisition of DTS licenses by non-telephone carriers. Should abuses occur in the future, we reserve the right to impose restrictions at that time.

68. The question of the circumstances under which telephone companies should be permitted to obtain DTS licenses in their own service areas is more difficult. It involves unique issues, not relevant to entry by other carriers and not well covered in the record in this docket. We therefore make no policy determinations on telephone company entry here. The submission by a telephone company of a Section 214 application for a permit to construct DTS facilities will provide an opportunity for a thorough examination of various relevant issues.

69. These issues are raised by the fact that telephone companies currently have a monopoly of local exchange facilities. We shall have to consider whether such companies have the incentive and the ability to limit the viability of rivals in the DTS market. Telephone companies may be in the position to do this by means of cross subsidy and discriminatory denial of access to their wireline networks by their rivals. If we find that such courses of action on the part of telephone companies are possible, we shall have to decide how to deal with them. Among the possibilities are: (1) exercising the Commission's broad powers to regulate the activities of common carriers under Sections 201–205 of the Communications Act; (2) placing some restriction on the form of corporate organization required for DTS facility ownership; or (3) placing some constraint on the timing of telephone company entry into DTS.

70. Against the possible adverse consequences on competition of telephone company entry into DTS, we must weigh the fact that telephone companies have substantial resources—technical, marketing, and managerial—which make them among the most qualified to exploit fully the opportunities for providing service to the public over DTS facilities. Neither the record in this proceeding nor that in any other outstanding Commission proceeding provides the information necessary for us to resolve the conflicting factors outlined here. Hence, we shall defer action on the terms and conditions under which telephone companies may enter until we have the opportunity to develop an appropriate record on which to base our decision.

C. Resale, Shared Use and Interconnection

71. As a general proposition, our policy is to remove restraints on the resale and shared use of common carrier services. Thus, in our *Resale and Shared Use* decision [27] we held tariff provisions private line services to be unlawful. In addition, we recently ordered similar restrictions in interstate MTS and WATS services to be eliminated.[28] Although it is unclear whether resale and shared use of DEMS will be viable, we believe that we should also prohibit any resale and shared use restrictions from DEMS tariffs. We believe that the opportunity for resale and shared use can engender the same price and diversity of service consequences as we foresaw in the private line and MTS/WATS markets.

72. There are several distinct aspects to the issue of interconnection requirements: interconnection of customer-provided equipment to a DTS network, interconnection between DTS networks, and interconnection of such networks with other common carrier services. In addition, there is the question of whether the Commission should establish the technical standards for interconnection, either of customer-provided equipment or between networks, or merely require DTS licensees to make public the interface information necessary for interconnection.

73. The comments regarding interconnection of customer provided terminal equipment to a DTS network generally favored interconnection but differed as to whether the Commission should establish a technical standard governing that interconnection. Without a standard interface common to all DTS there could develop a proliferation of interface types. This proliferation would limit the market for any one type of terminal equipment and would, therefore, inhibit the development of that equipment. On the other hand, it is impossible at this stage of development of DTS networks to establish a standard interface for terminal equipment without greatly inhibiting the flexibility for technological innovation in the design of the system. We have concluded, therefore, that it would be undersirable and premature at this point to establish nationwide technical standards for the interface between DTS networks and customer provided equipment (CPE). We shall instead require publication of interface information to enable customers who wish to interconnect their equipment to do so and enable manufacturers to develop such CPE. The needs of the marketplace will determine the nature of the subscriber CPE available and its ability to be connected to DTS facilities.

[26] *See*, e.g., Specialized Common Carrier Services, 24 F.C.C. 2d 318 (1970).

[27] 60 FCC 2d 261 (1976), *amended*, 62 FCC 2d 588 (1977), *aff'd sub nom.* AT&T v. FCC, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978).

[28] Regulatory Policies Concerning Resale and Shared Use of Domestic Public Switched Network Service, F.C.C. 80-607 (released Dec. 18, 1980).

74. Interconnecting DTS networks themselves and interconnecting DTS networks with other common carrier facilities present more complex issues than those involved in merely connecting customer terminal equipment to a given network. Here we have also concluded that it would be unwise and unnecessarily restrictive of technological development to specify the technical standards for interconnection between systems. Instead, we shall require publication of necessary interface information. Any particular question involving interconnection will be treated as outlined in Section 201 of the Communications Act.[29]

D. Common Carrier Regulation

75. Many questions have been raised in this proceeding as to whether the Commission should reduce the level of common carrier regulation required of DTS licensees—Section 214 requirements and tariff and accounting requirements. In our recent *Competitive Carrier Rulemaking* proceeding, F.C.C. 80-629 (released November 28, 1980), we adopted less stringent rules for carriers we determined to be non-dominant. In that decision, which controls here, we found all telephone companies, Western Union, domestic satellite carriers (Domsats), Domsat resellers, and the miscellaneous common carriers to possess market power sufficient to be termed "dominant" and thus to justify the continued application of the traditional regulatory scheme to them. At the same time we found the specialized common carriers (terrestrial microwave carriers) and all resale carriers except Domsat resellers to be non-dominant. Thus, a DTS licensee that is a non-dominant carrier will be eligible for relaxed tariffs and Section 214 authorization rules, but other DTS licensees, at this time, will be subject to the rules for dominant carriers.[30]

76. Applications for licenses for DTS and the internodal links should be filed under Part 21 of the Commission's Rules. A Form 435 must be filed for authority to construct each nodal station in the Digital Electronic Message Service. This form will specify the number of user stations proposed. After construction is complete a Form 436 should be filed for the microwave radio station license. Additional user stations may be added by requesting a modification of license on Form 436. *See* Section 21.7(e). As noted above, the internodal links will be authorized under the rules contained in Subpart I of Part 21 using both Forms 435 and 436. Finally, all applicants must have a current Form 430 on file.

E. Mutually Exclusive Applications

77. In the Notice, the Commission requested comments on a number of measures that could be used to avoid the necessity for time-consuming mutually exclusive licensing proceedings such as imposition of spectrum fees, some form of auction of the spectrum, random selection from a pool of applicants meeting certain threshold qualifications, or assigning smaller increments of bandwidth when the initial number of applicants in any given area exceeds the number of channels available. We have already eliminated the last possiblity as infeasible (*See* paragraphs 33 and 47 *supra*).

78. Although we are concerned over the wastefulness and delay that often accompanies the comparative hearing process, we have decided not to adopt special measures to deal with mutually exclusive applications for DTS licenses since we believe they are unlikely to occur. We have made a substantial allocation of spectrum—enough for a minimum of four Extended networks and six to twelve other networks depending on the mix of Limited and Extended service that eventually emerges at 10.6 GHz. Additionally, the availability of 18 GHz frequencies, the proposed reallocation of which we will shortly consider, may lessen the likelihood of mutually exclusive DTS applications. We do not believe mutually exclusive applications will materialize, but if they should, the Part 21 comparative hearing rules would apply. If there are a significant number of these hearings, we will review the applicability of the rules at that time. As previously indicated at paragraph 35 *supra*, in the event that mutually exclusive applications for the same 2.5 MHz paired channels are filed by an Extended and a Limited system and all other things being equal, we would award the spectrum to the Extended applicant in recognition of the greater comparative need for Extended networks.

F. Federal-State Jurisdiction

79. In this proceeding we have adopted policies of open entry to encourage the rapid development of nationwide systems on a competitive basis. To promote these policy goals we have established only minimal technical regulation to allow maximum freedom in network design, have imposed no regulatory restrictions on interconnection, and intend to impose only minimal regulation, to the extent feasible, in all other areas. Our policy goals, however, could be frustrated by restrictive state regulation, particularly as to entry and technical standards. In addition, state regulation could increase the delay in implementation of service and add to the expense of providing service. It is our intention, therefore, to preempt inconsistent state regulation of technical standards, market entry standards, and rates and tariff regulations of all carriers using DTS facilities.

80. We believe that we have adequate legal authority to preempt inconsistent state regulation of DTS licensees. Our expectation, which is supported by the record before us, is that DTS facilities will be used to a large extent for interstate services. Our public interest determination is based upon the need for spectrum for the termination of interstate services employing high-speed digital technology. Although there may be some intrastate use, we expect that DTS will be used primarily for termination of interstate services. The authority to preempt state regulation in cases such as this, when state regulation could interfere with interstate communications, has been consistently articulated both by the Commission and the courts. *See*, e.g., *Telerent Leasing Corp.*, 45 F.C.C. 2d 204 (1971), *aff'd sub nam. North Carolina Utilities Commission v. FCC*, 537 F.2d 787 (4th Cir.), *cert denied*, 429 U.S. 1027 (1976); *Orth-O-Vision*, 69 F.C.C. 2d 657 (1978). Inconsistent state regulation could impede the development and provision of this proposed new and innovative telecommunications service. The development of services such as the digital service proposed by Xerox is essential to the maintenance of a modern efficient communications system in the United States, and preemption of inconsistent state regulation will assure that this important Federal interest is promoted. Finally, we note that Section 221(b) of the Communications Act is not applicable to service offered over DTS facilities and does not alter our decision to preempt state regulation of DTS facilities and the services provided thereby, since, even if DTS facilities may have some voice capacity, it will not be "telephone exchange service" within the meaning of that section. The purpose of Section 221(b) was to reserve to the states

[29] 47 U.S.C. § 201(a).

[30] In the Competitive Carrier Rulemaking we generally treated all carriers as single output firms. Thus, firms that are dominant in one service were treated as dominant for all services. We noted our intent, however, to issue a further notice of proposed rulemaking to shift our focus from a carrier specific to a market specific analysis. Thus, in the future some firms may be considered dominant for some purposes, but not for others.

jurisdiction over local telephone exchanges which serve single multi-state areas. *North Carolina Utilities Commission v. FCC*, 552 F. 2d 1036, 1045 (4th Cir.), *cert. denied*, 434 U.S. 874 (1977).

VI. Miscellaneous Issues

81. A few commenters asserted that there has not been sufficient notice of the actions contemplated to develop a factual basis for the adoption of rules at this time. We believe, however, that our Notice of Proposed Rulemaking was sufficient to allow us to adopt rules without any further notice. Section 553(b) of the Administrative Procedure Act, 5 U.S.C. § 553(b), provides in pertinent part that a notice of rulemaking must include "the terms or substance of the proposed rule or a description of the subjects and issues involved." The D.C. Circuit has interpreted this to mean that the notice need only be "sufficiently descriptive of the 'subjects and issues involved' so that interested parties may offer informed criticism and comments." *Ethyl Corp. v. EPA*, 541 F.2d 1, 48 (D.C. Cir.), *cert. denied*, 426 U.S. 941 (1976). *See also Buckeye Cablevision, Inc. v. FCC*, 387 F.2d 220 (D.C. Cir. 1967). In this proceeding, notice was given of at least the subject matter of all the rules that we adopt today. Furthermore, evidence of the sufficiency of the notice is shown by the fact that so many parties commented at length on the issues.

82. Finally, with respect to Alascom's request that Alaska be excluded from this proceeding, we note that with the possible exception of MTS and WATS, for which the question is still open, *see MTS and WATS Market Structure Inquiry*, 81 F.C.C. 2d 177 (1980), we generally believe that Alaska should be treated no differently than the contiguous 48 states. *See DHL Communications, Inc.*, File No. W-P-C 2000 (released Dec. 30, 1980); *See also Integration of Rates and Services*, 61 F.C.C. 2d 380 (1976), *reconsideration*, 65 F.C.C. 2d 324 (1977). We see no reason for establishing a different policy here.

VII. Ordering Clauses

83. The authority for the policies and conditions adopted herein is contained in Sections 1, 2, 3, 4(i) and (j), 201, 202, 203, 214, 218, 219, 220, 301, 302, 303, 307–309, 319 and 605 of the Communications Act of 1934, as amended.

84. Accordingly, it is ordered that the policies, conditions and rules set forth herein are adopted effective on the date of release of this Order.

85. The Commission retains full jurisdiction over all aspects of this proceeding.

(Secs. 1, 2, 4, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Amendment of Parts 2, 21, 87, and 90 of the Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services—First Report and Order.

I am pleased that the Commission has been able promptly to resolve many of the issues presented in this proceeding. The Commission's allocation of spectrum for Digital Termination Systems (DTS) and our adoption of rules and policies for the establishment and operation of Digital Electronic Message Services (DEMS) is an important advance in telecommunications history. As I have stated previously, "[w]e at the Commission are largely confined to talk about telecommunications competition and its benefits; it is up to the private sector and innovative entrepreneurs like Xerox to put their investment and technological talent where our theory and mouth are." [1] This Report and Order recognizes the public interest imperative of expeditious industry and agency action and coordination. DEMS systems, such as Xerox's proposed XTEN system, offer unique and substantial benefits to the telecommunications consumer, and it is clearly in the public interest that these systems be constructed and become operational as soon as possible. Xerox is to be commended for its commitment to the digital message service concept.

The Commission's decision to allocate an additional 30 MHz for use by Extended DEMS providers, as opposed to placing this spectrum in reserve subject to the cumbersome rulemaking process for release, will help promote the rapid development of DEMS networks. With the allocation of this additional spectrum, the threat that many DTS applicants might face the delays of the comparative hearing process has been lessened considerably. As a result, the Commission should be able to process DTS applications quickly—a benefit plainly in the public interest. Here it should be noted that the Commission's future regulatory flexibility is not encumbered by the allocation of the additional 30 MHz. To the extent that the spectrum allocated by this Order has not been assigned after a reasonable period, and there is demand by other services for the spectrum, the Commission can at that time take appropriate action.

One final concern should be highlighted. This First Report and Order leaves for future decision the matter of the terms and conditions under which telephone companies may offer services over DTS facilities. While I agree that the record in this proceeding to date does not provide an adequate basis on which to decide this matter, I also strongly believe that the public interest requires the earliest possible resolution of the issues presented. I hope and expect that this question of telephone company participation in a DTS market will be resolved in a manner which ensures "full and fair" competition for all potential competitors and thereby for the public they serve.

Appendix A—Summary of Comments

Comments on our Notice of Proposed Rulemaking and Inquiry were filed by the following entities:

Petitioner

Xerox Corporation (Xerox).

Common Carriers

American Telephone and Telegraph Company (AT&T).

GTE Service Corporation (GTE Service).

Southern Pacific Communications Company (SPCC).

MCI Telecommunications Corporation (MCI).

U.S. Telephone and Telegraph Corporation (UST&T).

RCA American Communications, Inc. (RCA Americom).

RCA Global Communications, Inc. (RCA Globcom).

American Satellite Corporation (ASC).

Tymnet, Inc. (Tymnet).

GTE Telenet Communications Corporation (GTE Telenet).

Alascom, Inc. (Alascom).

Telephone and Data Systems, Inc. (TDS).

ISA Communications Services, Inc. (ISA).

Hughes Communications, Inc. (Hughes).

Satellite Business Systems (SBS).

Trade Associations and Industry Interest Groups

United States Independent Telephone Association (USITA).

[1] *See* Separate Statement of Commissioner Joseph R. Fogarty, Notice of Proposed Rulemaking and Inquiry, Amendment of Parts 2, 21, 87 and 90, FCC 79-464, released August 29, 1979, 44 Fed. Reg. 51257 (1979).

Telocator Network of America (Telocator).

Telematic, Inc. (Telematic).

Ad Hoc Telecommunications Users Committee.

Computer and Business Equipment Manufacturers Association (CBEMA).

Central Committee on telecommunications of the American Petroleum Institute (API).

Multipoint Distribution Service Interests

Microband Corporation of America (Microband).

Dolphin Corp. and a group of other Multipoint Distribution Service carriers (MDS Carriers).

Common Carrier Association for Telecommunications (CCAT).

Representatives of Federal and State Governmental Agencies

National Telecommunications and Information Administration (NTIA).

National Aeronautics and Space Administration (NASA).

National Association of Regulatory Utility Commissioners (NARUC).

People of the State of California and the Public Utilities Commission of the State of California (California).

Reply comments were filed by the following entities: Xerox, AT&T, UST&T, ASC, SBS, GTE Telenet, Tymnet, NARUC, United States Department of Justice (Justice),[1] Microband, and Farinon Group, Harris Corporation (Farinon).

All of the comments were evaluated and considered in our formulation of policies established by this Order. The following discussion summarizes the points made by the commenters on each of the major issues.

I. Spectrum Management Issues

A. Reallocation of Spectrum and Choice of Band

There was nearly universal support among the commenters for a reallocation of spectrum for Digital Termination Systems (DTS), although the commenters varied widely as to the amount of spectrum necessary for this service and whether a reallocation should be made for the internodal portion (between city nodes and local nodes) of the service. The commenters also generally agreed that the appropriate location for this reallocation was the 10.6 GHz band. Some noted, however, that use of the 18 GHz band was feasible and should not be ruled out.

AT&T, Telematic, GTE Service, and SPCC noted that other transmission media such as wirelines, coaxial cable or optical fiber were possible alternatives to radio for all or part of this service. They admitted, however, that at present radio is the most feasible since it allows a faster, less expensive and more reliable service than other media.

Xerox, in its comments and reply comments, reasserted its original position that the full 130 MHz requested in its Petition should be allocated. Xerox proposed that 90 MHz of that allocation be reserved for nodal communications (between customers and local nodes) for nationwide systems, 20 MHz be reserved for nodal communications for regional systems, and 20 MHz be reserved for internodal communications. Xerox stated that its market study (assumed in the Notice to be reasonable) indicated a need for at least 110 MHz for DTS nodal communications. Xerox noted that the Commission's estimate of peak traffic considered only data generated by subscribers, not system overhead. Nor did the Commission's estimate consider the stimulation of demand which typically results from innovations in communications.

Hughes and SPCC supported Xerox's view that the full 130 MHz requested should be allocated. GTE Service was of the view, based on its analysis, that at least 80 MHz would be required for nodal communications. GTE Telenet stated that the full 90 MHz proposed in the Notice should be allocated with none held in reserve.

NTIA, SBS, and AT&T generally supported the proposal in the Notice. AT&T did recommend that the Commission increase the allocation if necessary rather than raise barriers to entry or restrict use of DTS channels. Although Microband supported an allocation of 60 MHz for DTS, the other MDS interests stated that no new allocation for DTS was necessary. Their view was that MDS operators could fill the same need if the present allocation of one-way transmit channels for MDS were supplemented with subscriber return channels.

SBS, in its reply comments, stated that the Commission should reconsider the adequacy of 60 MHz in light of many expressions of interest by commenting parties in possibly operating DTS networks.

The commenters generally agreed that the best location in the spectrum for DTS was the 10.6 GHz band. Several commenters noted, however, that the 18 GHz band should not be ruled out. SPCC noted that although system costs were lower at 10.6 GHz because of greater equipment availability and lower rain attenuation effects, there was no evidence that 18 GHz was unusable. Farinon noted that it is now manufacturing 18 GHz equipment which is in operation in several states. Experience shows, according to Farinon, that the 18 GHz band can be very useful. Tymnet proposed that the Commission not foreclose the use of the 18 GHz band for DTS systems, but rather let the forces of the market determine whether that band is a viable alternative to the 10.6 GHz band.

The Notice did not propose a reallocation of spectrum for the internodal link. This link, the Notice noted, could possibly be accommodated in existing point-to-point allocations at 4, 6, 11 and 18 GHz. Although many of the commenters generally supported this view, strong opposition was expressed by Xerox and by AT&T. Xerox noted that none of the commenters confirmed the availability of 4, 6 or 11 GHz. AT&T noted as well that 4, 6, and 11 GHz are particularly congested in urban areas, and that the internodal links could not comply with minimum path length and loading [2] requirements. Bell noted further that an exemption grant could promote inefficient use of valuable spectrum. GTE Telenet as well as several other carriers suggested the use of 11 or 18 GHz. It also notes that it would be poor spectrum management to restrict the effectiveness of the service by forcing internodal links into overcrowded and unsuitable bands. Other parties including the RCA companies, API and Microband, supported the use of 18 GHz for internodal links.

B. Channel Bandwidth

Xerox asserted that reducing the channel width below 5 MHz each way would have a significant adverse economic impact on DTS networks. Such a reduction would result in loss of capacity, would increase the cost of the system, and would substantially increase the proportion of "overhead" in the system. For example, decreasing channel size from 5 MHz to 2.5 MHz each way would more than triple the number of cells required to transmit the same amount of information and would increase the amount of "overhead" in the system from 54% to 144%. Narrower channels, Xerox commented, might be reasonable for regional systems (referred to as Limited in the body of this Order) since they would carry less traffic than nationwide systems.

[1] We hereby grant Justice's Motion for Acceptance of Late Filed Reply Comments, received on April 23, 1980 after the filing date.

[2] Rule § 21.710, 47 C.F.R. 21.710.

Xerox's view that channel width should not be reduced below 5 MHz each way was supported by SPCC and GTE Telenet. GTE Telenet further suggested that the Commission require reports on a regular basis as to frequency usage. Any licensee failing to meet predetermined standards of efficient use would forfeit its allocation. AT&T took the position that channel assignments should be based on projected need. Xerox's proposed 5 MHz channels, AT&T stated, appeared to be reasonable for its projected need.

NTIA, on the other hand, took the view that Xerox had not adequately justified its need for a two-way 10 MHz channel. Xerox's analysis, NTIA stated, was tied to the total identifiable market in 1990 without addressing the needs of individual systems. Furthermore, NTIA stressed, Xerox's petition did not address the differential cost on its XTEN system of using 6 or 8 MHz assignments instead of 10 MHz.

CCAT took the position that the channel assignments should not be less than 5 MHz each way, but that the Commission should retain the flexibility to assign channels based on need. Tymnet stated that it would be inappropriate in the absence of any reliable market information to fix the bandwidth. Other carriers commented that channel widths of 1, 2.5, or 5 MHz would be appropriate depending on demand.

SBS stated that the basic channel assignment should be 5 MHz each way, with increments of 1 or 2.5 MHz available to carriers who demonstrate a need for such an increment due to the nature of the services proposed.

Our proposal to determine channel bandwidth by dividing the total allocation by the number of applicants in any one area received little support. GTE Service noted that dividing the total allocation by the number of initial applicants would be self-defeating in that it was precisely in those areas where the need for larger channels was the greatest that there would be the largest number of applicants.

In reply comments, Microband argued that there was no rationale for smaller channels for regional (Limited) licensees than for nationwide (Extended) licensees. Regional licensees, by interconnecting with national systems, would have the same levels of traffic and, therefore, the same need for wide channels as national licensees.

C. Subchannel Bandwidth

The commenters were in agreement that the Commission should not specify subchannel bandwidth. Fixing subchannel bandwidth would have the effect of inhibiting technical innovation, would favor some technological approaches over others, and would inhibit licensees' flexibility to respond to the market. As long as efficiency standards are met, the commenters urged, each licensee should have the flexibility to establish subchannels to best suit its particular system design and service offerings.

D. Spectral Efficiency

The parties commenting on transmitter modulation spectral efficiency noted that our standard of 1.0 bps/Hz for microwave transmitters operating below 15 GHz [3] measures only one aspect of the spectral efficiency of a system. RCA Americom, RCA Globecom, GTE Telenet and NTIA suggested that a better measure of efficiency would be the total subscriber throughput per unit area being served. The Commission's standard of 1.0 bps/Hz treats information bits the same as overhead bits. The true efficiency of the system, they contend, however, depends on how much actual information is transmitted.

AT&T argued that efficiency standards should be sufficiently flexible to accommodate services different from that proposed by Xerox but that the record contains no factual basis for changing the existing rules. SPCC also took the position that the existing standard was adequate. In addition, Xerox stated that it could, in fact, achieve a 1.0 bps/Hz transmitter spectral efficiency rate for XTEN, whereas it originally had proposed a 0.8 bps/Hz efficiency standard. Justice, in its reply comments, stated that the Commission should not impose efficiency requirements which only a few firms could meet. Efficiency requirements should be imposed only if necessary in congested urban areas. GTE Service suggested that compliance with efficiency standards be required only as a pre-condition to receiving a grant of additional frequency.

Some commenters maintained that the reasonableness of the 1.0 bps/Hz standard should be measured against the cost of the equipment necessary to achieve that standard. GTE Telenet suggested that applying that standard would increase the initial cost of implementation of DTS. The Commission should, therefore, allow less efficient modulation schemes initially on a showing of justification.

NTIA stated that each system should use the most cost-effective modulation scheme for its purposes. Each applicant should be required to provide data on the anticipated throughput of information per Hertz per square mile.

ISA noted that digital microwave transmitters capable of digital modulation spectral efficiencies rates as high as 2 or 3 bps/Hz are commercially available. It recommended, however, that carriers be allowed to set their own digital efficiency rates above some minimum set by the Commission as long as satisfactory adjacent channel and co-channel C/I ratios are maintained.

E. Cellular Radio

The commenters were divided as to whether the Commission should require a cellular configuration of local nodes and surrounding user stations for DTS networks. RCA Globecom stated that, in light of the small size of the allocation, these systems should be limited to cellular structure and digital applications. GTE Service argued that cellular design should be required because it maximized frequency utilization, but proposed that the parameters of cellular design remain flexible. Other commenters agreed that a cellular design was desirable, although great flexibility in the details of the design of that system should be allowed.

Xerox suggested that the Commission mandate that DTS networks have the capability of cellular operation. Actual cellular operation should not be mandated, however, until required by the traffic in any SMSA. Cellular operation should be required prior to the grant of a second channel to any licensee in an SMSA.

Other commenters were concerned that mandating cellular design would foreclose other possibly equally efficient system designs. Furthermore, such a requirement might restrict DTS to areas where the concentration of subscribers would justify the cellular concept. ASC argued that the definition of the service should not lock carriers into a particular design. Tymnet agreed that cellular design should not be required.

F. Power Levels, Antennas and Frequency Coordination

The commenters agreed with the Notice that the Xerox-proposed transmitter output power levels and antenna standards were reasonable. RCA Americom noted that power levels should be appropriate to the region and that different regions might have different requirements. General performance criteria should be specified, therefore, not power levels.

Most commenters agreed that present requirements as to frequency coordination procedures should be maintained, and Xerox's proposal that

[3] Rule § 21.122(a), 47 CFR 21.122(a).

frequency coordination be left to the best efforts of the various licensees should not be adopted.

G. Security

Virtually all commenters felt that the problem of security should be left to the marketplace. They argued that existing rules are adequate, and that there is no indication that additional measures will not be undertaken voluntarily if they are necessary. Microband noted, however, that theft of signals is a growing problem. It urged that the Commission declare the applicability of Section 605 of the Communications Act and the Omnibus Crime Control Act of 1968, 18 U.S.C. 2510–2520, to DTS.

H. Voice Use of DEMS Channels

The Notice at Paragraph 42 posed several questions regarding voice use of DTS channels: the desirability of voice use, its competitive effects on other providers of voice transmission service and in the equipment market, and its effect on other Commission policies.

None of the commenters favored prohibition of voice carriage altogether. Some voice carriage is essential to the potential teleconferencing function of DEMS. The comments varied widely, however, as to the extent to which voice use should be allowed. Some argued that voice use should be heavily restricted since it consumes large amounts of spectrum, and due to the presently existing substantial demand for voice use, would tend to consume the entire allocation leaving no room for the intended digital data transmission uses. On the other extreme, some argued that there should be no restriction on voice use whatsoever. The marketplace should be allowed to determine the extent of voice use of DTS. Some urged that DTS facilities be encouraged to develop into a system competitive with monopoly telephone service.

Xerox's position is that voice-only use of DTS systems would be contrary to the public interest. Voice should be allowed only to the extent necessary to support the teleconferencing function of DTS. Allowing marketplace forces to operate at this stage of development would divert valuable spectrum from needed digital services and lead to preemption of the service by voice. Offering voice-only use of DTS channels would be contrary to the public interest, at least in the initial period of implementation of DEMS networks. Furthermore, Xerox continued, the proposed allocation could only carry an insignificant amount of voice traffic. Dedication of the entire allocation to voice services would not materially contribute toward alleviating the reliance of the specialized voice carriers on the local wireline facilities of the telephone companies.

Others, including SBS and SPCC, took the view that voice use of these systems could in fact, reduce dependency on local telephone monopolies. Justice stated its belief that development of such competition could mitigate the regulatory problems involving access to monopoly facilities.

NTIA's view was that DTS should be restricted to predominantly non-voice use. Other allocations are available for voice carriage, and there are unresolved policy questions regarding competition in voice at the local exchange level. NTIA proposed a percentage limitation on the amount of voice traffic which could be carried on common carrier DTS networks. Some voice use would be necessary for teleconferencing, but voice use should not exceed one half of the total traffic flow. NTIA went on to observe, however, that although development of digital technology is increasing the economic attractiveness of digital (as opposed to analog) transmission of voice, in the short term voice uses can be accommodated at lower cost using other spectrum. Market forces should, therefore, operate to displace any substantial voice uses with "high-valued data communications."

GTE Telenet suggested that the Commission maintain its neutrality on this issue until there is more information regarding the market for services offered over DTS.

II. Common Carrier Issues

A. Entry Barriers

The Xerox-proposed criteria for qualifying as a DTS licensee generated more comment than any other topic, and most of it was adverse. Only GTE Telenet supported this proposal, commenting that since the start-up costs for a service of this nature would be very high, suitable entrants would be discouraged at the threshold if they were not assured of access to a substantial number of markets within a reasonable time frame. Furthermore, a significant portion of the start-up cost would be consumed by development of hardware and software. Development of that hardware and software would be stimulated by the assurance to manufacturers that there would be a nationwide market. The necessary equipment might not be developed absent this promise of substantial sales volume, asserted GTE Telenet.

Most other commenters did not support Xerox's 100–SMSA proposal, although many supported a policy of encouraging nationwide service. The comments reflected many differing visions of how this industry should be structured, ranging between two extremes. On one extreme, represented by Xerox's proposal, a few very large entities would provide nationwide service, with perhaps some smaller entities providing much less significant local or regional services. On the other extreme, the industry could develop more gradually with numerous small entities providing local service initially, and building gradually through expansion and interconnection to nationwide capability. Those favoring this view cite the example of 1500 interconnected telephone companies providing nationwide service. Those opposing it point out that those 1500 companies only provide service within any area on a monopoly basis.

Many of the commenters objected that the proposed criteria as to the number of markets served and time of construction were discriminatory and anti-competitive in that they would serve as barriers to entry, and would prevent the entry of smaller, less affluent organizatons. Furthermore, they argued, such bariers are not justified economically and are not necessary to insure nationwide end-to-end compatibility. In addition, high entry barriers particularly should not be used as a device to solve the problem of dealing with mutually exclusive applications (although some commenters suggested that the extent of service proposed and the schedule for completion of construction might be used as criteria to compare mutually exclusive applicatons).

Although the substantial body of comments opposed the preclusion of smaller entities serving less widespread areas, a similarly substantial body favored some reservation of the spectrum allocation for nationwide (Extended) systems, but with a smaller number of markets served to qualify as a "nationwide service." NTIA commented that this nationwide vs. regional argument was handicapped by uncertainties as to the level of demand, costs, and possible system configuration for the service. NTIA took the view that competitive market dynamics should determine the eventual supply structure, not arguments before the Commission. Furthermore, entrepreneurs at any scale of operation should be permitted to make investments under the levels of risk they choose. NTIA recommended that the spectrum allocation be divided between nationwide (Extended) and regional (Limited) network applicants. This division should be re-examined periodically. NTIA further recommended that nationwide (Extended) licenses be

granted to applicants who propose service to any 50 of the top 200 SMSA's. This entry criterion, NTIA argued, would result in wider market coverage than a restriction to only the largest 50 SMSA's.

In response, Xerox reasserted the need for a nationwide standard to promote raid development of nationwide service and insure a competitive market structure. Xerox did, however, reduce its proposed standard for nationwide service to service to the top 50 SMSA's or their population equivalent within 84 months of authorization. Xerox further amended its proposal to provide that a separate allocation of 20 MHz be set aside for regional (Limited) systems with 90 MHz reserved for nationwide (Extended) systems.

SBS characterized the problem as one of establishing criteria which would not artificially restrict entry, and, at the same time, avoid what it referred to as "an inefficient proliferation of entrants." To this end SBS recommended that the Commission establish criteria, including a requirement of service to a minimum number of markets, by which mutually exclusive applications would be measured, to insure that "entry and use of DTS frequencies is accomplished in an efficient and orderly manner."

Justice noted that the possibility of comparative hearings alone could constitute a strong barrier to entry. The possibility of comparative hearings could be minimized, it suggested, by reserving a portion of the spectrum allocation for nationwide (Extended) systems. The anti-competitive effects of Xerox's other proposed restrictions, including the proposed requirement that "costly systems" be employed to yield efficient use of spectrum, Justice stated, outweighed the possible benefits of those restrictions.

B. Role of Existing Common Carriers

Several commenters took the position that any carrier should be allowed to participate in providing DEMS without restriction. USITA said there was no reason to bar telephone companies or any entity "at the threshold." AT&T said that the Commission should require "assurances" that cross-subsidization of competitive services with monoply revenues would not take place, but that the regulatory devices used to provide those assurances should "make good economic and business sense" and avoid unwarranted costs.

Most commenters who considered the issue were of the opinion that no restrictions should be placed on entry by satellite carriers. RCA Globecom stated that the relationship between satellite and terrestrial systems should be ordered by tariff to assure that facilities would be provided to all connecting carriers on fair and non-discriminatory terms.

NTIA distinguished between dominant and non-dominant carriers. It defined dominant carriers as those furnishing service in a substantial number of interexchange markets and having the ability to raise prices without affecting demand. Dominant carriers, NTIA stated, should be permitted to enter on an unregulated basis only through "fully separated" subsidiaries. Xerox also took the view that monopoly carriers should not be prohibited but should be allowed to enter only through separate subsidiaries, prhaps the same as those established to provide "enhanced non-voice" services under the terms of the Second Computer Inquiry.

A substantial number of commenters supported the view that monopoly carriers should be allowed to participate through separate subsidiaries only, citing the problem of cross-subsidization of competitive services with monopoly revenues. A few commenters took the position that monopoly carriers should not be allowed to enter at all. SPCC referred to past abuses by those in control of local distribution bottlenecks to the disadvantage of specialized carriers. SPCC suggested that the burden be placed on those monopoly carriers to show why their entry would provide any public interest benefits and to describe the safeguards which would be employed to protect against anticompetitive activities.

GTE Telenet, on the other hand, stated that it would be "unnecessary and unwise" to bar local telephone companies in areas in which they currently operate. The Commission should consider limiting telephone companies to a discrete portion of the total allocation of spectrum, however. Microband noted the potential for cross-subsidization whenever there is market dominance in a service generating significant revenue. Microband recommended, as a partial solution to this problem, the unbundling of tariffs for DEMS.

Finally, Justice recommended that the Commission not issue DEMS licenses to telephone companies in their local service areas because of the impossibility of preventing cross-subsidization of DEMS with monopoly revenues.

C. Interconnection

Regarding interconnection of customer provided terminal equipment, the commenters generally agreed that the Commission should adopt a policy requiring interconnection. NTIA commented that, in its view, government intervention was unnecessary since market forces would motivate DTS licensees to interconnect with those types of terminals that are common. Xerox suggested that the Commission require liberal interconnection policies and require the publication of interface information for use by equipment manufacturers. A liberal policy regarding interconnection of customer-provided equipment, Xerox noted, would eliminate the necessity for an equipment manufacturer who was also a DTS licensee to establish a separate subsidiary for the sale of equipment. Competitive forces would act to prevent any abuses.

SPCC commented that if the Commission were to prescribe a standard for interconnection, the subscriber access interface for packet-switched networks contained in the CCITT X.25 recommendation would be a logical choice. Since that standard is widely accepted by both network operators and terminal equipment manufacturers, however, it seems likely that that access scheme would be adopted whether or not the Commission requires it.

The comments were more diverse on the more complicated issues involved in interconnection of DTS systems among themselves and between DEMS systems and services of other common carriers. GTE Telenet took the view that the Commission should not regulate in this area. Development of DTS technology is still in the embryonic stages and it is, therefore, impossible to establish intelligent technical standards. An attempt to do so would stifle innovation. Since marketplace forces can be expected to make interconnection necessary, the Commission should regulate only if it later determines that the marketplace has failed to respond to demonstrated need for interconnection. Nonetheless, GTE Telenet noted that there may, in fact, be valid reasons for not publishing interface information: privacy of customer data, and minimizing opportunities for interference with or interception of DEMS communications.

Tymnet commented that the Commission should support interconnection but not promulgate detailed interconnection standards and requirements. The Commission might, however, encourage interconnection by giving a preference to those applicants who would guarantee easy interconnection with their networks.

SPCC commented that the difficulties associated with interconnecting packet-switched networks such as DEMS are complex from both technical and legal standpoints. The lack of a single controlling authority, SPCC states, makes the multi-network design problem difficult to solve. Interconnection strategy depends heavily on the types of services that are offered in each network. The problem reduces to one of resolving the following technical problems: level of interconnection, routing of messages, flow and congestion control, accounting, access control, and inter-network services. Present standards for network interconnection are not nearly as well developed or widely used as the CCITT X.25 standard for equipment interconnection. SPCC recommends that if any standard for system interconnection is adopted by the Commission, it should be the CCITT X.75 recommendation covering the connecting of public packet-switched networks. While not perfect, this scheme, in SPCC's view, represents the best available alternative.

RCA Globecom commented that monopoly carriers should be required to interconnect with other carriers, and appropriate technical specifications are therefore necessary to cover that interconnection. SBS commented that although the Commission should refrain from regulating in this area, it should adopt a policy of requiring interconnection on reasonable request. ASC comments that DTS licensees should be obligated to offer interconnection to intercity satellite carriers. Uniform technical standards, therefore, must be developed for this purpose. UST&T commented that to the extent that DEMS preempts local distribution opportunities, interconnection should be required. API, CCAT, and AT&T all recommended that nationwide standards for equipment interconnection and system interconnection be adopted. RCA American suggested that the Commission require the publication of city node interface characteristics for the purpose of facilitating interconnection.

D. Resale and Sharing

SPCC recommended that the Commission impose resale and sharing obligations on DTS licensees, especially if voice services are provided. SPCC stated its belief that such resale and sharing obligations would help to encourage entry and discourage "inappropriate pricing." Other commenters, including Xerox and GTE Telenet, on the other hand, took the view that no exceptional policies in this regard are required. DTS licensees should be treated like other specialized common carriers.

E. Common Carrier Requirements

Xerox recommends that no special tariff, facilities or accounting treatment should be given DEMS. RCA Globecom agreed and stated that it would, in any case, be premature to relax the requirements of Section 203 with respect to tariff specificity at this point. The Commission, in order to determine whether it would be appropriate to relax those requirements, needs information as to how the market for DEMS actually develops.

SBS commented that it was not aware of any persuasive reason for singling DEMS out for unique treatment as to tariffs, certification or accounting. The Commission's focus should remain, as it has in the past, on the services offered and not the facilities used. SBS further stated that the policies developed in CC Docket Nos. 79–252 (Competitive Carrier Tariffs and Facility Authorization) and 70–246 (AT&T Private Line Rate Structure and Volume Discounts) should be applied to DEMS if appropriate.

Justice stated that since the Commission envisioned multiple entry into this market, there was no reason to impose different regulatory requirements on DTS licensees than it would impose on any other "non-dominant" carriers as defined in Docket No. 79–252.

GTE Telenet in response to the questions in the Notice regarding the appropriate tariffing approach for DEMS stated that since this question is being addressed broadly in CC Docket No. 79–252, decisions regarding specificity of tariffs for DEMS should await the outcome of that proceeding. Regarding Section 214 certification requirements, GTE Telenet commented that these requirements should be relaxed—perhaps with only a single Section 214 application to cover the total DTS network plan for an applicant, with subsequent market-by-market licensing procedures for that applicant being handled under Title III. Regarding the appropriate accounting system, GTE Telenet advised the Commission not to be distracted by "collateral issues." The question of the appropriate accounting system to be applied to all carriers providing primarily competitive services should be addressed in light of the Commission's ultimate revision of the Uniform System of Accounts.

GTE Telenet commented that, in its view, the question of whether satellite, terrestrial microwave, and digital termination licensees should be required to order their relationships by tariff or whether private contracts are permissible should be resolved in a separate proceeding. There is no present requirement that these carriers relate exclusively by tariff. The Communications Act specifically contemplates that carriers may contract with one another (Section 211). *See Bell Telephone Company of Pennsylvania v. FCC*, 503 F.2d 12 (3d Cir. 1974), *cert. denied*, 422 U.S. 1026 (1975). Telenet stated that it was not aware of any particular characteristics of the proposed digital termination systems that would require that the tariff/contract question receive exceptional consideration. The question is a general one affecting many different carriers and services.

NTIA commented that, in its opinion, the FCC should "forebear from exercising its authority under Title II of the Act, and not require carriers providing this service to file tariffs nor to obtain specific certification for acquiring facilities or terminating service." Although not specifically sanctioned in Title II, Commission forebearance has been supported in the courts, according to NTIA. Alternatively, if the Commission decides not to forebear fully, NTIA recommended that at least the Commission mandate the precise degree of regulation minimally necessary to monitor the development of the DEMS market on a temporary basis. NTIA suggested that DTS licensees be required to file only abbreviated "short form" informational materials instead of the full panoply of materials currently required under Title II of all carriers indiscriminately.

Several commenters urged the Commission to take a cautious approach on the specific regulatory details for DEMS. SPCC commented that until the actual applications for entry are made, it can not be determined whether the service will be provided by dominant or non-dominant carriers. The Commission has the authority to de-tariff DEMS and it may well be in the public interest to do so. In any event, it is premature at this point to resolve the tariff issue. Any resolution of that issue should be consistent with the Commission's decision in Docket No. 79–252 concerning deregulation of domestic telecommunications markets. SPCC went on to state that existing Section 214 facilities certification requirements for all domestic services are in need of streamlining. If a number of non-dominant entrants apply for DTS licenses in a given market, only minimal facility requirements are necessary.

Regarding accounting requirementrs, SPCC commented that the Commission has the discretion under Section 220 of the Act to waive or reduce accounting requirements for DEMS operators. The types of accounting systems for dominant, as opposed to non-dominant, carriers are necessarily radically different. Accounting safeguards are unnecessary when the particular market is competitive. When dominant carriers are providing service, or a non-competitive market exists, accounting safeguards are necessary. These standards are the subject of CC Docket Nos. 79-252 and 79-105 (regarding a possible revision of the Uniform System of Accounts). These more general dockets are the appropriate proceedings for determination of the issues here.

ISA and several other commenters suggested that the Commission use the approach adopted for domestic satellites [4] and invite applications but refrain from establishing specific regulatory details until the initial construction and operation has begun. After two to four years of operation, the status of service should be reviewed to determine whether competitive policies should be continued or whether a "resort to conventional regulation" is necessary. Tymnet agreed that no detailed regulations should be adopted prior to actual market experience.

F. The Comparative Hearing Problem: The Spectrum Fee, Auction and Lottery Proposals

The comments on the auction, spectrum fee and lottery proposals were generally adverse. There were three general positions reflected in the comments. First, these are peripheral issues which will unnecessarily delay this proceeding, and although they might have merit in other areas, it is unnecessary to decide the complicated issues of legality and desirability here. Secondly, these proposals are of doubtful legality, particularly those suggesting spectrum fees and auctions. To establish such a system in this proceeding, in addition to delaying this proceeding, would result in a sure legal challenge which would even further delay institution of DEMS. Finally, several commenters were of the view that these suggestions were undesirable in a policy sense. They would favor the richest companies, would be anti-competitive, are contrary to the Commission's policy of free competitive entry, and are in conflict with the Commission's mandate to determine the public interest.

[4] *See* First Report and Order, 22 F.C.C. 2d 86 (1970).

NTIA commented that, in spite of the possible merit of an auction approach (which would warrant full attention by the Commission in some other context) it does not recommend that such an approach be adopted here. The questions as to the Commission's authority to proceed in this fashion could not be resolved expeditiously. The auction approach should be tried by the Commission, NTIA stated, but not in this context. NTIA suggested instead that the Commission adopt rules specifying certain criteria to be considered in reviewing applications. The processing guidelines and procedures for non-comparative licensing and comparative licensing should be set forth. When there are more qualified applicants than frequencies available, NTIA suggested the following procedure for comparative licensing. Applications would be accompanied by briefs setting forth relevant information in response to the Commission's Rules. Further briefs would be filed within a specified period after designation of mutually exclusive applications. If the Commission deemed it necessary, an oral presentation could be required. The Commission would then render a decision on the basis of that record. If, after this procedure, more equally well qualified applicants remained than licenses available, the Commission would use a lottery to determine which applicants would prevail.

Xerox commented that an auction would not be lawful under present law. Section 309(a) of the Communications Act requires the Commission to give each mutually exclusive applicant simultaneous comparative consideration and a chance to be heard. In addition, Xerox continued, the public interest standard can not be met by random selection; proposals may vary significantly and should be evaluated on their comparative merits. Even if a lottery or auction is instituted, the Commission still needs rules to insure that threshold public interest standards are met. Only where the public interest is indifferent would a lottery be appropriate. Xerox proposed instead that the Commission adopt streamlined hearing procedures with firm deadlines and a simplified evidentiary portion of the hearing. In addition, Xerox recommended that if the Commission chooses to establish a reserve band, it be made available for immediate and automatic assignment whenever the number of applicants exceeds the number of channels initially allocated.

GTE Telenet comments that it sees no merit in the auction or lottery proposals. An auction, in GTE Telenet's view, would subordinate the public interest to purely financial considerations. A lottery, on the other hand, would represent an abdication of the Commission's duty to apply the public interest standard. Rather, the Commission should select among competing applicants on a merit basis. Threshold eligibility requirements should be established. A cutoff deadline for filing applications should be set, and all mutually exclusive applications should be consolidated for an expedited hearing process.

SBS pointed out that the comparative hearing problem in the DTS area would not be the same as the comparative hearing problem for broadcast licenses; since there are no questions of content, many of the more subjective and complex issues would not arise. Any comparative hearing problems can, therefore, be avoided by or resolved by the Commission's establishing objective criteria by which to measure competing applicants. It would be unwise and premature, in SBS's view, for the Commission to adopt a system of spectrum fees or an auction procedure. Spectrum fees would only lead to higher costs without an improvement in services; an auction would be discriminatory in its operation. Furthermore, the uncertainties generated by an auction or lottery proceeding would hinder long-range planning, expecially if applied to contested renewals.

G. Miscellaneous Issues

The comments generally agreed that DTS would create minimal environmental impact. Some commenters stated that no environmental impact statements should be required. Others commented that existing rules adequately covered the issue.

TDS worried in its comments about possible adverse affects of DEMS on rural areas. First, service might not be available in rural areas. Second, if it were available, it might result in loss of revenues to rural telephone companies.

Alascom commented that, in its view, the market for telecommunications services in Alaska was too thin to support yet another service. It requested that Alaska be excluded from this proceeding.

NASA commented on its concern that DTS be compatible with its remote sensing programs. Those remote sensing programs are located in the 10.6 GHz band where DTS is also proposed to be located.

III. Legal Issues

A. Necessity for a Further Notice of Proposed Rulemaking

A few of the comments were directed to the legality of adopting specific rules without a further Notice of Proposed Rulemaking proposing specific rules for comment. GTE Service stated that unless the comments were uniformly favorable, a two-step Notice of Inquiry–Notice of Proposed Rulemaking process would be necessary. AT&T was of the opinion that it would be improper to make rules on the basis of the record in this proceeding. There was, in AT&T's view, inadequate time and notice of specific actions contemplated to permit the development of the necessary facts addressing these issues.

Xerox, on the other hand, stated that the Commission should adopt final rules for DTS without a further Notice of Proposed Rulemaking. In support of this position, Xerox cited the Administrative Procedure Act, 5 U.S.C. §§ 511–599, 701–706. In particular, Section 553(b) of that Act states that it is not necessary to propose specific rules. Either the terms and substance of the proposed rules or a description of the subjects and issues involved would be sufficient. The Notice, in Xerox's opinion, meets this standard. Furthermore, the Commission's statement of intent to adopt rules without further comment gives notice to all parties, and the record in this proceeding is sufficient to support final action.

B. Preemption of State Regulation of DTS

The commenters differed as to the extent to which they favored displacement of state regulation by federal regulation. Xerox commented that the interstate nature of nationwide DEMS mandated that the federal government exercise exclusive regulatory authority over it. Inconsistent state regulation might burden the development of DEMS. According to Xerox, Section 221(b) of the Act is intended to preserve the state's regulatory jurisdiction over purely local exchange telephone service. The Courts have interpreted the commerce clause of the Constitution, however, as requiring complete federal preemption whenever interstate and intrastate operations are inseparable. As long as the facilities are an integral part of an interstate communications network, the Commission has exclusive power to regulate the services offered. Local DTS facilities will serve largely interstate traffic. To the extent that communications may not be interstate, the facilities would be inseparable from interstate communications. In addition, the federal government has exclusive power over radio which it has not chosen to surrender or share with the states. Xerox concluded that the Commission must retain full power over the terms of market entry and system operation for all DTS licensees.

NTIA suggested that the Commission make an initial assertion of jurisdiction over all DTS systems except those, if any, whose service is entirely within an SMSA or entirely intrastate with no inter-SMSA service. In those cases, states would have exclusive authority to regulate rates and entry. This regulation under Section 221(b) would only apply to the extent the new DTS's shared the characteristics of telephone exchange services—capability for voice transmission, switched local calling, etc. Since restrictions on voice use of DEMS systems would insure predominantly non-voice use, the regulatory plan for local exchanges in Section 221(b) would not apply to the different technology, functions, and use of DTS.

NTIA believes that an inter-SMSA DTS, even if it is purely intrastate initially, will expand to include interstate links. As a policy matter, NTIA comments, federal preemption of state jurisdiction under Section 2(b) is "clearly the preferable choice to further the public interest." Permitting regulation by each of the state jurisdictions would increase the cost and delay in providing these services to customers. Furthermore, a separations accounting procedure similar to that now existing for wire carriers might be required. NTIA suggested that the argument for federal preemption in this case is compelling and cited support in the case law for the ability of the Commission to establish a comprehensive federal regulatory policy in favor of competition which would preempt inconsistent state regulation. Furthermore, the Commission may exercise its jurisdiction by forebearing from regulating and thereby preempt state regulation. Although the mere fact that all communications in this service will be using radio does not imply that all such communications are wholly interstate under Section 301 of the Communications Act, in actual practice, since radio communication can not be confined within a single state's borders, the Commission has exclusive control over radio transmissions.

GTE Telenet commented that it envisioned any service which is might offer involving the use of DTS as being almost exclusively interstate, and that would be likely to be true of other potential entrants as well. These systems should not, therefore, be subjected to state regulation.

Other commenters, principally those representing the interests of state regulators and providers of local telephone service, took a less broad view of the power of the federal government to preempt state regulation in this area. The State of California commented that there could be no federal preemption over purely local services if they are separable from and have no substantial effect on interstate communications. Telocator commented that it saw no need for an "anticipatory" federal preemption of state regulation. Sections 2(b) and 221(b) clearly apply and leave the federal government no jurisdiction to regulate intrastate services. Telocator continued that the Commission's apparent concern, the possibility of state attempts to block the offering of such services through restrictive regulatory policies, was not justified. There is no indication that any state is interested in doing so. If that happens, however, where DEMS is a link in an interstate service, the Commission has exclusive and superseding jurisdiction and could, Telocator suggested, preempt any such restrictive regulation. The Commission could require interstate service as a condition of eligibility for a DTS license, which would moot concern over state entry regulation.

AT&T agreed that, to the extent that DTS is used intrastate, state jurisdiction applies. Furthermore, if both interstate and intrastate services are offered and the services are separable, the Commission would have jurisdiction over only the interstate portion. Section 301 of the Act provides for Commission jurisdiction over only the licensing and frequency allocation of radio facilities, not the common carrier service furnished over such facilities. Those services are regulated in accordance with Title II, including sections 2(b) and 221(b) which reserve certain regulatory power to the states. Furthermore, the general provisions of section 1 of the Communications Act must be read in light of more specific sections such as 2(b) and 221(b). It, therefore, provides no independent basis for establishing exclusive federal jurisdiction over DTS.

NARUC commented that sections 2(b) and 221(b) apply and intrastate communications over DTS facilities are within state jurisdiction. The Commission would, however, be justified in overriding any state policy against competition and in favor of monopoly regarding facilities jointly used in federal and state jurisdictions.

Appendix B

Chapter I, Parts 2, 21, 87 and 90 of Title 47 of the Code of Federal Regulations, is amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS GENERAL RULES AND REGULATIONS

A. 1. Section 2.1 is amended by adding the following definitions in appropriate alphabetical order:

§ 2.1 Definitions.

* * * * *

Digital Electronic Message Service.—A two-way domestic end-to-end fixed radio service utilizing Digital Termination Systems for the exchange of digital information. In addition, this service may make use of point-to-point microwave facilities, satellite facilities or other communications media.

Digital Termination Nodal Station.—A fixed point-to-multipoint radio station in a Digital Termination System providing two-way communication with Digital Termination User Stations.

Digital Termination System.—A fixed point-to-multipoint radio system consisting of Digital Termination Nodal Stations and their associated Digital Termination User Stations.

Digital Termination User Station.—Any one of the fixed microwave radio stations located at users' premises, lying within the coverage area of a Digital Termination Nodal Station, and providing two-way digital communications with the Digital Termination Nodal Station.

* * * * *

A. 2. In Section 2.106, in the Table of frequency allocations, frequency bands 10.5–10.68 renumbered and revised to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

Federal Communications Commission

Band (GHz) (7)	Service (8)	Class of station (9)	Frequency (GHz) (10)	Nature of services of stations (11)
* * * * *				
10.5–10.55				
10.55–10.565	[1]	[1]		Point-to-point microwave
10.565–10.615	[1]	[1]		Digital termination nodal stations
10.615–10.63	[1]	[1]		Point-to-point microwave
10.63–10.68	[1]	[1]		Digital termination user stations

[1] Fixed.

* * * * *

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICE

B. 1. Section 21.2 is amended by adding the following definitions in appropriate alphabetical order:

§ 21.2 Definitions.

* * * * *

Digital Electronic Message Service.—A two-way domestic end-to-end fixed radio service utilizing Digital Termination Systems for the exchange of digital information. In addition, this service may make use of point-to-point microwave facilities, satellite facilities or other communications media.

Digital Termination Nodal Station.—A fixed point-to-multipoint radio station in a Digital Termination System providing two-way communication with Digital Termination User Stations.

Digital Termination System.—A fixed point-to-multipoint radio system consisting of Digital Termination Nodal Stations and their associated Digital Termination User Stations.

Digital Termination User Station.—Any one of the fixed microwave radio stations located at users' premises, lying within the coverage area of a Digital Termination Nodal Station, and providing two-way digital communications with the Digital Termination Nodal Station.

* * * * *

Extended Network.—A group of interconnected Digital Termination Systems which provide service to users in at least 30 Standard Metropolitan Statistical Areas.

* * * * *

Internodal Link.—Two point-to-point microwave radio stations used to provide two-way communications between Digital Termination Nodal Stations or to interconnect Digital Termination Systems to other communications media.

* * * * *

Limited Network.—A group of interconnected Digital Termination Systems which provide service to users in fewer than 30 Standard Metropolitan Statistical Areas. A single Digital Termination System will be considered to be a Limited Network for frequency assignment purposes.

* * * * *

2. Section 21.7 is amended by revising the heading, and adding paragraph (c)(3) and paragraph (e) to read as follows:

§ 21.7 Standard application forms for point-to-point microwave radio, local television transmission, multipoint distribution, and digital electronic message services.

* * * * *

(c) * * *

(3) To increase the number of Digital Termination User Stations.

* * * * *

(e) *License for a Digital Termination User Station.*—No construction permit is required for a Digital Termination User Station. Authority for a Digital Termination Nodal Station licensee to serve a specific number of user stations to be licensed in the name of the carrier shall be requested on the FCC Form 435 filed for the Digital Termination Nodal Station, except that additional Digital Termination User Stations for a licensed Digital Termination Nodal Station may be applied for on FCC Form 436 as provided for in paragraph (c) of this section.

3. Section 21.15 is amended by revising the introductory paragraph of the section and paragraph (h), and adding paragraph (i) to read as follows:

§ 21.15 Technical content of applications.

Applications for construction permits shall contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

* * * * *

(h) Each application in the Point-to-Point Microwave Radio, Local Television Transmission, Multipoint Distribution, and Digital Electronic Message Services (excluding User Stations) that proposes to establish a new permanently located fixed communication facility (e.g., a transmitting site, receiving site, passive reflector or passive repeater), or to make changes or corrections in the location of such facility already authorized, shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with location of the proposed facility accurately plotted and identified thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies.

(i) A separate application form must be filed for each Digital Termination System. When a set of related applications are filed to form a network of Digital Termination Systems, an exhibit must be included which contains a list of the Standard Metropolitan Statistical Areas (SMSA's) or service areas that will be served by the network and a proposed construction schedule showing the completion dates for each proposed Digital Termination Nodal Station in the network. Applications proposing frequencies specified for Extended Networks must contain at least 30 SMSA's.

4. Section 21.23 is amended by revising the introductory clause of paragraph (c)(2) to read as follows:

§ 21.23 Amendment of applications.

* * * * *

(c) * * *

(2) If in the Multipoint Distribution Service and the Digital Electronic Message Service (excluding User Stations), the amendment results in a substantial modification of the engineering proposal such as (but not necessarily limited to):

* * * * *

5. Section 21.43 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 21.43 Period of construction.

(a) Except for stations in the Point-to-Point Microwave Radio and the Digital Electronic Message services, each construction permit for a radio station in the radio services included in this Part will specify the date of grant as the earliest date of commencement of construction, and a maximum of 8 months from the date of grant as the time within which construction will be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case.

* * * * *

(c)(1) For stations in the Extended network portion of the Digital Electronic Message Service and except as limited by § 21.45(b) each construction permit issued by the Commission will specify the date of the grant as the earliest date of construction and a maximum of 60 months thereafter as the latest time when all construction shall be completed and the stations ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case. The schedule filed in accordance with § 21.15(i) shall provide for substantial progress in the early years of the construction period. Furthermore, the licensee must file progress reports with the Commission commencing six months after the date of issue of the construction permit and continuing every six months thereafter until construction is completed.

(2) For stations in the Limited network portion of the Digital Electronic Message Service and except as limited by § 21.45(b) each construction permit issued by the Commission will specify the date of the grant as the earliest date of construction and a maximum of 30 months thereafter as the latest time when all construction shall be completed and the stations ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case. The schedule filed in accordance with § 21.15(i) shall provide for substantial progress in the early years of the construction period. Furthermore, the licensee must file progress reports with the Commission commencing six months after the date of issue of the construction permit and continuing every six months thereafter until construction is completed.

6. Section 21.45 is amended by revising paragraph (a) to read as follows:

§ 21.45 License period.

(a) Licenses for stations in the Point-to-Point Microwave Radio, Local Television Transmission, Multipoint Distribution, and Digital Electronic Message Services will be issued for a period not to exceed 5 years; in the case of common carrier Television STL and Television Pickup stations to which are assigned frequencies allocated to the broadcast services, the authorization to use such frequencies shall, in any event, terminate simultaneously with the expiration of the authorization for the broadcast station to which such service is rendered except that licenses for developmental stations will be issued for a period not to exceed one year. Unless otherwise specified by the Commission, the expiration of regular licenses shall be on the following date in the year of expiration.

Point-to-Point Microwave Radio Service—Feb. 1

Local Television Transmission Service—Feb. 1

Multipoint Distribution Service—May 1.

Digital Electronic Message Service—Feb. 1.

The expiration date of development licenses shall be one year from the date of the grant thereof. When a license is granted subsequent to the last renewal date of the class of license involved, the license shall be issued only for the unexpired period of the current license term of such class.

* * * * *

7. Section 21.100 is amended by revising paragraph (d) to read as follows:

§ 21.100 Frequencies.

* * * * *

(d) All applicants for regular authorization in the Point-to-Point Microwave Radio and Local Television Transmission Services shall, before filing an application or major amendment to a pending application, coordinate proposed frequency usage with existing users in the area and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity.

* * * * *

8. Section 21.101 is amended by revising the introductory clause of paragraph (a) and adding footnote 4 to table to read as follows:

21.101 Frequency tolerance.

(a) The carrier frequency of each transmitter authroized in these services shall be maintained within the following percentage of the reference frequency except as otherwise provided in paragraph (b) of this section or in the applicable subpart of this part (unless otherwise specified in the instrument of station authorization the reference frequency shall be deemed to be the assigned frequency):

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less [4]
* * *	*	*	
2,110–2,220	.001		
2,200–12,200 [2] [4]	.005	.005	.005
12,200–40,000	.03	.03	.03

[1] * * *

[2] * * *

[3] * * *

[4] See § 21.503 for the stability requirements for transmitters used in the Digital Electronic Message Service. This section includes the stability requirements for Point-to-Point Microwave Stations providing intermodal communications for the Digital Electronic Message Service.

* * * * *

9. Section 21.106 is amended by revising the introductory clause of paragraph (a)(2) and adding paragraph (a)(3) to read as follows:

§ 21.106 Emission limitations.

(a) * * *

(2) When using transmissions employing digital modulation techniques (see § 21.122(b)) in situations other than

those covered by paragraph (a)(3) of this section:

* * * * *

(3) For Digital Termination System channels and Point-to-Point Microwave Radio Service channels authorized for use in the Digital Electronic Message Service:

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Electronic Message Service channel by more than 50 percent of the Digital Electronic Message Service channel bandwidth up to and including 50 percent plus 250 kHz: As specified by the following equation but in no event less than 50 decibels.

$$A=50+0.12\,(F-0.5B)+10\,\mathrm{Log}_{10}\,N$$

Where:

A=Attenuation (in decibels) below mean output power level contained within the Digital Electronic Message Service channel for a given polarization.

B=Bandwidth of Digital Electronic Message Service channel (in kHz).

F=Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Electronic Message Service channel (in kHz).

N=Number of active subchannels of the given polarization within the Digital Electronic Message Service channel.

(ii) In any 4 kHz band within the authorized Digital Electronic Message Service band, the center frequency of which is removed from the center frequency of the channel by more than 250 kHz plus 50 percent of the channel bandwidth: As specified by the following equation but in no event less than 80 decibels.

$$A=80+10\,\mathrm{Log}_{10}\,N \text{ decibels.}$$

(iii) In any 4 kHz band the center frequency of which is outside the authorized Digital Electronic Message Service band:

At least $43+10\,\mathrm{Log}_{10}$ (mean output power in Watts) decibels.

* * * * *

10. Section 21.108 is amended by revising that portion of paragraph (c) that appears before the table to read as follows:

§ 21.108 Directional antennas.

* * * * *

(c) Fixed stations (other than temporary fixed, Digital Termination Nodal Stations and Digital Termination User Stations) operating at 2500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liabilities set forth in § 21.109(c). Additionally, the main lobe of each antenna operating below 5000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5000 MHz the minimum gain shall be 38 dBi. Digital Termination User Station antennas shall meet performance Standard B and have a minimum power gain of 34 dBi. The values indicated represent suppression required in the horizontal plane, without regard for the polarization plane of intended operation.

* * * * *

11. Section 21.122(a)(1) is amended to read as follows:

§ 21.122 Microwave digital modulation.

(a) * * *

(1) The bit rate, in bits per second, shall be equal to or greater than the bandwidth specified by the emission designator in Hertz (e.g. to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth of greater than 20 MHz), except the bandwidth used to calculate the minimum rate shall not include any authorized guard band.

* * * * *

12. Subpart G, Digital Electronic Message Service, is added as follows:

Subpart G—Digital Electronic Message Service

Sec.
21.500 Eligibility.
21.501 Digital Termination Nodal Stations may be authorized only as part of a Digital Termination System.
21.502 Frequencies.
21.503 Frequency stability.
21.504 Frequency interference.
21.505 Purpose and permissible service.
21.506 Transmitter power.
21.507 Radiated power limitation in the 10 600–10 680 MHz Band.
21.508 Emissions and bandwidth.
21.509 Antennas.
21.510 Interconnection.
21.511 Spectrum utilization.

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 308.

Subpart G—Digital Electronic Message Service

§ 21.500 Eligibility.

Authorization for Digital Termination Systems may be granted to existing and proposed communications common carriers. Applications will be granted only in cases in which the applicant establishes it is legally, technically, financially and otherwise qualified to render the services proposed and that the public interest would be served by such a grant. In addition only those applications which state an intent to provide interconnected service to subscribers in at least 30 Standard Metropolitan Statistical Areas (SMSA's) within 60 months of the granting of the application will be eligible for assignment of any of the frequencies designated as Extended network frequencies in § 21.502(b). All other applications will be eligible for assignment of the frequencies designated Limited network frequencies in § 21.502(c).

§ 21.501 Digital Termination Nodal Stations may be authorized only as part of a Digital Termination System.

Digital Termination Nodal Stations may be authorized only as a part of an integrated communication system wherein Digital Termination User Stations associated therewith also are licensed to the Digital Termination Nodal Station licensee. Applications for Digital Termination Nodal Station licenses should specify the maximum number of Digital Termination User Stations to be served by that nodal station. Any increase in that number must be applied for pursuant to § 21.7(c).

§ 21.502 Frequencies.

(a) Each assignment in the 10 550–10 680 MHz band will be for either Extended network or for Limited network operation. Assignments for Extended network operation will consist of a pair of 5 MHz channels as set out in paragraph (b) of this section plus internodal channels as set out in paragraph (d) of this section. Assignment for the Limited network coverage will consist of a pair of 2.5 MHz channels as designated in paragraph (c) of this section plus internodal channels set out in paragraph (d) of this section. A Limited network applicant may simultaneously apply for more than one channel pair on showing the service to be provided will fully utilize all spectrum requested. An Extended network licensee may not apply for an additional channel pair until such time as the applicant has operated its initial channel pair at or near the expected capacity.

(b) Extended network assignments in the 10 550–10 680 MHz band shall be made according to the following plan:

Channel Group A

Channel No.	Frequency band limits MHz
1-A	10 565–10 570
2-A	10 570–10 575
3-A	10 575–10 580
4-A	10 580–10 585

Channel Group B

Channel No.	Frequency band limits MHz
1-B	10 630–10 635
2-B	10 635–10 640
3-B	10 640–10 645
4-B	10 645–10 650

Each assignment will consist of one channel from Group A and the same numbered channel from Group B. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. The channels will be assigned in each SMSA starting with Channel pair 1 and continuing upward to Channel pair 4. These channels may be subdivided as desired by the licensee.

(c) Limited network assignments in the 10 550–10 680 MHz band shall be made according to the following plan:

Channel Group A

Channel No.	Frequency band limits MHz
5-A	10 600.0–10 602.5
6-A	10 602.5–10 605.0
7-A	10 605.0–10 607.5
8-A	10 607.5–10 610.0
9-A	10 610.0–10 612.5
10 A	10 612.5–10 615.0

Channel Group B

Channel No.	Frequency band limits MHz
5-B	10 665.0–10 667.5
6-B	10 667.5–10 670.0
7-B	10 670.0–10 672.5
8-B	10 672.5–10 675.0
9-B	10 675.0–10 677.5
10 B	10 677.5–10 680.0

Each assignment for Limited network operation will consist of one channel from Group A and the corresponding channel from Group B. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. The channels will be assigned in each SMSA starting with channel pair 10 and continuing downward to channel pair 5. These channels may be subdivided as desired by the licensee.

(d) The bands 10 550–10 565 MHz and 10 615–10 630 MHz are available to the Point-to-Point Microwave Radio Service. Assignments in these bands will be made according to the following plan:

Channel Group A

Channel No.	Frequency band limits MHz
11-A	10 550.0 –10 552.5
12-A	10 552.5 –10 555.0
13-A	10 555.0 –10 557.5
14-A	10 557.5 –10 560.0
15-A	10 560.0 –10 561.25
16-A	10 561.25 –10 562.5
17-A	10 562.5 –10 563.75
18-A	10 563.75 –10 565.0

Channel Group B

Channel No.	Frequency band limits MHz
11-B	10 615.0 –10 617.5
12-B	10 617.5 –10 620.0
13-B	10 620.0 –10 622.5
14-B	10 622.5 –10 625.0
15-B	10 625.0 –10 626.25
16-B	10 626.25 –10 627.5
17-B	10 627.5 –10 628.75
18-B	10 628.75 –10 630.0

The assignment of these channels will be in accord with the demonstrated requirement of the applicant. The preferred use of these channels is to provide internodal communications for Digital Termination Systems. All applicants for these channels shall follow the frequency coordination procedures of § 21.100(d). Channels 11–14 will be assigned to Extended network licensees and channels 15–18 will be assigned to Limited network licensees.

(e) The bands 10 585–10 600 MHz and 10 665 MHz will be available for Extended network applicants when all the available Extended network channels have been assigned or when applications have been accepted for all available Extended network channels. These bands will be available for Limited network applicants only after April 16, 1986. Assignments in these bands will be according to the following plan:

Channel Group A

Channel No.	Frequency band limits MHz
19-A	10 585.0–10 587.5
20-A	10 587.5–10 590.0
21-A	10 590.0–10 592.5
22-A	10 592.5–10 595.0
23-A	10 595.0–10 597.5
24-A	10 597.5–10 600.0

Channel Group B

Channel No.	Frequency band limits MHz
19-B	10 650.0–10 652.5
20-B	10 652.5–10 655.0
21-B	10 655.0–10 657.5
22-B	10 657.5–10 660.0
23-B	10 660.0–10 662.5
24-B	10 662.5–10 665.0

(1) An Extended network licensee will be assigned one pair of channels from Group A and the corresponding pair of channels from Group B. These channels may be adjacent, if available as such. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. Each pair of channels if adjacent may be used as a single channel by all Extended network licensees. Extended network assignments will start with channels 19 and 20 and proceed upward.

(2) A Limited network licensee will be assigned one channel from Group A and the corresponding channel from Group B. The channel from Group A is to be used for a Digital Termination Nodal Station transmitter and the channel from Group B is to be used for a Digital Termination User Station transmitter. Limited network assignments will start at channel 24 and proceed downward.

(f) After April 16, 1986, all unassigned Extended network channels will be rechannelized into 2.5 MHz channels. This spectrum, plus any unassigned Limited network channels, will then become available to either Limited or Extended network applicants.

§ 21.503. Frequency stability.

The frequency stability of each Digital Termination Nodal Station transmitter authorized for this service shall be ±0.0001%. The frequency stability of each Point-to-Point Microwave Station transmitter and each Digital Termination User Station transmitter shall be ± 0.0003%.

§ 21.504. Frequency interference.

(a) All harmful interference to other users and blocking of adjacent channel use in the same city and cochannel use in nearby Standard Metropolitan Statistical Areas is prohibited. In areas where SMSA's are in close proximity, careful consideration should be given to minimum power requirements and to the location, height, and radiation pattern of the transmitting antenna. Licensees, permittees and applicants are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(b) As a condition for use of frequencies in this service each carrier is required to:

(1) Engineer the system to be reasonably compatible with adjacent channel operations in the same city; and

(2) Cooperate fully and in good faith to resolve whatever potential interference and transmission security

problems may be present in adjacent channel operation.

(c) The following interference studies, as appropriate, shall be included with each application for a new or major modification in a Digital Termination Nodal Station:

(1) An analysis of the potential for harmful interference with other stations if the coordinates of any proposed station are located within 80 kilometers (50 miles) of the coordinates of any authorized, or previously proposed station(s) that utilizes, or would utilize, the same frequency or an adjacent potentially interfering frequency; and

(2) An analysis concerning possible adverse impact upon Canadian communications if the station's transmitting antenna is to be located within 55 kilometers (35 miles) of the Canadian border.

§ 21.505 Purpose and permissible service.

(a) The Digital Electronic Message Service is intended to provide for the exchange of digital information among and between subscribers using one or more Digital Termination Systems.

(b) Unless otherwise directed or conditioned in the applicable instrument of authorization, Digital Electronic Message Service may be used to exchange any type of digital information consistent with the Commission's Rules and the applicable tariff of the carrier.

(c) The carrier's tariff shall fully describe the parameters of the service to be provided, including the degree of communications security a subscriber can expect in ordinary service.

§ 21.506 Transmitter power.

(a) The output power of a Digital Electronic Message Service transmitter shall not exceed 0.5 watt. Further, each application shall contain an analysis demonstrating compliance with § 21.107(a).

(b) The transmitter output power specified in this section is the peak envelope power of the emission measured at the associated antenna input port.

(c) Operating power shall not exceed the authorized power by more than ten (10) percent at any time.

§ 21.507 Radiated power limitation in the 10 600–10 680 MHz band

The effective isotropic radiated power (EIRP) of stations in the band 10 600–10 680 MHz cannot exceed the following limits.

(1) Digital Termination User Stations—+23 dBW.

(2) Digital Termination Nodal Stations—+40 dBW.

(3) Point-to-Point Microwave Stations usd for internodal communications—+40 dBW.

§ 21.508 Emissions and bandwidth.

Different types of emissions may be authorized if the applicant describes fully the modulation and bandwidth desired, and demonstrates that the bandwidth desired is no wider than needed to provide the intended service. In no event, however, shall the necessary or occupied bandwidth exceed the specified channel width of the assigned pair.

§ 21.509 Antennas.

(a) Transmitting antennas may be omnidirectional or directional, consistent with coverage and interference requirements.

(b) The use of horizontal or vertical plane wave polarization, or right hand or left hand rotating elliptical polarization must be used to minimize harmful interference between stations.

(c) Directive antennas shall be used at all Digital Termination User Stations and shall be elevated no higher than necessary to assure adequate service. User antenna heights shall not exceed the height criteria of Part 17 of this chapter, unless authorization for use of a specific maximum antenna height (above ground and above sea level) for each location has been obtained from the Commission prior to the erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (*See* Part 17 of this chapter concerning the construction, marking and lighting of antenna structures).

§ 21.510 Interconnection.

(a) All Digital Termination System licensees shall make available to the public all information necessary to allow the manufacture of user equipment that will be compatible with the licensee's network.

(b) All Digital Termination System licensees shall make available to the public all information necessary to allow interconnection of Digital Electronic Message Service networks.

§ 21.511 Spectrum utilization.

All applicants for Digital Termination System frequencies must submit as part of the original application a detailed plan indicating how the bandwidth requested will be utilized. In particular the application must contain detailed descriptions of the modulation method, the channel time sharing method, any error detecting and/or correcting codes, any spatial frequency reuse system and the total data throughput capacity in each of the links in the system. Further, the application must include a separate analysis of the spectral efficiency including both information bits per unit bandwidth and the total bits per unit bandwidth.

12. Section 21.701 is amended by adding frequency bands 10,550–10,565MHz and 10,615–10,630 MHz and footnote 14 to the list of frequencies in paragraph (a) to read as follows:

§ 21.701 Frequencies.

(a) Frequencies in the following bands are available for assignment to fixed radio stations in the Point-to-Point Microwave Radio Services:

2,110–2,130 MHz [1 3 7]
2,160–2,180 MHz [1 2 5]
3,700–4,200 MHz [5 8]
5,925–6,425 MHz [5 6 8]
10,550–10,565 MHz [14]
10,615–10,630 MHz [14]
10,700–11,700 MHz [8 9]
13,200–13,250 MHz [4]
17,700–19,700 MHz [5 10]
21,200–22,000 MHz [4 11 12 13]
22,000–23,600 MHz [4 11 12]
27,500–29,500 MHz [5]
31,000–31,200 MHz [4]
38,600–40,000 MHz [4]

* * * * *

[13] * * *

[14] Digital Electronic Message Service operators should apply for Point-to-Point Microwave internodal links in this band. If no spectrum is available, application should be made in another Point-to-Point Microwave Service band.

PART 87—AVIATION SERVICES

§ 87.465 [Removed]

C. Section 87.465 is removed.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

D. 1. In the frequency tables contained in the sections listed below, the following footnote should be inserted with reference to the band 10,550–10,680 MHz:

* The frequencies in the band 10.55–10.68 GHz are available for Digital Termination Systems and for associated internodal links in the Point-to-Point Microwave Radio Service. No new licenses will be issued under this Subpart but current licenses will be renewed.

Sections:

90.17	90.63	90.79
90.19	90.65	90.81
90.21	90.67	90.89
90.23	90.71	90.91
90.25	90.73	90.93
90.53	90.75	90.555

2. Section 90.205 is amended by adding a new footnote 8 to the table in paragraph (b) to read as follows:

§ 90.205 Power.

* * * * *

(b) * * *

Frequency range (megahertz)	Maximum output power	Maximum effective radiated power (watts)
* * * * *		
2,500 to 10,550	(4)	(4)
10,550 to 10,680	[8]3	
Above 10,680	(4)	(4)

* * * * *

[8] The frequencies in the band 10,550—10,680 MHz are available for Digital Termination Systems and for associated intermodal links in the Point-to-Point Microwave Radio Service. For Digital Termination Systems, the maximum transmitter output power is 0.5 W and the effective isotropic radiated power is limited to +40 dBW. *See* Rule §§ 21.506 and 21.507. No new licenses will be issued under this Subpart but current licenses will be renewed.

* * * * *

[FR Doc. 81-12467 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-666; RM-3594]

TV Broadcast Station in Sierra Vista, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF Channel 58 to Sierra Vista, Arizona, as that community's first television assignment, at the request of Sierra Vista Television, Inc.

DATE: Effective June 9. 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Sierra Vista, Arizona); Report and Order (Proceeding Terminated).

Adopted: April 10, 1981.

Released: April 20, 1981.

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making,* 45 FR 73718, published November 6, 1980, proposing the assignment of UHF television Channel 58 to Sierra Vista, Arizona, as that community's first television assignment. The *Notice* was adopted in response to a petition filed by Sierra Vista Television, Inc. ("petitioner"). Petitioner filed comments in which it incorporates by reference the information contained it its petition for rulemaking, and reaffirms its intention to apply for authority to construct and operate a station on Channel 58 in Sierra Vista, if assigned. No comments opposing the proposal were received.

2. Sierra Vista (pop. 6,689),[1] in Cochise County (pop. 61,918), is located approximately 100 kilometers (60 miles) southeast of Tucson, Arizona. Sierra Vista currently has no local television service.

3. The Commission believes that the public interest would be served by assigning UHF television Channel 58 to Sierra Vista. Petitioner has shown that there is an apparent need for a first local television service to the community, and the assignment can be made in compliance with the minimum distance separation requirements.

4. Mexican concurrence in the assignment has been obtained.

5. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, That effective June 9, 1981, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Sierra Vista, Ariz.	58

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-12553 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Population data are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-249; RM-3471]

FM Broadcast Station in Idaho Falls, Idaho; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 277 to Idaho Falls, Idaho in response to a petition from M. Jay Sorenson. The assignment could provide the community with a third FM station.

DATE: Effective June 9, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Idaho Falls, Idaho); Report and Order (Proceeding Terminated).

Adopted: April 10, 1981.

Released: April 17, 1981.

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making,* 45 FR 40180, published June 13, 1980, proposing the assignment of Class C FM Channel 277 to Idaho Falls, Idaho, as that community's third FM assignment, at the request of M. Jay Sorenson ("petitioner"). Petitioner filed comments in support of the assignment and restated his intent to apply for the channel, if assigned.[1] No oppositions to the proposal were received.

2. Idaho Falls (pop. 35,776),[2] seat of Bonneville County (pop. 51,250), is located approximately 336 kilometers (210 miles) east of Boise, Idaho. The community is currently served by two daytime-only AM stations, one full-time AM station, and two FM stations.

3. The Commission stated in the *Notice* that the assignment of Channel 277 to Idaho Falls would cause preclusion to seventeen communities of over 1,000 population which have no FM

[1] Petitioner states that he will apply for Channel 268, if assigned. Channel 268 was originally requested by petitioner for assignment to Idaho Falls, but the Commission substituted Channel 277 to avoid conflict with a request to assign Channel 268 to Chubbock, Idaho.

[2] Population data are taken from the 1970 U.S. Census.

assignments. Petitioner was asked to indicate whether alternative channels were available for assignment to the precluded communities. In response, petitioner refers to its original engineering statement which reveals that 16 Class C and 10 Class A channels are available for assignment in the precluded areas.

4. The Commission believes it would be in the public interest to assign FM Channel 277 to Idaho Falls as that community's third FM assignment. We recognize that, according to the Commission's population guidelines for FM channel assignments, a city the size of Idaho Falls would be entitled to only one or two FM channels. However, the population criteria are regarded as flexible guides and not immutable standards, and we have been inclined to make additional assignments when an interest has been expressed and the preclusive impact of the assignment is deemed insignificant. *Waycross, Georgia,* 47 R.R. 2d 319 (Broadcast Bur. 1980). As indicated above, many FM channels are available for assignment to the communities which suffer preclusion from this assignment. Therefore, since the preclusive impact of this action is clearly insubstantial, we can find no obstacle to the additional assignment.

5. In view of the foregoing and pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, That effective June 9, 1981, Section 73.202(b) of the Commission's Rules, is amended, with respect to Idaho Falls, Idaho, as follows:

City	Channel No.
Idaho Falls, Idaho	241, 256, 277

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-12554 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-250; RM-3404, RM-3479]

FM Broadcast Stations in Chubbuck and Pocatello, Idaho; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 280A to Chubbuck, Idaho, as that community's first FM assignment, at the request of Good Times, Inc., and substitutes Class C FM Channel 273 for Channel 285A at Pocatello, Idaho, at the request of KSEI Broadcasters, Inc. The license for Station KRBU-FM, Pocatello, Idaho, is modified to specify operation on Channel 273.

DATE: Effective June 9, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Chubbuck and Pocatello, Idaho); Report and order (Proceeding Terminated).

Adopted: April 10, 1981.

Released: April 23, 1981.

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making,* 45 FR 40184, published June 13, 1980, proposing three alternative assignment plans for the above-captioned communities. Aternative I proposes the assignment of Class C Channel 268 to Chubbuck, Idaho, and the substitution of Channel 273 for Channel 285A at Pocatello, Idaho. Aternative II proposes the assignment of Channel 280A to Chubbuck and the substitution of Channel 273 for Channel 285A at Pocatello; Alternative III proposes no assignment to Chubbuck and the assignment of Channel 268 and 273 to Pocatello and the deletion of Channel 285A from that city. The *Notice* was filed in response to requests by KWIK, Inc. ("KWIK") for the Chubbuck assignment and KSEI Broadcasters, Inc. ("KSEI") for the Pocatello substitution.[1] Following the adoption of the *Notice,* but prior to its release, KWIK requested that the Commission withdraw its petition seeking the assignment to Chubbuck. However, comments in support of a Chubbuck assignment were filed by Good Times, Inc. ("Good Times") and by Temujin Corporation, Inc. ("Temujin"). KSEI filed comments in support of an assignment to Pocatello. In addition, General Broadcasting Inc. ("GBI"), a party to BC Docket No. 80-95, requested that this proceeding be delayed.

2. As a preliminary matter, the request to delay this proceeding makes reference to the potential conflict of a Channel 273 assignment to Pocatello and a Channel 274 assignment to Bountiful, Utah. Although the Bountiful assignment was previously denied, that action is the subject of a petition for reconsideration. We have determined that the present assignment to Pocatello, adopted herein, need not be delayed since a site restriction of approximately 15.8 kilometers (9.9 miles) north would avoid any short-spacing to the Bountiful reference point or to GBI's proposed site. However, should the Pocatello applicant specify a site that would result in a short-spacing, then action on the application could be delayed pending the outcome of the reconsideration of the Bountiful proceeding. In this regard, a site restriction of approximately 7.2 kilometers (4.5 miles) north of Pocatello and approximately 8.3 kilometers (5.2 miles) south of Bountiful would also avoid a short-spacing. Finally, the West Jordan assignment already approved in BC Docket No. 80-95 would require a 7.2 kilometers (4.5 miles) north site restriction on the Pocatello assignment herein.

3. Good Times, an applicant for an FM station construction permit in Chubbuck, supports assignment plan II, which proposes the assignment of a Class A Channel for Chubbuck. Good Times asserts that a Class A assignment to Chubbuck is appropriate in light of Chubbuck's size and its proximity to the larger city of Pocatello. Good Times states that it will apply for Channel 280A at Chubbuck, if assigned. Tejumin, on the other hand, supports Alternative I which proposes the assignment of a Class C Channel to Chubbuck. According to Tejumin, the population of Chubbuck has grown from 2,924 in 1970 to over 6,000 in 1977. Tejumin suggests that Chubbuck will continue to grow and projects that the city's population will exceed 15,000 by the turn of the century. Tejumin also presents data concerning the commercial growth and the housing conditions in Chubbuck. These factors, argue Tejumin, qualify Chubbuck for assignment of a Class C frequency. Tejumin claims that a Class A Channel may not cover all the areas of Chubbuck if the city continues to

[1] Although not mutually exclusive, the two petitions were consolidated because of the proximity of the two communities.

expand. Additionally, Tejumin believes that a Class A Channel in Chubbuck would be at a distinct disadvantage in generating local, regional and national revenues. Finally, Tejumin supports the assignment of a Class C station because of the mountainous terrain in the area.

4. KSEI, the proponent of the Pocatello assignment and licensee of station KRBU-FM (Channel 285A) in Pocatello, supports assignment Alternative III, the assignment of two Class C stations to Pocatello. KSEI also requests that its license for KRBU-FM be modified to specify operation on Channel 273. KSEI states that if its license is modified, it will operate KRBU-FM at the maximum power permitted. In support of assigning two Class C Channels, KSEI notes that the second channel could be applied for at Chubbuck under the 15-mile rule, Section 73.203(b) of the Commission's Rules. KSEI also supports the assignment of two Class C stations to Pocatello because, as stated in the *Notice*, it would permit the modification of KRBU-FM's license while allowing other interested parties to apply for the second channel. *See Notice* at para. 9. Finally, KSEI states that assigning two Class C channels to Pocatello will result in all the commercial FM stations in the Pocatello area having Class C facilities, and none will be at the disadvantage of having a Class A facility. In response to our request in the *Notice* that KSEI discuss alternative channel assignment possibilities for those communities currently without service which would be precluded by assigning a Class C channel to Pocatello, KSEI submitted a list of channels which are in excess of 180 miles from each precluded community. The submission does not indicate, however, whether adjacent channel mileage requirements are met.

5. Chubbuck (pop. 2,928)[2], a suburb of Pocatello in Bannock County (pop. 52,200), is located approximately 5 kilometers (3 miles) from Pocatello. Chubbuck currently has no local aural service. Pocatello (pop. 40,036), the seat of Bannock County, is served by three AM stations, two fulltime and one daytime-only, and three FM stations. Two of the three FM stations operate on Class C channels.

6. After carefully considering the comments, we have determined that Alternative II, the assignment of Channel 280A to Chubbuck and the assignment of Channel 273 to Pocatello, should be adopted. Regarding the assignment of the Class A channel to Chubbuck, this comports with the Commission's policy of reserving high powered Class C channels for larger communities. Exceptions to this policy have been made where Class A channels are not available or where the assignment will serve significant unserved or underserved populations. However, in this instance, a Class A channel is available for assignment to Chubbuck, and it has not been shown that a Class C assignment to Chubbuck would provide first FM or nighttime aural service. In such a situation, the assignment of a Class A channel to the suburban community of Chubbuck is entirely appropriate. *See Carson City, et. al.*, 46 FR 15710, published March 9, 1981. This is especially true where, as here, an interest has been expressed in applying for the Class A channel at Chubbuck. In addition, we do not find that assigning the Class C channel as a second assignment is justified in view of the intermixture situation which would result.

7. With regard to the assignment of Channel 273 to Pocatello, KSEI has submitted persuasive evidence that such an assignment would be in the public interest. Substituting the Class C channel for the Class A channel removes the intermixture situation which currently exists in Pocatello. Despite the fact that KSEI failed to submit adequate data concerning channel availability in precluded communities, the Commission is convinced, based on data received in other proceedings affecting the same general area, that a number of channels are available for assignment to the communities precluded by this proposal. Finally, because no other party to this proceeding has expressed an interest in applying for a new Class C channel in Pocatello, we will, consistent with the principles expressed in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), modify the license of Station KRBU-FM to specify operation on channel 273.

8. Accordingly it is ordered, That effective June 9, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the communities listed below as follows:

City	Channel No.
Chubbuck, Idaho	280A
Pocatello, Idaho	229, 235, 273

9. It is further ordered, pursuant to the authority contained in section 317 of the Communication Act of 1934, as amended, that the license of Station KRBU-FM, Pocatello, Idaho, is modified, to specify operation on Channel 273. In addition:

(a) At least 30 days before operating on Channel 273, the licensee shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 273;

(b) At least 10 days prior to commencing operation on Channel 273, the licensee shall submit the measurement data required of an applicant for an FM broadcast station license; and

(c) The licensee shall not commence operation on Channel 273 without prior Commission authorization. Furthermore, nothing contained herein shall be construed to authorize a major change in transmitter location or the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

10. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

11. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by Certified Mail, Return Receipt Requested, to KSEI Broadcasters, Inc., P.O. Box 31, Pocatello, Idaho 83201.

12. It is further ordered, That this proceeding is terminated.

13. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-12551 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

[2] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 87

Aircraft Radio Station Licenses; Editorial Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In order to alleviate misinterpretations which have arisen from the segmentation of our rules, the FCC is incorporating an existing prohibition of transfer of aircraft station licenses into the aviation rules. This editorial amendment should clear up any misunderstanding which has arisen.

EFFECTIVE DATE: April 22, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jan E. Guthrie, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Order

In the matter of editorial amendment of Part 87 of the Commission's rules to reflect a Part 1 requirement.

Adopted: April 8, 1981.

Released: April 9, 1981.

1. Section 1.924(a)(2) of the Commission's Rules states that licenses for stations in the Aviation and Marine Radio Services cannot be assigned. Whenever there is a change in ownership of one of these stations, the new owner must apply for a new license. This rule is not reflected in Part 87, the aviation rules.

2. We are therefore proposing to amend our rules by adding this restriction to Part 87 in order to clear up any misunderstanding which may have resulted from this omission.

3. Accordingly, the Commission's rules are being amended editorially. Authority for this action is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, and in Section 0.231(d) of the Commission's Rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553(d) do not apply.

4. In view of the above, it is ordered, that the rule amendment set forth in the attached Appendix is adopted effective April 22, 1981.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 304)

Federal Communications Commission.

Alan R. McKie,

Deputy Executive Director.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

In § 87.29, a new paragraph (a)(6) is added to read as follows:

§ 87.29 Application for aircraft radio station license.

(a) * * *

(6) An aircraft station license may not be transferred or assigned. In lieu of transfer or assignments, an application for a new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

* * * * *

[FR Doc. 81-12556 Filed 4-24-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[Docket 64a]

Participation by Minority Business Enterprise in Department of Transportation Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Final Rule.

SUMMARY: The Department of Transportation is publishing a final rule to make an interim amendment to its minority business enterprise regulation. This interim provision will remain in effect during the time that the Department is preparing a comprehensive revision of the entire minority business rule. The interim amendment changes the contract award mechanism of the regulation and is necessary to relieve regulatory burdens associated with the existing rule pending the completion of this comprehensive revision.

EFFECTIVE DATE: This rule is effective April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, 400 Seventh Street SW., Washington, D.C. 20590 (202)-426-4723.

SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation (DOT) published a final minority business enterprise (MBE) regulation on March 31, 1980 (49 CFR Part 23; 45 FR 21172). The regulation requires recipients of DOT financial assistance to prepare and submit for DOT approval MBE affirmative action programs. The rule requires that these programs contain several elements. These elements include requiring prospective contractors to submit the names and other information about their MBE subcontractors (§ 23.45(h)) and provisions requiring recipients to ensure that contracts are awarded to bidders that meet MBE goals or make sufficient reasonable efforts to do so (§ 23.45(i)). The latter provision establishes a conclusive presumption that, if one bidder meets the goal and offers a reasonable price, bidders that did not meet the goal did not exert sufficient reasonable efforts, and hence are ineligible to receive the contract.

Sections 23.45 (h) and (i) have been criticized as establishing an illegal quota system, conflicting with the principle of awarding contracts to the lowest bidder, and unnecessarily raising costs. A significant number of state transportation agencies and other recipients have requested exemptions from these provisions. Seventeen lawsuits have been filed in various Federal district courts challenging the regulations.

In Executive Order 12291 and other directives, President Reagan has told Federal agencies to review their existing regulations to determine which among them can be modified or rescinded to reduce regulatory burdens. The Department of Transportation has identified the MBE rule as one of the costly or controversial rules deserving priority review. After reviewing the rule and the controversy and litigation surrounding it, the Department has concluded the rule should be changed. The Department intends to publish a notice of proposed rulemaking (NPRM) to revise the rule comprehensively in the near future.

Proposed Interim Amendment

Given the requirements of the rulemaking process, it will be a number of months before the Department can promulgate a final rule based on this planned comprehensive NPRM. The development of a proposed revision to an entire significant regulation, involving the reconsideration of all issues, of course takes much longer than making the much more narrow and limited change made by this amendment. Consequently, on March 12, 1981, the Department published a proposed interim amendment (46 FR 16282). The proposed interim amendment would alter the controversial MBE contract award mechanism of the Department's minority business rule, replacing the "conclusive presumption" approach with a provision that would allow the low bidder to receive the contact if it met the MBE contract goals or if it satisfied the recipient that it had made good faith efforts to do so. In the preamble to the proposed interim amendment, the Department provided a list of factors which recipients could take into account in determining whether a contractor had made good faith efforts.

In response to this NPRM, the Department received over 400 comments. Most of these comments took a position for or against the proposed

interim change. While the Department did not base its decision on the number of responses for and against the proposal (some of which, on both sides, appeared to be the product of concerted form letter compaigns), a numerical breakdown of comments for and against the proposal by different categories of commenters is interesting. The comments by non-minority contractors and groups representing them were heavily in favor of the change; comments from minority contractors and groups representing them were heavily against the proposal. Most, though not all, state and local government recipient agencies and officials favored the change. The distribution of comments is as follows:

	For	Against
Nonminority contractors and groups	226	0
Minority contractors and groups	3	102
State and local agencies and officials	34	8
Members of Congress	1	4
Unaffiliated individuals and miscellaneous groups	11	9
Totals	275	123

Four non-minority contractors and four State and local agencies suggested that the interim amendment did not go far enough in eliminating regulatory requirements; some of these suggested that the Department should simply withdraw the rule altogether. Another 14 comments were not identifiable as for or against the proposed amendment or did not specifically address the interim amendment. Many commenters, in addition to stating a position on the proposed interim amendment, also made recommendations for the comprehensive revision of the entire rule. These suggestions will not be addressed in the context of the interim rulemaking; however, these comments will be taken fully into account as the Department prepares proposed revisions to the entire MBE rule.

The Comment Period Issue

The proposed interim rule was published with a two-week comment period. The NPRM cited three reasons for this shorter-than-usual comment period. These reasons were the potential adverse effect of a longer comment period on recipients' procurement processes and confusion in the administration of the program, the fact that DOT has already received a significant number of comments on the issue of the contract award mechanism during the 11 months since the original MBE rule was already published, and the existence of a significant number of ongoing lawsuits that have focused on the contract award mechanism of the existing regulation. Approximately 18 commenters, all of them minority contractors or persons sharing the minority contractors' point of view on the proposed interim amendment, requested that this comment period be extended, usually to 60 days. Some of these commenters also requested that public hearings be held concerning the proposed interim amendment.

The Department believes that the original reasons for establishing a two-week comment period remain valid. Moreover, the Department received in response to the NPRM over 400 public comments. Significant numbers of comments were received from representatives of all the major groups concerned—minority and non-minority contractors and recipients—as well as the views of a significant number of other persons. These comments make the points of view of these groups very clear. It should be pointed out that the number of comments received in response to this NPRM is significantly higher than the number of comments (approximately 260) received in response to the NPRM for the original minority business enterprise rule itself, which had a 90-day comment period.

Because the Department believes its reasons for a shorter comment period remain valid and because the Department received extensive public comments that appear to represent all major interested groups and all major points of view on the proposed interim amendment, the Department does not believe that an extended comment period or public hearings would produce significant new or different information from that which the Department has already received. Consequently, the Department has decided against extending the comment period or holding public hearings on the proposed interim amendment.

Suggestions for More Sweeping Change

Eight comments, four from non-minority contractors and four from recipients, requested that the Department make more radical changes in the rule than those proposed by the NPRM or withdraw the rule altogether. These comments asserted, in effect, that it is inappropriate, illegal, or both, for the Department to establish even the kind of requirements pertaining to the use of minority businesses proposed by the NPRM. It should be emphasized that a strong majority both of recipients and non-minority contractors and their groups did not take this position, and supported the proposed change.

The Department will consider a full range of possible alternatives as it comprehensively reviews the regulation. However, this NPRM had a narrow purpose; namely, to change the single most troublesome portion of the regulation while the comprehensive revision process was underway. The Department wishes to permit recipients' MBE programs to continue to exist with as little disruption as possible during this interim period. In addition, more radical changes could exceed the scope of the March 12 NPRM, making questionable the procedural propriety of such changes. For these reasons, the Department will not make additional changes to the regulation as part of this interim rule.

Section-by-Section Analysis

The Department has decided to adopt the proposed interim amendment. However, the Department has made a number of refinements and technical changes in the language of the proposed interim amendment in response to comments.

Section 23.45(h)(1). The Department has rewritten this paragraph for greater clarify. Some commenters believed that the relationship of this paragraph to the requirement of § 23.45(g) with respect to setting of contract goals was confusing. As it is now written, the paragraph provides that, in all contracts for which contract goals have been established, the recipient shall, in the solicitation, inform competitors that the apparent successful competitor will be required to submit MBE participation information to the recipient and that award of the contract will be conditioned upon satisfaction of the requirements established by the recipient pursuant to this subsection. This paragraph does not in any way change the circumstances under which recipients are to set contract goals. The circumstances under which contract goals are set are governed by § 23.45(g), and recipients should continue to comply with paragraph (g) as they have in the past.

Subparagraph (i). This subparagraph, which describes the information concerning MBE participation that contractors must submit to a recipient, is unchanged from the NPRM. Recipients are free to specify the format in which this information is submitted. One recipient pointed out that it had asked for, and received from the Department, permission to require contractors to submit the aggregate dollar amount of MBE participation rather than the amount of MBE participation for each named firm. This recipient may continue to follow the same practice under the interim amendment.

Subparagraph (ii). This subparagraph sets forth with greater clarity and

specificity the interim amendment's requirements for the timing of the submission of the MBE information to recipients. Several recipients commented that, in their own procurement practices, it made better sense to require the submission of this information at a time other than before the "award" of the contract. One State's DOT, for example, said that in its procurement process, the appropriate time to require submission of the information was not "award" but rather "execution," the time at which the state made its binding commitment to the contractor. The Department believes that these recipients' requests for greater flexibility in the timing of the submission of MBE information have merit. Therefore, this subparagraph permits recipients to select the time at which they require MBE information to be submitted, so long as the time of submission is before the recipient binds itself to the performance of the contract by the apparent successful competitor.

The Department did not adopt a comment by several other commenters that MBE information should be permitted to be submitted, and compliance with good faith efforts determined, after the recipient has awarded and signed the contract and a contractor's performance has already begun. While provisions that permit this approach are among those that the Department may wish to consider as part of its comprehensive revision of the rule, the Department does not believe that it is necessary or appropriate to make this more fundamental change in its approach at this time. The determination by the recipient that the contractor has met the goal or made good faith efforts, under this interim amendment, continues to be made before the recipient commits itself to the performance of the contract by the apparent successful bidder. This interim amendment, again, was intended to correct an immediate problem with respect to the contract award mechanism while creating as little disruption as possible in recipients' existing MBE programs.

Paragraph (h)(2). This paragraph is adopted, with one substantive change, from § 23.45(h)(1)(ii) of the NPRM. It provides that if the MBE participation submitted does not meet MBE contract goals (including separate goals for women-owned businesses), the apparent successful competitor must satisfy the recipient that the competitor made good faith efforts to meet the goals. This section is at the heart of the change made by the interim amendment. As previously noted, different categories of commenters had widely divergent views on the wisdom of adopting this amendment. The Department is persuaded that the change is advisable. As a matter of policy, this Department, and the entire Administration, are committed to achieving legitimate regulatory objectives with the least possible burden on affected parties.

The Department believes that prohibiting discrimination against minority and women-owned businesses and ensuring that such businesses have full opportunity to participate in DOT-assisted programs are legitimate government objectives.

The Department has also concluded, however, that requiring recipients to use the contract award mechanism in the existing § 23.45(i) is an unduly burdensome means of achieving this objective. In addition, the uncertainty surrounding the legal validity of the existing contract award mechanism has made rational and consistent administration of the Department's MBE program difficult. In the interim period to be covered by this amendment, the Department believes that changing the regulation's requirements to make them less burdensome will not adversely affect the Department's ability to carry out the objectives described above.

Subparagraph (i). The preamble to the NPRM stated that recipients who wished to continue using MBE programs employing the contract award mechanism of the existing § 23.45 (h) and (i) could continue to do so. Several recipients commented that they wanted a provision to be inserted in the text of the amendment itself ensuring that they could continue to use mechanisms of their own choice that differ from or went beyond the good faith efforts approach of the interim amendment. These commenters were concerned that, in the absence of such language, the amendment could be read as limiting them to the good faith efforts approach. A few non-minority contractors commented to the opposite effect; that is, they believed that the interim amendment should explicitly prohibit recipients from going beyond the good faith efforts approach.

In the Department's view, this interim amendment—which is to be in effect only until a comprehensive revision of the rule is completed—should permit recipients the maximum degree of flexibility and confront them with the minimum possible disruption. In addition, some recipients who commented on this issue noted that they had MBE programs that differed both from the contract award mechanism of the existing DOT regulation and from the good faith efforts approach of the interim amendment. We agree with these recipients that they should be permitted to use the mechanism of the original § 23.45 (h) and (i) or another system of their own choice, as long as it is as effective or more effective in achieving the regulatory objectives as the good faith efforts approach. The good faith efforts approach of the interim amendment is designed to establish a minimum, not a maximum, level of recipient program strength. The funding that DOT recipients receive for DOT-assisted programs and projects will not be adversely affected in any way by the choice the recipient makes under this paragraph.

This subparagraph also provides that if a recipient intends to use a mechanism other than the good faith efforts mechanism set forth in this amendment, it must write a letter to the appropriate DOT office concerning the content of the requirements it has prescribed within a month of this amendment's effective date. The DOT office concerned, for these purposes, is the same DOT office to which the recipient submitted its MBE program under 49 CFR Part 23. DOT approval of requirements differing from those set forth in this amendment is not necessary.

Subparagraph (ii). If DOT determines that alternative requirements established by a recipient are not as or more effective than the good faith efforts requirement of this interim amendment, DOT may subsequently direct the recipient to award contracts according to the good faith efforts requirement of the interim amendment in place of the recipient's own procedure. This determination is not a finding of noncompliance with the regulation, but merely an administrative decision that the recipient's chosen mechanism will be less effective in ensuring opportunities for MBE participation in DOT-assisted contracts.

Effect on Pending Procurements

Solicitations issued on or after the effective date of this amendment may employ the amendment's good faith efforts mechanism. Solicitations issued before this amendment's effective date, however, were required to comply with the requirements of former § 23.45(h) and (i). It is likely that, in a number of cases, recipients will have issued solicitations before the effective date of this amendment, with contract award scheduled for after the effective date.

The Department intends that recipients may use the good faith efforts approach with respect to any contract award that occurs on or after the

amendment's effective date. Consequently, insofar as compliance with DOT regulatory requirements is concerned, a recipient may use the good faith efforts approach to award such a contract even though the solicitation was issued before the effective date of the amendment. Of course, recipients' actions must also conform to their own procurement laws, rules and practices. Where a recipient issued a solicitation saying that the contract would be awarded according to the "conclusive presumption" mechanism of the original § 23.45 (h) and (i), the recipient may need to amend the solicitation or take other action in order to award the contract under this amendment's good faith efforts approach.

Effect on MBE Programs Approvals

The Department has rejected, or has withheld approval of, a number of recipients' MBE programs because these programs do not conform to the requirements of § 23.45 (h) and (i) of the original MBE regulation. The Department is now in the position to be able to approve any recipient's MBE program the contract award mechanism of which is consistent with the terms of this interim amendment, as long as all other portions of the MBE program are also acceptable. Approval of MBE programs may still be withheld pending resolution of problems in other areas of programs, however. Also, the Department will accept modifications of previously approved programs that conform to this interim amendment.

Paragraph (h)(3). This paragraph is substantively unchanged from the NPRM, except that, to be consistent with paragraph (h)(2), language has been inserted to recognize that recipients may establish requirements in lieu of the good faith efforts approach. Where a recipient does so, receiving a contract is conditioned on meeting the recipient's requirements.

Appendix A. A number of commenters complained that the discussion of the "good faith efforts" in the preamble to the NPRM was not sufficiently explicit. To some extent, this criticism was of the concept of the good faith efforts itself. That is, some commenters felt that "good faith efforts" is an inherently subjective, judgmental term that makes adequate evaluations of contractor efforts difficult. Some of these commenters recommended that the regulation include a specific and explicit set of criteria for what constitutes a good faith effort. The Department did not adopt this recommendation. In the Department's view, determinations concerning good faith efforts inherently involve the exercise of discretion and judgment. An attempt to provide a specific and explicit set of criteria, sufficient to cover all situations with precision, could produce a document that would be too large and complex. This is not a desirable result. However, the Department did adopt the suggestion that guidance concerning good faith efforts should be attached to the regulation.

For this reason, the Department has expanded its guidance on this subject and transferred it from the preamble to Appendix A. As Appendix A states, the contractor's efforts, in order to be viewed as good faith efforts, must be those that one could reasonably expect a contractor to take if the contractor were actively and aggressively seeking to meet the MBE goals. The level of efforts required is a level that could be expected to meet the MBE goals, not merely to obtain some MBE participation. *Pro forma* efforts, of course, do not constitute good faith efforts.

In looking at a contractor's efforts, the recipient should focus not on the contractor's state of mind or sincerity but rather upon whether the efforts the contractor actually made could reasonably be expected to produce a level of MBE participation sufficient to meet the goals. It is this kind of effort that represents the "good hard try" spoken of in the preamble to the NPRM.

Appendix A includes a list of types of efforts by contractors through which they could obtain MBE participation and meet contract goals. Despite the statement in the preamble to the NPRM that the list was not intended to be a mandatory checklist, some commenters were still concerned that recipients would view the items on the list as mandatory. The Department reiterates that it does not intend to require recipients to require contractors to make any one or any combination of the kinds of efforts set forth in the list. The use of this list, or items on it, by recipients is discretionary. Nor is the list intended to be exhaustive or exclusive.

A number of commenters, particularly among non-minority contractors, expressed concern about the language of one or another of the items on the list. In most cases, the concern was that if a recipient insisted that a contractor make a certain kind of effort, contractors would be adversely affected. Because the items on the list are merely suggestions of things at which recipients may look, and are not being mandated by the Department, the Department is satisfied that it is not imposing unrealistic or unworkable requirements through this guidance. If recipients exercise their discretion, with respect to the efforts they demand of contractors, in a way that the contractors believe is adverse to their interests, the contractors and recipients involved should resolve the differences among themselves. Consistent with the Department's desire to permit flexibility to recipients in the implementation of the regulation, we do not believe that it is appropriate for the Department to assume an overly prescriptive role in this area.

The Department did make a few minor changes to the list of kinds of efforts as the result of comments. In item number 1, the Department added the word "contracting" to ensure that the Department was not misunderstood to focus its program solely on subcontracting. In item 3, language was added relating to the timeliness of notice provided to MBEs concerning contracting opportunities. In item 5, the Department added language to specify that one type of effort that could be included was breaking down contracts into economically feasible units to facilitate MBE participation. In item number 8, the Department added assistance with lines of credit to the kinds of assistance which contractors might provide MBEs. Finally, the Department added a new number 9 to the list, concerning the use by the contractor of minority organizations and other resources to obtain MBE participation.

Effective Date

The Department of Transportation is making this rule effective immediately. This rule involves matters relating to public grants. Consequently, because of the exception of matters relating to public grants from the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553(a)(2)), the Act's requirement that a rule be published 30 days before its effective date (5 U.S.C. 553(d)) does not apply to this rule.

Under the Department's Regulatory Policies and Procedures, the Department may make a rule effective upon publication if it publishes a statement of its reasons for the action. The Department believes that it would be impracticable or contrary to the public interest to delay the effective date of this rule for the following reasons:

1. Recipients are delaying procurements in order that solicitations can be issued under the terms of this amendment. Other recipients are intending to amend solicitations or resolicit contracts under the amendment's provisions. To delay the effective date of the rule for 30 days

would delay procurements, cause confusion among recipients and contractors, and potentially hold up work on DOT-assisted projects.

2. This amendment is designed to relieve a regulatory burden by eliminating a requirement that the Department has concluded should no longer be in effect. If, as the Department believes, it is in the public interest to effect regulatory relief with respect to the MBE contract award mechanism, then it is clearly contrary to the public interest to postpone the implementation of this relief.

3. A significant number of lawsuits are still pending with respect to the MBE regulation. It is in the public interest to resolve expeditiously the issues in these lawsuits. The final interim amendment is expected to facilitate this process, and consequently should be made effective as soon as possible.

The policy official responsible for making the determination concerning the effective date of the rule is John Fowler, General Counsel of the Department of Transportation.

Regulatory Evaluation

Consistent with the Department of Transportation's Regulatory Policies and Procedures, the Department has prepared a Regulatory Evaluation in connection with this rulemaking. The Regulatory Evaluation is on file in the office of the Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Room 10421, 400 7th Street SW., Washington D.C. The phone number of this office is 202-426-4723. The public may review the Regulatory Evaluation at this office from 9:00 a.m. to 5:00 p.m. Monday—Friday, or may call the office and request that a copy be mailed.

Regulatory Flexibility Act Determination

The Department has determined that this interim amendment will not have significant economic effects on a significant number of small entities. The regulation is essentially a relaxation of a regulatory burden that many business and recipient organizations believed that the existing regulation imposed. By ensuring that the low bidder will have a full opportunity to obtain contracts in all cases, so long as that bidder makes good faith efforts to meet MBE contract goals, the regulation may reduce potential costs to business and government. Any impact that the regulation has with respect to small businesses and other small entities, therefore, is likely to be a positive impact.

Issued in Washington, D.C. on April 22, 1981.

Drew Lewis,

Secretary of Transportation.

Accordingly, 49 CFR Part 23 is amended by revising § 23.45 (h); removing paragraph (i); and adding Appendix A to the section to read as follows:

§ 23.45 [Amended]

* * * * *

(h) *A means to ensure that competitors make good faith efforts to meet MBE contract goals:*

(1) For all contracts for which contract goals have been established, the recipient shall, in the solicitation, inform competitors that the apparent successful competitor will be required to submit MBE participation information to the recipient and that the award of the contract will be conditioned upon satisfaction of the requirements established by the recipient pursuant to this subsection.

(i) The apparent successful competitor's submission shall include the following information:

(A) The names and addresses of MBE firms that will participate in the contract;

(B) A description of the work each named MBE firm will perform;

(C) The dollar amount of participation by each named MBE firm.

(ii) The recipient may select the time at which it requires MBE information to be submitted. *Provided,* that the time of submission shall be before the recipient commits itself to the performance of the contract by the apparent successful competitor.

(2) If the MBE participation submitted in response to paragraph (h)(1) of this section does not meet the MBE contract goals, the apparent successful competitor shall satisfy the recipient that the competitor has made good faith efforts to meet the goals.

(i) The recipient may prescribe other requirements of equal or greater effectiveness in lieu of good faith efforts. Any recipient choosing alternative requirements shall inform the DOT office concerned by letter of the content of the requirements it has prescribed within 30 days of the effective date of this subsection. The recipient may put these alternative requirements into effect immediately and prior DOT approval of alternative requirements is not necessary.

(ii) If the Department determines that the alternative requirements are not as or more effective than the good faith efforts provisions of this subsection, the Department may require the recipient to use the good faith efforts requirements of this subsection instead of the requirements it has prescribed.

(3) Meeting MBE contract goals, making good faith efforts as provided in paragraph (h)(2) of this section, or meeting requirements established by recipients in lieu of good faith efforts, is a condition of receiving a DOT-assisted contract for which contract goals have been established.

(i) (Reserved)

* * * * *

Appendix A—Guidance Concerning Good Faith Efforts

To determine whether a competitor that has failed to meet MBE contract goals may receive the contract, the recipient must decide whether the efforts the competitor made to obtain MBE participation were "good faith efforts" to meet the goals. Efforts that are merely *pro forma* are not good faith efforts to meet the goals. Efforts to obtain MBE participation are not good faith efforts to meet the goals, even if they are sincerely motivated, if, given all relevant circumstances, they could not reasonably be expected to produce a level of MBE participation sufficient to meet the goals. In order to award a contract to a competitor that has failed to meet MBE contract goals, the recipient must determine that the competitor's efforts were those that, given all relevant circumstances, a competitor actively and aggressively seeking to meet the goals would make.

To assist recipients in making the required judgment, the Department has prepared a list of the kinds of efforts that contractors may make in obtaining MBE participation. It is not intended to be a mandatory checklist; the Department does not require recipients to insist that a contractor do any one, or any particular combination, of the things on the list. Nor is the list intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a contractor has made good faith efforts, it will usually be important for a recipient to look not only at the different kinds of efforts that the contractor has made, but also the quantity and intensity of these efforts.

The Department offers the following list of kinds of efforts that recipients may consider:

(1) Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled by the recipient to inform MBEs of contracting and subcontracting opportunities;

(2) Whether the contractor advertised in general circulation, trade association, and minority-focus media concerning the subcontracting opportunities;

(3) Whether the contractor provided written notice to a reasonable number of specific MBEs that their interest in the contract was being solicited, in sufficient time to allow the MBEs to participate effectively;

(4) Whether the contractor followed up initial solicitations of interest by contacting MBEs to determine with certainty whether the MBEs were interested;

(5) Whether the contractor selected portions of the work to be performed by MBEs in order to increase the likelihood of meeting the MBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate MBE participation);

(6) Whether the contractor provided interested MBEs with adequate information about the plans, specifications and requirements of the contract;

(7) Whether the contractor negotiated in good faith with interested MBEs, not rejecting MBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;

(8) Whether the contractor made efforts to assist interested MBEs in obtaining bonding, lines of credit, or insurance required by the recipient or contractor; and

(9) Whether the contractor effectively used the services of available minority community organizations; minority contractors' groups; local, state and Federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of MBEs.

(Title VI of the Civil Rights Act of 1964; Section 30 of the Airport and Airway Development Act of 1970, as amended; Section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976; Section 19 of the Urban Mass Transportation Act of 1964, as amended; 23 U.S.C. 324; Executive Order 11625; Executive Order 12138)

[FR Doc. 81-12620 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

49 CFR Parts 171 and 178

[Docket No. HM163E; Amdt. Nos. 171-61, 173-146,177-54, 178-66]

Withdrawal of Bureau of Explosives Delegations of Authority and Miscellaneous Amendments

Correction

In FR Doc. 81-11604, published at page 22194 in the issue of Thursday, April 16, 1981, make the following corrections:

1. on page 22195, second column, the section heading now reading

§ 171.6 Matter incorporated by reference

should read

§ 171.7 Matter incorporated by reference.

2. On page 22196, first column, the section heading now reading

§ 17859-16 Porous filling

should read

§ 178.59-16 Porous filling.

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Commercial Tanner Crab Fishery off the Coast of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Director, Alaska Region, (Regional Director), National Marine Fisheries Service (NMFS), closes by field order the North Mainland Section of the Kodiak District in Registration Area J to fishing for Tanner crab (*Chionoecetes* spp) by vessels of the United States. This action is necessary because the desired harvest level in this section of the Kodiak District has been reached. The action will prevent overfishing on localized stocks of Tanner crab.

DATES: Effective date: April 22, 1981 until 11:59 p.m., Alaska Daylight Time, April 30, 1981. Comment date: Public Comments must be received on or before May 7, 1981.

ADDRESS: Comments may be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP) provides for in-season adjustments to fishing seasons and areas. Implementing rules in 50 CFR Part 671 specify in § 671.27(b) that these decisions shall be made by the Regional Director under the criteria set out in that section. On June 17, 1980, the Assistant Administrator for Fisheries, NOAA, delegated to the Regional Director authority to promulgate field orders making in-season adjustments.

50 CFR 671.26(f) creates four districts within Registration Area J. One of these is the Kodiak District which is managed by the Alaska Department of Fish and Game (ADF&G) as eight separate sections. The Tanner crab stock in each section is evaluated individually to determine its abundance and status. Amendment 6 to the FMP will establish the same eight sections to be consistent with the State's management regime; final rules to this effect have not yet been promulgated.

The sections were created, in part, to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular section when the desired harvest level in that section is reached. The optimum yield is nine to fifteen million pounds for the entire Kodiak District: a guideline harvest level of 1.1 million pounds for the North Mainland Section was adopted by the Alaska Board of Fisheries in December 1980. This harvest level was based on a 40 percent exploitation of the legal size crabs determined to be present following the 1980 indexing survey conducted by ADF&G.

Although the 1981 season opened January 22, active fishing has occurred only since February 25 due to delays in arriving at a price settlement between the fishermen and the processors. The average number of crabs caught per pot has declined from 45 to about 28 since fishing commenced. Catch per unit of effort is less, therefore, than in 1980 when the number of crabs caught per pot started at 70 and declined to 30 by the end of the season. The smaller number of crabs caught per pot this year compared to last year indicates the population size is indeed smaller as predicted by the 1980 survey.

Based on fishery performance and the estimate of stock size the harvest level should be held to 1.1 million pounds. This amount will be harvested by March 12, 1981.

In light of this information, the Regional Director has found that the condition of Tanner crab stocks in the North Mainland Section is substantially different from that anticipated at the beginning of the fishing year, and that this circumstance reasonably supports the closure of the North Mainland Section for the rest of the 1980-81 fishing year rather than at 11:59 p.m., Alaska Daylight Time, on April 30, 1981. Tanner crab may still be taken from January 5 until April 30 in the Kodiak District unless closed by field order, except in that portion of the Kodiak District between 156°20'13"W. longitude (Kilokak Rocks) and 157°35"W. longitude (Cape Kumlik) where Tanner crab may be taken from January 5 through May 15.

Because the information upon which the Regional Director based his finding has only recently become available, it would be impracticable to provide a meaningful opportunity for prior public notice and comment on this field order and still impose the prompt closure which sound conservation of the resource and the prevention of overfishing appear at this point to demand. The Regional Director therefore finds, under 5 USC § 553(b)(B) and (d)(3), and under 50 CFR 671.27(b)(4)(i)

that there is good cause for not providing opportunity for public advance notice and public comment on this field order prior to its promulgation, and for not allowing the pasage of the normal 30-day period before it goes into effect. Therefore, under 50 CFR 671.27(a)(2), this field order shall become effective immediately following its filing for publication in the Federal Register and publication for 48 hours through ADF&G procedures. Under 50 CFR § 671.27(b)(4)(iii), public comments on this field order may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this field order is based will be available for public inspection during business hours (8:00 a.m.–4:30 p.m.) at the NMFS Kodiak field office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska. The Regional Director will reconsider the necessity of this field order in light of the comments received, and subsequently published in the Federal Register a notice either extending, modifying, or rescinding this field order.

A final environmental impact statement was prepared on approval and implementation of the FMP under section 102(2)(C) of the National Environmental Policy Act, and is on file with the Environmental Protection Agency.

The Acting Administrator, NOAA, has determined that this field order is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because: (1) it will not result in an annual effect on the economy of $100 million or more; (2) it will not result in a major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions; and (3) it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By enhancing the long-term productivity of the Tanner crab fishery resource and thus increasing the long-term availability of Tanner crab to domestic fishermen and consumers, this field order can be expected to enhance investment in and the productivity of the United States fishing industry; to lower Tanner crab prices to consumers; and to enhance the ability of the United States fishing industry to compete in foreign shellfish markets. The short-term restrictions imposed by this field order are not expected to result in countervailing short-term decreases in investment, productivity, and competitiveness or in significant increases in consumer prices, because (1) the total amount of crab involved in the closure is relatively small, (2) the anticipated harvest of 1.1 million pounds is well within reasonable expectations for yield from the fishery in 1981, and (3) alternative fishing grounds are available to participants in the fishery near the area to be closed. This field order implements existing regulations under the FMP. For these same reasons, the Acting Administrator, NOAA, determines that this field order will not have a significant economic impact on a substantial number of small entities, and thus does not require the preparation of a regulatory flexibility analysis under 5 USC §§ 603 and 604. Finally this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, under the Paperwork Reduction Act of 1980.

Because of the need outlined above for prompt action to protect the Tanner crab resource from overfishing, this field order responds to an emergency situation within the meaning of section 8 of Executive Order 12291 and is thus exempt from the requirement of section 3(c)(3) of that Order that it be submitted to the Director of the Office of Management and Budget 10 days prior to publication. This field order is being transmitted to the Director simultaneously with its filing in the Federal Register.

Signed on behalf of the Regional Director in Washington, D.C., this 22 day of April, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR Part 671 is amended as follows:

1. The authority citation for Part 671 reads as follows:

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

2. In Part 671, § 671.26 is amended by adding paragraph (f)(5) as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(f) *Registration Area J.* * * *

* * * * *

(5) *Early Closure of 1981 Fishing Year in North Mainland Section of Kodiak District.* Notwithstanding paragraph (f)(2)(i) of this section, the taking of Tanner crab is prohibited after 12:00 noon, Alaska Standard Time, on April 22, 1981, in that portion of the Kodiak District north of 58° N. latitude and west of a line from 58°51′ N. latitude, 152°45′ W. longitude to 58° N. latitude, 154° W. longitude. This paragraph (f)(5) shall expire at 11:59 p.m., Alaska Daylight Time, on April 30, 1981.

* * * * *

[FR Doc. 81-12571 Filed 4-22-81; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 671

Commercial Tanner Crab Fishery off the Coast of Alaska.

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rules.

SUMMARY: The Director, Alaska Region, (Regional Director), National Marine Fisheries Service (NMFS), closes by field order (1) the Southern District in Registration Area H, and (2) the Westside Section of the Kodiak District in Registration Area J, to fishing for Tanner crab by vessels of the United States effective April 22, 1981, rather than on April 30, 1981. NMFS estimates that the desired harvest level for the Southern District of 1.25 million pounds and for the Westside Section of 500,000 pounds was achieved on March 18, 1981, and March 23, 1981, respectively. The Regional Director is taking this conservation measure to prevent overfishing of Tanner crab stocks in these areas.

DATES: April 22, 1981.

Effective date: Until 11:59 p.m., ADT, April 30, 1981.

Comment date: Public comments are invited until May 7, 1981.

ADDRESS: Comments may be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (address above). Telephone (907) 586–7221.

SUPPLEMENTARY INFORMATION: The Tanner crab fishery management plan (FMP) provides for in-season adjustments to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these decisions shall be made by the Regional Director under the criteria set out in that section. On June 17, 1980, the Assistant Administrator for Fisheries, NOAA, delegated to the Regional Director authority to promulgate field orders making in-season adjustments.

Southern District

50 CFR 671.26(e) creates six districts within Registration Area H (Cook Inlet) to prevent overfishing of individual Tanner crab stocks by allowing closure

of a particular district when the desired harvest level in that district is reached. The FMP states that there are "three Tanner crab stock units within the Cook Inlet area that are separated geographically." One of these stock units is the Southern, or Kachemak Bay, stock, 50 CFR 671.26(e)(2)(i) currently provides that the season for harvest of Tanner crab by vessels of the United States is December 1 through April 30 in the Southern District.

The overall optimum yield (OY) for all of Registration Area H is 5.3 million pounds; the State of Alaska's 1980 Tanner crab index survey indicates that there were 1.0 to 1.5 million pounds of legal male Tanner crab available for harvest in the Southern District. The actual desired harvest is the midpoint of the range, or about 1.25 million pounds, which is based on a direct correlation between the catch of legal male Tanner crab during the index survey and the amount of available legal crab. Catch per unit of effort (CPUE) from December 1, 1980 through March 1981 declined from 10.0 crabs per pot to 1.1 crabs per pot. The declining CPUE substantiates the results of the index survey and indicates that the optimum yield can not be achieved without harm to the resource. It is estimated that the desired harvest of 1.25 million pounds of crab was achieved on March 18, 1981.

Westside Section

50 CFR 671.26(f) creates four districts within Registration Area J. One of these is the Kodiak District which is managed by the Alaska Department of Fish and Game (ADF&G) as eight separate sections. The Tanner crab stock in each section is evaluated individually to determing its abundance and status. Amendment #6 to the FMP is expected to establish the same eight sections, to be consistent with the State's management regime; final rules to this effect have not yet been promulgated.The sections were created, in part, to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular section when the desired harvest level in that section is reached. The optimum yield is 35 million pounds for the entire Kodiak District; a guideline harvest level or 500,000 pounds for the Westside Section was adopted by the Alaska Board of Fisheries in December 1980. This guideline harvest level was based on an index survey of abundance conducted in the Westside Section. The survey showed a 35% decrease in abundance of legal size crab in 1980 as compared to 1979. During the Westside Section fishery, which began January 22, 1981, CPUE declined over most of the section. In the portion of the section that received the most fishing pressure, CPUE has declined from 50 crabs per pot to 16 crabs per pot. The declining CPUE substantiates the results of the index survey and indicates that the optimum yield cannot be achieved without harm to the resource. It is estimated that the desired harvest level of 500,000 pounds was achieved on March 23, 1981.

In light of this information, the Regional Director has found that the condition of Tanner crab stocks in the Southern District and Westside Section is substantially different from the condition anticipated at the beginning of the fishing year and that this circumstance reasonably supports closure of the Southern District and Westside Section for the rest of the respective fishing years at 12:00 noon, Alaska Standard Time, on April 22, 1981, rather than on April 30, 1981.

Because the information upon which the Regional Director based his finding has only recently become available, it would be impracticable to provide a meaningful opportunity for prior public notice and comment on this field order and still impose the prompt closure which sound conservation of the resource and the prevention of overfishing appear at this point to demand. The Regional Director therefore finds, under 5 U.S.C. 553(b)(B) and (d)(3), that there is good cause for not providing opportunity for public comment on this field order prior to its promulgation, and for not allowing the passage of the normal 30-day period before it goes into effect. Therefore, this field order shall become effective upon filing for publication in the Federal Register and after publication for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this field order may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this field order are based will be available for public inspection during business hours (8:00 a.m.–4:30 p.m.) at the NMFS Kodiak field office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska. The Regional Director will reconsider the necessity of this field order in light of the comments received, and subsequently publish in the Federal Register a notice either confirming this field order's continued effect, modifying it, or rescinding it.

A final environmental impact statement was prepared on approval and implementation of the FMP pursuant to section 102(2)(C) of the National Environmental Policy Act, and is on file with the Environmental Protection Agency.

The Acting Administrator of the National Oceanic and Atmospheric Administration (NOAA) has determined that this field order is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because (1) it will not result in an annual effect on the economy of $100 million or more; (2) it will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions and (3) it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By enhancing the long-term productivity of the Tanner crab fishery resource and thus increasing the long-term availability of Tanner crab to domestic fishermen and consumers, this field order can be expected to enhance investment in and the productivity of the United States fishing industry; lower Tanner crab prices to consumers; and enhance the ability of the United States fishing industry to compete in foreign shellfish markets. The short-term restrictions imposed by this field order are not expected to result in countervailing short-term decreases in investment, productivity, and competitiveness or in significant increases in consumer prices, because: (1) the total amount of crab involved in the closure is relatively small; (2) the anticipated harvests of 1.25 million pounds for the Southern District and 500,000 pounds for the Westside Section are well within reasonable expectations for yield from the fishery in 1981; and (3) alternative fishing grounds are available to participants in the fishery near the areas to be closed. This field order is, in fact, merely a predictable implementation of the existing regulations implementing the FMP. For these same reasons, the Acting Administrator, NOAA, determines that this field order will not have a significant economic impact on a substantial number of small entities, and thus does not require the preparation of a regulatory flexibility analysis under 5 U.S.C. 603 and 604. Finally, this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons (Paperwork Reduction Act of 1980).

Because of the need outlined above for prompt action to protect the Tanner

crab resources from overfishing, this field order responds to an emergency situation within the meaning of section 8 of Executive Order 12291, and is thus exempt from the requirement of section 3(c)(3) of that Order that it be submitted to the Director of the Office of Management and Budget 10 days prior to publication. This field order is being transmitted to the Director simultaneously with its filing in the Federal Register.

Signed on behalf of the Regional Director in Washington, D.C., this 22d day of April 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR Part 671 is amended as follows:

1. The authority citation for Part 671 reads as follows:

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

2. For the reasons set out in the preamble, § 671.26 is amended by adding paragraphs (e)(4) and (f)(6) as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(e) Registration Area H. * * *

(4) *Early Closure of 1981 Fishing Year in the Southern District.* Notwithstanding paragraph (e)(2)(i) of this section, the taking of Tanner crab in the Southern District is prohibited after 6:00 p.m., Alaska Standard Time, on April 22, 1981. This paragraph (e)(4) shall expire at 11:59 p.m., ADT, on April 30, 1981.

* * * * *

(f) Registration Area J. * * *

(6) *Early Closure of 1981 Fishing Year in the Westside Section of the Kodiak District.* Notwithstanding paragraph (f)(2)(i) of this section, the taking of Tanner crab is prohibited after 12:00 noon, Alaska Standard Time, on April 22, 1981, in the waters north of a line connecting points (a) and (b), east of a line connecting points (b), (c), and (d), south of a line connecting points (d) and (e), and west of a line from a point (e) to (f); west of a line from point (g) to (h), and west of 152°30′ W in Shuyak Strait:

Cape Ikolik

(i) 57°17′15″ N., 154°47′ W.
(ii) 57°15′ N., 155°30′ W.
(iii) 58°00′ N., 154°00′ W.
(iv) 58°51′ N., 152°45′ W.
(v) 58°51′ N., 152°20′ W.
(vi) northern tip of Shuyak Is., 152°20′ W.

Inner Point

(vii) 57°54′ N., 152°47′ W.

Afognak Point

(viii) 57°59′ N., 152°47′ W.

This paragraph (f)(6) shall expire at 11:59 p.m., ADT, on April 30, 1981.

* * * * *

[FR Doc. 81-12569 Filed 4-22-81; 4:45 pm]

BILLING CODE 3510-22-M

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50 CFR Part 671

Commercial Tanner Crab Fishery Off the Coast of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Director, Alaska Region, (Regional Director), National Marine Fisheries Service (NMFS), closes by field order the Eastside Section of the Kodiak District in Registration Area J to fishing for Tanner crab by vessels of the United States effective April 22, 1981, rather than on April 30, 1981. Analyses of catch data and the soft-shell condition of many crabs indicate the desired harvest level for the Eastside Section should be held to approximately 800,000 pounds, which was achieved by March 29, 1981. The Regional Director is taking this conservation measure to prevent harm to Tanner crab stocks in this area.

EFFECTIVE DATE: April 22, 1981 until 11:59 p.m., ADT, April 30, 1981. Public comments are invited until May 7, 1981.

ADDRESS: Comments may be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska, 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (address above). Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION: The Tanner crab fishery management plan (FMP) provides for in-season adjustments to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) state that these decisions shall be made by the Regional Director under the criteria set out in that section. On June 17, 1980, the Assistant Administrator for Fisheries, NOAA, delegated to the Regional Director authority to promulgate field orders making in-season adjustments.

50 CFR 671.26(f) creates four districts within Registration Area J. One of these is the Kodiak District which is managed by the Alaska Department of Fish and Game (ADF&G) as eight separate sections. The Tanner crab stock in each section is evaluated individually to determine its abundance and status. Amendment No. 6 to the FMP is expected to establish the same eight sections to be consistent with the State's management regime; final rules to this effect have not yet been promulgated.

The sections were created, in part, to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular section when the desired harvest level in that section is reached. The optimum yield is 35 million pounds for the entire Kodiak District; a guideline harvest level of 800,000 pounds for the Eastside Section was adopted by the Alaska Board of Fisheries in December 1980. This guideline harvest level was based on an index survey of abundance conducted in the Eastside Section. The survey showed a 64 percent decrease in abundance of legal size crab in 1980 as compared to 1979.

Since the season opened on January 22, 1981, nearly 800,000 pounds have been harvested from the Eastside Section. Recently, the fleet has encountered increasing numbers of recently molted sublegal size crab. Catch per unit of effort (CPUE) of legal size crab has declined from 33 crabs per pot at the start of the season to 22 crabs per pot. Crabs that have recently molted have new soft shells that can be damaged easily.

Because of the soft shell condition and because the declining CPUE has substantiated the results of the index survey, further fishing to achieve the OY would likely harm the resource.

In light of this information, the Regional Director has found that the condition of Tanner crab stocks in the Eastside Section is substantially different from the condition anticipated at the beginning of the fishing year, and that this circumstance reasonably supports closure of the Eastside Section for the rest of the 1981 fishing year at 12:00 noon, Alaska Standard Time, on April 22, 1981, rather than at 11:59 p.m., ADT, on April 30, 1981.

Because the information upon which the Regional Director based his finding has only recently become available, it would be impracticable to provide a meaningful opportunity for prior public notice and comment on this field order and still impose the prompt closure which sound conservation of the resource and the prevention of overfishing appear at this point to demand. The Regional Director therefore finds, under 5 U.S.C. 553 (b)(B) and (d)(3), that there is good cause for not providing opportunity for public comment on this field order prior to its promulgation, and for not allowing the passage of the normal 30-day period before it goes into effect. Therefore, this

field order shall become effective immediately following its filing for publication in the Federal Register and publication for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this field order may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this field order is based will be available for public inspection during business hours (8:00 a.m.–4:30 p.m.) at the NMFS Kodiak field office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska. The Regional Director will reconsider the necessity of this field order in light of the comments received, and subsequently publish in the Federal Register a notice either confirming this field order's continued effect, modifying it, or rescinding it.

A final environmental impact statement was prepared on approval and implementation of the FMP under section 102(2)(C) of the National Environmental Policy Act and is on file with the Environmental Protection Agency.

The Acting Administrator of the National Oceanic and Atmospheric Administration (NOAA) has determined that this field order is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because (1) it will not result in an annual effect on the economy of $100 million or more; (2) it will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By enhancing the long-term productivity of the Tanner crab fishery resources and thus increasing the long-term availability of Tanner crab to domestic fishermen and consumers, this field order can be expected to enhance investment in and the productivity of the United States fishing industry; lower Tanner crab prices to consumers; and enhance the ability of the United States fishing industry to compete in foreign shellfish markets. The short-term restrictions imposed by this field order are not expected to result in countervailing short-term decreases in investment, productivity, and competitiveness or in significant increases in consumer prices, because the total amount of crab involved in the closure is relatively small. The anticipated harvest of 800,000 pounds for the Eastside Section is well within reasonable expectations for yield from the fishery in 1981. This field order is, in fact, merely a predictable implementation of the existing regulations implementing the FMP. Alternative fishing grounds are available to participants in the fishery near the area to be closed. For these same reasons, the Acting Administrator determines that this field order will not have a significant impact on a substantial number of small entities, and thus does not require the preparation of a regulatory flexibility analysis under 5 U.S.C. 603 and 604. Finally, this action does not increase the Federal paperwork burden for individuals, small business and other persons (Paperwork Reduction Act of 1980).

Because of the need outlined above for prompt action to protect the Tanner crab resources from overfishing, this field order responds to an emergency situation within the meaning of section 8 of Executive Order 12291, and is thus exempt from the requirement of section 3(c)(3) of that Order that it be submitted to the Director of the Office of Management and Budget 10 days prior to publication. This field order is being transmitted to the Director simultaneously with its filing in the Federal Register.

Signed on behalf of the Regional Director in Washington, D.C., this 22nd day of April, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR Part 671 is amended as follows:

1. The authority citation for Part 671 reads as follows:

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

2. For the reasons set out in the preamble, § 671.26 is amended by adding paragraph (f)(7) as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(f) Registration Area J. * * *

* * * * *

(7) *Early Closure of 1981 Fishing Year of the Eastside Section of the Kodiak District.* Notwithstanding paragraph (f)(2)(i) of this section, the taking of Tanner crab is prohibited after 12:00 noon, Alaska Standard Time, on April 22, 1981, in that portion of the Kodiak District southwest of a line extending 145°T from Cape Chiniak (57°37′ N latitude, 152°10′ W longitude), northeast of a line extending 168°T from Cape Barnabas (57°09′ N latitude, 152°53′ W longitude), and east of Old Harbor Narrows on Kodiak Island at 153°16′ W longitude. This paragraph (f)(7) shall expire at 11:59 p.m., ADT, on April 30, 1981.

* * * * *

[FR Doc. 81-12567 Filed 4-22-81; 4:45 pm]
BILLING CODE 3510-22-M

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50 CFR Part 671

Commercial Tanner Crab Fishery off the Coast of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rules.

SUMMARY: The Director, Alaska Region, (Regional Director), National Marine Fisheries Service (NMFS), closes by field order (1) part of the Northeast Section in the Kodiak District and (2) the Chignik District in Registration Area J, to fishing for Tanner crab by vessels of the United States effective upon the filing of this notice in the Federal Register, rather than on April 30, 1981, and May 15, 1981, respectively. Analyses of catch data indicate the desired harvest levels for part of the Northeast Section and for the Chignik District were achieved on April 6, 1981, and April 10, 1981, respectively. The Regional Director is taking this conservation measure to prevent overfishing of Tanner crab stocks in these areas.

EFFECTIVE DATES: April 22, 1981 until 11:59 p.m., ADT, April 30, 1981, for part of the Northeast Section and until 12:00 noon, ADT, May 15, 1981, for the Chignik District.

Public comments are invited until May 7, 1981.

ADDRESS: Comments may be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (address above). Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) provides for in-season adjustments to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these decisions shall be made by the Regional Director under criteria set out in that section. On June 17, 1980, the Assistant Administrator for Fisheries, NOAA, delegated to the Regional Director authority to

promulgate field orders making in-season adjustments.

Part of the Northeast Section

50 CFR 671.26(f) creates four districts within Registration Area J. One of these is the Kodiak District which is managed by the Alaska Department of Fish and Game (ADF&G) as eight separate sections. The Tanner crab stock in each section is evaluated individually to determine its abundance and status. Amendment #6 to the FMP is expected to establish the same eight sections to be consistent with the State's management regime; final rules to this effect have not yet been promulgated.

The sections were created, in part, to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular section when the desired harvest level in that section is reached. The optimum yield of the Kodiak District is set at 35 million pounds; a guideline harvest level of 2.6 million pounds for the Northeast Section was adopted by the Alaska Board of Fisheries in December 1980. This harvest level is based on the relative abundance of legal crabs observed in the crab indexing surveys conducted in 1979 and 1980. The 1981 fishing season commenced January 22. During the fishing season most of the effort has occurred in an area south of the latitude of Tonki Cape (58°20′ N. latitude), excluding all waters of Tonki Bay, and as of March 30, about 2.1 million pounds had been harvested. Catch per unit of effort (CPUE) has declined from an average of 41 crabs per pot to 21 crabs per pot over the area. The declining CPUE indicates the stock is now at a low level. Further fishing to achieve the full 2.6 million pound guideline harvest level in this area would result in overfishing. Recent landings showed that some of the crabs had molted and were in a soft shell condition. Until their shells harden the crabs can be easily injured, if landed. Soft shell crabs are economically undesirable and are subject to increased mortality if discarded in an injured condition. This closure will encourage fishing in the remaining open area of the Northeast Section.

Chignik District

The South Peninsula District, also established by 50 CFR 671.26(f), is managed by the ADF&G as two separate districts, the South Peninsula District in the west ("new South Peninsula District") and the Chignik District in the east. Amendment #6 to the FMP will subdivide the South Peninsula District into the two new districts to be consistent with the State's management regime. Final rules to this effect have not yet been promulgated. Although an optimum yield of five million pounds has been proposed by the North Pacific Fishery Management Council for the new Chignik District, a guideline harvest level of 2–5 million pounds was adopted by the Alaska Board of Fisheries in December 1980. ADF&G seeks to limit this harvest to about three million pounds.

The 1980–81 season opened November 1 and normally would continue until May 15. The desired three million pound limit is estimated to have been reached on April 10, 1981. Also, the small sizes of recently harvested crabs indicate that the crabs are at an age when they would have just entered the fishery. These new entrants are called recruits. Further fishing would remove these crabs and threaten the reproductive capacity of the stocks, because recruits would have been sexually mature for only one year. ADF&G seeks to maintain multiple year classes among the stocks to reduce population fluctuations caused when the numbers of sexually mature crabs are reduced.

In light of this information, the Regional Director has found that the condition of Tanner crab stocks in part of the Northeast Section and in the Chignik District is substantially different from the condition anticipated at the beginning of the fishing year, and that the threat of overfishing reasonably supports the immediate closure of part of the Northeast section for the rest of its 1981 fishing year at 12:00 noon, (AST), on April 22, 1981, rather than at 11:59 p.m., ADT, on April 30, 1981, as well as the closure of the Chignik District for the rest of its 1980-1981 fishing year at 12:00 noon, (AST), April 22, 1981, rather than at 12:00 noon, (ADT), May 15, 1981.

Because the information upon which the Regional Director based his findings has only recently become available, it would be impracticable to provide meaningful opportunity for prior public notice and comment on this field order and still impose the prompt closures, which sound conservation of the resource and the prevention of overfishing appear to demand. The Regional Director therefore finds, under 5 U.S.C. 553(b) (B) and (d)(3), that there is good cause for not providing opportunity for public comment on this field order prior to its promulgation, and for not allowing the passage of the normal 30-day period before it goes into effect. Therefore, this field order shall become effective immediately following its filing for publication in the Federal Register and after publication for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this field order may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this field order is based will be available for public inspection during business hours (8:00 a.m.–4:30 p.m.) at the NMFS Kodiak field office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska. The Regional Director will reconsider the necessity of this field order in light of the comments received, and subsequently publish in the Federal Register a notice either confirming this field order's continued effect, modifying it, or rescinding it.

A final environmental impact statement was prepared on approval and implementation of the FMP under Section 102(2)(C) of the National Environmental Policy Act, and is on file with the Environmental Protection Agency.

The Acting Administrator of the National Oceanic and Atmospheric Administration has determined that this field order is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By enhancing the long-term productivity of the Tanner crab fishery resource and thus increasing the long-term availability of Tanner crab to domestic fishermen and consumers, this field order can be expected to enhance investment in and the productivity of the United States fishing industry; lower Tanner crab prices to consumers; and enhance the ability of the United States fishing industry to compete in foreign shellfish markets. The short-term restrictions imposed by this field order are not expected to result in countervailing short-term decreases in investment, productivity, and competitiveness or in significant increase in consumer prices, because the total amount of crab involved in the closure is relatively small, the anticipated harvests of 2.1 million pounds for part of the Northeast Section

and three million pounds for the Chignik District are well within reasonable expectations for yield from the fishery in 1981, and alternative fishing grounds are available to participants in the fishery near the areas to be closed. This field order is, in fact, merely a predictable implementation of the existing regulations implementing the FMP For these same reasons, the Acting Administrator certifies that this field order will not have a significant economic impact on a substantial number of small entities, and thus does not require the preparation of a regulatory flexibility analysis under 5 USC 603 and 604. Finally, this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons (Paperwork Reduction Act of 1980).

Because of the need outlined above for prompt action to protect the Tanner crab resources from overfishing, this field order responds to an emergency situation within the meaning of Section 8 of Executive Order 12291, and is thus exempt from the requirement of section 3(c)(3) of that order that it be submitted to the Director of the Office of Management and Budget 10 days prior to publication. This field order is being transmitted to the Director simultaneously with its filing in the Federal Register.

Signed on behalf of the Regional Director in Washington, D.C., this 22d day of April, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR Part 671 is amended as follows:

1. The authority citation for Part 671 reads as follows:

Authority: 16 USC 1801 *et seq.*

2. For the reasons set out in the premable, § 671.26 is amended by adding paragraphs (f)(8) and (f)(9) as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(f) *Registration Area J.* * * *

(8) *Early Closure of 1981 Fishing Year in Part of the Northeast Section in the Kodiak District.* Notwithstanding paragraph (f)(2)(i) of this section, the taking of Tanner crab is prohibited after 12:00 noon, Alaska Standard Time, on April 22, 1981, south of the latitude of Tonki Cape (58°21′ N. latitude) excluding Tonki Bay, Seal Bay & Perenosa Bay; northeast of a line extending 145°T from the easternmost tip of Cape Chiniak (57° 37′N. latitude, 152°10′ W. longitude), and east of a line from Inner Point (57°54′ N. latitude, 152°47′ W. longitude) to Afognak Point (57°59′ N. latitude, 152°47′ W. longitude). This paragraph (f)(8) shall expire at 11:59 p.m., ADT, on April 30, 1981.

(9) *Early Closure of 1981 Fishing Year in the new Chignik District of Registration Area J.* Notwithstanding paragraph (f)(2)(ii) of this section, the taking of Tanner crab is prohibited after 12:00 noon, Alaska Standard Time, on April 22, 1981, west of the longitude of Cape Kumlik (157°35′ W. longitude) and east of a line connecting the following points:

(i) Kupreanof Point (55°34′ N. latitude, 159°36′ W. longitude),

(ii) the easternmost point of Castle Rock (55°16′48″ N. latitude, 159°29′ W. longitude), (iii) the intersection of a line extending southeast (135°T) from point two to 157°35′ W. longitude.

This paragraph shall expire at 12:00 noon, (ADT), on May 15, 1981.

[FR Doc. 81-12568 Filed 4-22-81; 4:45 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 80
Monday, April 27, 1981

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

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1301

Ban of Unstable Refuse Bins; Opportunity for Hearing on Proposal to Partially Revoke the Rule as It Applies to Certain-Sized, 1, 1½, and 2 Cubic Yard, Front-Loading, Small-Capacity, Straight-Sided Refuse Bins Without Trunnion Bars

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of opportunity for hearing.

SUMMARY: Regarding its proposal to partially revoke the ban of unstable refuse bins as it applies to certain front-loading, straight-sided refuse bins, without trunnion bars, the Commission invites interested parties to make an oral presentation of data, views or arguments on May 11, 1981 at 10:00 a.m. at the Federal Building, 11000 Wilshire Blvd., Room 10124; West Los Angeles, California. The Commission proposed this action on the basis that inclusion in the ban of certain bins may not be reasonably necessary to reduce an unreasonable risk of injury (46 FR 19247, March 30, 1981).

DATES: Written comments on the proposal to exempt certain refuse bins from the ban of unstable refuse bins should be submitted to the Office of the Secretary by May 26, 1981. Interested persons wishing to make an oral presentation of comments on May 11, 1981, should notify the Commission no later than May 4, 1981 and file a summary of the testimony to be presented with the Office of the Secretary by May 5, 1981.

ADDRESSES: Comments and summaries of testimony should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C., 20207 All material which the Commission has with regard to the proposal to partially revoke the ban of unstable refuse bins, including any comment that may be received on this issue, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th St., N.W., Washington, D.C., 20207 (202) 634-7700.

The Oral presentation of comments (the hearing) will take place in the Federal Building, 11000 Wilshire Blvd., Room 10124, West Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Douglas L. Noble, Office of Program Management, Room 426-B, Consumer Product Safety Commission, Washington, D.C., 20207 (301) 492-6557

SUPPLEMENTARY INFORMATION: On March 12, 1981, the Commission voted to propose a partial revocation of the ban of unstable refuse bins based on information developed as a result of a petition from the Greater Los Angeles Solid Wastes Management Association, and a review of the history of the banning rule. This information showed that inclusion in the rule of certain 1, 1½, and 2 cubic yard, straight-sided, front-loading refuse bins without trunnion bars may not be reasonably necessary to reduce an unreasonable risk of injury.

In making its determination to propose a partial revocation of the ban of unstable refuse bins, the Commission found that none of the crushing injuries associated with the slant-sided, rear-loading refuse bins are associated with these certain-sized, straight-sided front-loading 1, 1½, and 2 cubic yard capacity bins, even though large numbers of these bins have been in use for many years. The low heights, configuration, and lack of trunnion bars for these refuse bins indicate that children generally would not be able to swing from them and cause tipover. All the available information indicates that the likelihood of actual injury from these bins is small. (A more detailed explanation of the background and reasons for the Commission's decision is given in the Federal Register of March 30, 1981 (46 FR 19247).)

The hearing to receive oral presentations of views with regard to the proposed partial revocation of the ban of unstable refuse bins will be held, if requests are received, on May 11, 1981 at 10:00 a.m. For the convenience of petitioner and because most of the industry members affected are reported to be located in southern California, the hearing will be held at the Federal Building, 11000 Wilshire Blvd., Room 10124, West Los Angeles, California. Interested persons who wish to arrange a time to make an oral presentation at the hearing on May 11, 1981 should contact: Richard Danca in the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C., 20207 by May 4, 1981 (telephone (202) 634-7700). A summary of the testimony must be filed with the Office of the Secretary by May 5, 1981. Written comments can be submitted until May 26, 1981. All Commission materials relevant to this proceeding may be seen or copies obtained from the Office of the Secretary, 3rd floor, 1111 18th St., N.W., Washington, D.C., 20207.

Written and oral comments should be limited to consideration of the proposed exemption for the 1, 1½ and 2 cubic yard straight-sided bins cited at page 19248 in the March 30, 1981 Federal Register. The Commission will consider requests to broaden the exemption to other straight-sided refuse bins but any such proposals should be filed separately with the Office of the Secretary as written petitions containing data and information supporting the request.

Dated: April 23, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-12724 Filed 4-24-81; 8:45 am]
BILLING CODE 6355-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3 and 32

Proposed Reissuance of and Amendments to Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rules.

SUMMARY: The Commission proposes to reissue and adopt certain amendments to its commodity option regulations. The proposed reissuance and amendments would implement Section 4c(d)(2) of the Commodity Exchange Act, which directs the Commission to issue regulations permitting the grant, offer and sale of options on certain physical commodities

(so-called "dealer options"), subject to conditions specified by the statute and such other reasonable and uniform requirements as the Commission may prescribe. The proposed action would not otherwise affect the general prohibition of the offer and sale of commodity options to the public.

DATE: Written comments on the proposed rules should be submitted on or before June 26, 1981.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: R. Britt Lenz, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254-7360.

SUPPLEMENTARY INFORMATION: The Commodity Exchange Act ("Act"), 7 U.S.C. 1, *et. seq.* (1976 & Supp. III 1979), generally prohibits the offer and sale of commodity options to the public. Section 4c(a)(B) of the Act, 7 U.S.C. 6c(a)(B) (1976), prohibits option transactions involving all commodities specifically enumerated in Section 2(a)(1) of the Act, 7 U.S.C. 2 (1976)—basically domestic agricultural commodities such as soybeans and wheat. Moreover, Section 4c(c) of the Act, 7 U.S.C. 6c(c) (Supp. III 1979), generally prohibits any person from offering to enter into, entering into or confirming the execution of option transactions involving all other commodities subject to regulation under the Act.[1] These other commodities, which first became subject to regulation in 1974, include gold, silver, coffee and sugar.[2]

However, under Section 4c(d) of the Act, 7 U.S.C. 6c(d) (Supp. III 1979), certain option transactions involving physical commodities which became subject to regulation in 1974 are exempt from the general ban. Section 4c(d)(1), provides that "any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing or otherwise using that commodity," may continue to grant options on that commodity in accordance with the Commission's existing commodity option regulations, 17 CFR Part 32, until thirty days after the effective date of the regulations to be issued by the Commission pursuant to Section 4c(d)(2) of the Act. Section 4c(d)(2) directs the Commission to issue regulations permitting grantors and futures commission merchants to engage in dealer option transactions involving any physical commodity subject to regulation under Section 4c(b) of the Act subject to certain requirements specified in the statute, as well as any other "uniform and reasonable terms and conditions the Commission may prescribe, * * *."

On November 15, 1978, the Commission reissued and adopted certain amendments to its existing commodity option regulations to implement Section 4c(d)(2). *See* 43 FR 54220, *et seq.* (November 21, 1978). The reissuance and amendments generally were to have become effective on December 21, 1978. However, after further consideration, the Commission determined to revoke the reissuance and amendments and to republish them as proposals, together with a request for comment on certain additional issues, in order to solicit the fullest public participation in the rulemaking proceeding. *See* 43 FR 59353 and 59396, *et seq.* (December 20, 1978).

Essentially, the Commission proposed that the regulation presently governing the grant, offer and sale of dealer options pursuant to Section 4c(d)(1) of the Act be continued in effect with certain amendments to implement Section 4c(d)(2). Among the amendments proposed were the elimination of the requirement that a dealer option grantor have been in business on May 1, 1978, as well as the institution of a registration requirement for dealer option grantors. The Commission also proposed a $5,000,000 capital requirement for dealer option grantors, in addition to the $5,000,000 net worth requirement which section 4c(d)(2) prescribes. Further, the Commission proposed that additional disclosures be made to prospective dealer option purchasers, as well as numerous other amendments.

After reviewing the public comments on these proposals, as well as the staff's analysis of these comments, the Commission has determined to republish the proposed reissuance of and amendments to its commodity option regulations for further public comment. As set forth more fully below, the Commission is seeking further public comment because substantial changes have been made in a number of the prior proposals. In addition, the Commission is proposing language to implement proposals which previously were presented only as narrative requests for comment on particular issues. Finally, certain additional amendments are now being proposed for the first time.

Interested persons are invited to participate in this rulemaking proceeding by submitting written comments to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat. All comments submitted on or before (sixty days after publication), will be considered by the Commission before taking final action on the proposed rules. All comments submitted will be available for public inspection.

Set forth below is a brief discussion of the amendments which the Commission is proposing.

Disclosure

Section 32.5(a) of the Commission's commodity option regulations requires that a futures commission merchant furnish a prospective dealer option customer with a summary disclosure statement prior to the entry of that customer into an option transaction. This summary disclosure statement must contain, among other things, a listing of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium and other charges. The disclosure statement must also contain a description of all costs in addition to the purchase price which may be incurred by the customer if the option is exercised, as well as a statement to the effect that the price of the commodity underlying the option must rise above the strike price in the case of a call, or fall below the strike price in the case of a put, by an amount in excess of all costs incurred in purchasing and exercising the option, in order for it to be possible for the customer to realize a profit through exercise of the option.

The Commission believes that the foregoing information might be made more meaningful for prospective customers by requiring that the summary disclosure statement also contain an illustrative transaction completed on the day the statement is furnished to the customer. See proposed § 32.5(a)(5).[3] This illustrative transaction

[1] Option transactions involving these other commodities in which the purchaser is a producer, processor, commercial user of, or a merchant handling the commodity involved in the transaction or the products or byproducts thereof (so-called "trade options") are, however, exempt from the general prohibition. See Section 4c(c). Moreover, Section 4c(c) provides that the general prohibition may be lifted if the Commission demonstrates its ability successfully to regulate commodity option transactions to Congress.

[2] Prior to the enactment of Section 4c(c) in 1978, option transactions in these other commodities were permitted under regulations adopted by the Commission pursuant to section 4c(b) of the Act, 7 U.S.C. § 6c(b) (1976).

[3] As proposed, § 32.5(a) will also require that the summary disclosure statement be dated and that a signed and dated acknowledgement of receipt of the

Continued

would set forth, among other things, the purchase price of a commodity option offered on that day by the grantor; the strike price of that option; and the amount, or a bona fide estimate of the amount, of any costs in addition to the purchase price which the customer would incur in exercising the option, including any discount from or excess over the spot price which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received.[4] The illustrative transaction section would also set forth the amount, or a good faith estimate of the amount, by which the price of the underlying commodity must rise above the current spot price in the case of a call or fall below the current spot price in the case of a put in order for it to be possible for the customer to realize a profit on the illustrative transaction given the purchase price and all other costs incident to exercise. The proposed rule would require that the requisite change in the price of the underlying commodity be presented both in dollar terms and as a percentage of the current spot price of the commodity.

In addition, information which the Commission has gathered indicates that prospective dealer option purchasers should be provided with further information concerning the pricing practices of the firms which grant, offer and sell dealer options. For example, the "commissions" charged by some options firms have approached the "premiums" charged for those options. Such pricing policies, in certain circumstances, constitute fraud within the meaning of § 32.9 of the option regulations. *See, e.g., Kelley* v. *Carr*, 442 F. Supp. 346, 352 (W.D. Mich. 1977), *affirmed in part and reversed in part on other grounds*, 2 Comm. Fut. L. Rep. (CCH) ¶ 21,025 (6th Cir. 1980). Accordingly, proposed paragraph (a)(6) of § 32.5 would require that the summary disclosure document contain a statement in bold face type that the prices charged by different grantors for similar options and the commissions charged by different futures commission merchants for the same option may vary significantly. The proposed rule would also require a boldface statement urging prospective dealer option purchasers to compare different grantors' prices and different futures commission merchants' commissions.[5]

The Commission understands that dealer option grantors sometimes repurchase options which they have granted. In view of this practice, the Commission proposes to require that the summary disclosure document state whether the grantor is under any obligation to repurchase an option from a customer and describe the conditions, if any, under which customers will be able to recover any portion of the purchase price, or to realize any profits they may be due, by reselling the option to the grantor. See proposed § 32.5(a)(8).

In addition, in the event that a grantor guarantees, or holds open the possibility of, repurchase of the options which it grants, the Commission proposes to require, and to require disclosure, that the repurchase price be calculated at the time of repurchase at no less than the difference between the spot price of the commodity underlying the option and the strike price of the option (*i.e.*, the "intrinsic" value of the option), less any fees or cost which the grantor chooses to charge in connection with repurchase, so long as the amount, or a bona fide estimate of the amount, of any such fees or costs is disclosed prior to entry into a commodity option transaction. See proposed §§ 32.5(a)(8) and 32.12(a)(10).[6]

A requirement of this nature would provide prospective customers with a means of obtaining the information necessary to compare the repurchase opportunities offered by various grantors without imposing any undue burden on grantors. The proposed rule would not set repurchase prices, as grantors wold be free to deduct from the repurchase price any costs or fees which they chose to deduct. The only restriction which the rule would place on grantors is that the amount, or a good faith estimate of the amount, of all cost or fees associated with repurchase be disclosed to the customer in advance of entry into the transaction. Moreover, there would still be no requirement that grantors repurchase the options which they grant. Finally, while the proposed rule would not take into account any compensation which a grantor might offer for the value attributable to the remaining term of an option, grantors would, of course, be free to offer and to make disclosures concerning such compensation.

The Commission also proposes to require that the summary disclosure statement contain additional information concerning the exercise of dealer options. In particular, paragraph (a)(9) of § 32.5 would require that the disclosure statement contain a detailed description of whether and how customers who exercise options will be able to sell the commodity which they receive in the case of a call, or buy the commodity which they are to deliver in the case of a put, through means independent of the grantor.

Section 32.5(c) presently provides that prior to entry into a dealer option transaction, a prospective option customer shall, to the extent such amounts are known, be informed by the futures commission merchant of the actual amount of the premium and mark-ups on the premium, as well as any other costs, fees or charges comprising the purchase price. Proposed § 32.5(c) would also require that to the extent any particular cost to be incurred by the option customer is not known prior to entry into the option transaction, the futures commission merchant must inform the customer of this fact, identify the costs involved and provide a bona fide estimate of what the costs are expected to be. In addition, the prospective customer would have to be informed of, or provided with a bona fide estimate of, the extent to which the spot price of the commodity underlying the option must rise above or fall below the current spot price in order for it to be possible for the customer to realize a profit on the transaction through exercise, given the purchase price and all costs incident to exercise.[7] Further, proposed § 32.5(c) would require that the information furnished to a prospective customer pursuant to this provision be recorded in writing by the person furnishing the information and that this record be maintained in the manner provided for in § 32.7.

Finally, under existing § 32.5(d), within 24 hours after entry into a commodity option transaction, the futures commission merchant must provide the customer with a written confirmation statement containing

statement be obtained from the customer prior to entry into the transaction.

[4] If proposed § 32.5(a)(5) is adopted, material changes in the information previously furnished concerning premiums, commissions and other costs will require that a customer be furnished with a new disclosure statement prior to entry into a subsequent option transaction. See § 32.5(b).

[5] In the Commission's view, the charging of an excessive premium or mark-up on a premium by a grantor or futures commission merchant may also serve as the basis for a finding that the continued grant, offer or sale of dealer options by that person or firm is contrary to the public interest within the meaning of Section 4c(d) of the Act.

[6] The illustrative transaction section would also require certain disclosures concerning repurchase. See proposed § 32.5(a)(5)(ii).

[7] The proposed rule would require that the extent of the requisite price change be expressed both in dollar terms and as a percentage of the current spot price of the commodity underlying the option. See also proposed § 32.5(a)(5).

In addition, proposed § 32.5(a)(7)(ii) would require that the summary disclosure statement notify a prospective dealer option customer that the futures commission merchant has a duty to provide him with this information prior to entry into a dealer option transaction.

specified information, including the actual amount of the purchase price, the strike price and the duration of the option. The Commission proposes to amend this provision to prescribe a format for the confirmation statement, as well as to require that the statement contain certain supplementary information. Thus, the confirmation statement would have to set forth the actual amount, or a bona fide estimate, of any fees or costs in addition to the purchase price which would be incurred in exercising the option and, if applicable, in reselling it to the grantor. See proposed § 32.5(d)(2). The statement would also have to set forth the amount, or a bona fide estimate of the amount, by which the price of the underlying commodity must rise above or fall below the then current spot price of the commodity in order for it to be possible for the customer to realize a profit through exercise of the option, given the purchase price and all costs incident to exercise. See proposed § 32.5(d)(7). As in the case of proposed § 32.5(a)(5), discussed *supra*, proposed § 32.5(d) would require that the necessary price change be set forth both in dollars and as a percentage of the current spot price of the underlying commodity.

Segregation of Funds

Section 32.6(a) presently requires that futures commission merchants segregate 90 percent of the purchase price paid for an option.[8] The Commission proposes to amend this provision to require futures commission merchants to segregate 100 percent of that portion of the purchase price payable to the grantor. The amount payable to the grantor would include the premium and any mark-ups or other fees which the grantor might charge. Futures commission merchant's would not be required to segregate those portions of the purchase price not payable to the grantor.

In response to the initial request for public comment, several individuals questioned whether futures commission merchants should be required to segregate any portion of the purchase price other than that payable to the grantor. When § 32.6(a) was adopted, there were no requirements as there are now in § 32.12(a)(3) that a grantor be domiciled in the United States and segregate funds equal to the amount by which the value of each outstanding option exceeds the amount to be received by the grantor for that option.[9] Thus, in view of these requirements of § 32.12(a)(3), there no longer appears to be a need to require futures commission merchants to segregate portions of the purchase price other than those payable to the grantor.[10]

To fully implement the segregation requirement of Section 4c(d)(2)(B)(ii) of the Act, the Commission also proposes to amend § 32.6(a) expressly to require futures commission merchants to segregate all money, securities or property received from option customers in anticipation of, but prior to, the purchase of an option.[11] Further, under the proposed rule, any proceeds received by a futures commission merchant for the benefit of an option customer from the exercise or resale of an option would have to be segregated until such time as the proceeds were sent to the customer or otherwise disbursed in accordance with the customer's instructions. Simply crediting such proceeds to the customer's account would not relieve the futures commission merchant of the obligation to segregate such proceeds.

Further, the Commission proposes to add a new § 32.6(g) to allow futures commission merchants to have a residual interest in the funds required to be segregated and set aside for the benefit of option customers and potential option customers. Proposed § 32.6(g) would also allow futures commission merchants to add their own funds to the money, securities or property received from option customers and potential option customers and the option proceeds received from grantors for the benefit of option customers, to prevent undersegregation. These amendments are analogous to the requirements set forth in § 1.23 of the Commission's regulations, 17 CFR 1.23, regarding segregation of funds for futures accounts.

Section 32.12(a)(3) of the present regulations requires grantors to segregate for the benefit of their consumers funds equal to the amount by which the "value" of an outstanding option exceeds the amount payable to a grantor for that option. The Commission proposes to amend § 32.12(a)(3) to ensure that the amount which grantors are required to segregate is computed on a uniform and objective basis. Under proposed § 32.12(a)(3)(i), the value of a call option would be the current spot price of the commodity underlying the option minus the strike price of the option, while the value of a put option would be the strike price of the option less the current spot price of the commodity underlying the option. For purposes of this rule, the spot price of the commodity underlying the option would be determined by reference to the spot price series submitted to the Commission pursuant to proposed § 3.15(a)(5), *infra*.

The Commission reginizes that the proposed method of calculating the funds necessary to satisfy the segregation requirement will not incorporate the time value remaining on an option. However, the use of a formula which would incorporate time value, such as the Black-Scholes model, would appear to require certain subjective judgments which would make an objective evaluation of compliance with the segregation requirements very difficult, if not impossible. Thus, while the proposed spot price series method will not incorporate time value, it should provide an objective benchmark by which the value of a particular dealer option may be judged for purposes of segregation.[12]

Further, under the proposed amendments, dealer option grantors would be required to compute, prior to the opening of business on each business day, the amount required to be segregated and the amount actually in segregation as of the close of the prior business day. See proposed § 32.12(a)(3)(iv). Such a computation, and all supporting data, would have to be maintained in accordance with the recordkeeping provisions of § 1.31 of the Commission's regulations. *Id.* The proposed rule would also provide that segregated securities and property should not be included in the daily computation at values greater than their

[8] The term "purchase price" is defined in § 32.1(d).

[9] The present 90 percent segregation requirement was adopted when the offer and sale of so-called "London options" was permissible and was designed to assure that, in the event of a default, there would be funds available in the United States from which the customer might recoup a portion of his investment. See 41 F.R. 51812 (November 24, 1976).

[10] In conjunction with the proposed amendment to § 32.6(a), the Commission also proposes to modify § 32.5(d) to require futures commission merchants to set forth in the option confirmation statements the amount payable to the grantor.

[11] The term "option customer" is defined in § 32.1(c).

[12] If the proposed amendments to § 32.12(a)(3) are adopted, the Commission will prepare a new financial reporting form, Form 2-FR, to be used by dealer option grantors. This new form will closely follow Form 1-FR, the financial reporting form used by futures commission merchants. There will be an additional schedule to be used by grantors in reporting their segregation requirements and funds in segregation, pursuant to § 32.12(a)(3) of the regulations. In connection with this new form, the Commission will also amend its regulations under the Freedom of Information Act (5 U.S.C. 552) and Government in the Sunshine Act (5 U.S.C. 552(b)) to provide for non-public treatment of those portions of Form 2-FR which are similar to those portions of Form 1-FR generally accorded non-public treatment. However, consistent with the Freedom of Information Act, the Commission would disseminate to requesters as much of the data periodically reported to the Commission as it is lawfully permissible to disclose.

current market value. See proposed § 32.12(a)(3)(v).

Finally, two additional amendments would be made to § 32.12(a)(3). One would require grantors to keep certain records concerning securities or property deposited in segregation, similar to the records required by § 1.27(a) (4), (5) and (6) of the regulations, 17 CFR 1.27(a)(4), (5) and (6), for investments made with funds segregated for futures accounts.[13] The other amendment would expressly provide that grantors may retain as their own any increment or interest resulting from any securities or property deposited in segregation, as futures commission merchants are permitted to do under § 1.29 of the regulations, 17 CFR 1.29. See proposed § 32.12(a)(3)(vi).[14]

Net Capital Requirement

Section 4c(d)(2)(A)(ii) of the Act requires that a person who grants dealer options "at all times [have] a net worth of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles; * * *."[15] Because generally accepted accounting principles allow assets not readily convertible into cash to be included in a computation of net worth (*e.g.*, goodwill, fixed assets), the Commission proposes to supplement the net worth requirement with a minimum net capital requirement. See proposed § 32.12(a)(1). The computation and recordkeeping requirements of the proposed net capital rule would be similar to those prescribed for futures commission merchants by §§ 1.17 and 1.18 of the Commission's regulations, 17 CFR 1.17 and 1.18. The Commission also proposes to amend § 32.12(a)(8) to provide financial reporting requirements analogous to those prescribed for futures commission merchants in § 1.10.[16]

Further, the Commission proposes to establish a limited financial early warning system for dealer option grantors which will include some of the elements of the existing early warning system for futures commission merchants contained in § 1.12.[17] Under the proposed rule, a grantor would be required to notify the Commission if its adjusted net capital fell below the required minimum amount; if its adjusted net capital fell below 150 per cent of the required minimum amount; if it failed to make or keep current required books and records; or if it discovered or was notified by an independent public accountant of the existence of any material inadequacy. Notification to the Commission would be filed in the form and manner prescribed in § 1.12 of the Commission's regulations.

The minimum adjusted net capital required of a dealer option grantor would be $4,000,000 plus 10 percent of the market value of the commodities underlying uncovered options.[18] Adjusted net capital would be computed under proposed § 32.12(a)(1) in a manner similar to that set forth in § 1.17. Net capital would be defined as current assets minus liabilities, and would be determined in a manner similar to that set forth in § 1.17(c)(1). See proposed § 32.12(a)(1)(v). The computational criteria to be used by dealer option grantors with respect to current assets and liabilities would be similar to those used by futures commission merchants, as set forth in § 1.17(c)(2) and (c)(4). See proposed §§ 32.12(a)(1) (vi) and (viii). Adjusted net capital would mean net capital less the items set forth in § 1.17(c)(5), except that there would be no safety factor charges for inventory and fixed-price commitments which are covered, and the safety factor charges set forth in § 1.17(c)(5)(x) would not apply to futures contracts in proprietary accounts which represent cover for commodity options granted by the dealer option grantor. See proposed § 32.12(a)(1)(ix).[19]

The proposed minimum financial and related reporting requirements for dealer option grantors differ from the similar requirements for futures commission merchants in at least two other respects. First, unlike futures contracts which are traded on designated contract markets, dealer options are essentially non-transferable contracts between a grantor and a purchaser, with the grantor as the sole guarantor of the contract. Thus, unlike the rule for futures commission merchants, proposed § 32.12(a)(1)(iii) would not require the transfer of customer accounts by a dealer option grantor who was unable to demonstrate compliance with the minimum financial requirements.[20] Instead, in such circumstances, a grantor would be required to cease granting additional options.

The other significant difference is that the definition of "cover" set forth in § 1.17(j) for futures commission merchants would be expanded for dealer option grantors in a new subparagraph § 32.12(a)(1)(xi). Under the proposed rule, a granted call option will be considered covered if it is out of

[13] See proposed § 32.12(a)(3)(vii). The types of investments which grantors may make with segregated funds are set forth in Section 4c(d)(2)(A)(iv) of the Act and § 32.12(a)(3) of the regulations. Such investments include exempted securities (within the meaning of Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, and unencumbered warehouse receipts.

[14] Section 4c(d)(2)(A)(vi) of the Act directs the Commission to require dealer options grantors to "provid[e] confirmation of * * * [each option transaction] executed, including the execution price and a transaction identification number * * *." The language of this provision is virtually identical to that used in § 32.12(a)(5). The only difference is that § 32.12(a)(5) employs the terms "striking price" and "premium" instead of the term "execution price" used in Section 4c(d)(2)(A)(vi). The Commission does not interpret the language of Section 4c(d)(2)(A)(vi) to include different elements of a transaction than those used in § 32.12(a)(5). Accordingly, the Commission believes that no changes would be necessary in § 32.12(a)(5) in order to reflect the term "execution price.".

[15] This statutory requirement is also reflected in the Commission's regulations. See § 32.12(a)(1).

[16] 17 CFR 1.10.

[17] 17 CFR 1.12. See proposed § 32.12(a)(1)(xiv).

[18] See proposed § 32.12(a)(1). Market value would be determined by reference to a publicly available spot price series. See proposed § 32.12(a)(1)(i). The spot price series used in computing a grantor's compliance with the proposed net capital rule, as well as with the proposed amendments to the grantor segregation requirements, would be the spot price series submitted to the Commission in compliance with proposed § 3.15(a)(5). *infra*.

The Commission appreciates that there may be practical problems, *e.g.*, monitoring, associated with using the concept of cover as part of the minimum adjusted net capital requirement, and it is also aware that there are alternative measures which could be used for the "sliding-scale" component, *see* note 19, *infra*, of the minimum adjusted net capital requirement, rather than the proposed measure, which is 10 percent of the market value of the commodities underlying uncovered options. The Commission has considered, for example, requiring 50 percent of the aggregate amount of premiums for outstanding options, or requiring 50 percent of the aggregate in-the-money amount for outstanding options. These alternative measures would be in addition to the required minimum dollar amount of $4,000,000.

The Commission wishes to give notice that while it believes the suggested approach is preferable to alternatives it has considered to date, it will, however, carefully review this issue in light of the comments and its own further evaluation, before determining which approach to adopt. Accordingly, comment is specifically requested as to the appropriate measure to be used for the required minimum level of adjusted net capital.

[19] In response to the Commission's prior request for comment, one commentator stated that the proposed financial requirements would not be effective unless the Commission established precise standards for determining compliance. The Commission believes that the present net capital proposal, with the precise computational criteria described above, provides such standards.

In addition, two commentators recommended that the Commission adopt what one of them termed a "sliding-scale" capital requirement for grantors. Under a "sliding-scale" approach, the minimum net capital required of a dealer option grantor would depend on the grantor's obligations under outstanding options and cover. The Commission believes that a variation of that approach might be useful and, therefore, has proposed that one component of the net capital requirement be 10 percent of the market value of the commodities underlying uncovered options.

[20] Compare proposed § 32.12(a)(1)(iii) with existing § 1.17(a)(4).

the money (i.e., if the strike price exceeds the spot price of the underlying commodity). Further, if a granted call option is in the money (i.e., if the spot price of the underlying commodity exceeds the strike price), it will be considered covered if the grantor: (1) owns a long futures position of the same commodity in an amount not less than the amount of the commodity required to fulfill the option; (2) has inventory or fixed-price purchase commitments of such an amount; or (3) has purchased a call option for such an amount. If a call option for such an amount has been purchased with a strike price exceeding that of the granted option, the amount of the difference in strike prices shall be added to the value of uncovered options for purposes of computing minimum adjusted required net capital. Conversely, all out of the money puts (i.e., if the strike price is less than the market price of the underlying commodity) will be considered covered. Further, if the granted put option is in the money (i.e., if the strike price exceeds the market price of the underlying commodity), it will be considered covered if the grantor: (1) owns a short futures position of the same commodity in an amount not less than the amount of the commodity required to fulfill the option; (2) has fixed-price sales commitments of such an amount; or (3) has purchased a put option for such an amount. If a put option for such an amount has been purchased with a strike price which is less than that of the granted option, the amount of the difference in strike prices shall be added to the value of uncovered options for purposes of computing minimum required adjusted net capital. Restrictions would also be placed on what would constitute good cover to require that the other side of the grantor's option or fixed price commitment transaction have a minimum net worth of $1,000,000, and providing that no more than 10 per cent of a grantor's total cover could consist of such transactions with one person or an affiliated group of persons.[21]

Registration of Grantors

Section 4c(d)(2)(C) of the Act expressly provides that the Commission may require persons who grant dealer options to register with the Commission. Accordingly, to ensure that dealer option grantors are subject to the same standards of fitness required of other commodity professionals, the Commission proposes to require dealer option grantors to register with the Commission. A new registration category would be created for this purpose. See proposed § 3.15.[22] The proposed registration requirement will also provide a framework for assessing a prospective grantor's compliance with certain of the requirements prescribed for dealer option grantors by Section 4c(d)(2) of the Act, as well as with certain other criteria which the Commission believes may be necessary to assure that the offer and sale of dealer options will be conducted consistent with the public interest.

Under the proposed registration requirement, grantors will be required to obtain a separate registration for each physical commodity on which they propose to grant options. A registration requirement of this nature would be analogous to the requirement of Section 5 of the Act, 7 U.S.C. 7 (1976), that a board of trade obtain a separate "contract market" designation for each commodity on which it proposes to trade futures contracts. However, the proposed rule would allow a grantor registered to grant options on a particular commodity to grant several different contracts on that commodity without a separate registration for each contract.[23]

In addition to providing the Commission with data and information comparable to that required of applicants for registration with the Commission in other categories, applicants for registration as dealer option grantors will be required to provide the Commission with certain additional data and information. For example, Section 4c(d)(2)(A)(i) of the Act requires that a grantor of dealer options be a person who "is in the business of buying, selling, producing, or otherwise using * * *" the commodity underlying the options which it grants.[24] The Commission interprets this "in the business" requirement to limit the grant of dealer options to persons who are producers, commercial users or commercial buyers and sellers of the commodity on which the options are granted. Commercial users include processors, fabricators and other manufacturers which use a commodity as a principal input in producing an intermediate or final product. Commercial buyers and sellers are persons who make purchases and sales which directly facilitate the transfer of commodities between and among producers and commercial users. The retail buying and selling of a commodity, or the possession of inventory for a speculative purpose, does not, in the Commission's opinion, satisfy the "in the business" requirement. See proposed § 3.15(e)(1).

The Commission believes that there are certain factors which will tend to indicate whether an applicant is engaged in production, commercial use or commercial buying and selling of a commodity. These factors include: (1) the type and number of commercial enterprises with which a prospective option grantor has transacted business involving that commodity during the preceding 12 months; (2) the type and size of such transactions during the preceding 12 months; (3) the total dollar value of production, commercial use, cash market sales and cash market purchases of the commodity for the most recently concluded fiscal quarter and at least three preceding fiscal quarters; (4) the end of month and average monthly inventories of the commodity for each of the preceding 12 months; and (5) the amount of revenues or payments involving transactions in which there

[21] The Commission also proposes to amend § 1.16(d) to require an independent public accountant, when conducting an audit of any grantor, to include, as objectives of the audit, review of the practices and procedures followed in making (1) periodic computations of the minimum financial requirements set forth in the Commission's regulations, and (2) daily computations of segregation requirements set forth in the Act and the Commission's regulations. At present, such reviews are only conducted for futures commission merchants and, accordingly, there are references in § 1.16(d) to specific sections of the Act and the Commission's regulations. The proposed amendment would eliminate such specific references and, thereby, extend the coverage of § 1.16(d) to audits of dealer option grantors as well as futures commission merchants. Similarly, present § 1.16(f), concerning extensions of time for filing futures commission merchants' audited reports, would be shifted to § 1.10(f). Section 1.10(f), which currently applies only to extensions of time for filing interim financial reports by futures commission merchants, would, as amended, govern all extensions of time for filing financial reports by futures commission merchants. Proposed § 32.12(a)(8)(xi) would govern extensions of time for the filing of financial reports by dealer option grantors that basically would follow the provisions of new § 1.10(f). Both of these provisions would authorize the Commission or the Director of the Commission's Division of Trading and Markets to grant or deny requests for extensions in appropriate cases.

[22] The Commission's regulations currently prohibit the offer and sale of dealer options to the public except through registered futures commission merchants and associated persons. See § 32.3 (a) and (b).

[23] In the event that there were an overlap between the information required in support of an application for registration and information already on file with the Commission in connection with an existing registration or a pending application for registration, it would not be necessary to refile the identical information. Rather, the information already on file with the Commission could be incorporated by reference in the subsequent application. See proposed § 3.15(a)(6).

[24] Unlike Section 4c(d)(1), Section 4c(d)(2) does not require that a grantor have been in the business of buying, selling, producing or otherwise using the underlying commodity on May 1, 1978. Accordingly, the Commission proposes to delete the May 1, 1978 limitation presently contained in § 32.12(a).

was a change in ownership of the commodity during the most recently concluded fiscal quarter and at least three preceding fiscal quarters. Accordingly, the Commission proposes to require an applicant for registration to provide the Commission with data and information of this nature for the commodity underlying the options which the applicant proposes to grant, as well as any other information which would demonstrate that the applicant is a bona fide commercial enterprise with respect to that commodity. See proposed § 3.15(a)(3).

In addition, to assist the Commission in determining whether trading in the options which the applicant proposes to grant might have an adverse effect on the trading of futures contracts involving the same or similar commodities, as well as whether adequate customer protection can be provided, applicants for registration would be required to provide the Commission with the following data and information with respect to each commodity option contract which they propose to grant: (1) a detailed description of the commodity which may be bought or sold upon exercise of the option; (2) the type of instrument, if any, deliverable upon exercise of the option evidencing ownership of the commodity; (3) the costs associated with making or taking delivery of the commodity upon exercise of the option; and (4) the relationship between the expiration dates of the proposed options and the expiration dates of any futures contracts on the same or closely related commodities. See proposed § 3.15(a)(4).[25]

In a prior release, the Commission proposed that prospective dealer option grantors be required to demonstrate, among other things, that there is a readily available deliverable supply of the commodity that will be the subject of the proposed options and that there is a reliable mechanism available to the public independent of the grantor for determining the spot price of the commodity.[26] The Commission stated that demonstrations of this nature would assist the Commission in determining whether adequate customer protection could be provided.[27]

In response to this proposal, one commentator argued that there can be no assurance of adequate customer protection in the absence of an active and liquid spot market for the commodity underlying an option. The Commission believes that there may be merit to this comment. In the absence of a liquid and active spot market, it would appear to be very difficult for a member of the public who exercised a dealer option to acquire or dispose of the commodity he or she was required to deliver or receive under the option.

Thus, proposed paragraph (a)(5) of § 3.15 would require applicants for registration to show that there is a liquid spot market with a reliable spot price series which is widely available to the public independent of the grantor for the commodity which is to be the subject of the options to be granted by the applicant. The proposed rule would also require that the applicant for registration designate a specific spot price series for the commodity for which the license is sought. In the event that a license is granted, the grantor would be required to use the spot price series designated in compliance with proposed § 3.15(a)(5) in satisfying other requirements imposed by the proposed rules, including certain disclosure, minimum financial, segregation and repurchase requirements. See proposed §§ 32.5(e), 32.12(a)(1)(i), 32.12(a)(3)(i), and 32.12(a)(10).[28]

In passing upon applications for registration as a dealer option grantor on a specified commodity, the Commission proposes to apply the statutory criteria set forth in Section 4c(d)(2) of the Act, the regulatory requirements which the Commission adopts pursuant to its statutory rulemaking authority, and the standards of fitness for registration that Congress has made applicable to other commodity professionals as set forth in Sections 4n and 8a of the Act. See proposed § 3.15(e). Thus, for example, the Commission might deny registration if it determines that an applicant is not in the business of buying, selling, producing or otherwise using the commodity underlying the proposed option contract (proposed § 3.15(e)(1)); that the commodity which was to be the subject of the proposed options does not have a liquid spot market with a reliable spot price series (proposed § 3.15(e)(2)); or that one or more of the bases for denial of registration set forth in Sections 4n or 8a exist, including the bases set forth in the Commission's published interpretation of the "good cause" standard contained in Section 8a (proposed § 3.15(e)(5)).[29] Consistent with Section 8a(2) of the Act, proposed § 3.15(e) would also provide that pending final Commission action on an application for registration as a dealer option grantor to grant options involving a particular commodity, registration would not be granted.[30]

Additional Issues

1. *Termination and Suspension.* Pursuant to the last sentence of Section 4c(d) of the Act, the Commission proposes to add a new paragraph (a)(12) to § 32.12 which would provide that the Commission may, after a hearing, terminate the right of any person, including both grantors and futures commission merchants, to grant, offer or sell dealer options, if the Commission determines that the continuation of that right would be contrary to the public interest. Under the proposed rule, the Commission might terminate the right of a grantor to issue options on a particular commodity or on all commodities, as well as the right of a futures commission merchant to offer and sell a grantor's options. The proposed rule would also provide that pending completion of a termination proceeding, the Commission might suspend the right of any person to grant, offer or sell dealer options, if the Commission determines that the activities of that person pose a substantial risk to the public.[31]

[25] Proposed § 3.15(a)(4) would also require registered grantors to file any changes in these terms and conditions with the Commission. If, upon review, the Commission determines that a contract's terms and conditions, as amended, may be contrary to the public interest, the Commission could institute a proceeding under Section 4c(d) of the Act and proposed § 32.12(a)(12), *infra*, to terminate the grantor's right to issue option contracts. Further, pursuant to Section 4c(e) of the Act, the Commission may, by rule or regulation, proceed to ban any and all types of options which it determines to be contrary to the public interest.

[26] *See* 43 FR 59397 (December 20, 1978).

[27] *Id.*

[28] The Commission has made a preliminary determination that the spot month price for a designated futures contract may not satisfy the spot price series requirement of proposed § 3.15(a)(5). Although under certain circumstances there might be advantages in using nearby futures contracts for price data, there also appear to be several significant disadvantages in the context of the regulatory framework for dealer options. Besides possibly undermining the liquid spot market requirement, there are no futures in some commodities on which dealer options are currently offered, such as Krugerrands and Canadian Maple Leaf Coins. In addition, for many commodities the nearby future may at times have two to three months to run, and in such cases the price of the nearby future would normally be different from the commodity's spot price. Even when a contract market offers trading in every calendar month, it is possible that the nearby future may have only token open interest and be priced off a more distant maturity.

[29] 17 C.F.R. Part 1, Appendix A (1980).

[30] Grant of a license to issue dealer options on a particular commodity would not constitute a Commission determination of compliance with any of the requirements of § 3.15(a).

[31] The last sentence of Section 4c(d) provides:

The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: Provided, That pending the completion of such termination proceedings, the

Continued

In determining whether to suspend or terminate a person's right to grant, offer or sell dealer options, the Commission would consider, among other public interest factors, whether any substantial economic purpose is served by the options granted, offered or sold; whether any cause exists which would warrant denial of an application for registration as a dealer options grantor or futures commission merchant; and whether the person is in violation of any provision of the Act or the Commission's regulations thereunder, including the regulations contained in Part 32.[32]

2. *Joint and Several Liability.* The Commission proposes to retain those provisions of the existing commodity option regulations which render dealer option grantors jointly and severally liable for certain acts or omissions of their futures commission merchants. In offering and selling dealer options, futures commission merchants (and their employees) of course owe duties to their customers, such as to refrain from fraudulent conduct. Moreover, in a dealer option transaction, the futures commission merchant also acts on behalf of its principal, the grantor, in soliciting the public to purchase the option.

In recognition of this latter role, the present dealer option regulations require a grantor to designate the futures commission merchants that the grantor will permit to vend its options to the public. See § 31.12(b)(2). Moreover, § 32.12 (a)(2) and (b)(4) render grantors jointly and severally liable with their futures commission merchants for damages sustained by customers in connection with the offer and sale of the grantors' options. These provisions recognize and implement the relationship that the Commission understands grantors to share with their futures commission merchants.

3. *Foreign Grantors.* While Sections 4c(d) (1) and (2) generally require that dealer option grantors be domiciled in the United States, Section 4c(d) also provides that the Commission

> may permit persons not domiciled in the United States to grant options under * * * [Section 4c(d)] under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States.

Pursuant to this provision the Commission has granted one waiver of the United States domicile requirement of Section 4c(d)(1). See *In the Matter of the Amended Petition of Valeurs White Weld S.A.,* Commission Order dated March 19, 1979. Grant of this waiver was subject to a number of conditions, including: (1) maintenance of the requisite segregated funds in the United States; (2) appointment of an agent for service of process; and (3) a guarantee of certain obligations of the foreign grantor by a domestic firm. The Commission does not intend to promulgate regulations to implement the statutory provision authorizing waivers of the United States domicile requirement. Instead, the Commission plans, as it did in the above-described matter, to consider petitions for waivers of the domicile requirement made pursuant to § 32.12(c) on a case-by-case basis.

4. *Transition Period.* Section 4c(d)(1) of the Act permits persons domiciled in the United States who, on May 1, 1978, were in the business of granting options on a physical commodity and in the business of buying, selling, producing or otherwise using that commodity, to continue to grant options on that commodity in accordance with the Commission regulations in effect on August 17, 1978, until 30 days after the effective date of the regulations issued by the Commission under Section 4c(d)(2). Thus, persons who meet the statutory criteria will be able to continue to grant options until thirty days after the effective date of these regulations.

Section 4c(d)(1) also provides that if a person granting options on a commodity pursuant to its provisions files an application for registration with the Commission within 30 days after the effective date of any registration requirement adopted pursuant to Section 4c(d)(2), that person may continue to grant options on that commodity pending final Commission action on the application for registration. This provision of Section 4c(d)(1) would be implemented by proposed § 3.15(f). Those who do not make timely application will, of course, have to cease granting options until they are registered.

5. *Trade Options.* Section 4c(c) of the Act exempts certain trade option transactions from the general Congressional prohibition of commodity option transactions. The exempt trade option transactions are those effected in accordance with Commission regulations, "in which the purchaser is a producer, processor, commercial user of, or a merchant handling the commodity involved in the transaction, or the products or byproducts thereof * * *." This statutory trade option exemption is not as broad as that presently contained in § 32.4(a) of the Commission's regulations. Under § 32.4(a), option transactions are exempt from the effect of the suspension where the offeror has a "reasonable basis to believe" that the offeree is a commercial enterprise and that the offeree enters the transaction solely for purposes relating to its business as such. In contrast, Section 4c(c) exempts only those transactions in which the "purchaser is" a commercial enterprise. Accordingly, while the Commission proposes to retain the requirement that the offeror have a reasonable basis to believe that the purchaser enters the transaction for business purposes, § 32.4(a) would be amended to require that the offeree be a commercial enterprise.

The purpose of § 32.4(a) is to exempt the acquisition of a commodity option for a non-speculative purpose by a commercial enterprise engaged in transactions in physical commodities from the requirements of the Commission's option regulations. *See* 41 FR 51810 (November 24, 1976); 43 FR 54221 (November 21, 1978). In order to qualify to grant dealer options under § 32.12, a person must be in the business of buying, selling, producing, or otherwise using the commodity on which its options are granted, *i.e.,* must be bona fide commercial enterprise. A person that qualifies as a § 32.12 granted is, therefore, in the Commission's view, a commercial interest to whom an option may be offered and sold under § 32.4(a).

There is, however, a question whether a § 32.12 grantor that purchases a put or a call option from a third party to cover its obligations as grantor of an option which has been sold to the public has purchased the option "solely for purposes related to its business" as a producer, processor, commercial user or merchant handling the commodity within the meaning of § 32.4(a). The

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Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

This provision does not, of course, preclude the initiation of an injunctive proceeding, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (1976), or an administrative proceeding pursuant to Section 6b of the Act, 7 U.S.C. § 13a (1976 and Supp. III 1979), against a person granting or selling dealer options for a violation of the Act or the Commission's regulations.

[32] The economic purpose criterion contained in proposed § 32.12(a)(12) is consistent with the Commission's previously announced policy with respect to commodity options. *See, e.g.,* 43 FR 59397-8 (December 20, 1978); 43 FR 16155-6 (April 17, 1978); 42 FR 55345 (October 17, 1977); 42 FR 18248 (April 5, 1977).

Moreover, the Commission is of the view that any cause which would warrant suspension or revocation of registration under Section 8a of the Act would be sufficient to establish that continuation of registration would be contrary to the public interest pursuant to Section 4c(d) and proposed § 32.12(a)(12).

underlying rationale of § 32.4(a) is that commercial enterprises engaged in the commodity business do not require the protection of the Commission's option regulations if they decide to acquire commodity options for business purposes, such as inventory management.

The Commission, therefore, proposes to amend § 32.4(a) expressly to provide that a § 32.12 grantor of dealer options may acquire put or call options under the trade option exemption for the purpose of covering the grantor's open option positions. Of course, a grantor who chooses to cover its obligations under open option positions through the purchase of options or in some other manner would not be relieved of its obligations under Section 4c(d)(2)(A) of the Act to segregate amounts accruing as profits to option customers.

6. *Evidence of Compliance.* Section 4c(d)(2)(B)(i) of the Act requires that a futures commission merchant selling dealer options have evidence that the grantor of those options is in compliance with all of the requirements of Section 4c(d)(2)(A), *i.e.*, that the grantor (1) is domiciled in the United States; (2) is a bona fide commercial enterprise; (3) has a net worth of at least $5,000,000; (4) segregates customer profits; (5) provides a transaction identification number for each transaction; and (6) provides confirmation of all transactions. The Commission, therefore, proposes to add § 32.12(a)(9)(ii), which would require that persons through which dealer options are sold have evidence in the form of a separate affidavit for each commodity on which a grantor is registered to grant options executed annually by the grantor or a partner or officer of the grantor that the grantor is in compliance with each of these requirements and specifies the facts evidencing such compliance.

In addition, Section 4c(d)(2)(B)(iii) of the Act requires that futures commission merchants that offer and sell dealer options record "each transaction in its customer's name by the transaction identification number provided by the grantor; * * *." While § 32.12(a)(6)(ii) requires that futures commission merchants furnish their customers with confirmation statements which include the transaction identification number provided by the grantor, it does not specifically require a futures commission merchant to keep a record which matches customer names with grantor identification numbers. A requirement of this nature would be added as § 32.12(a)(9)(i).

7. *Waivers.* Section 32.12(c) presently provides that the Commission may for good cause shown waive any of the requirements of paragraphs (a) and (b) of § 32.12. As more fully discussed above, however, Section 4c(d)(2) of the Act imposes specific statutory requirements on grantors and futures commission merchants. The Commission may not, of course, waive any of these requirements. Section 32.12(c) would, therefore, be amended accordingly.

Certification Under Regulatory Flexibility Act

Adoption of the proposed rules would not appear to affect a substantial number of small firms. In fact, information reported under the existing rules indicates that there are at present only five dealer option grantors and fourteen futures commission merchants selling such options. In addition, it appears that the size of the minimum net worth and net capital requirements which the Act and the proposed rules would impose on dealer option grantors would preclude many, if not all, small businesses from qualifying to issue dealer options. Accordingly, pursuant to Section 3(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comment from any small firms which believe that promulgation of these rules will have a significant economic impact on them.[33]

In consideration of the foregoing, the Commission pursuant to the authority contained in Sections 4c(b), 4c(d) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6c(b), 6c(d) and 12a(5) (1976 and Supp. III 1979), hereby proposes to amend Parts 1, 3 and 32 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 32—LEVERAGE TRANSACTIONS

1. By continuing in effect the following sections of Part 32:

Sec.
32.1 Definitions (17 CFR 32.1 (1980));
32.2 Prohibited transactions (17 CFR 32.2 (1980));
32.3 Unlawful commodity option transactions (17 CFR 32.3 (1980));
32.4 Exemptions (17 CFR 32.4 (1980)) (except paragraph (a));
32.6 Segregation (17 CFR 32.6 (1980)) (except paragraph (a));
32.7 Books and record keeping (17 CFR 32.7 (1980));
32.8 Unlawful representations (17 CFR 32.8 (1980));
32.9 Fraud in connection with commodity option transactions (17 CFR 32.9 (1980));
32.10 Option transactions entered into prior to the effective date of this Part (17 CFR 32.10 (1980));
32.11 Suspension of commodity option transactions (17 CFR 32.11 (1980));
32.12 Exemption from suspension of commodity option transactions (17 CFR 32.12 (1980)) (except paragraphs (a), (a)(1), (a)(3), (a)(6), (a)(8) and (c)).

2. By revising § 32.4(a) as follows:

§ 32.4 Exemptions.

(a) Except for the provisions of §§ 32.2, 32.8 and 32.9, which shall in any event apply to all commodity option transactions, the provisions of this part shall not apply to a commodity option transaction in which the purchaser is a producer, processor, or commercial user of, or a merchant handling the commodity which is the subject of the commodity option transaction, or the products or by-products thereof, and in which the person offering the commodity option has a reasonable basis to believe that such producer, processor, commercial user or merchant purchases the commodity option solely for purposes related to its business as such or for the purpose of meeting its obligations to option customers under outstanding options it has granted in accordance with the provisions of § 32.12.

* * * * *

3. By revising § 32.5 as follows:

§ 32.5 Disclosure.

(a) Except as provided in paragraph (b) of this section, prior to the entry into a commodity option transaction, the person soliciting the order for that transaction shall provide the prospective option customer with a dated copy of a summary disclosure statement and shall obtain from the customer a signed and dated acknowledgment of receipt of the summary disclosure statement, which acknowledgment shall be retained in accordance with the requirements of § 32.7. The disclosure statement shall contain the following data and information.

(1) A brief description of all commodity option contracts being offered by the grantor, as to each type of commodity and each quantity of that commodity, including:

(i) The maturity or expiration dates of the commodity option contracts being

[33] Even assuming that the proposed rules, if promulgated would have a significant economic impact on a substantial number of small businesses, it is the Commission's position that, in light of the purpose of the proposed rules—to insure that dealer options are offered and sold consistent with the public interest—there may be no alternatives to the proposed rules which would effectively accomplish the objectives of the Act.

offered, the option maturities outstanding at any time, and the grade and total quantity of the commodities which may be purchased or sold upon exercise of the options being offered;

(ii) A listing of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees and other charges;

(iii) The services to be provided for the separate elements comprising the purchase price; and

(iv) The method by which strike prices are set and, in the case of fixed strike prices, the intervals at which they are established;

(2) A description of any and all costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise), and all similar fees and charges which may be incurred, as well as any discount from or excess over the spot price of the commodity underlying the option which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received by the customer in connection with exercise;

(3) If applicable, a description of any and all costs in addition to the purchase price which may be incurred by the option customer if the commodity option is resold to the grantor;

(4) A statement to the effect that the spot price of the commodity underlying each option contract being offered must either rise above the strike price in the case of a call, or fall below the strike price in the case of a put, by an amount in excess of the sum of the purchase price and all other costs incurred in exercising the option, in order for it to be possible for the option customer to realize a profit on the commodity option transaction through exercise;

(5) A section in which an illustrative option transaction shall be set forth in a format similar to that prescribed in paragraph (d) of this section for confirmation statements. This section shall be completed by the person furnishing the disclosure statement on the day the disclosure statement is furnished to the prospective customer and shall set forth the following information:

(i) The purchase price of an option, specified by commodity, strike price, maturity and by call or put, offered on that day by the grantor, including a separate listing of the premium, mark-ups on the premium, costs, fees and other charges;

(ii) The amount of, or a bona fide estimate of, any costs or fees in addition to the purchase price which the customer would incur in exercising the option (including any discount from or excess over the spot price which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received under the option by the customer) and, in the alternative, if applicable, in reselling the option to the grantor;

(iii) The strike price and the duration of the option;

(iv) The commodity specified by grade, purity, denomination (in the case of coins), etc., and the total quantity of the commodity which could be purchased or sold upon exercise of the commodity option;

(v) The amount, or a bona fide estimate of the amount, by which the price of the commodity underlying the option would have to rise above the current spot price, in the case of a call, or fall below the current spot price, in the case of a put, in order for it to be possible for the prospective customer to realize a profit through exercise, given the purchase price and all other costs which would be incurred in exercising the option. The information required by this subparagraph (v) is to be presented both in dollars and as a percentage of the current spot price of the commodity underlying the option.

(vi) The source of the spot price series used in the calculation of the break-even point required by paragraph (a)(5)(v) of this section; the units (*e.g.*, dollars per ounce) in which the spot price is quoted; and information as to where the prospective option customer can find timely quotes of the applicable spot price;

(6) The following boldfaced statements on the first page of the summary disclosure statement:

BECAUSE OF THE VOLATILE NATURE OF THE COMMODITIES MARKETS, THE PURCHASE OF COMMODITY OPTIONS IS NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. A PERSON SHOULD NOT PURCHASE A COMMODITY OPTION UNLESS HE OR SHE IS PREPARED TO SUSTAIN A TOTAL LOSS OF THE PURCHASE PRICE OF THE COMMODITY OPTION. THE OPTION CUSTOMER SHOULD BE AWARE THAT THE SPOT PRICE OF THE COMMODITY UNDERLYING THE OPTION MUST RISE TO THE BREAKEVEN PRICE IN THE CASE OF A CALL OR FALL TO THE BREAKEVEN PRICE IN THE CASE OF A PUT BEFORE IT IS POSSIBLE FOR THE OPTION CUSTOMER TO REALIZE A PROFIT ON EXERCISING THE OPTION. A SAMPLE BREAKEVEN CALCULATION IS ATTACHED TO THIS DOCUMENT. THE CUSTOMER SHOULD ALSO BE AWARE THAT UNLESS THE GRANTOR HAS A LEGAL OBLIGATION TO REPURCHASE ITS OPTIONS AT A PRICE REFLECTING THE ECONOMIC VALUE OF THE OPTION, THE ONLY METHOD BY WHICH THE OPTION CUSTOMER IS LEGALLY ABLE TO RECOVER ANY MONEY FROM THE PURCHASE OF AN OPTION IS THROUGH EXERCISE OF THE OPTION.

A PROSPECTIVE OPTION CUSTOMER SHOULD BE AWARE THAT THE PERSON OR FIRM OFFERING AND SELLING THE COMMODITY OPTIONS WHICH ARE THE SUBJECT OF THIS DISCLOSURE STATEMENT IS AN AGENT OF THE PERSON OR FIRM WHICH GRANTS THE OPTIONS ("GRANTOR"). THE CUSTOMER SHOULD ALSO UNDERSTAND THAT THE PRICES CHARGED BY OTHER GRANTORS FOR SIMILAR COMMODITY OPTIONS AND THE COMMISSIONS CHARGED BY OTHER AGENTS FOR OPTIONS ISSUED BY THE SAME GRANTOR MAY VARY. A PROSPECTIVE COMMODITY OPTION CUSTOMER SHOULD COMPARE OTHER GRANTORS' PRICES, AS WELL AS OTHER AGENTS' COMMISSIONS, PRIOR TO ANY PURCHASE OF COMMODITY OPTIONS.

THESE COMMODITY OPTIONS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE COMMODITY FUTURES TRADING COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A VIOLATION OF THE COMMODITY EXCHANGE ACT AND THE REGULATIONS THEREUNDER;

(7) Statements to the effect that:

(i) Specific market movements of the commodities underlying the options being offered cannot be accurately predicted; and

(ii) Before entering into a commodity option transaction, the prospective option customer is to be informed by the person soliciting or accepting the order therefor of the actual amount of, or to the extent the actual amount is not known, provided with a bona fide estimate of, the premium, mark-ups on the premium, costs, fees and other charges, as well as all costs to be incurred by the customer if the commodity option is exercised (including any discount from or excess over the spot price which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received by the customer under the option) and, in the alternative, if applicable, resold to the grantor. The customer also is to be informed of, or provided with a bona fide estimate of, the extent to which the price of the commodity underlying the option must rise above the current spot price in the case of a call, or fall below the current spot price in the case of a put, in order for it to be possible for the customer to realize a profit on the transaction through exercise, given the purchase price and all fees incident to exercise;

(8) A statement whether the grantor is under any obligation to repurchase an option from a customer, a description of any conditions that may exist or occur that would affect any such obligation, and a description of the conditions, if any, under which customers will be able

to recover any portion of the purchase price, or to realize whatever profits they might be due, by reselling the option to the grantor, rather than by exercising the option. In addition, a statement that any repurchase price which the grantor might offer would not be less than the difference between the spot price of the commodity underlying the option prevailing at the time of repurchase and the strike price of the option, but that the grantor will be permitted to deduct from the repurchase price any costs or fees associated with repurchase, provided that the amount or a bona fide estimate of the amount of the costs or fees has been disclosed prior to entry into the option transaction. If the grantor guarantees, or reserves the right to offer, repurchase of the options which it grants, the provisions of the following paragraphs of this § 32.5 which concern repurchase shall be applicable: (a)(3), (a)(5)(ii), (a)(7)(ii), (a)(10), (c) and (d)(2). If option customers will be unable to recover any portion of the purchase price or to realize whatever profits they might be due by reselling the option to the grantor, the statement shall disclose this fact. In addition, all statements shall disclose that in the absence of repurchase, the only means through which customers will be able to recover any portion of the purchase price or to realize any profits they may be due is exercise of the option prior to the expiration date of the option;

(9) A detailed description of whether and how customers who exercise options will be able to sell the commodity which they receive, or buy the commodity which they are to deliver, as the case may be, through means independent of the grantor;

(10) The procedural requirements for exercise of the commodity options being offered and, if applicable, for resale of the options to the grantor;

(11) A clear explanation of any *force majeure* clause contained in the option contract; and

(12) A description of any other material risks involved in the option transaction not specifically required to be disclosed by this section.

(b) A person shall not be required to deliver the summary disclosure statement to an option customer as required by paragraph (a) of this section if a summary disclosure statement previously has been furnished by such person to the option customer: *Provided, however,* That notwithstanding the foregoing, a disclosure statement shall be delivered in any event (1) upon the request of the option customer, or (2) if the previously delivered disclosure statement has become outdated or has become inaccurate in any material respect.

(c) Before entering into a commodity option transaction, each option customer or prospective option customer shall be informed by the person soliciting or accepting the order therefor of the actual amount of the premium, markups on the premium, costs, fees and other charges comprising the purchase price, as well as all costs to be incurred by the option customer if the commodity option is exercised (including any discount from or excess over the spot price of the underlying commodity which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received under the option by the customer) and, in the alternative, if applicable, resold to the grantor. To the extent any of the foregoing amounts are not known, such person shall inform the option customer or prospective option customer of that fact, identify the amounts which are not known, and provide a bona fide estimate of what the amounts are expected to be. The customer shall also be informed of, or provided with a bona fide estimate of, the extent (expressed both in dollars and as a percentage of the current spot price of the underlying commodity) to which the price of the commodity underlying the option must rise above the current spot price in the case of a call, or fall below the current spot price in the case of a put, in order for it to be possible for the customer to realize a profit on the transaction through exercise, given the purchase price and all fees incident to exercise. The information furnished pursuant to this paragraph shall be recorded in writing by the person furnishing the information, and such record shall be maintained in the manner provided for by § 32.7 of this Part.

(d) Not more than 24 hours after entry into a commodity option transaction, each person which accepts any money, securities or property (or extends credit in lieu thereof) from an option customer as payment of the purchase price in connection with a commodity option transaction shall furnish, by mail or other generally accepted means of communication, such option customer with a written confirmation statement, in the format set forth below, containing at least the following information:

(1) The actual amount of the purchase price including a separate listing of the premium, mark-ups on the premium, costs, fees, and all other charges;

(2) The actual amount of, or to the extent an actual amount is not known, a bona fide estimate of, any costs or fees in addition to the purchase price which would be incurred in exercising the option (including any discount from or excess over the spot price of the underlying commodity which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received under the option by the customer) and, in the alternative, if applicable, in reselling the option to the grantor;

(3) The strike price;

(4) The commodity, specified by grade or denomination and total quantity, that may be purchased or sold upon exercise of the commodity option;

(5) The expiration date of the commodity option purchased;

(6) The spot value of the quantity of the commodity underlying one option at the time of purchase;

(7) The date the commodity option was granted;

(8) The amount, or a bona fide estimate of the amount, by which the price of the commodity underlying the option must either rise above the current spot price in the case of a call, or fall below the current spot price in the case of a put, in order for it to be possible for the customer to realize a profit on the transaction through exercise, given the purchase price and all costs and fees incident to exercise. The information required by this subparagraph (8) is to be set forth both in dollars and as a percentage of the spot value of the total quantity of the commodity underlying one option; and

(9) The source of the spot price used in the calculation of the break-even point described in paragraph (d)(8) of this section, the units (e.g., dollar per ounce) in which the spot price is quoted, and information as to where the customer can find timely quotes of the applicable spot price.

Format

Confirmation Statement

Heading: Firm and Customer Name, Account Number, Date, etc.

Option Grantor _____

Transaction Identification Number _____

Commodity _____ Option Class [Put or Call]

Number of Options _____ Strike Price

Expiration _____ Spot Value of the Total Quantity of the Commodity Underlying One Option [1]

Purchase Price

	Dollar per option
Amount of purchase price due to grantor [2] _____	$
+Total FCM purchase fees [2] _____	+
=Purchase cost to customer _____	

Total Purchase Cost ( ) Equals "Dollars Per Option" ( ) Times "Number of Options" ( ) _____

Break-Even Calculation

	Dollars per option	Percent
Purchase cost to consumer	$	
+Estimated exercise costs of grantor [3]	+	
+Estimated exercise costs of FCM	+	
=Sum of costs		
+/−Strike price [4]	+/−	
=Breakeven price		
Price change required to breakeven [5]		
Percentage price change required to breakeven [6]		

[1] Indicate the source of the spot price upon which this calculation is based, as well as information concerning where the customers can find timely quotes of this spot price series.

[2] Enumerate components of amounts due grantor and FCM fees.

[3] In presenting estimated exercise costs of grantor, include any discount from or excess over the spot price which a member of the public might reasonably be charged in buying or selling the commodity to be delivered or received by the customer under the option.

[4] Add sum of costs to strike price to obtain the breakdown price for calls; subtract sum of costs from strike price to obtain breakeven price for puts.

[5] Substract current spot price from breakeven price for calls; subtract breakeven price from current spot price for puts.

[6] Divide "price change required to breakdown" by "spot value of total quantity of commodity underlying one option".

(e) The spot price series used in making all disclosures required by this § 32.5 shall be the spot price series submitted to the Commission in compliance with § 3.15 shall be presented in a format which segregates them from all other data and information provided to the option customer at the same time or in the same document.

4. By revising paragraph (a) of § 32.6, and by adding paragraph (g) to § 32.6, as follows:

§ 32.6 Segregation.

(a) Any person which accepts money, securities or property from an option customer as payment of the purchase price in connection with a commodity option transaction shall treat and deal with that portion of the purchase price payable to the grantor as belonging to such option customer until expiration of the term of the option, or if the option customer exercise the option or resells the option to the grantor, until all rights of the option customer under the commodity option have been fulfilled. Each such person shall also treat and deal with as belonging to an option customer (1) all money, securities or property deposited by such option customer for the purpose of purchasing a commodity option, but which has not yet been used for that purpose and (2) all money, securities or property received from a dealer option grantor representing the proceeds of the exercise or resale of a commodity option owned by an option customer, until such time as the money, securities or property is returned to the option customer or otherwise disbursed in accordance with the option customer's instructions. Such money, securities or property which must be treated and dealt with as belonging to an option customer (i) shall be separately accounted for and segregated as belonging to such option customer; (ii) shall be kept in the United States; and (iii) shall not be commingled with the money, securities or property of any other person, including the money, securities or property received by a futures commission merchant to margin, guarantee or secure the trades or contracts of commodity customers (as defined in § 1.3(k) of this chapter) or with the money accruing to such commodity customers as the result of such trades or contacts: *Provided, however,* That the money, securities or property treated as belonging to an option customer may for convenience be commingled with the money, securities or property treated as belonging to any other option customer and deposited in the same account or accounts with any bank or trust company in the United States. Such money, securities or property, when so deposited with any bank or trust company, shall be deposited under an account which will clearly show that it contains money, securities or property, segregated as required by this Part. Each person depositing such money, securities or property shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from such bank or trust company that it was informed that the money, securities and property therein are being treated as belonging to option customers and are being held in accordance with the provisions of this Part. Such bank or trust company shall allow inspection of such accounts at any reasonable time by representatives of the Commission.

* * * * *

(g) The prohibition in § 32.6(a) against commingling funds which must be treated and dealt with as belonging to option customers with the funds of any other person shall not be construed to prevent a futures commission merchant from having a residual financial interest in the funds segregated and set apart for the benefit of option customers. Neither shall such prohibition be construed to prevent a futures commisson merchant from adding to the funds being treated and dealt with as belonging to option customers such amount or amounts of his own funds as he may deem necessary to insure that he does not become undersegregated at any time: *Provided, however,* That the books and records of such futures commission merchant shall at all times accurately reflect his interest in option customers' segregated funds. Such futures commission merchant may draw upon such segregated funds to his own order to the extent of his actual interest therein: *Provided, further,* That such withdrawal shall not result in the futures commission merchant becoming undersegregated.

5. By revising paragraphs (a) introductory text, (a)(1), (a)(3), (a)(6), (a)(8) and (c) of § 32.12 and adding paragraphs (a)(9), (a)(10), (a)(11) and (a)(12) to § 32.12, as follows:

§ 32.12 Exemption from suspension of commodity option transactions.

(a) The provisions of § 32.11 shall not apply to the solicitation or acceptance of orders for, or the acceptance of money, securities or property in connection with, the purchase or sale of any commodity option on a physical commodity subject to regulation under Section 4c(b) of the Act granted by a person domiciled in the United States who is in the business of buying, selling, producing, or otherwise using that commodity if all of the following conditions are met at the time of the solicitation of acceptance:

(1) Each dealer option grantor must at all times maintain net worth of at least $5,000,000 computed in accordance with generally accepted accounting principles and must also maintain adjusted net capital equal to or in excess of $4,000,000 plus 10 percent of the market value of the physical commodities which are the subject of each uncovered commodity option granted by the dealer option grantor.

(i) In determining the market value of the commodities which are the subject of commodity options granted by a dealer option grantor, such dealer option grantor shall for purposes of this paragraph (a)(1) utilize a spot price series submitted to the Commission pursuant to § 3.15(a)(5).

(ii) No person applying to act as a dealer option grantor shall be permitted to act in that capacity unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this § 32.12(a)(1). Each dealer option grantor must be in compliance with § 32.12(a)(1) at all times and must be able to demonstrate such compliance to the satisfaction of the Commission.

(iii) A dealer option grantor who is not in compliance with § 32.12(a)(1) or is unable to demonstrate such compliance as required by paragrpah (a)(1)(ii) above must immediately cease granting options on physical commodities (except for those commodity options specifically exempted by § 32.4 of these regulations) until such time as the dealer option grantor is able to demonstrate such compliance; *Provided, however,* That if such dealer option grantor immediately demonstrates to the satisfaction of the Commission the ability to achieve compliance, the Commission may allow such dealer option grantor up to a maximum of 10 business days in which to achieve compliance without having to cease doing business as required above. Nothing in this paragraph (a)(1)(iii) shall be construed as preventing the Commission from taking action against a dealer option grantor for non-compliance with any of the provisions of this section.

(iv) For purposes of this section, the provisions of § 1.17(b) shall apply to dealer option grantors.

(v) For purposes of this section, the term "net capital" has the same meaning as in § 1.17 of this chapter. In determining net capital, the provisions set forth in § 1.17(c)(1) shall apply.

(vi) For purposes of this section the term "current assets" has the same meaning as in § 1.17 of this chapter. In computing current assets, the provisions set forth in § 1.17(c)(2), except for § 1.17(c)(2)(v), shall apply.

(vii) For purposes of this section, the provisions set forth in § 1.17(c)(3) of these regulations shall apply.

(viii) For pusposes of this section, the term "liabilities" has the same meaning as in § 1.17 of this chapter. In computing liabilities, the provisions set forth in § 1.17(c)(4) shall apply, provided, however that the term "dealer option grantor" shall be substituted for the term "futures commission merchant" in § 1.17(c)(4)(iii).

(ix) For purposes of this section, the term "adjusted net capital" has the same meaning as in § 1.17 of this chapter. In computing adjusted net capital, the safety factors set forth in § 1.17(c)(5) shall apply, provided, however, that the safety factors set forth in §§ 1.17(c)(5)(ii)(A), (B) and (D) shall not apply; and, provided further, that the safety factors set forth in § 1.17(c)(5)(x) shall not apply to any futures contracts in proprietary accounts which represent cover for commodity options on physical commodities granted by a dealer option grantor.

(x) For purposes of this section, the provisions set forth in §§ 1.17(d), (e), (f) and (h) shall apply.

(xi) For purposes of this section, "cover" shall have the same meaning as set forth in § 1.17(j) and, with respect to commodity options granted on physical commodities:

(A) A call commodity option granted by a dealer option grantor for which the market value of the physical commodity which is the subject of the option exceeds the strike price of the option, shall be considered covered by (*1*) unencumbered ownership or fixed-price purchase of the same commodity which is the subject of the option, to the extent that the quantity of such unencumbered ownership or fixed-price purchase is not less than the quantity of such commodity which is the subject of the option; (*2*) purchase for future delivery on a board of trade of the same commodity which is the subject of the option, to the extent that the quantity of such purchases is not less than the quantity of such commodity which is the subject of the option; and (*3*) the purchase of a call commodity option for the same commodity, but only to the extent that the quantity of the commodity which is the subject of the purchased option is not less than the quantity of the commodity which is the subject of the granted option: *Provided, however,* That if the strike price of the purchased option is greater than the strike price of the granted option, the amount of the difference in those prices shall be considered uncovered by the grantor for purposes of computing required minimum adjusted net capital;

(B) A call commodity option granted by a dealer option grantor for which the market value of the commodity which is the subject of the option is less than the strike price of the option shall be considered covered;

(C) A put commodity option granted by a dealer option grantor for which the market value of the physical commodity which is the subject of the option is less than the strike price of the option shall be considered covered by (*1*) fixed-price sales of the same commodity which is the subject of the option, to the extent that the quantity of such fixed-price sales is not less than the quantity of such commodity that is the subject of the option; (*2*) sales for future delivery on a board of trade of the same commodity which is the subject of the option, to the extent that the quantity of such sales is not less than the quantity of such commodity which is the subject of the option; and (*3*) the purchase of a put commodity option for the same commodity, but only to the extent that the quantity of the commodity which is the subject of the purchase option is not less than the quantity of the commodity which is the subject of the granted option: *Provided, however,* That if the strike price of the purchased option is less than the strike price of the granted option, the amount of the difference in those prices shall be considered uncovered by the grantor for purposes of computing required minimum adjusted net capital;

(D) A put commodity option granted by a dealer option grantor for which the market value of the commodity which is the subject of the option exceeds the strike price of the option shall be considered covered; and

(E) Notwithstanding the other provisions of this paragraph (a)(1)(xi), no option owned by, or fixed price commitment of, a dealer option grantor shall constitute cover unless the other party to the transaction has a minimum net worth of at least $1,000,000 and no more than 10 percent of a grantor's total cover may consist of such transactions with one person or one affiliated group of persons.

(xii) No person shall be permitted to act as a dealer option grantor unless, commencing on the date the person first applies to act in that capacity, the person prepares, and keeps current, ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on form 2-FR or categories that are in accord with generally accepted accounting principles. Each person so registered shall prepare and keep current such records.

(xiii) Each dealer option grantor, and each person who has applied to act in that capacity, must make and keep as a record in accordance with § 1.31 of this chapter formal computations of its adjusted net capital and of its minimum financial requirements pursuant to this section as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the Commission within 30 days after the date for which the computations are made, commencing the first month-end after the date the first application for registration is filed or the first month-end after the effective date of this section.

(xiv) For purposes of this section the requirements of §§ 1.12(a), 1.12(b), 1.12(c), 1.12(d) and 1.12(g) shall apply to

dealer option grantors and applicants therefor; *Provided, however,* That the term "dealer option grantor" shall be substituted for the term "futures commission merchant" and § 32.12(a)(1) shall be substituted for all references to § 1.17

* * * * *

(3) Each person acting as a dealer option grantor shall segregate, at least daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to or in excess of the amount by which the value of each transaction exceeds the amount received or to be received by the dealer option grantor for such transaction.

(i) For purposes of this paragraph (a)(3) the value of each transaction shall be: (A) in the case of a call commodity option, the amount by which the market value of the actual commodity which is the subject of the option exceeds the strike price of the option, and (B) in the case of a put commodity option, the amount by which the market value of the actual commodity which is the subject of the option is less than the strike price of the option. The market value of the actual commodity which is the subject of the call or put option shall be computed by using a spot price series submitted to the Commission pursuant to § 3.15(a)(5).

(ii) All money, securities or property segregated in accordance with paragraph (a)(3) shall be separately accounted for and deposited with a bank or trust company in the United States. Such money, securities and property shall be deposited under an account name which will clearly show that it contains money, securities or property segregated as required by this Part. Each person depositing such money, securities or property shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgement from such bank or trust company that it was informed that the money, securities or property therein are being segregated exclusively for the benefit of purchasers of commodity options granted by the depositing person, and are being held in accordance with the provisions of this Part. Such bank or trust company shall allow inspection of such accounts at any reasonable time by representatives of the Commission.

(iii) Such bank or trust company shall not hold, dispose of, use or treat any money, securities or property deposited in accordance with this paragraph (a)(3) as belonging to the depositing person or any other person except for the exclusive benefit of the purchasers of options granted by the depositing person.

(iv) The amount of money, securities or property, which is and which must be in a segregated account in order to comply with the requirements of this paragraph (a)(3) shall be computed by each person required to segregate such money, securities or property as of the close of each business day. A record of such computation shall be made and kept, together with all supporting data in accordance with the provisions of § 1.31 of this chapter. Such computation shall be made prior to the opening of business on the following business day.

(v) For the purposes of the computation required by subparagraph (3)(iv) of this section, securities and property segregated in acordance with this paragraph (a)(3) shall be included at values which at no time shall be greater than current market value.

(vi) The deposit of securities or property in segregated accounts pursuant to this paragraph (a)(3) shall not operate to prevent the dealer option grantor depositing such securities or property from receiving and retaining as its own any increment or interest resulting therefrom.

(vii) Each dealer option grantor who deposits securities or property in segregated accounts in accordance with this paragraph (a)(3) shall keep a record showing the following: (A) a description of such securities or property, (B) the identity of the banks or trust companies where such securities or property are segregated, and (C) the dates on which such securities or property are deposited into segregated accounts and the dates on which such securities or property are removed from segregated accounts.

* * * * *

(6) Each person who is offering and selling the option to an option customer shall: (i) be fully in compliance with each and every requirement of this Part 32; (ii) include in the confirmation statement required by § 32.5(d) the transaction identification number provided by the grantor; (iii) make such reports to the Commission as are provided for in paragraphs (f) and (h) of this section and as the Commission may otherwise require by rule or regulation or order; and (iv) keep a record in permanent form which shows, for each commodity option account carried by such person (A) the principal occupation or business of the option customer owning the account, (B) the name and address of any other person having a financial interest in such account, (C) the name, address and principal business or occupation of any other person exercising any trading control with respect to such account, and (D) an indicator of whether the account is traded for speculative purposes or for other than speculative purposes.

* * * * *

(8) Dealer option grantors, and persons applying to act as dealer option grantors, must submit the following reports:

(i) Each person who files an application with the Commission to act as a dealer option grantor must concurrently with the filing of such application submit either: (A) a Form 2-FR certified by an independent public accountant in accordance with § 1.16 of this chapter as of a date not more than 45 days prior to the date on which such report is filed, or (B) a Form 2-FR as of a date not more than 45 days prior to the date on which such report is filed and a Form 2-FR certified by an independent public accountant in accordance with § 1.16 of this chapter as of a date not more than 1 year prior to the date on which such report is filed. Each such person must include with such financial report a statement describing the source of its current assets and representing that its capital has been contributed for the purpose of operating its business and will continue to be used for such purpose.

(ii) Each dealer option grantor must file a Form 2-FR for each fiscal quarter of each fiscal year. Each Form 2-FR must be filed no later than 45 days after the date for which the report is made: *Provided, however,* That any Form 2-FR which must be certified by an independent public accountant pursuant to paragraph (a)(8)(iii) of this section must be filed no later than 90 days after the close of each dealer option grantor's fiscal year. This paragraph (a)(8)(ii) will be applicable to all fiscal quarters ending after the effective date of this section but in no event more than 90 days after such effective date.

(iii) The Form 2-FR filed pursuant to paragraph (a)(8)(ii) of this section as of the close of the dealer option grantor's fiscal year must be certified by an independent public accountant in accordance with § 1.16 of this chapter.

(iv) Upon receiving written notice from any representative of the Commission, a dealer option grantor or person who has applied to the Commission to act as a dealer option grantor must, monthly or at such times as specified, furnish the Commission with a Form 2-FR and/or such other financial information as requested by

the representative of the Commission. Each such Form 2-FR or such other information must be furnished within the time specified in the written notice.

(v) The reports provided for in this § 32.12(a)(8) will be considered filed when received at the regional office of the Commission nearest the principal place of business of the dealer option grantor or applicant therefor.

(vi) Each Form 2-FR filed pursuant to this § 32.12(a)(8) which is not required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain:

(A) A statement of financial condition as of the date for which the report is made;

(B) A statement of changes in ownership equity for the period between the date of the most recent statement of financial condition filed with the Commission (or the beginning of the fiscal quarter immediately following the effective date of this rule but in no event more than 90 days after such effective date) and the date for which the report is made;

(C) A statement of the computation of the minimum capital requirements pursuant to § 32.12(a)(1) and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; and

(D) In addition to the information expressly required, such further information as may be necessary to make the required statements and schedules not misleading.

(vii) Each Form 2-FR filed pursuant to this § 32.12(a)(8) which is required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain:

(A) A statement of financial condition as of the date for which the report is made;

(B) Statements of income (loss), changes in financial position, changes in ownership equity, and changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent certified statement of financial condition filed with the Commission (or the beginning of the fiscal year immediately following the effective date of this rule but in no event more than 1 year after such effective date) and the date for which the report is made: *Provided,* That for an applicant filing pursuant to paragraph (a)(8)(i) of this section the period must be the year ending as of the date of the statement of financial condition;

(C) A statement of the computation of the minimum capital requirements pursuant to § 32.12(a)(1) and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made;

(D) Appropriate footnote disclosures; and

(E) In addition to the information expressly required, such further material information as may be necessary to make the required statements not misleading.

(viii) The statements required by paragraphs (a)(8)(vii) (A) and (B) of this section may be presented in accordance with generally accepted accounting principles in the certified reports filed as of the close of the registrant's fiscal year pursuant to paragraph (a)(8)(iii) of this section or accompanying the application for registration pursuant to paragraph (a)(8)(i) of this section, rather than in the format specifically prescribed by these regulations: *Provided,* That the statement of financial condition is presented in a format as consistent as possible with the Form 2-FR and a reconciliation is provided reconciling such statement of financial condition to the statement of the computation of the minimum capital requirements pursuant to § 32.12(a)(1). Such reconciliation must be certified by an independent public accountant in accordance with § 1.16.

(ix) Attached to each Form 2-FR filed pursuant to this § 32.12(a)(8) must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the Form 2-FR is true and correct. If the dealer option grantor or applicant therefor is a sole proprietorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer or chief financial officer.

(x) Any dealer option grantor or applicant therefor wishing to establish a fiscal year other than the calendar year may do so by notifying the Commission of its election of such fiscal year in writing, concurrently with the filing of Form 2-FR pursuant to paragraph (a)(8)(i) of this section or within 90 days of the effective date of this section, but in no event may such fiscal year end more than one year from the date of the Form 2-FR filed pursuant to paragraph (a)(8)(i) of this section or more than one year from the effective date of this regulation. A dealer option grantor or applicant therefor which does not so notify the Commission will be deemed to have elected the calendar year as its fiscal year. A dealer option grantor must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C.

(xi) In the event any dealer option grantor or applicant therefor finds that it cannot file its report for any period within the time specified in paragraphs (a)(8)(ii) or (a)(8)(iv) of this section without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the requested extension date. The application must be received by the Commission before the time specified in paragraphs (a)(8)(ii) or (a)(8)(iv) of this section for filing the report. Within 10 calendar days after receipt of the application for an extension of time, the Commission shall: (A) notify the applicant or registrant of the grant or denial of the requested extension; or (B) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(xii)(A) In the event an applicant or registrant finds that it cannot file its certified financial statements and schedules for any year within the time specified in this paragraph (a)(8) without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date not more than 90 days after the date as of which the certified financial statements and schedules were to have been filed. The application must be made by the applicant or registrant and must: (*1*) state the reasons for the requested extension; (*2*) indicate that the inability to make a timely filing is due to circumstances beyond the control of the dealer option grantor or applicant therefor, if such is the case, and describe briefly the nature of such circumstances; (*3*) be accompanied by the latest available formal computation of adjusted net capital and minimum financial requirements computed in accordance with § 32.12(a)(1); (*4*) be accompanied by the latest available computation of required segregation and by a computation of the amount of money, securities or property segregated pursuant to § 32.12(a)(3) as of the date of the latest available computation; (*5*) contain an agreement to file the report on or before the date specified by the applicant or registrant in the application; (*6*) be received by the principal office of the Commission in

Washington, D.C., prior to the date on which the report is due; and (7) be accompanied by a letter from the independent public accountant answering the following questions:

(i) What specifically are the reasons for the extension request?

(ii) On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

(iii) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 32.12(a)(1) or the segregation requirements of section 4c(d) of the Act and these regulations, or has any significant financial or recordkeeping problems?

(B) Within 10 calendar days after receipt of an application for extension of time, the Commission shall: (1) notify the dealer option grantor or applicant therefor of the grant or denial of the requested extension; or (2) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(C) Until such time as the Commission orders otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or his designee the authority to grant or deny an application for an extension of time by a dealer option grantor or applicant therefor under §§ 32.12(a)(8)(xi) and (xii), and to inform the dealer option grantor or applicant if additional time is needed to analyze the request. The Director of the Division of Trading and Markets or his designee may submit to the Commission for its consideration any matter which has been delegated to him pursuant to this paragraph.

(D) On the written request of a dealer option grantor or applicant therefor, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this chapter either unconditionally or on specified terms and conditions.

(xiii) All of the Forms 2-FR filed pursuant to this section will be public: *Provided, however,* that if the statement of financial condition, the computation of the minimum capital requirements pursuant to §32.12(a)(1), and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 2-FR, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and parts 145 and 147 of this chapter. All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, and by any other person to whom the Commission believes disclosure of such information is in the public interest. The independent public accountant's opinion filed pursuant to this § 32.12(a)(8) will be deemed public information.

(9) Each person who is offering and selling the option to an option customer (i) must record each transaction in its customer's name by the transaction identification number provided by the grantor and (ii) must have evidence in the form of a separate affidavit executed annually upon actual knowledge by the proprietor of a sole proprietorship grantor, a general partner of a partnership grantor, or the chief executive officer or chief financial officer of a corporate grantor for each commodity on which the grantor is registered to grant options, that the grantor of the options that it sells is in compliance with the requirements of Section 4c(d)(2)(A) of the Act and which specifies the facts evidencing such compliance;

(10) In the event that a dealer option grantor offers to repurchase an option which it has granted, the repurchase price offered may not be less than the spot price of the commodity underlying the option minus the strike price of the option in the case of a call or the strike price of the option minus the spot price of the commodity underlying the option in the case of a put, the spot price to be determined at the time of repurchase by reference to the spot price series submitted to the Commission pursuant to § 3.15(a)(5); *Provided,* That the grantor may deduct from this repurchase price any costs or fees, the amount of which, or a bona fide estimate of the amount of which, has been disclosed to the option customer in accordance with § 32.5(c).

(11) The grantor is registered with the Commission as a dealer option grantor under § 3.15 of this chapter to grant options on the physical commodity which is the subject of the option.

(12) The Commission may terminate the right of any person to grant, offer, or sell options under this chapter only after a hearing, including a finding that the continuation of such right is contrary to the public interest; *Provided,* That pending completion of such termination proceedings, the Commission may suspend the right to grant, offer or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest. In determining whether to terminate or suspend the right of any person to grant, offer or sell options, the Commission will consider, among other public interest factors: whether any substantial economic purpose is served by the options granted, offered or sold; whether any cause exists which would warrant denial of registration as a dealer option grantor or as a futures commission merchant; and whether the person is in violation of any provision of the Act or the Commission's regulations thereunder, including the regulations contained in this Part 32.

(c) Upon written application the Commission may for good cause shown in any particular case waive the requirements of any provision of paragraph (a) or (b) of this section other than those requirements expressly imposed by Section 4c(d)(2) of the Act, subject to such other terms and conditions as the Commission may find appropriate in the public interest and for the protection of option customers.

PART I—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

6. By revising paragraph (f) of § 1.10 to read as follows:

§ 1.10 Applications for Registration and Financial Reports of Futures Commission Merchants.

* * * * *

(f) *Extension of time for filing reports.* (1) In the event any applicant or registrant finds that it cannot file its report for any period within the time specified in paragraphs (b)(1) or (b)(4) of this section or paragraph (b) of § 1.12 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the requested extension date. The application must be received by the Commission before the time specified in paragraphs (b)(1) or (b)(4) of this section or paragraph (b) of § 1.12 for filing the report. Notice of such application must be given to the

designated self-regulatory organization, if any, concurrently with the filing of such application with the Commission. Within 10 calendar days after receipt of the application for an extension of time, the Commission shall: (i) notify the applicant or registrant of the grant or denial of the requested extension; or (ii) indicate to the applicant or registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(2) In the event any applicant or registrant finds that it cannot file its certified financial statements and schedules for any year within the time specified in § 1.10 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date not more than 90 days after the date as of which the certified financial statements and schedules were to have been filed. Notice of such application must be sent to the disignated self-regulatory organization, if any. The application must be made by the applicant or registrant and must: (i) state the reason for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the applicant or registrant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of adjusted net capital and minimum financial requirements computed in accordance with § 1.17; (iv) be accompanied by the latest available computation of required segregation and by a computation of the amount of money, securities, and property segregated on behalf of customers as of the date of the latest available computation; (v) contain an agreement to file the report on or before the date specified by the applicant or registrant in the application; (vi) be received by the principal office of the Commission in Washington, D.C., and by the designated self-regulatory organization, if any, prior to the date on which the report is due; and (vii) be accompanied by a letter from the independent public accountant answering the following questions:

(A) What specifically are the reasons for the extension request?

(B) On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

(C) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 1.17 or the segregation requirements of section 4(d)(2) of the Act and these regulations, or has any significant financial or recordkeeping problems?

(3) Within 10 calendar days after receipt of an application for extension of time, the Commission shall: (i) notify the applicant or registrant of the grant or denial of the requested extension; or (ii) indicate to the applicant or registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(4) On the written request of any designated self-regulatory organization, or an applicant or registrant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this chapter either unconditionally or on specified terms and conditions.

* * * * *

7. By adding a new paragraph (gg) to § 1.3 as follows:

§ 1.3 Definitions.

* * * * *

(gg) *Dealer Option Grantor.* This term means any person who is registered or required to be registered under Part 3 to grant options on physical commodities pursuant to Part 32.

8. By revising paragraph (d)(1) of § 1.16 to read as follows:

§ 1.16 Qualifications and reports of Accountants.

* * * * *

(d) *Audit objectives.* (1) The audit must be made in accordance with generally accepted auditing standards and must include a review and appropriate tests of the accounting system, the internal accounting controls, and the procedures for safeguarding customer and firm assets in accordance with the provisions of the Act and the regulations thereunder, since the prior examination date. The audit must include all procedures necessary under the circumstances to enable the independent licensed or certified public accountant to express an opinion on the financial statements and schedules. The scope of the audit and review of the accounting system, the internal controls, and procedures for safeguarding customer and firm assets must be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (i) the accounting system, (ii) the internal accounting controls, and (iii) the procedures for safeguarding customer and firm assets (including the segregation requirements of the Act and these regulations) will be discovered. Additionally, as specified objectives the audit must include reviews of the practices and procedures followed by the registrant in making (A) periodic computations of the minimum financial requirements pursuant to these regulations and (B) daily computations of the segregation requirements of the Act and these regulations.

* * * * *

9. By revoking and reserving paragraph (f) of § 1.16.

PART 3—REGISTRATION

10. By adding a new § 3.15 to Part 3 as follows:

§ 3.15 Registration of dealer option grantors.

(a) *Initial registration.* It is unlawful for any person to grant options on physical commodities for offer or sale pursuant to Part 32 unless registered with the Commission as such in accordance with this § 3.15.

(1) Application for initial registration as a dealer option grantor must be on Form 7–R, together with: (i) a statement, executed by the applicant, that the applicant is seeking registration as a dealer option grantor under Part 32 of this chapter to grant options on a specified commodity; (ii) a list setting forth the names of each futures commission merchant who will sell its options and a statement that these futures commission merchants meet each and every requirement set forth in Part 32 of this chapter and (iii) a financial report, in accordance with the provisions of § 32.12(a)(8)(i) of this chapter.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant: *Provided, however,* That the provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8–R or Form 94 on file with the Commission.

(3) Each applicant filing an application to grant options on a specified commodity must submit with such application the following data and information with respect to the commodity:

(i) The type and number of commercial enterprises with which the prospective option grantor has transacted business with respect to that commodity during the preceding 12 months;

(ii) the type and size of such transactions during the preceding 12 months;

(iii) the total dollar value of production, commercial use, cash market sales and cash market purchases of the commodity underlying the proposed option contract for the most recently concluded fiscal quarter and at least three preceding fiscal quarters (spot and forward cash market transactions should be reported separately);

(iv) the end of month and average monthly inventories of the commodity for each of the preceding twelve months;

(v) the amount of revenues or payments (expressed in dollar amounts and as percentages of total revenues or payments) involving transactions in which there was a change in ownership of the underlying physical commodity (i.e., the physical commodity was delivered to the prospective option grantor or delivered by the prospective option grantor) during the most recently concluded fiscal quarter and at least three preceding fiscal quarters; and

(vi) any additional information which would demonstrate that a prospective option grantor is a bona fide commercial enterprise with respect to the commodity for which registration is being sought.

(4) Each applicant filing an application to grant options on a specified commodity must submit with such application the following data and information with respect to each option contract which the applicant proposes to grant on the commodity:

(i) The exact specification of the commodity which may be bought or sold upon exercise of the option, including the grade or denomination of the commodity, the contract unit, and the delivery locations and facilities;

(ii) The type of instrument, if any, deliverable upon exercise of the option, evidencing ownership of the commodity, and stating whether or not such instrument is negotiable or transferable;

(iii) The costs associated with making or taking delivery of the commodity upon exercise of the option; and

(iv) The relationship between the expiration months of the proposed options and the expiration dates of any futures contracts on the same or closely related commodities traded on any contract market.

Any changes in these terms and conditions must be promptly filed with the Commission.

(5) Each applicant filing an application to grant options on a specified commodity must submit with such application data and information demonstrating that the commodity which is the subject of the proposed options has a liquid spot market with a reliable spot price series which is widely available to the public independent of the grantor. In making this demonstration, the prospective grantor shall designate a particular spot price series for the commodity on which the grantor proposes to issue options. In the event that registration is granted, the spot price series designated by the grantor pursuant to this subparagraph (5) shall be used in assessing the grantor's compliance with paragraphs (a)(1)(i), (a)(3)(i) and (a)(10) of § 32.12, as well as with § 32.5.

(6) To the extent any data or information required of an applicant for registration by this § 3.15 are identical to data or information already on file with the Commission in connection with an existing registration or a pending application for registration those data and that information need not be refiled but instead may be incorporated by reference.

(b) *Renewal of registration.* All registrations granted under this § 3.15 shall expire not less than one year from the date of issuance, upon the last day of the month in which the first such registration was granted, and shall be renewed, upon application therefor. Application for renewal of registration as a dealer option grantor on a specified commodity must be on Form 7-R, completed and filed with the Commission in accordance with the instructions thereto and the requirements of this § 3.15.

(c) *Application fee.* Each application for registration, or renewal thereof, as a dealer option grantor on a specified commodity must be accompanied by a fee of $200. Fees shall be remitted by money order, bank draft, or check, payable to the Commodity Futures Trading Commission.

(d) *Addition or termination of principals subsequent to filing of Form 7-R.* (1) Within twenty days after any natural person becomes a principal of the applicant or registrant subsequent to the filing of a Form 7-R in accordance with the requirements of paragraphs (a) of (b) of this section, the applicant or registrant must file a Form 8-R with the Commission. The Form 8-R must be completed by such principal in accordance with the instructions thereto: *Provided, however,* That the provisions of this paragraph (d) do not apply to any principal who has a current Form 8-R or Form 94 on file with the Commission; *And, provided further,* that the dealer option grantor must notify the Commission within twenty days of the name of such added principal on Form 3-R.

(2) Within twenty days after any natural person is terminated as a principal of the applicant or registrant subsequent to the filing of a Form 7-R in accordance with the requirements of paragraphs (a) of (b) of this section, the applicant or registrant must notify the Commission of the termination of such principal on Form 3-R.

(e) *Denial of registration.* The Commission may refuse to register any person seeking registration under this section if it is found, after notice and opportunity for hearing, that:

(1) The applicant is not in the business of buying, selling, producing, or otherwise using the commodity underlying the proposed option contract. For purposes of this paragraph (e)(1), an applicant shall be considered in the business of buying, selling, producing or otherwise using a commodity if the applicant is a producer, commercial user or commercial buyer or seller of the commodity on which the options are to be granted Commercial users include processors, fabricators and other manufacturers which use a commodity as a principal input in producing an intermediate or final product. Commercial buyers and sellers are persons who make purchases and sales which directly facilitate the transfer of commodities between and among producers and commercial users. The retail buying and selling of a commodity, or the possession of inventory for a speculative purpose, does not satisfy the "in the business" requirement;

(2) The commodity which is the subject of the proposed commodity options does not have a liquid spot market with a reliable spot price series which is widely available to the public independent of the applicant;

(3) Trading of the commodity options proposed by the applicant may reasonably be expected adversely to affect, to a significant degree, the deliverable supplies, or lead to congestion in the trading, of any contract for future delivery traded on any contract market;

(4) The applicant has not established that it meets each of the requirements of Section 4c(d) of the Act or § 32.12 of this chapter; or

(5) The applicant is unfit to engage in business because of the existence of any of the reasons upon which the Commission is authorized to refuse registration under Sections 4n or 8a of the Act.

Provided, That pending final determination of the applicant's registration application, registration

shall not be granted, and *Provided further,* That when registration is denied based on a finding pursuant to Section 4n(5) or 8a(2)(A) of the Act, there shall be no opportunity for hearing.

(f) Temporary exemption for existing grantors. Notwithstanding the provisions of paragraphs (a) and (e) of this section, any person who grants option contracts involving a physical commodity pursuant to Section 4c(d)(1) of the Act and who files an application for registration to grant option contracts involving that commodity under paragraph (a) of this section on or prior to [thirty days after effective date], may continue to grant option contracts involving that commodity pending a final determination by the Commission on the application.

(g) *Suspension and termination of registration.* The Commission may terminate the right of any person to grant options under this section in accordance with the requirements of 32.12(a)(12) of this chapter.

(h) *Exemption from requirement of registration.* Any person who grants option on physical commodities which are offered and sold in accordance with the requirements of § 32.4(a) of this chapter shall not be required to register under this section because of that activity.

Issued in Washington, D.C., on April 21, 1981, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-12547 Filed 4-24-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM81-17]

Definition of Agricultural Use in Commission's Incremental Pricing Regulations

Issued April 20, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend its regulations on incremental pricing (18 CFR Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432). Specifically, it proposes to expand the list of agricultural uses of natural gas set forth in § 282.202(a)(1)(iii), which are exempt from incremental pricing, by adding certain stages in the manufacture of gelatin, glue and carboxy methyl cellulose (CMC).

DATES: Written Comments are due by May 29, 1981. Requests for public hearing are due by May 15, 1981. Public hearing, if requested, will be held on June 9, 1981.

ADDRESS: Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Robert Fleishman, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (202) 357-8270; or

Alice Fernandez, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (202) 357-9095

In the matter of a definition of agricultural use in § 282.202(a) of the Commission's Incremental Pricing Regulations, Docket No. RM81-17, notice of proposed rulemaking.

Issued April 20, 1981.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations on incremental pricing (18 CFR Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432). Specifically, it proposes to expand the list of agricultural uses of natural gas set forth in § 282.202(a)(1)(iii), which are exempt from incremental pricing, by adding certain stages in the manufacture of gelatin, glue and carboxy methyl cellulose (CMC).

II. Background

Title II of the NGPA requires the Commission, within certain guidelines, to institute and administer an incremental pricing program. The program is designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the NGPA to certain industrial facilities that use natural gas as a boiler fuel. However, industrial facilities that use natural gas as a boiler fuel for an agricultural use, as defined in section 206(b)(3) of the NGPA, are currently exempt from the incremental pricing program.[1] Section 206(b)(3) defines "agricultural use" as follows:

(3) Agricultural use defined.—For purposes of this subsection, the term "agricultural use", when used with respect to natural gas, means the use of natural gas to the extent such use is—

(A) For agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or

(B) As a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

The definition of "agricultural use" originally proposed by the Commission to implement this exemption was limited to those uses of natural gas certified as "essential agricultural uses" by the Secretary of Agriculture pursuant to Section 401 of the NGPA.[2] In response to public comments, the Commission issued regulations which expanded this definition to include the Standard Industrial Classification (SIC) Codes representing the processing and finishing of natural fiber by the textile industry.[3] The regulations were further amended on rehearing to include the SIC Codes for wood processing.[4] Subsequently, the Commission amended § 282.202(a) after considering several requests for inclusion of specific uses of natural gas within the definition of "agricultural use."[5]

On February 13, 1981, Peter Cooper Corporations (Peter Cooper) filed a petition in this docket for a rulemaking to further amend § 282.202(a) to include the manufacture of glue, gelatin and nitrogenous fertilizer. The Commission has consistently considered whether particular SIC Codes, or particular uses within such SIC Codes, should be included in § 282.202(a) in the context of rulemaking proceedings. Therefore, Peter Cooper's petition for a rulemaking to consider additional SIC Codes is granted. On January 9, 1981, Hercules Incorporated (Hercules) filed a request for an interpretation that the manufacture of CMC is natural fiber processing and that § 282.202(a) be interpreted to include the manufacture of CMC.[6] The requests of both Peter

[1] Docket No. RM80-29, Order No. 83, issued May 7, 1980, 45 FR 33601 (May 20, 1980).

[2] Proposed Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978, Docket No. RM79-14, issued June 5, 1979, 44 FR 33099 (June 8, 1979). See also Docket No. RM80-75, Interim Rule, issued October 6, 1980, 45 FR 67276 (October 9, 1980).

[3] Docket No. RM79-14, Order No. 49, issued September 28, 1979, 44 FR 57726 (October 5, 1979).

[4] Docket No. RM79-14, Order No. 49-A, issued December 27, 1979, 45 FR 767 (January 3, 1980).

[5] Docket No. RM80-48, Order No. 114, issued December 5, 1980, 45 FR 82915 (December 17, 1980).

[6] Commission Staff advised Hercules that it would be necessary to amend the regulations to include an SIC Code to cover such manufacture, since § 282.202(a) could not be construed to cover Hercules manufacture of CMC. Hercules agreed that its request for interpretation should be treated as a request for a rulemaking and included in the rulemaking docket opened to consider Peter Cooper's petition for rulemaking.

Cooper and Hercules will be considered in this docket.

The Commission urges all interested persons to submit any other proposed amendments to § 282.202(a) in this rulemaking docket, within the time specified in Part VII of this notice for the filing of written comments. The Commission feels that most persons who would request such amendments to § 282.202(a) either have already done so, or can do so in the context of this proceeding. Accordingly, it anticipates that it will not allocate Commission or staff time to consideration of similar additional rulemaking proceedings in the near future.

III. Summary of Requests and Proposed Revisions to Regulations

A. *SIC Code 2899 Chemicals and Chemical Preparations, Not Elsewhere Classified* (the manufacture of gelatin from animal hides by natural fiber processing only)

Peter Cooper seeks to amend § 282.202(a)(1)(iii) to include SIC Codes that cover the manufacture of gelatin on the basis that it involves natural fiber processing, agricultural production and food processing. Regarding natural fiber processing, Peter Cooper claims that the manufacture of gelatin falls within that category because gelatin is derived from animal hides which are natural fiber.

Based on Peter Cooper's assertions in its petition, the Commission believes that the manufacture of gelatin from animal hides may be natural fiber processing. In the final rule issued in Docket No. RM79-14, the Commission determined that animal hides are a natural fiber.[7] Gelatin, as it is manufactured in the manner described by Peter Cooper, appears to be derived from parts of animal hides, and therefore the manufacture of gelatin probably involves the processing of natural fiber. Accordingly, the Commission proposes to amend the definition of agricultural use in § 282.202(a)(1)(iii) to include SIC Code 2899 for the manufacture of gelatin to the extent that it is manufactured from animal hides by natural fiber processing. The Commission notes that if the manufacture of gelatin from animal hides involves several processing stages in which the animal hides are converted to an intermediate material and then to gelatin, it is possible that the further processing of intermediate material is no longer natural fiber processing. In that case, the manufacturer would be required to file an estimation methodology setting forth that portion of gas usage which is exempt as an agricultural use and that portion which is not exempt. The Commission solicits comment that detail the stages in the manufacture of gelatin so it can determine which stages, if any, would not qualify as natural fiber processing.

The Commission rejects the argument that the manufacture of gelatin is agricultural production, because such manufacture is at least one step removed from the actual production of an agricultural product (animal hides). The Commission stated in the final rule issued in Docket No. RM80-48 regarding manufacturing operations in the agricultural production chain, that

> These operations are at least one step removed from the actual production * * * of the agricultural product itself. The definition of agricultural use in § 282.202(a) as it relates to "agricultural production" is generally limited to those SIC Codes representing the on-farm use of natural gas for the production of crops or the raising of livestock.[8]

Since the Commission is proposing to add the manufacture of gelatin to the list of agricultural uses, on the basis of, and to the extent that, its manufacture may be natural fiber processing, it does not reach at this time the question of whether this manufacture of gelatin is food processing under section 206(b) of the NGPA. However, if the manufacture of gelatin includes the processing of an intermediate material that is not natural fiber, comments are sought on whether the manufacture of gelatin is food processing.

B. *SIC Code 2891 Adhesives and Sealants* (the manufacture of glue from animal hides by natural fiber processing only)

Peter Cooper petitions the Commission to amend § 282.202(a) to include SIC Codes that cover the manufacture of glue, because it involves the processing of animal hides and, as such, qualifies as natural fiber processing and agricultural production.

Peter Cooper asserts that, because glue is derived from a natural fiber, animal hides, it constitutes natural fiber processing. For the reasons the Commission stated in its discussion of the manufacture of gelatin, the Commission proposes to amend the definition of agriculural use in § 282.202(a)(1)(iii) to include SIC Code 2891 for the manufacture of glue from animal hides by natural fiber processing only. The Commission solicits comments that detail the stages in the manufacture of glue so it can determine which stages, if any, would not qualify as natural fiber processing.

The Commission rejects the argument that the manufacture of glue is agricultural production for the same reason discussed above in Part A of this notice.

C. *SIC Code 2873 Nitrogenous Fertilizer*

Peter Cooper petitions the Commission to amend § 282.202(a) to include SIC Codes covering the manufacture of nitrogenous fertilizer on the basis that it is agricultural production and natural fiber processing.[9] Nitrogenous fertilizer, as described by Peter Cooper, is derived from tankage, a residue from the processing of animal hides which consists, in part, of animal hair. Peter Cooper asserts that the manufacture of nitrogenous fertilizer is agricultural production because it is "the exploitation of perishable animal materials" and further asserts that, because animal hair is fibrous, the manufacture of nitrogenous fertilizer is natural fiber processing.

The Commission rejects the argument that the manufacture of nitrogenous fertilizer is agricultural production for the same reason discussed above in Part A of this notice.

The Commission also rejects the argument that the manufacture of fertilizer is natural fiber processing because tankage, although it contains animal hair, is not substantially comprised of natural fiber, but is a residue from the processing of animal hides. Therefore, it is one-step removed from natural fiber processing.

In conclusion, the Commission does not believe that the use of natural gas as a boiler fuel to manufacture nitrogeneous fertilizer is an agricultural use. Accordingly, the Commission does not propose at this time to add SIC Code 2873 to § 282.202(a)(1)(iii), however, the Commission requests comments on this preliminary conclusion. Specifically, the Commission requests comments on what proportion of tankage is animal hair and on whether the presence of animal hair is essential to the production of the nitrogenous fertilizer.

D. *SIC Code 28692 Miscellaneous Acrylic Chemicals and Chemical Products, Excluding Urea* (the manufacture of carboxy methyl cellulose from wood pulp only).

Hercules requests that § 282.202(a)(1)(iii) be determined to include the manufacture of CMC as natural fiber processing. Hercules states that CMC is manufactured either from

[7] SIC Code 3111 Leather Tanning and Finishing.

[8] Docket No. RM80-48, Order No. 114, 45 FR at 82917-8.

[9] Peter Cooper requests that its use of natural gas to manufacture nitrogenous fertilizer be exempt as an "agricultural use" under section 206(b)(3)(A) because its uses natural gas as boiler fuel, and not as a proces fuel or feedstock.

wood pulp or from chemical cotton. The Commission determined in Docket No. RM 80-48 that wood pulp is a natural fiber and agrees with Hercules that the manufacture of CMC from wood pulp is natural fiber processing. However, since the Commission has not previously determined that chemical cotton is a natural fiber, it does not propose at this time to amend the regulation to include such manufacture. The Commission, however, specifically requests comments that detail the stages of manufacture of CMC from chemical cotton and that address the question of whether any of the stages are natural fiber processing.

Accordingly, the Commision proposes at this time to amend the definition of agricultural use in § 282.202(a)(1)(iii) to include SIC Code 28692 for the manufacture of CMC from wood pulp only.

IV. Summary of Proposed Regulations

For the reasons stated above, the Commission proposes to amend § 282.202(a)(1)(iii) of its regulations to include the following SIC Codes:

SIC Code 28692 Miscellaneous Acrylic Chemicals and Chemical Products, Excluding Urea (manufacture of carboxy methyl cellulose from wood pulp only);

SIC Code 2891 Adhesives and Sealants (the manufacture of glue from animal hides by natural fiber processing only); and

SIC Code 2899 Chemicals and Chemical Preparations, Not Elsewhere Classified (Chemical cotton—processed cotton linters and the manufacturer of gelatin from animal hides by natural fiber processing only).

V. Effect of Rule

The amendment proposed herein, if adopted as a final rule, would only grant an exemption to the subject uses of natural gas until such time as the permanent exemption rule pursuant to section 206(b)(2) of the NGPA becomes effective. At that time, all exemptions encompassed by § 282.202(a) will become subject to the provisions of the permanent rule.

VI. Certification of No Significant Economic Impact

The Regulatory Flexibility Act[10] (RFA) requires certain statements, descriptions, and analyses of proposed rules that will have "a significant impact on a substantial number of small entities."

Pursuant to 5 U.S.C. 605(b) the Commission finds that the provisions of the RFA do not apply to this rulemaking. If promulgated, this rulemaking would exempt certain industrial facilities from the incremental pricing program based upon their agricultural use of natural gas. Therefore, the effect of this rulemaking is to relieve certain industrial facilities from the surcharge imposed by the incremental pricing program. As such, this rulemaking does not impose any regulatory or administrative burdens upon a significant number of small entities, nor does it require an expenditure of resources by such entities. The Commission hereby certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined in the RFA.

VII. Public Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this notice. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM81-17. An original and 14 copies should be filed. All comments received on or before Friday, May 29, 1981, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket. This file is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

B. Public Hearing

Interested persons may request the opportunity for an oral presentation of their views at a public hearing. Requests for an oral hearing should be submitted no later than Friday, May 15, 1981, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM81-17. If any requests are received by that time, the hearing will be held on Tuesday, June 9, 1981, at the above address, and will be announced by Monday, May 25, 1981.

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

In consideration of the foregoing, the Commission proposes to amend § 282.202(a)(1)(iii) of Part 282, Subchapter I, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 282.202 is amended by adding the following entries to (a)(1)(iii).

§ 282.202 Definitions.

(a)(1) "Agricultural use" means: * * *

(iii) Any use of natural gas determined by the Commission to be an agricultural use and listed below; *provided that*, the use of such natural gas in textile operations is limited as set forth below to the production or processing of natural fiber: *Industry SIC No. and Industry Description.*

* * * * *

Natural Fiber Processing

* * * * *

28692 Miscellaneous Acrylic Chemicals and Chemical Products, Excluding Urea (manufacture of carboxy methyl cellulose from wood pulp only).

2891 Adhesives and Sealants (the manufacture of glue from animal hides by natural fiber processing only).

2899 Chemicals and Chemical Preparations, Not Elsewhere Classified (Chemical cotton—processed cotton linters and the manufacture of gelatin from animal hides by natural fiber processing only).

[FR Doc. 81-12477 Filed 4-24-81; 8:45 am]
BILLING CODE 6450-85-M

[10] 5 U.S.C. 601-612, (Pub. L. No. 96-354, September 19, 1980).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Agenda of Regulatory Activity Affecting Small Businesses

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: This agenda announces the regulatory actions that EEOC plans to take during the six-month period, April 1981 to October 1981, that are subject to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*). The Commission's purpose in publishing this agenda is to allow interested small businesses a meaningful and early opportunity to comment and participate in all stages of Commission regulatory development.

FOR FURTHER INFORMATION CONTACT: Karen Danart, Acting Director, or Raj K. Gupta, Supervisory Attorney, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506; Telephone 202-634-7060.

Signed at Washington, D.C., this 22d day of April 1981.

For the Commission.

J. Clay Smith, Jr.,

Acting Chairman.

Regulatory Flexibility Act of 1980

Regulatory Agenda

1. Amend Title VII recordkeeping regulations located at 29 CFR Part 1602 *et seq.* The proposed amendments were published for notice and comment in the Federal Register on July 25, 1978 (43 FR 32280). The proposed amendments were the subject of a public hearing held on September 21, 1978, and the Commission has received extensive public comment on them. The thrust of the amendments is to require all respondents subject to the Commission's annual reporting requirements to maintain and preserve applicant records for 2 years, or until the termination of a Commission or court proceeding. The Commission, in its October Regulatory Flexibility Act Semiannual Agenda, will be able to give a specific time period for completing action on the proposed amendments.

[FR Doc. 81-12610 Filed 4-24-81; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP-00139; PH FRL 1812-2]

Federal Insecticide, Fungicide, and Rodenticide Act FIFRA Scientific Advisory Panel; Open Meeting on Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to present decision options being considered by the agency to conclude the rebuttable presumption against registration (RPAR) on oxyfluorfen (Goal 2E); review proposed rulemaking on Subparts H and K of the Guidelines for Registering Pesticides in the United States; and consider a final rule on the classification of certain uses/formulations of 11 active ingredients for restricted use. The meeting will be open to the public.

DATES: Wednesday, and Thursday, May 13–14, 1981, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESS: The meeting will be held at the: Twin Bridges Marriott Hotel, 333 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Jr., Acting Executive Secretary, FIFRA Scientific Advisory Panel (TS-766C), Office of Pesticide Programs, Rm. 915D, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7078).

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Presentation of the decision options being considered by the agency to conclude the RPAR on oxyfluorfen (Goal 2E).

2. Consideration of a final rule classifying certain uses/formulations of 11 active ingredients for restricted use. The active ingredients are aldicarb, carbon disulfide, disulfoton, ethoprop, fenamniphos, fensulfothion, fenthion, fonofos, oxamyl, phorate, and terbufos.

3. Informal review by the Panel on the draft of proposed rulemaking concerning Subpart K: Exposure Data Requirements: Reentry Protection of the Guidelines for Registering Pesticides in the United States.

4. Formal review by the Panel on proposed rulemaking concerning Subpart H: Labeling of Pesticide Products of the Guidelines for Registering Pesticides in the United States.

5. Completion of any unfinished business from previous Panel meetings.

6. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting: Homer Hall, Special Pesticides Review Division (TS-791), Rm. 724J, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7438).

Copies of draft documents concerning item 2 may be obtained by contacting: Walter Waldrop, Registration Division (TS-767C), Rm. 509D, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7136).

Copies of draft documents concerning items 3 and 4 may be obtained by contacting: William Preston, Hazard Evaluation Division (TS-769C), Rm. 800, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1405).

Any member of the public wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than May 11, 1981.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative dates for the next Scientific Advisory Panel meeting are June 17, 18, and 19, 1981.

(Sec. 25(d), as amended, 92 Stat. 819; (7 U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: April 21, 1981.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-12510 Filed 4-24-81; 8:45 am]

BILLING CODE 6560-32-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Ch. 51

Semiannual Agenda of Regulations; Correction

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Semiannual agenda of significant regulations under development or review; correction.

SUMMARY: The Committee published its semiannual agenda of regulations on April 1, 1981 in FR Doc. 81-9556 (46 FR 19836). This document corrects reference to Section 610 of the Regulatory Flexibility Act to read Section 602.

FOR FURTHER INFORMATION CONTACT: Mr. C. W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201, Telephone: 703/557-1145.

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 81-12475 Filed 4-24-81; 8:45 am]

BILLING CODE 6820-33-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Ch. X

Impact/Regulatory Flexibility Analysis Agenda

April 17, 1981.

AGENCY: Community Services Administration.

ACTION: Regulatory agenda.

SUMMARY: Executive Order 12291 ("Federal Regulation" 46 FR 13193; February 19, 1981) requires each Executive agency to publish in April and October of each year a regulatory agenda listing each major regulation or rule the agency anticipates it will propose, review or revise during the coming six-month period. Pub. L. 96–354, September 19, 1980, the "Regulatory Flexibility Act" requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared. The Community Services Administration intends this agenda to meet the requirements of both E.O. 12291 and Pub. L. 96–354.

FOR FURTHER INFORMATION CONTACT: Jack Stoehr, 202–254–5300.

Harold L. Thomas,

Assistant Director for Management.

BILLING CODE 6315-01-M

COMMUNITY SERVICES ADMINISTRATION

IMPACT/REGULATORY FLEXIBILITY ANALYSIS AGENDA

REG. IS: Propsed	Review/Revise	Major	Requires Reg. Anal (Yes/No)	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF REGULATION: INITIAL ANNOUNCEMENT	PREVIOUSLY ANNOUNCED: WHEN	CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
				OFFICE OF COMMUNITY ACTION						
		No	No	"Community Action Agencies; Eligibility and Establishment " This final rule describes the structure, composition, and powers of a Community Action Agency (CAA), who is eligible to be served by a CAA, and conditions under which an agency will be recognized by CSA as a CAA	This revision of an existing rule implements two legislative amendments to the EOA and addresses problems in the policies and procedures of the current rule which have been identified through operational experience	Sections: 602, 212, 210(c) & 210 of the EOA of 1964 as amended		Proposed rule published 1/5/81, 46 FR 2 p 961	To be completed 8/1/81	Jacqueline G Lemire 202-254-5047
		No	No	"General Conditions Applicable to Grants Funded Under the Economic Opportunity Act " This final rule contains conditions applicable to all grants made by CSA	This revision of an existing rule is being undertaken in order to eliminate items which are duplicative of other CSA existing policies	Section 602 of the EOA	X		To be completed 7/1/81	Esther L Moore 202-254-5047
X		No	No	CSA's entire body of regulations (45 CFR Chapter X) will be reviewed and rewritten in the next one and a half years.	To reorganize Chapter X into the most logical groupings for the unfamiliar reader; to integrate overlapping policy statements in coherent wholes; remove redundancies and duplications; review in light of the requirements of E O. 12291 and the Regulatory Flexibility Act and take such actions as required; to revise existing policy as necessary	Section 602 of the EOA	X		To be completed September 1982	Timothy P McTighe 202-254-5047

COMMUNITY SERVICES ADMINISTRATION

IMPACT/REGULATORY FLEXIBILITY ANALYSIS AGENDA

REG. IS: Proposed	Review/Revise	Major	Requires Reg. Anal (Yes/No)	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF REGULATION: INITIAL ANNOUNCEMENT	PREVIOUSLY ANNOUNCED: WHEN	CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
		No	No	"Grantee Contracts With Delegate Agencies " This final rule includes policies on to whom a recipient may delegate a project and when, the delegation of projects to religious organizations, and the right to appeal to CSA by an organization to serve as a delegate agency	Revision of existing policy which is divided among five separate subparts in the CFR which are not well organized for the benefit of the reader and which need to be brought up to date with the body of CSA policy	Sections: 602 & 604 of the EOA of 1964 as amended	X		To be completed 7/1/81	Timothy P McTighe 202-254-5047
		No	No	Final procedures for implementing the National Environmental Policy Act of 1969 (NEPA)	Proposed rule developed to comply with the requirements of 45 CFR Part 1507 that each agency shall adopt as necessary procedures to supplement the regulations published by the Council on Environmental Quality	Sec 602, 78 Stat 530; 42 USC 2942; USC Sec 4321 (et seq); 40 CFR Part 1500-1508		Proposed rule published 12/29/80, 45 FR 250, p 85485	To be completed June 1981	Jacqueline G Lemire 202-254-5047
		No	No	"Grantee Personnel Management " This final revision of an existing rule implements legislative requirements related to grantee personnel management and covers such areas as personnel, plans, compensation and conditions governing employment	To consolidate and clarify eleven previously published subparts and to simplify the requirements imposed on recipients	Sections: 602, 213, 623, 223, 610, 607 & 244 of the EOA		11/16/78	To be completed 7/1/81	Timothy P McTighe 202-254-5047
		No	No	"Grantee Public Meetings and Hearings." This final revision of an existing rule outlines the public meeting requirements for grant related activities including times, places, and notices and conduct of meetings	This revision of an existing rule was undertaken to determine under what conditions a board meeting may be closed to the public, to clarify the meaning "public hearing", eliminate redundant sections and assure compliance with legislative requirements	Sections: 602, 201 & 213 of the EOA		Proposed rule published 5/27/80, 45 FR 103, p 35366	To be completed 7/1/81	Esther L. Moore 202-254-5047

COMMUNITY SERVICES ADMINISTRATION

IMPACT/REGULATORY FLEXIBILITY ANALYSIS AGENDA

REG. IS: Proposed	Review/Revise	Major	Requires Reg. Anal (Yes/No)	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF REGULATION: INITIAL ANNOUNCEMENT	PREVIOUSLY ANNOUNCED: WHEN	CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
				OFFICE OF ECONOMIC DEVELOPMENT						
	X		No	CSA Reg 1067 15 Applying for a Grant Under Title VII of the Community Services Act	To update instruction to reflect new procedures	Title VII of the EOA		11/13/79	Planning stage	J Randolph Carr 202-254-6180
	X		No	CSA Reg 1067 16 Amending a Grant Under Title VII of the Community Services Act	To update instruction to reflect new procedures	Title VII of to EOA		11/13/79	Planning stage	J Randolph Carr 202-254-6180
	X		No	CSA Reg 1067 17 Preparing a Budget for a Title VII Grant under the Community Services Act	To update instruction to reflect new cost center budgeting approach	Title VII of the EOA		5/1/80	Planning stage	J Randolph Carr 202-254-6180
	X		No	CSA Reg 1067 10 Composition and Selection of CDC Boards of Directors	To modify board structure requirements	Title VII of the EOA		5/1/80	Clearance stage	J Randolph Carr 202-254-6180
X			No	Policy statement on the need for Title VII CDC's to prepare overall economic development plans	To clarify OED position	Title VII of the EOA		5/1/80	Planning stage	Jim McCartney 202-254-5910
X			No	Allowances and Reimbursements for CDC Board Members	To liberalize policy on compensation for Board Members	Title VII of the EOA	X		Drafting stage	Randolph Carr 202-254-6180
				OFFICE OF POLICY PLANNING AND EVALUATION						
	X		No	CSA Income Poverty Guidelines	Semi-Annual update to reflect change in the Consumer Price Index	Sec 624 of the EOA	X		Last update 3/5/81	Ernest Powers 202-632-6630

COMMUNITY SERVICES ADMINISTRATION

IMPACT/REGULATORY FLEXIBILITY ANALYSIS AGENDA

REG. IS: Proposed	Revise/Revise	Major	Requires Reg. Anal (Yes/No)	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF REGULATION: INITIAL ANNOUNCEMENT	PREVIOUSLY ANNOUNCED: WHEN	CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
				OFFICE OF GENERAL COUNSEL						
	X		No	45 CFR 1015 Standards of Conduct	Recent legislation has mandated revision of post-employment restrictions	Civil Service Reform Act PL 95-454 Ethics in Govt Act of 1978, PL 96-19, 96-28	X		OPM has requested that Agencies withhold action until OPM issues general guidlines in the area	Bea Valdez 202-254-5423

[FR Doc. 81-12546 Filed 4-24-81; 8:45 am]
BILLING CODE 6315-01-C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-251; RM-3700]

FM Broadcast Station in Gurdon, Arkansas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 228A to Gurdon, Arkansas, in response to a petition filed by Paul Root. The assignment would provide Gurdon with a first local FM service.

DATE: Comments must be filed on or before June 9, 1981, and reply comments on or before June 29, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Gurdon, Arkansas).

Adopted: April 10, 1981.

Released: April 22, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making [1] filed by Paul Root ("petitioner"), requesting the assignment of either Channel 224A or 228A to Gurdon, Arkansas, as that community's first FM assignment. Comments were filed by Multimedia Radio, Inc., licensee of FM Station KMBQ, Shreveport, Louisiana. Petitioner filed reply comments.

2. Gurdon (pop. 2,075),[2] is located in Clark County (pop. 21,537) approximately 120 kilometers (75 miles) southwest of Little Rock, Arkansas. It has no local aural service.

3. Petitioner states that timber and agriculture are the major industries in Gurdon. Petitioner has submitted demographic and economic information with respect to the Gurdon area which demonstrates the need for first FM assignment.

4. Multimedia, in comments, argued that a Channel 228A assignment to Gurdon would be short-spaced to its assignment for Station KMBQ, Shreveport. The distance between Gurdon and KMBQ is approximately 103.6 miles, 105 miles is required. Petitioner in his reply comments states that a site restriction on the Gurdon assignment will solve the problem. A staff study indicates that a site restriction of at least 1.4 miles north-northwest of Gurdon would solve the problem of short-spacing between Station KMBQ and the proposed Channel 228A assignment in Gurdon. Channel 224A would require a greater site restriction. Thus, we have chosen Channel 228A for consideration.

5. After careful consideration of the proposal, the Commission believes it to be in the public interest to consider the assignment of Channel 228A to Gurdon, Arkansas. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the listed community as follows:

City	Channel No.	
	Present	Proposed
Gurdon, Arkansas		228A

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 June 9, 1981, and reply comments on or before June 29, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 Fed. Reg. 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. 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.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

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 § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 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 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

[1] Public Notice of the petition was given on July 7, 1980, Report No. 1238.

[2] Population figures are taken from the 1970 U.S. Census.

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, on original and four copies of all comments, reply comments, pleadings, briefs, or other documents 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. 81-12552 Filed 4-24-81; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-250; RM-3709]

FM Broadcast Station in Milan, Georgia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 285A to Milan, Georgia, in response to a petition filed by George S. Walker, III. The assignment would provide Milan with its first local aural service.

DATES: Comments must be filed on or before June 9, 1981, and reply comments on or before June 29, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Milan, Georgia).

Adopted: April 10, 1981.

Released: April 21, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making [1] filed by George S. Walker, III ("petitioner"), requesting the assignment of Channel 285A to Milan, Georgia, as that community's first FM assignment. No comments were filed opposing the assignment.

2. Milan (pop. 1,084) is located on the border between Telfair (pop. 11,381) and Dodge (pop. 15,658) Counties approximately 232 kilometers (145 miles) southeast of Atlanta, Georgia.[2] Milan has no local aural service.

3. Petitioner states that agriculture and pulpwood growing and harvesting are the primary economic activities in the area.

4. An assignment of Channel 285A to Milan would require a site restriction of approximately 2 kilometers (1.2 miles) south of town to avoid short spacing to Station WDEN on Channel 287 in Macon, Georgia.

5. After careful consideration of the proposal, the Commission believes it to be in the public interest to consider the assignment of Channel 285A to Milan, Georgia. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules with respect to the listed community, as follows:

City	Channel No.	
	Present	Proposed
Milan, Georgia		285A

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 June 9, 1981, and reply comments on or before June 29, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. 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.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

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 § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 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 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

[1] Public Notice of petition was given on July 21, 1980, Report No. 1240.

[2] Population figures are taken from the 1970 U.S. Census.

if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflicts 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 documents 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. 81-12555 Filed 4-24-81; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-252; RM-3694]

FM Broadcast Station in Brownsville, Edinburg, Harlingen, Raymondville, Rio Grande City, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Action taken herein proposed alternate amendments to the FM Table of Assignments by assigning a Class C FM channel to Harlingen, Texas, and deleting Class A channels in several communities, in response to a request filed by Rio Grande Valley Catholic Communications, Inc. and an interest from the Texas Consumer Education and Communications Development Committee, Inc.

DATE: Comments must be filed on or before June 9, 1981, and reply comments on or before June 29, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.504(a), FM Table of Assignments, (Brownsville, Edinburg, Harlingen, Raymondville, Rio Grande City, Texas).

Adopted: April 10, 1981.

Released: April 24, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition involving changes in the noncommercial educational FM Table of Assignments, § 73.504(a) of the Commission's Rules, for the communities of Harlingen, Raymondville, Rio Grand City, Brownsville, and Edinburgh, Texas. Rio Grande Valley Catholic Communications, Inc. ("Rio Grande Valley") has petitioned the Commission to assign Class C FM Channel 201 to Harlingen, and to delete Channel 201A from Raymondville and from Rio Grande City; to delete Channel 202A from Brownsville, and to delete Channel 203A from Edinburgh.[1] Rio Grande Bible Institute, Inc. filed comments opposing the Rio Grande Valley petition. The Texas Consumer Education and Communications Development Committee ("TCECDC") also petitioned the Commission to assign Class C FM Channel 206 to Harlingen; to delete Channel 205A from Harlingen; to delete Channel 203A from Edinburg, and to delete three channels from Mexican communities. In a letter, dated September 25, 1980, we returned the petition as unacceptable since the terms of the Mexico-United States Agreement of 1972 do not provide for deletion of Mexican assignments without substitutes. We have, nevertheless, treated the petition as comments in support of assigning a Class C channel to Harlingen for noncommercial educational use.

Community Data

2. *Harlingen:* Harlingen (population 33,503),[2] is located in Cameron County (population 140,368), approximately 405 kilometers (290 miles) southwest of Houston, Texas.

Raymondville: Raymondville (population 7,987), seat of Willacy County (population 15,570), is located approximately 34 kilometers (21 miles) north of Harlingen.

Rio Grande City: Rio Grande City (population 5,676), the seat of Starr County (population 17,707), is located approximately 114 kilometers (71 miles) west of Harlingen.

Brownsville: Brownsville (population 52,522), the seat of Cameron County, is located approximately 37 kilometers (23 miles) southeast of Harlingen.

Edinburg: Edinburg (population 17,163), the seat of Hidalgo County (population 181,535), is located approximately 48 kilometers (30 miles) west of Harlingen.

Local Broadcast Service

3. Harlingen is presently served by FM Station KELT (Channel 233), FM Station KIWW (Channel 241), unused FM Channel 205A, and full-time AM Station KGBT (1530 kHz). Raymondville is served by AM Station KSOX; a permit has been issued for a new FM station on Channel 269A and is also assigned unused noncommercial Channel 201A. Rio Grande City has no local aural service but has Channel 276A assigned with an application pending and unused noncommercial Channel 201A. Brownsville has one AM station, KBOR and two FM stations, KRIX and KDUV (Channels 258 and 262) and unused noncommercial Channel 202A, for which an application is pending.[3] Edinburg has one AM station, KURV and two FM stations, KBFM and KESI (Channels 281 and 300) and unused noncommercial Channel 203A, for which an application is pending.[4]

Discussion

4. Rio Grande Valley and TCECDC claim that there is currently no channel allocation in the noncommercial educational band in the lower Rio Grande Valley which allows high power operation because all assignments are for Class A channels. According to both

[1] Public Notice of the petition was given on July 7, 1980, Report No. 1238.

[2] Population figures are taken from the 1970 U.S. Census.

[3] BPED 800702AB, filed by Rio Grande Bible Institute, Inc.

[4] BPED 801118AF, filed by Educom International, Inc.

petitioners, the nearest noncommercial channel in use is a Class D station, nearly 100 miles away from the area, and the nearest Class C channel in the noncommercial band is nearly 300 miles away. Rio Grande Valley and TCECDC emphasize that only a small number of the concentration of cities and towns along the river valley can be served by a single Class A station.

5. Rio Grande Bible Institute, Inc., applicant for a construction permit to operate on Channel 203A in Edinburg, which would be deleted if the Rio Grande Valley proposal were adopted, opposes that petition on the ground that the public interest is not served by deleting Class A assignments in four communities in order to accommodate a Class C assignment in one. A staff study was conducted to determine the availability of substitute channels for those assignments in the United States that are proposed to be deleted. Alternate channels appear to be available for all communities except Edinburg, Texas, as follows:

Brownsville—Channel 206A is available if 205A is deleted from Harlingen

Raymondville—Channels 205A or 206A (if 205A is deleted from Harlingen) 208A, 210A (with site restriction), 214A, 216A (with site restriction), 219, 220A

Rio Grande City—Channels 204A, 218A, 220A

6. In view of the fact that the assignment of Channel 201C to Harlingen would require deletion of a Class A Channel in Edinburg, for which no other channel is available, we feel that additional information is needed to justify the changes. Either of the petitioners should provide *Roanoke Rapids/Anamosa* data to show the first and second FM service that will result from the Class C assignment. *See Roanoke Rapids, Goldsboro, North Carolina,* 9 FCC 2d 672 (1967); *Anamosa, Iowa,* 46 FCC 2d 520 (1974). A showing of first and second noncommercial service may also be submitted to provide support for the need to assign a Class C noncommercial assignment. C.f. *Burlington and Newport, Vermont.* 44 Fed. Reg. 25228, 45 RR 2d 786 (1979); recons. den. 78 FCC 2d 1259 (1980). These showings should compare the amount of new service from the new Class C assignment compared to the deletion of Class A Channels from Harlingen and Edinburg.

7. Coordination with the Mexican government is required.

8. In order to further examine the possible assignment of Channel 201C to Harligen, Texas, comments are invited on the following proposed revisions to the noncommercial educational FM Table of Assignments, § 73.504(a) of the Commission's Rules:

City	Channel No.	
	Present	Proposed
Harlingen, Texas	205A, 233, 241	201C, 233, 241
Raymondville, Texas	201A	219A
Rio Grande City, Texas	201A	218A
Brownsville, Texas	202A	206A
Edinburg, Texas	203A	

9. 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.

10. Interested parties may file comments on or before June 9, 1981, and reply comments on or before June 29, 1981.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.504(a) of the Commission's Rules. *See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 Fed. Reg. 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. 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.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

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 § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 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 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 documents 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 NW., Washington, D.C.

[FR Doc. 81-12550 Filed 4-24-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 6; Notice 81-4]

Standard Time Zone Boundary in the State of Indiana; Proposed Relocation

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Proposed rule.

SUMMARY: DOT proposes to relocate the boundary between eastern and central time in the State of Indiana in order to move Starke County from central to eastern time. Public comments are invited and a public hearing will be held in Starke County.

DATES: Public hearing: May 6, 1981. Deadline for submission of comments: June 30, 1981. Proposed effective date: 2:00 a.m. CDT Sunday, October 25, 1981.

ADDRESSES: The public hearing will be held in the Courtroom of the Starke County Courthouse, Knox, Indiana, from 7:00 p.m. to 10:00 p.m. CDT. Written comments should be addressed to Docket Clerk, OST Docket No. 6, Office of the General Counsel, C-50, Department of Transportation, Washington, DC 20590. All comments received will be available for public inspection and copying, both before and after the deadline date above, in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation, 400 Seventh Street, SW, Washington, D.C., between 9:00 a.m. and 5:30 p.m. eastern time.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce." A formal request from the governing body of Starke County, Indiana—the Board of County Commissioners—has been submitted to the Secretary requesting that Starke County be moved from the central zone to the eastern zone. In support of this request, information has been submitted indicating that changing the county's time as requested would serve the convenience of commerce. Consequently, DOT is proposing to make the change requested and inviting public comment. Although the county has submitted sufficient information to begin the rulemaking process, the decision whether actually to make the change will be based upon the information received at the public hearing and submitted in writing to the docket. Persons favoring the change should not assume that the change will be made merely because DOT is making the proposal.

The appropriate time zone for Indiana has been the subject of much debate ever since the statute took effect. From 1967 to 1969, DOT conducted an extensive rulemaking proceeding which resulted in a split time zone pattern in the State—80 counties in the eastern zone and 12 (six in the northeast and six in the southeast) in the central zone. In 1977, one of the southeastern counties—Pike—was moved to eastern time as the result of the same type of proceeding now being conducted for Starke. Starke is the first of the six northeastern counties to seek the change to eastern time.

Although this proposal does not directly involve the observance of daylight saving time (DST), it is a relevant factor which should be noted. Under section 3 of the statute (15 U.S.C. 260a), DST is observed in the United States from 2:00 a.m. on the last Sunday in April to 2:00 a.m. on the last Sunday in October of each year, except in those States which by law have exempted themselves from the observance. The statute as originally enacted permitted a State only to exempt the entire State from DST. Indiana enacted a qualifying exemption, adding a provision that, if Federal law were ever amended to permit exemption of less than an entire State, Indiana's exemption would apply only to the eastern zone portion of the State. In 1972, Congress amended the statute to accommodate Indiana's desire; since then, the eastern zone portion of the State has been exempt from DST while the central zone portion has observed DST for six months of each year, along with most of the country. Because of this "split" exemption, if the Starke County request is granted, in addition to changing time zones, Starke would also, by State law, be exempt from DST. In light of this, if the request is granted, DOT proposes to make the time change effective at the moment DST ends this year—2:00 a.m. CDT Sunday, October 25. Since on the clock central daylight time is the same as eastern standard time, making the change effective at the changeover from daylight to standard would mean that clocks in the affected area would not have to be changed.

Interested persons are invited to participate in this rulemaking by submitting written comments to the address above not later than June 30, 1981. Additionally, a public hearing will be held in the Starke County Courthouse on Wednesday, May 6, 1981, from 7:00 p.m. to 10:00 p.m. CDT. It is not necessary to request in advance the opportunity to speak at the hearing. The hearing will be recorded.

It has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule, at promulgation, would not have a significant effect on a substantial number of small entities, because of its highly localized impact. Further, it is not a major rule under Executive Order 12291, nor a significant rule under DOT Regulatory Policy and Procedures, 44 FR 11034, for the same reason. The anticipated economic impact is so minimal that it does not warrant preparation of a regulatory evaluation. Finally, DOT has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and therefore that an environmental impact statement is not required. Comments are invited on all of these issues, however, and DOT very much wants interested persons to comment upon the environmental, economic, and energy impacts, if there be any, of both making the requested change and not making the requested change.

In consideration of the foregoing, it is proposed to amend § 71.5 of Title 49, Code of Federal Regulations, by revising paragraph (b) to read as follows:

§ 71.5 Boundary line between eastern and central zones.

* * * * *

(b) *Indiana-Illinois.* From the juncture of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence westerly and southerly along the north line of Starke County to the west line of Starke County; thence south along the west line of Starke County and the east line of Jasper County to the south line of Jasper County; thence west along the south line of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of the State of Indiana to the north line of Gibson County; thence easterly and southerly along the north line of Gibson County to the east line of Gibson County; thence south along the east line of Gibson County to the north line of Warrick County; thence easterly and southerly along the north lines of Warrick and Spencer Counties to the east line of Spencer County; thence southerly along the east line of Spencer County to the Indiana-Kentucky boundary.

(Act of March 19, 1918, as amended by the Uniform Time Act of 1966, 15 U.S.C. 260–67; section 6(e)(5), Department of Transportation Act, 49 U.S.C. 1655(e)(5); section 1.59(a), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.59(a))

Issued in Washington, DC, on April 21, 1981.

John M. Fowler,

General Counsel

[FR Doc. 81-12452 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

49 CFR Part 660

[Docket No. 80-L]

Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Extension of comment period.

SUMMARY: In the Federal Register of January 19, 1981 (46 FR 5815), the Urban Mass Transportation Administration (UMTA) issued a Notice of Proposed Rulemaking concerning amendments to its "Buy America" regulations. Interested parties were given until April 20, 1981 to submit comments. We have received several telephone calls indicating that potential commenters were under the impression that the comment period was "frozen" by President Reagan's January 29, 1981 "freeze" of regulations. The President's action did not affect Notices of Proposed Rulemaking. However, due to the confusion expressed by commenters, a new closing date for comments has been established and is set forth below.

DATE: Comments must be received on or before May 20, 1981.

ADDRESS: Comments must be submitted to UMTA Docket No. 80-L, 400-7th Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with the comment.

FOR FURTHER INFORMATION CONTACT: John Collins or Edward Gill, Office of the Chief Counsel, (202) 426-1906.

Dated: April 17, 1981.

Carole A. Foryst,

Acting Administrator.

[FR Doc. 81-12473 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

Atlantic Herring Fishery; Fishery Management Plan; Public Hearing

AGENCY: National Oceanic and Atmospheric Adminstration (NOAA), Commerce.

ACTION: Notice of Public Hearing.

SUMMARY: A public hearing will be held under the authority of the Magnuson Fishery Conservation and Management Act (the Act), Section 305(b), to receive public comment on the operation and continued implementation of the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP).

DATES: The Hearing will be held Wednesday, May 20, 1981, and begin at 7:30 p.m. The record will be kept open until June 1, 1981, for written comments.

ADDRESSES: The meeting will be held at the Howard Johnson Motor Inn, Junction of Routes 1 and 114, Danvers, MA.

Comments should be sent to: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930; or to Mr. Frank Grice, Fisheries Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Mark "Comments on Herring" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director; or Frank Grice, Fishery Management Division; telephone number for both individuals is (617) 281-3600.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the New England Fishery Management Council. The current fishing year (July 1980 through June 1981) is the first under the most recent comprehensive amendment to the FMP (45 FR 15957 and 45 FR 52810). The Regional Director, National Marine Fisheries Service, has expressed concern that management of the herring fishery according to the FMP is not possible since States are not enforcing provisions of the FMP within State waters. As a result of inconsistent management of the herring fisheries within State waters, the herring quotas for the Gulf of Maine were substantially exceeded in the past summer-fall fishery (July 1980 through November 1980) [See Table A]. Thus, the optimum yield (OY) for the Gulf of Maine of 30,000 metric tons of age 3 and older herring specified in the FMP was not achieved for the fishing year.

The agency has a number of alternative actions under consideration: (1) Approval of either the entire FMP or specific sections of the FMP could be withdrawn; (2) the FMP could be amended by either the Council or the Secretary of Commerce; or (3) one or more State's authority could be preempted under Section 306 of the Act. Other courses of actions are also possible. The National Marine Fisheries Service may, after deciding on a course of action, suspend the regulations which currently implement the FMP (50 CFR Part 653) until that course of action is implemented. However, if it appears that the FMP can be found to meet the National Standards by State action or for other reasons, the agency may decide to take no action at this time.

Comments received at the public hearing will contribute to the process of deciding which alternative action would be most appropriate. In particular, the Regional Director will be seeking input on the following specific issues.

1. *Factual Basis:* What was the herring harvest this year? Where and when were the fish harvested?

2. *Status of Resources:* What is the condition of herring resources harvested

in the Gulf of Maine? How might the harvests this year have affected them?

3. *Role of States in Managing Herring:* In what ways are the various States capable of implementing the FMP in State waters? How should the States be responding to this FMP? What management measures are the States currently carrying out to implement the FMP? What management measures are the States planning to implement in the near future?

f. *FMP Accomplishment:* What actual effect does the FMP have in the operation of the herring fishery?

5. *Possible Changes to FMP:* What revisions or modifications could be made to the FMP to ensure that OY will be achieved?

6. *Effect of Deregulation:* What would happen if the management under the FMP were to cease? What would happen if management under the FMP were to be suspended pending implementation of some action to make it work better? This list of issues may be expanded or otherwise revised prior to the hearing. Comment on any issue relating to Federal management of Atlantic herring in the Northwest Atlantic will be considered. A more extensive statement of the agency's positions will be made at the hearing. Copies will be available from the Regional Director prior to the hearing at the address above.

Table A.—*Gulf of Maine Catch Allocations and Landings by Management Area for the 1980-81 Summer-Fall Fishery (July 1, 1980-Nov. 30, 1980)*

[In metric tons]

	Catch allocation	Landings
Gulf of Maine	17,850	57,092
North of Cape Elizabeth, Maine	8,850	34,549
South of Cape Elizabeth, Maine	9,000	22,543

Dated: April 22, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-12609 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 80
Monday, April 27, 1981

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

DEPARTMENT OF AGRICULTURE

Forest Service

Nez Perce (Nee-Me-Poo) Trail Study in Oregon, Idaho, Montana and Wyoming; Environmental Impact Statement; Cancellation

A notice of intent to prepare an environmental impact statement was published in the Federal Register, Volume 44, No. 231, page 68503, November 29, 1979.

I have determined through the environmental analysis that the proposed action would not significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed.

Because of the great geographical area covered by the trail and the positive interest shown by other government agencies and the public, a notice of the environmental assessment will be published in the Federal Register displaying the proposal and informing the public where more specific information may be obtained.

Dated: April 14, 1981.

Tom Coston,

Regional Forester.

Nez Perce (Nee-Me-Poo) Trail Study and Environmental Assessment

Summary

The Forest Service and the National Park Service cooperated in the Nez Perce (Nee-Me-Poo) National Historic Trail Study pursuant to the National Trails System Act, Pub. L. 90-543, as amended.

Because of the interest shown in this trail and the great geographical area covered, it is appropriate to bring attention to this proposed action.

The environmental assessment and study plan recommend Federal legislation to designate the 1,170-mile trail as a national historic trail and a component of the National Trails System.

Background

The Nez Perce Trail (also called Nee-Me-Poo, or Nimipu, which traditionally means "the people") is the route taken by the "nontreaty" Nez Perce Indians during 1877 to escape the pursuing Army forces. It extends from northeast Oregon, through Idaho, western Montana, eastern Idaho, Wyoming through the Yellowstone National Park and back into Montana, culminating in a final battle in the Bear Paw Mountains near the Canadian border, their destination.

General William T. Sherman later stated, "Thus had terminated one of the most extraordinary Indian wars of which there is any record. The Indian throughout displayed a courage and skill that elicited universal praise; * * * and fought with almost scientific skill * * *"

Chiefs Looking Glass, Lean Elk, White Bird, Toohoohoolzote, Joseph, Ollokote and others led several hundred warriors, women, children and aged with nearly 2,000 horses across extremely difficult terrain. Their 16-week trek is considered an exodus of heroic proportions.

Proposed Action

The Forest Service, Northern Region, is the lead agency in developing the study plan and proposing a course of action. Through the cooperation of other agencies and the public, alternatives were developed.

Three of the four alternatives developed were found to be responsive to the criteria developed to evaluate the Nez Perce Trail characteristics as set forth in the National Trails System Act.

The preferred alternative, which constitutes the proposed action, recommends designating the entire 1,170-mile route as a National Historic Trail. It involves marking along highways and other connecting roads and developing 464 miles of high potential route segments.

Information

There is a review period of 45 days for comments by other agencies and the public. The responsible official is John Block, Secretary, U.S. Department of Agriculture.

The environmental assessment and study plan are available for review in the following Forest Service offices:

USDA, Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807.

USDA, Forest Service, Washington Office, P.O. Box 2417, Washington, DC 20013.

For further information contact: Jim Dolan, Special Areas Management, USDA, Forest Service, Federal Building, Missoula, MT 59807, (406) 329-3582, FTS-585-3582.

[FR Doc. 81-12501 Filed 4-24-81; 8:45 am]
BILLING CODE 3410-11-M

Science and Education Administration

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration, Cooperative Research, announces the following meeting:

Name: Committee of Nine.
Dates: May 20-21, 1981.
Time: 8:45 a.m., both days.
Place: Room 128 on May 20, and Room 13 on May 21, U.S. Department of Agriculture, Commonwealth Building, Plaza E, Rosslyn, Virginia.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone: 202/447-6195.

Done at Washington, D.C., this 20th day of April 1981.

W. I. Thomas,

Administrator, Cooperative Research.

[FR Doc. 81-12506 Filed 4-24-81; 8:45 am]
BILLING CODE 3410-03-M

Soil Conservation Service

Cosner Branch Critical Area Treatment RC&D Measure, Indiana; Finding of No Significant Impact

AGENCY: Soil Conseration Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Eddleman, State Conservationist, Soil Conservation Service, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317-269-6515.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the cosner Branch Critical Area Treatment RC&D Measure, Hendricks County, Indiana.

The evironmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert L. Eddleman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include placement of riprap approximately 350 feet in length. Approximately 0.5 of an acre of seeding and Cosner Branch Critical Area Treatment RC&D measure, Indiana Notice of a Finding of No significant Impact fertilizing will be done after construction is completed.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert L. Eddleman. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 16, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12538 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Colfax Township Park Critical Area Treatment, RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 617-337-6702.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Colfax Township Park Critical Area Treatment RC&D Measure, Wexford County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the installation of the following items: 1 wooden retaining wall 3 feet high; 8 wooden recreation walkways; 2 rock lined chutes; 370 linear feet of wooden rail fence; 340 barrier posts; shaping, topsoiling, and grading eroding areas; and seeding, mulching, and fertilizing approximately 1.5 acres. Total construction cost is estimated to be $28,000; $21,000 RC&D funds, and $7,000 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12537 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Crabtree Fire Department RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919-755-4210.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Crabtree Fire Department RC&D Measure, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion on approximately 1.0 acre of critically eroding land. The planned works of improvement include a small grassed waterway and the seeding of the eroding areas with

adapted perennial vegetation. Areas of existing vegetation destroyed during installation will be reestablished.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12539 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Henry County Airport RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Henry County Airport RC&D Measure, Napoleon, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage of open space recreational areas on the airport property. The planned works of improvement include reshaping and drainage improvement along 10 acres of waterway, two grade control structures, land smoothing and critical area planting.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local Clearinghouse review of Federal and Federally assisted programs and projects is applicable)

Dated: April 16, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12540 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Howel County R-7 School Critical Area Treatment RC&D Measure, Missouri; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65201, telephone 314-442-2271, extension 3145.

Notice

Pursuant to Section 12-(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Howell County R-7 School Critical Area Treatment RC&D Measure, West Plains, Missouri.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include a small earthen structure with pipe outlet, riprap, minor shaping, and seeding.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Kenneth G. McManus. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 16, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12541 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Larkin Creek Watershed, Arkansas; Intent to Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Jack C. Davis, State Conservationist, Soil Conservation Service, P.O. Box 2323, 5029 Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72203, telephone (501) 378-5445.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for Larkin Creek Watershed, Lee and St. Francis Counties, Arkansas.

The environmental evaluation of this federally-assisted action indicates that the project may cause significant local,

regional, or national impacts on the environment. As a result of these findings, Jack C. Davis, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection, flood prevention, and drainage. This project was planned and approved for construction prior to passage of NEPA. Therefore, requirements of NEPA must be met prior to construction. Alternatives to be considered during the NEPA process include systems for conservation land treatment, structural measures, and nonstructural measures.

Jack C. Davis, State Conservationist, will prepare and circulate a draft environmental impact statement for review by agencies and the public. As a part of preparing this impact statement, scoping notices will be mailed to all agencies and individuals who have special expertise or interest in participating in the planning and evaluation process. These scoping notices will provide a means for identifying issues to be addressed and for determining the degree of significance of these issues. Interested agencies and individuals who do not receive a copy of the scoping notice by April 30, 1981, should request a copy from the above address as soon as possible to insure that their comments are considered. The Soil Conservation Service invites the participation and consultation of everyone interested in the scoping and preparation of the draft impact statement.

(Catalog of Federal Domestic Assistance Program NO. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: April 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12535 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Lawrence Senior Center Park RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 N. High Street, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lawrence Senior Center Park RC&D Measure, Lawrence County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation facilities. The planned works of improvement include restroom facilities, grills and benches, picnic tables, a playground area, shelterhouse, scenic overlooks, and a parking area. Seeding will be applied to approximately four acres of recreational area. The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12542 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

City of Portsmouth RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Shaw, State Conservationist, Soil Conservation Service, Room 522, 200 N. High Street, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the City of Portsmouth RC&D Measure, Scioto County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment to stabilize a bare and rapidly eroding site. The planned works of improvement include the installation of 2 grade stabilization structures, 2,000 feet of diversion terrace, and 300 feet of fencing. Approximately nine acres will be graded, shaped, and seeded to adapted grasses and legumes.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert R. Shaw. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects is applicable)

Dated: April 15, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12536 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Threemile Farm Irrigation RC&D Measure, Montana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Room 410, Federal Building, 32 East Babcock, P.O. Box 970, Bozeman, Montana 59715, telephone 406-587-5271, ext. 4322.

Notice:

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Threemile Farm Irrigation RC&D Measure, Ravalli County, Montana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of pressurized delivery pipelines to serve on-farm gravity sprinkler systems. The planned works of improvement include associated inlet structures to be constructed in the existing Bitter Root Irrigation District canal. Energy consumption for pumps will be eliminated. Mitigation of habitat important to wildlife is also a part of the plan.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Van K Haderlie. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 16, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12543 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

Warren County High School Ground Critical Area Treatment, RC&D Measure, Tennessee; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone 615-251-5471.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Warren County High School Ground Critical Area Treatment RC&D Measure, Warren County, Tennessee.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treating eroding areas on the grounds of the Warren County High School. The planned works of improvement include sloping, fertilizing, liming, and seeding to perennial grasses and legumes.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Donald C. Bivens. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 27, 1981.

Dated: April 8, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-12544 Filed 4-24-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Week ended April 17, 1981.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
4-13-81	39535	Monarch Airlines Limited, c/o Lester M. Bridgeman, 1750 New York Avenue, N.W., 210 United Unions Building, Washington, D.C. 20006. Application of Monarch Airlines Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests a foreign air carrier permit authorizing Monarch to engage in foreign air transportation as follows: (A) Between any point or points in the United Kingdom of Great Britain and Northern Ireland and any point or points in the United States, either directly or via intermediate or beyond points in other countries, with or without stopovers. (B) Between any point or points in the United States and any point or points not in the United Kingdom or the United States. Answers may be filed by May 11, 1981.
4-13-81	39538	Aerolineas Territoriales De Colombia LTDA., "AEROTAL," c/o Arnold H. Weiss, Arent, Fox, Kintner, Plotkin & Kahn, 1819 H Street, N.W., #12W, Washington, D.C. 20006. Application of AEROTAL pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to amend its foreign air carrier permit to authorize the transport of passengers and mail in scheduled operations between points in the Republic of Colombia and Miami, Florida. Answers may be filed by May 11, 1981.
4-15-81	39539	Northwest Airlines, Inc., Minneapolis/St. Paul Int'l, Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Routes 3-F and 140 to authorize it to engage in foreign air transportation between Minneapolis-St. Paul and Chicago on the one hand and Calgary, Canada on the other. Conforming Applications, motions to modify scope, and Answers may be filed by May 13, 1981.
4-15-81	39540	Northwest Airlines, Inc., Minneapolis/St. Paul Int'l. Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 179 and 3-F to authorize it to engage in foreign air transportation between a point or points in the United States and a point or points in Switzerland, Israel, Jordan and Jamaica. Conforming applications, motions to modify scope, and Answers may be filed by May 13, 1981.
4-15-81	39542	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Conforming Application of Eastern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its certificates of public Convenience and necessity so as to authorize nonstop service between Atlanta, Georgia and Montreal, Canada. Answers may be filed by April 29, 1981.
4-15-81	39543	Republic Airlines, Inc., Hartsfield-Atlanta International Airport, Atlanta, Georgia 30320. Conforming Application of Republic Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a new or amended certificate of public convenience and necessity authorizing the scheduled air transportation of persons, property and mail between Atlanta, on the one hand, and Montreal and Toronto, on the other hand. Answers may be filed by April 29, 1981.
4-15-81	39544	Linea Aerea Nacional-Chile (LAN), c/o Robert Reed Gray, Hale, Russell & Gray, 1025 Connecticut Ave., NW., Suite 400, Washington, D.C. 20036. Application of Linea Aerea Nacional-Chile (LAN) pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests that its permit be amended to add a new route between Chile and Los Angeles in the following manner: "Between a point or points in Chile, the intermediate points Lima, Peru; Guayaquil, Ecuador; Cali, Colombia; Panama City, Panama; (a) beyond Panama City, Panama, to the coterminal points Miami, Florida, and New York, New York; and beyond to Frankfort, Federal Republic of Germany; and (b) beyond Panama City, Panama, to the terminal point Los Angeles, California. Answers may be filed by May 13, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-12602 Filed 4-24-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 33363, 39291, 39292]

Former Large Irregular Air Service Investigation and Applications of Strider Airways, Inc.; Assignment of Proceeding

This proceeding, insofar as it involves the applications of Strider Airways, Inc., Dockets 39291 and 39292, has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., April 21, 1981.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 81-12604 Filed 4-24-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 33363, 39103, 39104]

Former Large Irregular Air Service Investigation and Applications of Zantop Airlines, Inc.; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on June 3, 1981, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 20, 1981.

William A. Pope II,
Administrative Law Judge.

[FR Doc. 81-12605 Filed 4-24-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37392; Order 81-4-107]

Transatlantic, Transpacific and Latin American Service Mail Rates Investigation; Order Fixing Final Service Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of April 1981.

By Order 81-2-86, served February 25, 1981, we directed all interested persons to show cause why the Board should not establish the service mail rates proposed therein as the final rates of compensation for the period January 1 through March 31, 1981.

Pan American World Airways, Inc. filed notice of objection and answer to Order 81-2-86. The carrier requested that the Board revise the proposed rates to reflect the higher first quarter fuel prices experienced by the carriers as opposed to the projected fuel costs used by the Board. It argues that the Board's methodology for projecting fuel costs at February 15, 1981, produces results which are unrelated to the actual fuel costs. The carrier states that the industry's actual average fuel costs per gallon in January 1981 were 115.10 cents for the Atlantic, 113.35 cents for the Pacific, and 106.63 cents for Latin America and already exceed the amounts projected by the Board for February 1981 of 111.93, 112.33 and 104.06 cents, respectively. The carrier alleges that actual fuel cost data for December 1980 and January 1981 were available and should have been used to project February fuel price levels. The carrier further states that the Board should give consistent treatment to fuel cost escalation and adopt the methodology used in the Standard Foreign Fare Level (Order 81-2-108). It proposes rates that reflect experienced fuel costs through January 1981 and use of the projection methodology adopted in the SFFL order.

Pan American misunderstands our updating methodology. We do not make cost projections and then revise them retroactively when actual data become available. Rather, as spelled out in Order 81-2-86, our projections are for future application and reflect the latest available fuel data reported by the carriers. In this instance, at the time the

order was prepared neither December nor January fuel data were available for incorporation into the rates for the first quarter of 1981, otherwise they would have been used. As for the fuel projection methodology used in the recent SFFL order, it was a reasonable solution to the unusual problems arising from the recent OPEC actions and the decontrol of domestic oil prices and was intended for exclusive application to those circumstances.

As we pointed out in Order 81-2-134 fixing final domestic service mail rates, the rate of change in fuel prices fluctuates from month to month making it difficult to project fuel prices exactly. As shown in the following table, fuel price projections since the first quarter of 1980 have run slightly above actual costs. While the technique used by the Board may result in rates that slightly exceed or fall short of actual costs in the short-term, over the long-term the rates do reflect reasonably the carriers' costs of transporting mail. The updating methodology enables the carriers to receive compensation at a level that corresponds closely with the costs of the service. The table also supports our earlier statement, based on the latest data available at the time it was made, that there was a continuing moderation in fuel price increases. Fuel prices had increased only by about one cent per month in the Atlantic and Pacific areas during the last half of 1980 and only by about one-half a cent per month in Latin America.

[Fuel price in cents]

Rate period, order number, and rate area	Projected fuel price	Actual fuel price[1]	Projected versus actual
1st Quarter 1980 (80-5-125):			
Atlantic	100.36	99.51	0.85 over.
Pacific	95.42	94.89	0.53 over.
L.A.D.[2]	90.51	89.62	0.89 over.
2d Quarter 1980 (80-5-126):			
Atlantic	113.60	105.18	8.42 over.
Pacific	110.88	103.52	7.36 over.
L.A.D.[2]	102.26	98.81	3.45 over.
3d Quarter 1980 (80-7-10):			
Atlantic	116.38	108.48	7.90 over.
Pacific	110.49	108.17	2.32 over.
L.A.D.[2]	109.80	99.78	10.02 over.
4th Quarter 1980 (80-10-31):			
Atlantic	113.12	111.42	1.70 over.
Pacific	115.16	109.98	5.18 over.
L.A.D.[2]	101.96	102.15	0.19 under.

[1] CAB Form 41 Reports.
[2] Latin America.

We conclude that nothing has been submitted to change our basic conclusions reached in Order 81-2-86 or to show that our methodology does not provide a reasonable measure of fuel cost escalation in the long-term. The Board, therefore, has decided not to modify its findings and conclusions in that order and finds that Pan Am's answer does not establish a factual basis for modification of the proposed rates.

Therefore, in accordance with the Federal Aviation Act of 1958, as amended, particularly Sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR Part 302;

1. We make final the tentative findings and conclusions set forth in Order 81-2-86;

2. The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to the carriers for the transportation by aircraft of space-available mail, military ordinary mail and all other mail over their respective routes in the Atlantic, Pacific, and Latin America rate areas,[1] the facilities used and useful therefor, and the services connected therewith, for the period from January 1 through March 31, 1981, are those set forth in the attached Appendix;

3. The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79-7-16; and

4. A copy of this order shall be served upon all parties to this proceeding.

We shall publish this order in the Federal Register.

Phyllis T. Kaylor,[2]

Secretary.

[FR Doc. 81-12603 Filed 4-24-81; 8:45 am]

BILLING CODE 6320-01-M

[1] The Atlantic, Pacific, and Latin America rate areas are delineated in Attachments 1, 2, and 3, respectively, to Order 79-7-17.3.

[2] All Members concurred.

DEPARTMENT OF COMMERCE

Economic Development Administration

St. Paul Energy Park, St. Paul, Minnesota; Finding of No Significant Impact (FONSI)

For further information contact: Edward G. Jeep, Regional Director, Economic Development Administration, Chicago Regional Office, 175 W. Jackson Blvd., Chicago. Illinois 60604, telephone 312/353-8143.

Pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and the Economic Development Administration's Directive 17.02-2, the Economic Development Administration (EDA), U.S. Department of Commerce, gives notice that an environmental impact statement (EIS) is not being prepared for the St. Paul Energy Park, St. Paul, Minnesota.

The environmental assessment (EA) that was prepared in anticipation of this Federally assisted action indicates that the project will not result in a significant impact upon the environment if the following mitigating measures are observed:

1. Future traffic-related noise levels will be mitigated through implementation of the following measures (as appropriate): Berming along selected roadways, resurfacing of selected roadways, motor vehicle speed enforcement, and motor vehicle noise enforcement. In addition, the developers will be required to coordinate the Energy Park related roadway plans with the City's program for transit improvements.

2. Funds for the development of the Koppers Coke Plant site will be withheld until the site has been decontaminated to the satisfaction of the Minnesota Pollution Control Agency (MPCA). Funds will further be restricted so that they cannot be used for the decontamination of the Koppers site, since such action is not viewed as the responsibility of EDA. Groundwater quality, below and adjacent to the Koppers Coke Plant site, will be monitored for a sufficient period of time to detect persistent pollutant problems. The MPCA will define both the procedures to monitor groundwater quality and to decontaminate the site.

3. All plans for future sewer and water supply lines to be constructed on the site will be reviewed by EDA to ensure that no wells will be used for obtaining drinking water in the Energy Park.

4. The clean up of the ash mounds on the eastern corner of the site will be accomplished in accordance with MPCA and other state and Federal agency regulations.

5. The dumping of materials on the spoil bank in close proximity to the Burlington Northern Pond will be halted in order to prevent further damage to the pond.

6. A Minnesota Department of Natural Resources (MDNR) permit for development of a wetland (the Burlington Pond) will be sought concurrently with the development of the master plan for this portion of the Energy Park site to insure fulfillment of all MDNR requirements by the Park developers.

7. A geohydraulic study of the pond must be undertaken prior to any disturbance of the pond's bottom soils in order to avoid any accidental draining of the pond which, of course, would destroy its character as a wetland area.

8. Citizen participation through local groups will be continued as part of the ongoing dynamic planning process already in evidence.

9. The proposed park and recreation facilities, as listed in the master plan to be adopted by the City Council, will be implemented to meet the added recreational requirements of the new population. Specifically, both passive and active recreation areas will be developed parallel to the residential units.

10. Construction of a new athletic statium in the Energy Park area, it is recommended, should proceed or coincide with the razing of Midway Stadium so as to allow for the uninterrupted scheduling of events.

These conditions of EDA's Offer of Grant are based on mitigation measures submitted by the applicant as part of its proposal for funding. Other measures, not specifically mentioned here, may be made a part of EDA's Grant Offer, as required, in order to further insure the quality of the immediate environment. As a result of these findings and in light of the mitigating measures, Edward G. Jeep, Regional Director, has determined that the preparation and review of an EIS is not needed for this project.

The proposed project is to develop an approximately 250-acre site within the City of St. Paul for residential and light industrial usage. The total project, which will involve the participation of the St. Paul Port Authority, EDA, and the Department of Housing and Urban Development (UDAG participation), is the result of a Negotiated Investment Strategy initiated by the Chicago Federal Regional Council (a permanent, ad hoc committee of Federal agencies, currently chaired by Mr. Douglas Kelm, Department of Transportation).

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the U.S. Environmental Protection Agency. The basic data developed during the EA are on file and may be reviewed by contacting Mr. Edward G. Jeep, Regional Director (address and phone number given above). The FONSI has been sent to various Federal and state agencies for review. A limited number of copies of the FONSI and EA are available to fill single copy requests.

This notice is being issued to conclude procedural compliance with the National Environmental Policy Act and should not be construed as a commitment on the part of the Economic Development Administration to fund any part of the proposed project. As a vital part of the President's program of economic recovery, the Administration has proposed significant budget recisions which will not make it possible for EDA to participate in this Federally assisted project. Public comments are invited on this FONSI for thirty (30) days from the date of this notice.

Dated: April 21, 1981.

H. W. Williams,

Acting Assistant Secretary for Economic Development.

[FR Doc. 81-12514 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Tubeless Tire Valves From West Germany; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: We are initiating an antidumping investigation to determine whether tubeless tire valves from West Germany are being sold in the U.S. at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may preliminarily determine whether these imports are materially injuring or threatening to materially injure a U.S. industry.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, Import Administration, International Trade Admnistration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-1766).

Antidumping Investigation

On April 8, 1981, we received a petition from the Nylo-Flex Mfg. Co., Inc., of Mobile, Alabama. Complying with the filing requirements of 19 CFR 353.36 and 353.37, the petition alleges that EHA Ventilfabrik of Muhlheim (Main), West Germany, is selling tubeless tire valves in the United States at less than fair value, and that these imports are materially injuring a U.S. industry.

Sales at less than fair value generally occur when the prices of the merchandise exported to the U.S. are less than the prices of such or similar merchandise sold for consumption in the exporter's home market. Material injury can include actual or potential decline in U.S. output, sales, market share, profits, productivity, and return on investment.

Upon examining this petition, we have found that its information reasonably supports its allegations. Therefore, in accordance with section 732 of the Tariff Act of 1930 as amended (the Act), we are initiating an investigation to determine whether this case contains a reasonable indication of sales at less than fair value within the meaning of section 731 of the Act. If our investigation proceeds normally, we will announce our preliminary determination by September 15, 1981.

Scope of the Investigation

The merchandise we will investigate is tubeless tire valves, currently classified under item 692.3288 of the Tariff Schedules of the United States Annotated. These valves are machined brass stems, molded with rubber, containing a valve core that allows air to pass through in one direction only. the finished product includes a rubber cap. They are primarily used when mounting or replacing tires on automobiles and light trucks. The industry's parts numbers for the five models the petition covers are: TR413, TR415, TR418, TR423, and TR425.

Notification to ITC

Section 732 of the Act also requires us to notify the ITC of this determination and to give the ITC a copy of the information we used to arrive at it. We will make available to the ITC all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 25, 1981 whether there is a reasonable indication that imports of tubeless tire valves from West Germany are materially injuring or likely to materially injure a U.S. industry. If the ITC's determination is negative, this investigation will terminate; otherwise, it will proceed to its conclusion.

John D. Greewald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-12561 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-25-M

National Institutes of Health, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00457. Applicant: National Institutes of Health, Dermatology Branch, DCBD, NCI, Bldg. 10, Room 12N238, Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope System, Model EM-400T and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: See Notice on page 82981 in the Federal Register of December 17, 1980. Article ordered: September 8, 1980.

Docket No. 81-00001. Applicant: President and Trustees of Colby College, Colby College, Waterville, Maine 04901. Article: Electron Microscope, EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 9684 in the Federal Register of January 29, 1981. Article ordered: May 28, 1980.

Docket No. 81-00003. Applicant: National Institutes of Health, NINCDS, Building #36 Room 3B-26, Bethesda, MD 20014. Article: Electron Microscope, JEM-200CX. Manufacturer: JEOL, Japan. Intended use of article: See Notice on page 9685 in the Federal Register of January 29, 1981. Article ordered: September 28, 1979.

Docket No. 81-00005. Applicant: Memorial Hospital for Cancer and Allied Diseases, 1275 New York Avenue, New York, N.Y. 10021. Article: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 9685 in the Federal Register of January 29, 1981. Article ordered: November 14, 1979.

Docket No. 81-00009. Applicant: Carnegie Institution of Washington, Department of Embryology, 115 W. University Pkwy., Baltimore, MD 21210. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 9685 in the Federal Register of January 29, 1981. Article ordered: November 20, 1979.

Docket No. 81-00016. Applicant: Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street/I6, Philadelphia, PA 19104. Article: Electron Microscope, Model EM 400. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: See Notice on page 9686 in the Federal Register of January 29, 1981. Article ordered: September 17, 1980.

Docket No. 81-00018. Applicant: HEW/PHS/FDA/Bureau of Medical Devices, Research and Testing Staff, 14th & Independence Ave., S.W., Washington, D.C. 20205. Article: Electron Microscope, Model JEM 100CX. Manufacturer: Japan Electron Optics Lab., Japan. Intended use of article: See Notice on page 9686 in the Federal Register of January 29, 1981. Article ordered: September 8, 1980.

Docket No. 81-00019. Applicant: Washington University, Lindell and Skinner Blvd., St. Louis, Missouri 63130. Article: JEM 100CX Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 11694 in the Federal Register of February 10, 1981. Application received by Commissioner of Customs: October 21, 1980.

Docket No. 81-00024. Applicant: Department of Agriculture, Animal Disease Laboratory, 1801 Seminary Street, Galesburg, IL 61401. Article: Electron Microscope, EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 11694 in the Federal Register of February 10, 1981. Article ordered: September 3, 1980.

Docket No. 81-00026. Applicant: Mayo Foundation, 200 S.W. First Street, Rochester, MN 55901. Article: Electron Microscope, Model 400T and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: See Notice on page 11694 in the Federal Register of February 10, 1981. Article ordered: August 18, 1980.

Docket No. 81-00034. Applicant: U.S. Department of Interior, Bureau of Mines, 4900 LaSalle Road, Avondale, Maryland 20782. Article: Electron Microscope, Model H-600-3 and Accessories. Manufacturer: Nisse Sangyo America, Ltd., Japan. Intended use of article: See Notice on page 11695 in the Federal Register of February 10, 1981. Article ordered: September 30, 1980.

Docket No. 81-00035. Applicant: U.S. Department of Energy c/o Battelle Memorial Institute, Pacific Northwest Laboratory, P.O. Box 999, Richland, WA 99352. Article: Scanning Transmission Electron Microscope (STEM) and Accessories. Manufacturer: Philips Instruments, The Netherlands. Intended use of article: See Notice on page 11693 in the Federal Register of February 10, 1981. Article ordered: June 4, 1980.

Docket No. 81-00047. Applicant: University of Colorado, Boulder, Colorado 80309. Article: Electron Microscope, Model H-600-3. Manufacturer: Hitachi Instruments, Japan. Intended use of article: See Notice on page 16920 in the Federal Register of March 16, 1981. Article ordered: September 5, 1980.

Docket No. 81-00048. Applicant: Pontiac General Hospital, Seminole at West Huron Streets, Pontiac, Michigan 48053. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: See Notice on page 16920 in the Federal Register of March 16, 1981. Article ordered: September 23, 1980.

Docket No. 81-00049. Applicant: University of California, Los Angeles, CA 90024. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 16920 in the Federal Register of March 16, 1981. Article ordered: July 31, 1980.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order

or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-12513 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-25-M

Ferrochrome From the Republic of South Africa; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: This notice is to advise the public that the Department of Commerce is conducting an administrative review of the countervailing duty order on ferrochrome from the Republic of South Africa. The review covers the period from January 1, 1981 through April 10, 1981. As a result of this review the Department has preliminary determined that this merchandise does not benefit from a net subsidy. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Black, Office of Compliance, Room 1126, International, U.S. Department of Commerce, Washington, D.C. 20230, phone (202) 377-1774.

SUPPLEMENTARY INFORMATION:

Procedural Background

On April 9, 1981 a notice of "Countervailing Duty Order" was published in the Federal Register (46 FR 21155). The Order, which was effective March 11, 1981, stated that, based on an Order of the Court of International Trade, the Department of Commerce ("the Department") had determined that exports of ferrochrome from the Republic of South Africa were provided bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1903 ("the Tariff Act"). Accordingly, imports into the United States of ferrochrome from the Republic of South Africa were subject to countervailing duties. The Department suspended liquidation and required a cash deposit of estimated countervailing duties of 4 percent of the f.o.b. invoice price of the merchandise. The Order included a notice of intent to conduct an administrative review of this order as required by the court and by section 751 of the Tariff Act.

Scope of Review

The ferrochrome covered by this review is currently classifiable under item number 606.22 and 606.24 of the Tariff Schedules of the United States. The program cited by our order as constituting a bounty or grant is the charging by South African Railways and Harbours of preferential railroad freight rates upon shipments of ferrochrome for export from the Republic of South Africa. This review covers the period January 1, 1981, the effective date of South African Railways' suspension of its freight rate differential for ferrochome shipments, through April 10, 1981, the date the Department began its verification process.

Analysis of Program

The Department has received official information from the Republic of South Africa that South African Railways and Harbours has terminated the railroad freight rate differential between shipments of ferrochrome destined for foreign and domestic markets. This termination was made effective January 1, 1981. This information will be verified prior to the publication of the final results of this review.

Preliminary Results of Review

As a result of our review, we have preliminary determined that ferrochrome from the Republic of South Africa does not benefit from a bounty or grant. Therefore, the Department intends to instruct the Customs Service to liquidate all unliquidated entries of this merchandise exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption on or after March 11, 1981 through April 10, 1981 without regard to countervailing duties. Further, we intend to instruct the Customs Service not to require the deposit of estimated countervailing duties on shipments of such merchandise entered, or withdrawn from warehouse, for consumption or after the publication of the final results of the present review.

The present deposit requirements and the suspension of liquidation shall continue until the publication of the final results of the present review. Even though we intend to instruct the Customs Service not to collect an estimated duty deposit, the suspension of liquidation shall remain in effect for entries entered on or after April 11, 1981, until the publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results on or before May 27, 1981 and may request disclosure and/or a hearing on or before May 12, 1981. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review after analysis of issues raised in written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 35.41).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 21, 1981.

[FR Doc. 81-12469 Filed 4-24-81; 8:45 am]

BILLING CODE 7020-3510-25-M

Refrigerators, Freezers, Other Refrigerating Equipment and Parts From Italy; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on refrigerators, freezers, other refrigerating equipment and parts from Italy. The review covers the period January 1, 1980, through December 31, 1980. As a result of this review, the Department has preliminarily determined the net amount of the subsidy to be the full value of the rebates for these products under Italian Law 639. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Paul J. McGarr, Office of Compliance, Room 1126, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2104).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 28, 1973, a final countervailing duty determination on refrigerators, freezers, other refrigerating equipment and parts from Italy, T.D. 73-85, was published in the Federal Register (38 FR 8057). The notice stated that the Department of the Treasury had determined that exports of refrigerators,

freezers, other refrigerating equipment, and parts from Italy benefited from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act"). Accordingly, imports of this merchandise were subject to countervailing duties.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). On April 3, 1980, the International Trade Commission ("the ITC") notified the Department that an injury determination for this order had been requested under section 104(b) of the TAA. Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980, on all shipments of such merchandise entered, or withdrawn from warehouse, for consumption on or after that date. The Department published in the Federal Register of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on refrigerators, freezers, other refrigerating equipment and parts from Italy.

Scope of the Review

Imports covered by this review are complete refrigerators (cabinets, chests, and refrigerated counters, refrigerated display cases, water coolers, and the like); insulated cold cabinets (unequipped), isothermal cabinets, ice-cream storage cabinets, and the like; and refrigerating apparatus and components thereof, fixed on a common baseplate, including freezers and parts, from Italy. These imports are currently classifiable under items 661.35 and 661.37, Tariff Schedules of the United States.

The review covers the period January 1, 1980, through December 31, 1980, and is limited to rebates granted under Italian Law 639, which was the only program found countervailable in the Final Determination.

Preliminary Results of the Review

Under Italian Law 639, exporters receive rebates of customs duties and certain indirect taxes on the export of specified products containing iron and steel. The rates differ for particular types of products. For refrigerators, freezers, other refrigerating equipment and parts, the rebates are between 20 and 45 lire per kilogram.

The Government of Italy provided no substantive response to our questionnaire of June 18, 1980, nor were our follow-up requests for information answered. Our independent investigation has confirmed that the rates legislated in Law 639 still apply in full for exports of this merchandise to the United States.

Because we have received no information to indicate that any part of the rebates is not countervailable, we preliminarily determine that the rates of net subsidy conferred upon producers exporting to the United States are:

Complete refrigerators (cabinets, chests, and refrigerated counters, refrigerated display cases, water coolers and the like).	45 lire/kg.
Insulated cold cabinets (unequipped), isothermal cabinets, ice-cream storage cabinets, and the like.	20 lire/kg.
Refrigerating apparatus and components thereof, fixed on a common baseplate, including freezers and parts.	45 lire/kg.

The Department intends to instruct the Customs Service to assess countervailing duties at the above rates on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980, and prior to April 3, 1980. The provisions of section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries prior to January 1, 1980. Accordingly, the Department also intends to instruct the Customs Service to assess countervailing duties on unliquidated entries of this merchandise which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980 in the amounts set forth in T.D. 73-85. In addition, should the ITC find that there is injury or likelihood of injury to an industry in the United States, the Department intends to instruct the Customs Service to assess countervailing duties at the rates stated above on all unliquidated entries of refrigerators, freezers, other refrigerating equipment and parts entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, and exported on or before December 31, 1980.

Further, as required by § 355.36(c) of the Commerce Regulations, a cash deposit of the estimated countervailing duties listed above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties shall continue to be required, at the rates set forth in T.D. 73-85, on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended on entries made on or after April 3, 1980 until the Department is notified of a determination by the ITC.

Interested parties may submit written comments on these preliminary results on or before May 27, 1981 and may request disclosure and/or a hearing on or before May 12, 1981. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 21, 1981.

[FR Doc. 81-12459 Filed 4-27-81; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Dr. Louis Wrigley; Receipt of Application for Permit To Take Marine Mammals

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* Dr. Louis Wrigley (P270), Department of Biology, Wilkes College, Wilkes-Barre, Pennsylvania 18766.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Animals:* Atlantic bottlenose dolphins (Tursiops truncatus); 100.

4. *Type of Take:* Potential Harassment.

5. *Location of Activity:* May River, South Carolina.

6. *Permit of Activity:* 4 years.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application

should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before May 27, 1981. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: April 20, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-12589 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-22-M

National Zoological Park; Receipt of Application for Permit To Take Marine Mammals

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* National Zoological Park (P6F), Smithsonian Institution, Washington, D.C. 20008.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Animals:* California sea lions (*Zalophus californianus*); 80.

4. *Type of Take:* Captured and released.

5. *Location of Activity:* San Nicolas Island, California.

6. *Period of Activity:* 3 years.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before May 27, 1981. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following office(s):

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: April 20, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-12590 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Grant Appeals Board of the Public Telecommunications Facilities Program

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Memorandum opinion and order.

SUMMARY: On January 15, 1981, the Grant Appeals Board (Board) met to consider the petition filed by Barbara Wheeler Gilbert seeking reconsideration of the staff's action declining to accept the late filed application of the Wiconi Project of the South Dakota United Indian Association (Wiconi) for filing and denying Wiconi's petition for extraordinary relief to be substituted as the applicant for an earlier, timely filed application. After reviewing the rules of the Public Telecommunications Facilities Program (PTFP) and considering the evidence submitted by Ms. Gilbert, the Board finds that the action of the staff in this matter was reasonable and well within the limits of the staff's discretion. Therefore, the Board denies Ms. Gilbert's petition and affirms the staff's action.

FOR FURTHER INFORMATION CONTACT: Robert Hunter, Office of the Chief Counsel, NTIA/DOC, 1800 G Street, N.W., Washington, D.C. 20504. Telephone (202) 377-1866.

In the matter of a petition for extraordinary relief regarding the application of the South Dakota Indian Association (PTFP File No. 150-P), memorandum opinion and order.

By the Board: Fishman, Chairman; Ahern; and Robinson.

On Thursday, January 15, 1981, the Grant Appeals Board (Board) established under the National Telecommunications and Information Administration's (NTIA) Public Telecommunications Facilities Program (PTFP) met to consider the petition for reconsideration filed by Ms. Barbara Wheeler Gilbert, director of the American Indian Satellite Project (AISP). This petition was filed on July 29, 1980, pursuant to sections 2301.13 and 2301.33 of the PTFP rules. It seeks review of the staff's actions declining to accept for filing the grant application of the Wiconi Project of the South Dakota United Indian Association (Wiconi) and denying Wiconi's petition for extraordinary relief, which urged the staff, in essence, to substitute Wiconi as applicant in respect of an earlier, timely filed grant application.

We have seriously and carefully considered the issues raised in this appeal and, as discussed subsequently, we are sympathetic to the important public interest goals that Wiconi seeks to achieve. For the reasons set forth below, however, we are affirming the staff's actions here as both correct and reasonable under the circumstances presented, and, in any event, well within the staff's legitimate discretion. *See Morrison, Inc. v. Secretary of Labor,* 626 F.2d 771, 773 (10th Cir. 1980); *Mississippi Comm'n on Nat. Resources v. Costle,* 625 F.2d 1269, 1275 (5th Cir. 1980).

The relevant facts surrounding Wiconi's appeal are as follows: On January 9, 1980, an organization entitled the First Americans' Commission for Telecommunications (FACT), which stated that it represented a number of American Indian nations, reactivated an application initially filed in 1979, which sought a PTFP grant of about $97,500. The purpose of FACT's application was to obtain a grant to develop a special satellite-based telecommunications system that could, when operational, aid in more effectively and efficiently delivering educational, health, and governmental services to the American Indian community generally.

January 9, 1980, was the cut-off date for filing PTFP grant applications to obtain FY 1980 funding and, under the rules, the FACT reactivation was timely.

More than four hundred other grant applications were submitted on or before that deadline seeking to obtain grants from the $23.7 million in 1980 PTFP funds that were available.

On March 13, 1980, however, Mrs. Lee Piper, chairperson of FACT, requested by letter that the group's January application be withdrawn. Mrs. Piper's letter to the PTFP staff stated that the board of directors of the organization felt that the proposal as it then stood was not adequate and that, therefore, further refinement and revision of the proposal was required. On March 21, 1980, however, Ms. Gilbert sent a letter to the PTFP staff on behalf of Wiconi essentially requesting that a waiver of the cut-off date be granted so that Wiconi could substitute itself for FACT as the grant application. Ms. Gilbert stated that both Wiconi and FACT were agents of the same American Indian organizations and wanted to develop the same special public service satellite communications system. Under the PTFP rules, March 21, 1980, was the final date for amendments to grant applicants filed in January. The basic questions that the PTFP staff confronted, therefore, were whether to allow Wiconi to step in and assume the sponsorship role previously held by FACT or to allow Wiconi to file a late application by waiving the January 9, 1980, cut-off-date.

The NTIA staff met subsequently with Ms. Gilbert to discuss the situation, and NTIA's Deputy Chief Counsel also discussed the matter by telephone with Mrs. Piper of FACT. The NTIA staff was told that FACT neither endorsed nor supported Wiconi's "substitution" request.[1] Nevertheless, Wiconi filed a petition with the staff on April 18, 1980, and a statement in support of that petition on April 25, 1980, arguing, in essence, that it was qualified to act as an "agent" of the American Indian organizations which had created FACT for the purpose of pursuing the grant application.

The PTFP staff *conditionally* accepted FACT's application on May 28, 1980, in order to facilitate further processing while the issues relating to Wiconi's proposed sponsorship of the project were being considered. The staff, however, denied Wiconi's request for a waiver of the January 9, 1980, cut-off date and further directed that Wiconi had the burden of demonstrating that it in fact represented the same parties in interest who previously had constituted FACT. In the judgment of the PTFP staff, however, Wiconi failed to meet this burden. Accordingly, on June 30, 1980, PTFP director John Cameron ruled against the Wiconi "substitution" request and this appeal ensued.

Three members of the Board (Veronica M. Ahern, William L. Fishman, and Kenneth G. Robinson, Jr.) met on January 15, 1980, and considered Wiconi's appeal and the staff's actions. This consideration was aided by Ms. Gilbert's able and eloquent presentation in behalf of Wiconi, as well as the oral statements of Mr. Skall and Mr. Cameron. Based on the following considerations, however, the Board determined that the petition filed by Ms. Gilbert must be denied.

First, the Wiconi application, filed on March 21, 1980, was essentially a late filed application, and the PTFP staff could have rejected the application on that ground alone. The staff, instead, made a concerted effort to accommodate the interests of Wiconi, and it was only after Wiconi failed to demonstrate that it was an "agent" of the same American Indian organizations which had created FACT that the staff rejected its petition for extraordinary relief. In short, the staff did not abuse the broad discretion that it must necessarily exercise in processing and awarding grant applications and, on this ground alone, the petition for reconsideration should be denied.

Second, granting the petitioner the relief that she seeks would undermine the integrity of one of the most basic and well-known regulations of the program—namely, the cut-off date for filing applications. Several hundred applicants filed timely applications and we believe it would be unfair to those applicants to grant Wiconi the requested relief. We recognize that Wiconi and FACT may confront difficulties in organizing and maintaining a consensus among diverse American Indian groups. However, other PTFP applicants, including other American Indian groups undoubtedly confront and have confronted similar problems, and yet have managed to perfect and pursue their applications in compliance with the program's rules and regulations.

Third, even assuming that we were to find compelling grounds for waiving the PTFP rules at this time, which we do not, it is unclear what practical impact this kind of hypothetical finding might have. The fiscal year 1980 funds available have already been obligated, in accordance with well established PTFP procedures. Supplemental funding, of course, could be sought. Alternatively, grants already made could be reduced in some fashion to generate the funds needed for the Wiconi-FACT application. Funding out of 1981 funds, however, could be obtained, if the applicants were to resubmit their application. It seems to us that funding could more expeditiously be obtained through resubmission of the application than by our endeavoring in some manner to obtain supplemental appropriations or to direct some unprecedented pro rata reduction of grants already made.

Although we have denied Wiconi's request for extraordinary relief, we want to stress that this action should not be viewed as reflecting adversely on the objectives that the petitioner seeks. The telecommunications project that the Wiconi envisions, if developed and administered properly, could go far towards furthering the legitimate interests and needs of the American Indian community. Indeed, the PTFP staff in reviewing the initial FACT application accorded it high marks in this regard. Furthering the needs and the interests of minority groups has been a major priority goal of the PTFP and NTIA, and quite appropriately so. It is clear to us, however, that under the complex circumstances surrounding the Wiconi application, the PTFP staff acted reasonably and well within the scope of its discretion, and that the staff's decision, accordingly, should be sustained.

Dated: April 9, 1981.

Grant Appeals Board of the Public Telecommunications Facilities Program.

Veronica M. Ahern,

Director of International Affairs.

William L. Fishman,

Acting Chief Counsel.

Kenneth G. Robinson, Jr.,

Policy Advisor.

[FR Doc. 81-12537 Filed 4-24-81; 8:45 am]

BILLING CODE 3510-60-M

[1] On December 4, 1980, Mrs. Piper of FACT notified NTIA's Chief Counsel, Gregg P. Skall, by Mailgram that FACT had reversed its earlier position and no longer objected to Wiconi's request. At the time that the staff action under review here occurred, however, FACT's objection to Wiconi's assuming sponsorship of the project was still operative.

COMMITTEE FOR THE IMPLEMENTATION TEXTILE AGREEMENTS

Certain Cotton and Man-Made Fiber Textile Products from Sri Lanka; Amending Import Restraint Levels

Correction

In FR Doc. 81-11154, published at page 21407, in the issue of Friday, April 10, 1981 in the table on page 21408, the entry for category 348, now reading "225,000" should be corrected to read "226,000".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

Contract Market Rules; Disapproval

AGENCY: Commodity Futures Trading Commission.

ACTION: Disapproval of contract market rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has disapproved, pursuant to Section 5a(12) of the Commodity Exchange Act ("Act"), silver rule 1(b), gold rule 1(b) and the second paragraph of general trading rule 502 of the Commodity Exchange, Inc. ("Comex" or "Exchange"). These provisions authorize the Exchange to conduct a trading session after the close of regular trading and limit executions during this session to straddle trades. Pursuant to the Commission's action all straddle trades in Comex silver and gold futures must be executed during the Exchange's regular trading sessions under contract market rules which, among other things, the Commission has found meet the requirements of Sections 4b, 5 and 5a of the Act and Commission regulation 1.38; and which the Commission otherwise believes are consistent with the standards of Section 15 of the Act.

DATE: The disapproval of the contract market rules is effective on or before June 26, 1981.

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SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission designated Comex as a contract market to trade gold and silver on July 18, 1975. Section 5a(12) of the Act provides that each contract market designated by the Commission must submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin.[1] Accordingly, as a part of the Commission's designation of Comex as a contract market in gold and silver, the Commission required the Exchange to submit the contents of its rulebook for Commission review pursuant to Section 5a(12) of the Act.

Among the rules submitted by Comex at that time were its general trading rule 502, silver rule 1(b) and gold rule 1(b), which collectively allow Comex members to trade spreads or straddles in gold or silver futures during a trading session after the close of regular trading on the Exchange and after the Exchange's establishment of daily settlement prices.[2] That trading session is referred to herein as the "Straddle Call Session" or, simply, the "Session".[3] Under the Comex rules, market orders for straddle transactions may be executed during the Straddle Call Session at price differentials which are established by the bidding or offering of excess market orders after all buy and sell orders have been totalled and offset.[4] These rules have not yet been approved by the Commission under Section 5a(12) of the Act, but currently must be enforced by Comex under Commission regulation 1.53[5] as they appeared as of July 18, 1975.[6]

On June 30, 1980, the Commission published notice in the Federal Register of its proposed disapproval of these rules and requested public comment thereon.[7] In addition to presenting possible grounds for disapproval of the Session, the Commission stated that it was interested in receiving comments which addressed the particular need for a Straddle Call Session in silver in view of the lack of such a session in any other commodity future and which discussed factors which related that need to the possible grounds which the Commission had cited for disapproval.

In response to its request for comments, the Commission received one comment letter from Lee H. Berendt, President of Comex.[8] Comex's comment letter also transmitted and incorporated letters from seven Comex member firms, each of which supported continuation of the Straddle Call Session.[9] In reaching its determination, the Commission has considered carefully the comments from Comex and its member firms along with other information provided by the Exchange since 1975.

As set forth below, the Commission has determined that the Comex rules which authorize the execution of straddle orders during a Straddle Call Session violate Section 4b of the Act[10] and Commission regulation 1.38.[11] Moveover, whether examined as independent trading sessions or as extensions of regular trading in Comex's designated futures contracts, the Sessions as conducted in silver and authorized in gold are inconsistent with the public interest policies of Section

[1] 7 U.S.C. 7(a)(12) (Supp. III 1979).

[2] The text of each rule is provided at the conclusion of this document. A "spread" or "straddle" is defined herein as the simultaneous sale of one or more contracts in a futures delivery month against the purchase of the same number of contracts in another futures delivery month in the same commodity. In contrast, an "outright" trade is the simple purchase *or* sale of a contract or contracts in a single delivery month. Any combination of listed futures delivery months may be used to execute a straddle transaction. Although the terms "spread" and "straddle" are basically interchangeable, the Commission has conformed to Comex's usage and employed "straddle" herein.

[3] For a more detailed description of the Straddle Call Session, *see* the Commission's Notice of Proposed Disapproval of Contract Market Rules, 45 FR 43820 (June 30, 1980).

[4] Limit orders for straddle transactions also may be executed during the Session. *See* note 40 *infra*.

[5] 17 CFR 1.53 (1980).

[6] Since that date the first paragraph of general trading rule 502, which is not at issue in this proceeding, and silver rule 1(b) have been the subject of one minor amendment (changing the specified regular hours of trading). This amendment was treated by the Commission under regulation 1.41(c) as operational or administrative.

[7] 45 FR 43820 (June 30, 1980). Prior to the Commission's notice of proposed disapproval of these rules, the Commission had reviewed the rules and considered the information provided by Comex in meetings with the Commission's staff on July 2, 1975, January 12 and 25, 1977, and September 20, 1979; and in letters from Lee H. Berendt, President of the Exchange, dated July 9, 1975, April 5, 1977, and April 7, 1980. In addition, the Commission had considered a "Summary of Proposed Rules for Straddle Call Sessions," contained in a letter from Mr. Berendt to the Division of Trading and Markets, dated April 5, 1977, and a draft of proposed rule 4.07 ("Conduct of Straddle Calls"), from Mark Buckstein, counsel to the Exchange, dated February 8, 1979. This summary and draft of proposed rule 4.07 were never formally submitted by the Exchange for Commission consideration pursuant to Section 5a(12) of the Act. Although it does not appear that the draft proposal would remedy the deficiencies which have caused the Commission to disapprove the rules authorizing the Straddle Call Session, the Commission would consider any proposal which Comex may submit in accordance with the requirements of Section 5a(12) of the Act to remedy these deficiencies, as well as any new information or arguments which Comex may present to justify Commission approval of such a proposal.

The Commission previously provided advance notice of proposed rulemaking with respect to procedures for executing straddle transactions, 43 FR 32092 (July 24, 1978). While the Commission's action here relates to some of the concerns expressed by the Commission in that earlier notice, this disapproval proceeding is independent of that rulemaking proceeding.

[8] Letter dated August 21, 1980, to the Office of the Secretary (herinafter cited as "Comex comment letter"). A report entitled Economic Aspects of the Comex Straddle Call Session (hereinafter cited as "Economic Aspects Report") also was incorporated in Comex's comment letter and is discussed below together with the Exchange's comment letter.

[9] The seven Comex member firms which commented on the Commission's notice of proposed elimination of the Straddle Call Session are J. Aron & Company, Inc.; Philipp Brothers; Floor Broker Associates; Mintz-Marcus & Co.; Brody, White & Company, Inc.; Bache Halsey Stuart Shields Incorporated and E. F. Hutton & Co., Inc.

[10] 7 U.S.C. 6b (1976 and Supp. III 1979).

[11] 17 CFR 1.38 (1980).

5[g] of the Act, which underlie the obligations of a contract market under Sections 5 and 5a of the Act.[12] Finally, the Commission has concluded that, in view of the non-competitive aspects of trading during the Session and other anticompetitive concerns identified with the Session, it has no basis to grant an exemption from the requirements of Commission regulation 1.38 and that approval of these rules would be inconsistent with the standards which govern the Commission under Section 15 of the Act.[13]

II. Procedural Issues, Standard of Review

Comex raises several objections to the procedures followed by the Commission in this disapproval proceeding. The Commission has considered these objections and, as discussed below, finds them to be without merit.

First, the Exchange asserts that the Commission is authorized to disapprove contract market rules under Section 5a(12) of the Act only when the Commission determines that the rule at issue "conflicts or is inconsistent with the provisions of the Act and the Commission's duly promulgated regulations thereunder." [14] While the Commission previously rejected such a narrow interpretation of its authority under the Act,[15] even under the standard urged by Comex the Commission has concluded that the Comex rules at issue here in fact violate certain provisions of the Act and the Commission's regulations.

Second, while Comex concedes that Commission disapproval actions under Section 5a(12) of the Act may proceed in accordance with the Administrative Procedure Act's ("APA") informal or "notice and comment rulemaking" procedures,[16] it expresses concern that the Commission not depart from the APA requirements for informal proceedings. The Commission notes that it has, and continues to, comply with the APA's notice and comment rulemaking procedures in initiating and proceeding with this disapproval action. In particular, the Commission provided public notice of the proposed disapproval by publishing grounds for disapproval in the Federal Register,[17] as discussed above, and providing interested persons with 60 days to comment on the proposed disapproval action.[18] Moreover, the Commission has considered all such comments and other information submitted by Comex in conjunction with this proceeding in reaching its determination here.

Third, the Exchange maintains that it reserves the right for the "oral presentation of evidence or argument, or to a more formal or complete hearing on the issues involved." [19] This proceeding was initiated by the Commission in order to gather facts and obtain views from contract markets and other interested persons relevant to its determination whether to disapprove Comex's rules under Section 5a(12) of the Act. The proceeding does not attempt to determine whether any person has violated a provision of the Act or the Commission's regulations thereunder or to impose any sanctions for any such violation. Accordingly, the rights associated with formal adjudication are inapplicable to a Commission proceeding under Section 5a(12) of the Act.[20]

Indeed, Congress clearly confirmed its intent that Section 5a(12) proceedings generally be governed by informal rulemaking procedures. During the Congressional hearings in 1978, on the reauthorization of the Commission, Congress was urged to amend various sections of the Act, including Section 5a(12), to require the Commission to conduct hearings under that Section "on the record," *i.e.*, to require such hearings to be conducted in accordance with Sections 554, 556 and 557 of the APA applicable to adjudicatory proceedings and to certain rulemakings required to be conducted "on the record." [21] The Commission took the position that proceedings under Section 5a(12) were in the nature of informal rulemaking and should generally be governed by informal procedures.[22]

Congress agreed with the Commission's position and declined to amend Section 5a(12) as requested to require the Commission to employ a hearing "on the record" when disapproving proposed contract market rules. Congress has required the Commission to employ adjudicatory-type procedures only when proceeding under Section 6, 6(a) and 6b of the Act.[23] Further, the Senate Committee on Agriculture, Nutrition, and Forestry recognized the Supreme Court's position concerning the procedures that an administrative agency may use in rulemaking proceedings by explaining that:

> The Supreme Court in *United States* v. *Allegheny-Ludlum Steel*, 406, U.S. 742 (1972), and *United States* v. *Florida East Coast R. Co.*, 410 U.S. 224 (1973), held that a hearing on the record in rulemaking proceedings is required only when the agency statute expressly requires that a hearing be held "on the record."
>
> The Committee concluded that the imposition of a requirement for a hearing on the record for rulemaking proceedings by the Commission would be extremely burdensome and would not avail the Commission of any information that it is not currently receiving in these proceedings.[24]

In this proceeding the Commission has determined to disapprove Comex's rules under Section 5a(12) of the Act. In doing so, the commission has made precisely the type of policy judgments inherent in the rulemaking process.[25]

III. Basis for Commission Disapproval

A. Overview

Congress recognized the need for a comprehensive regulatory scheme for futures trading extensively amending

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[12] 7 U.S.C. 7(g), 7 and 7a (1976 and Supp. III 1979). *See also* section 6 of the Act, 7 U.S.C. 8 (1976).

[13] 7 U.S.C. 19 (1976).

[14] Comex comment letter at 3 and 31.

[15] *See* 45 FR 34873 (May 23, 1980).

[16] Administrative Procedure Act, 5 U.S.C. 551 *et. seq.* (1976); Comex comment letter at 38–39.

[17] *See* note 7 *supra*.

[18] In addition, the Division of Trading and Markets earlier had provided Comex with notice of its intent to recommend that the Commission commence a proceeding under Section 5a(12) of the Act to disapprove Comex's rules authorizing the Straddle Call Session. *See* letter dated March 20, 1980, from John L. Manley, Director of the Division of Trading and Markets, to Lee H. Berendt, President of Comex.

[19] Comex comment letter at 39. While Comex has asserted its reservation of the right to "oral presentation of evidence or argument, or to a more formal or complete hearing on the issues involved," at no time has it formally requested that the Commission hold an oral hearing as a part of this proceeding.

[20] *See generally, United States* v. *Florida East Coast Railway Co.*, 410 U.S. 224 (1973); *Ethyl Corporation* v. *Environmental Protection Agency*, 541 F.2d 1 (D.C. Cir. 1976), *cert. denied*, 426 U.S. 941 (1976). The fact that a particular contract market is the sole subject of a Section 5a(12) proceeding does not, in and of itself, mandate the use of adjudicatory procedures under the Administrative Procedure Act. *See, e.g., Hercules, Inc.* v. *Environmental Protections Agency* 598 F.3d 91 (D.C. Cir. 1978).

[21] *See Hearings on the Reauthorization of the Commodity Futures Trading Commission (S. 2391) Before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry*, 95th cong., 2d Sess. Pt. II, 504 (1978); *Hearings on H.R. 10285 Before the Subcommittee on Conservation and Credit of the House Committee on Agriculture*, Ser. No. 95–QQ, 95th Cong., 2d Sess. 282 (1978).

[22] *Hearings on H.R. 10285 Before the Subcommittee on Conservation and Credit of the House Committee on Agriculture*, Ser. No. 95–QQ, 95th Cong., 2d Sess. 590–592 (1978) (testimony of William T. Bagley, then Chairman of the Commission).

[23] 7 U.S.C. 8, 8(a) and 13a (Supp. III 1979).

[24] S. Rep. No. 850, 95th Cong., 2d Sess. 29 (1978).

[25] *See generally, United States* v. *Florida East Coast Railway Co., supra* 410 U.S. 224. *See also, Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.*, 435 U.S. 519 (1978); *Federal Communications Commission* v. *Schreiber*, 381 U.S. 279, 290 (1975); *Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940); *Belenke* v. *Securities and Exchange Commission*, 606, F.2d 193, 198–99 (7th Cir. 1979) and *Illinois* v. *Nuclear Regulatory Commission*, 591 F.2d 12, 14–16 (7th Cir. 1979).

the Commodity Exchange Act and creating the Commission in 1974.[26] Commission oversight of the futures industry is intended to "guarantee fair practices and honesty on the exchanges,"[27] "protect persons producing, handling, processing and consuming any commodity traded for future delivery" on a contract market,[28] provide "a basis for determining prices to producers and consumers of commodities," and facilitate the use of the futures markets "as a means of hedging * * * against possible loss through fluctuations in price.[29] Futures trading may be conducted only through the facilities of a board of trade desginated as a contract market which initially and continuously has demonstrated to the Commission, under Sections 5 and 5a of the Act,[30] that such designation "will not be contrary to the public interest."[31]

In recognition of the need to protect the public interest in the integrity of the futures markets, Congress enacted Section 4b of the Act. That section of the Act, among other things, reflects Congress' belief that the public interest in the integrity of the markets would be protected by the execution of orders for futures trades by public outcry.

In furtherance of that objective, the Commodity Exchange Authority of the Department of Agriculture ("CEA") promulgated regulation 1.38.[32] That regulation, since its adoption, has required all orders entered on the floor of an exchange to be "excuted openly and competitively as to price by public outcry."[33] Earlier, the CEA had expanded upon the purposes for the requirement of "openly and competitively by open outcry" trading by stating that:

> It is generaly conceded that one of the primary purposes of a futures market and one of the chief justifications for it is to provide a common meeting ground for all the orders of all persons who desire to buy or sell in that market at any given time. That being so, if any of those orders are diverted from the common meeting ground or withheld from truly competitive bidding and offering, so that everyone interested may not have equal opportunity to buy or sell, the market falls short of that purpose and justification.[34]

The Commission, empowered with the authority to enforce regulation 1.38, has the responsibility to assure the public that the price at which an order is filled for a particular future is based solely on open and competitive trading.

Section 15 of the Act further imposes on the Commission the obligation to consider the public interest associated with efficient, competitive markets as well as the public interest to be achieved under the Act when approving contract market rule proposals. In so doing, the Commission must "endeavor to take the least anticompetitive means of achieving the objectives of (the) Act, as well as the policies and purposes of (the) Act." [35] One of the purposes, of course, is to ensure "fair practices and honest dealings on the commodity exchanges." [36] The Senate Committee made clear that Section 15 was enacted to assure that the Commission would not uncritically approve "* * * an anticompetitive rule which was not necessary to achieve a valid regulatory objective." [37]

B. Section 4b of the Act, Commission Regulation 1.38

Commission regulation 1.38 provides in pertinent part that:

> All purchases and sales of any commodity for future delivery on or subject to the rules of a contract market shall be executed openly and competitively by open outcry or posting of bids and offers or by other equally open and competitive methods, in the trading pit or ring or similar place provided by the contract market, during the regular hours prescribed by the contract market for trading in such commodity: *Provided, however,* That this requirement shall not apply to such transactions as are executed non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission, specifically providing for the non-competitive execution of such transactions.

This regulation embodies the standard of open and competitive trading which, consistent with Section 4b of the Act, it was designed to assure. [38] The need for a centralized marketplace, to be conducted in accordance with principles of open and competitive trading to ensure the markets' integrity was expressed in 1974 as follows:

> The purpose of this requirement (Regulation 1.38) is to ensure that all trades are executed at competitive prices and that all trades are focused into the centralized marketplace to participate in the competitive determination of the price of futures contracts. This system also provides ready access to the market for all orders and results in a continuous flow of price information to the public. [39]

Not only does the Straddle Call Session provide an opportunity for members to divert orders from a "centralized marketplace" (the regular trading session), the Session is structured in a manner which permits neither a focusing of all trades nor the competitive determination of price. By its very nature, the Straddle Call Session excludes all outright orders from consideration and deprives the Session of the ability to function as a centralized marketplace. Thus, to the extent that price competition exists within the Session, that competition is severely limited by the exclusion of a significant proportion of trading interest

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[26] Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, 88 Stat. 1389, *et. seq.* (1974). Prior to the 1974 amendments, the Act was administered by the Commodity Exchange Authority of the Department of Agriculture.

[27] H.R. Rep. No. 975, 93d cong., 2d Sess. 48 (1974) quoting form 120 Cong. Rec. 30458 (1974) (remarks of Senator Herman Talmadge).

[28] 7 U.S.C. 12a(7) 1976.

[29] 7 U.S.C. 5(7) 1976.

[30] Under commission regulation 1.50(b), 17 CFR 1.50(b) (1980), any failure of a contract market to comply with the conditions and requirements for designation set forth in Sections 5 and 5a of the Act may result in the Commission taking specific actions. Section 6 of the Act requires any board of trade seeking designation as a contract market to provide the Commission with "a sufficient assurance" that it will continue to comply with the applicable conditions and requirements of the Act.

[31] 7 U.S.C. 7(g) 1976.

[32] 18 FR 176 (January 9, 1953). Regulation 1.38 became effective April 1, 1953.

[33] Regulation 1.38 has remained essentially unchanged since 1953. Amendments in 1976 substituted the term "Commission" in lieu of the term "Secretary of Agriculture" and required contract market rules which would establish exemptions from the open outcry and competitive execution requirements of the regulation specifically to be approved by the Commission before becoming effective, rather than merely being subject to non-disapproval.

[34] CEA Administrative Determination No. 123 (June 15, 1943). This CEA detemination refers to the "openly and competitively by open outcry" requirement for the execution of simultaneous buying and selling of orders of different principals held by a contract market member (*e.g.*, Commission regulation 1.39). Since 1953, the "open outcry" standard has been applicable to the execution of all orders pursuant to Commission regulation 1.38.

[35] 7 U.S.C. § 17 (1976). *See also, Hearings before the Senate Agriculture and Forestry Committee,* 93d Cong., 2d Sess. 661-662 (1974).

[36] S. Rep. No. 94-894, 94th Cong., 2d Sess. 2 (1976).

[37] *Senate Committee on Agriculture and Forestry, Report on H.R. 13113,* S. Rep. No. 93-1131, 93d Cong., 2d Sess. 23 (1974).

[38] Section 4b of the Act, among other things, makes it unlawful for any member of a contract market, in connection with any order, " * * * to fill such order by offset against the order or orders of any other person * * * ." With respect to each of the prohibitions in this Section, however, Section 4b also provides that:

> Nothing in this section or any other section of this Act shall be construed to prevent a futures commission merchant or floor broker who shall have in hand, simultaneously, buying and selling orders at the market for different principals for a like quantity of a commodity for future delivery in the same month from executing such buying and selling orders at the market price: *Provided,* That any such execution shall take place on the floor of the exchange *where such orders are to be executed at public outcry across the ring and shall be duly reported, recorded, and cleared in the same manner as other orders executed on such exchange * * * (emphasis added).*

[39] *Senate Committee on Agriculture and Forestry, Report on H.R. 13113,* S. Rep. No. 93-1131, 93d Cong., 2d Sess. 16 (1974).

otherwise evidenced during the regular trading session.

Moreover, the price differentials for straddle orders executed during the Session are not established by competitive bids or offers for individual straddle orders. First, only the net of all buy and sell orders entered is offered for competitive bidding after all other orders are matched and offset.[40] Second, persons who underbid or overoffer for excess orders are not allowed to enter subsequent better bids or offers or to participate in any subsequent allocation of the excess orders. Third, if there is an insufficient number of excess orders to satisfy all bidders or offerors, the excess orders will be allocated among the bidders or offerors by an Exchange official for execution at a single uniform price.[41]

Comex asserts that the price differentials are established after open and competitive bidding or offering takes place, because during the Session straddle transactions are executed "by the posting of bids and offers" with the Exchange employee.[42] The Exchange contends further that price differentials established in this manner are economically meaningful because the resultant differential reflects supply and demand forces in the market. To this extent, Comex states that the price differentials established during the Session are analogous to price differentials established by open outcry.[43]

The clearest reflection of competitive market forces is the number of buy and sell orders in the market at a point in time and the manner in which those orders will interact to achieve an execution or series of executions at prices which represent the market's collective evaluation of a commodity's worth at each point in time. By restricting participation in bidding and offering for excess orders and allocating the unfilled orders at a specified price, the Straddle Call Session's procedure restricts the impact of supply and demand forces on pricing.

For example, in those cases where the number of buy (sell) orders exceeds the number of sell (buy) orders, an Exchange employee will allocate the excess orders on a proportional basis to members wishing to participate at the established differential.[44] The allocation process prohibits traders who may desire to obtain an execution of greater size (*i.e.*, disproportionate share of the excess orders) from establishing other price differentials by openly and competitively bidding or offering for such excess straddle orders. Accordingly, by channeling Session participants into executing all orders at one price (or on rare occasions two or more prices) for a particular straddle combination, the Straddle Call Session arbitrarily restricts open and competitive executions and removes supply and demand forces from the price determination process.

Commission regulation 1.38, consistent with the provisions of Section 4b of the Act, sets forth explicit requirements as to the nature of the trading processes which must be implemented by designated contract markets. The Straddle Call Session's restriction of permissible buy and sell interest to straddle orders, distinguished by the lack of competitive procedures violates the requirements of Commission regulation 1.38.[45] Moreover, as set forth below, the Commission does not believe that its approval of such non-competitive practices, as authorized in limited circumstances by the exemptive provision in regulation 1.38(a), would be consistent with the purposes of the Act which prompted the Commission initially to provide for such an exemption.[46]

C. Sections 5 and 5a of the Act

Sections 5 and 5a of the Act set forth in broad terms the conditions and requirements applicable to a board of trade which applies for designation as a contract market.[47] of particular note among the conditions and requirements of contract market designation is Section 5(g), whch requires a board of trade seeking designation as a contract market to demonstrate that transactions for future delivery in the commodity for which designation is sought "will not be

[40] All orders in the Session are considered market orders unless otherwise noted. When a limit order is entered, the member will announce the desired price differential when he offers or bids for the straddle. Limit orders which are not accepted are withdrawn and not recorded. Acceptance of a limit order by another member results in an execution. In this manner, the differential established by a limit order execution generally will provide an indication of the market price which will prevail for that straddle. For this reason the differential that is applied to market orders that are subsequently matched by a caller for that particular straddle typically is identical to the differential at which the limit order is executed.

[41] A Comex employee ("caller") announces each possible straddle combination one at a time pausing after each call to record orders which brokers wish to buy or sell. The caller then totals and offsets, to the extent possible, all buy and sell orders. Thereafter, he announces to the floor the number of unmatched, excess orders, whether buy or sell orders, and permits members in the ring to bid or offer for those excess orders.

[42] Comex comment letter at 22–23 and Economic Aspects Report at 16. Posting as used in regulation 1.38, however, refers to the practice of displaying a prevailing bid or offer which, while posted on a blackboard, is subject to execution should the necessary buying or selling interest develop in the contract. *See, e.g.*, Chicago Mercantile Exchange rule 552. The Comex Straddle Call Session procedures are not comparable "open and competitive" methods of trading within the meaning of regulation 1.38. *See* H.R. Rep. No. 93–975, 93d Cong., 2d Sess. 136 (1974).

[43] As an example of the principles practiced in the trading of straddles during its Straddle Call Session, Comex cites the London Gold Fixing procedure. Comex comment letter at 24 and Economic Aspects Report at 7 and 16. The merits of such an auction system, however, vary greatly from those contemplated by Commission regulation 1.38 and the purposes of the Act insofar as the Act's requirements are designed to foster competitive trading.

[44] After the price differential is established for a particular straddle combination during the Session, the caller will announce it to the members in the ring. If there are not enough excess orders to meet the demand from members who bid or offer for them, the caller will allocate on a proportional basis the available orders among the members in the ring.

[45] In the notice proposing disapproval of the Comex rules, the Commission also cited as a possible ground for disapproval under regulation 1.38 the scheduling of the Straddle Call Session outside of what appeared to be Comex's "regular" trading hours. While Comex asserts that it has prescribed trading hours for its gold and silver contracts which purport to encompass the Straddle Call Sessions in these contracts within its "regular" hours (Comex comment letter at 25–26 and Economic Aspects Report at 18), Comex's identification of "regular" trading hours is essentially a semantic exercise. "Regular" trading on the Comex in the silver contract, for example, occurs between 9:40 a.m. and 2:15 p.m. and is characterized by the open and competitive executions of orders through open outcry as required by regulation 1.38. Trading during the Straddle Call Session bears no functional relationship to trading during these prescribed hours, but is deemed by Comex to fall within "regular" trading hours only because Comex has accommodated the time requirements of such trading by providing a separate time period for its conduct.

[46] 18 FR 178 (January 9, 1953). Commission regulation 1.38(b) imposes certain recordkeeping requirements upon persons executing non-competitive trades exempted from the requirements of Commission regulation 1.38(a). Examples of non-competitive trades which the Commission might exempt under the proviso in regulation 1.38(a), as referenced in Commission regulation 1.38(b), include transfer trades, error (office) trades and exchanges of futures for the cash commodity. For examples of contract market rules authorizing such exemptions which have been approved by the Commission *see, e.g.*, Comex rules 504(a)(1.2); New York Futures Exchange rule 432.

[47] Commission regulation 1.50(b) establishes that "any failure by a contract market to comply with the conditions and requirements for designation as a contract market" shall be cause for action by the Commission to remedy the compliance deficiency. As noted earlier, when the Commission initially designated Comex as a contract market in gold and silver on July 18, 1975, it required Comex to enforce its rules as of that date. Although the Commission now has determined that the specified Comex rules underlying its initial designations as a contract market in gold and silver violate specific provisions of the Act and Commission regulations, the Commission may remedy the deficiency in this case by disapproval of the violative provisions and need not rely on proceedings under other sections of the Act referenced in regulation 1.50.

contrary to the public interest." [48] Various aspects of the public interest standard are recognized in Sections 3 and 15 of the Act. They include, as set forth in Sections 3 and 5(g), price determination and hedging.[49]

Further, Congress' emphasis on competition and open outcry as the accepted means of order execution under Section 4b of the Act and Commission implementation of these means through regulation 1.38 reflect another aspect of the public interest test. As established in the previous section, the rules at issue here violate the requirements of Section 4b of the Act and Commission regulation 1.38. Moreover, they impact adversely on the contract's ability to serve an economic purpose and thus are inconsistent with the public interest test of Section 5(g) of the Act [50] and, when considered in conjunction with Section 15 of the Act, do not support an exemption from the requirements of Commission regulation 1.38.

The function of a trading session in any designated futures contract is to provide an opportunity for the orders of all persons interested in buying or selling the contract to meet in a central marketplace.[51] In this regard, the statements of a number of Comex members and member firms concerning the value of the Session belie the ability of the Comex markets, as currently structured, to serve as central marketplaces.

While it is clear that a number of persons have found reasons to trade in the Session, the comment letters do not appear to recognize the public interest in assuring that orders are executed through open and competitive outcry as required by regulation 1.38. Indeed, a number of the comment letters which Comex attached appear to express an aversion for the nature of the open outcry system which at times prevails during the Comex regular trading session in these contracts, particularly insofar as it affects certain traders' ability to execute straddles.[52] The Commission does not believe, however, that whatever difficulties may attend a broker's or trader's attempt to execute a straddle order during the regular trading session provides any justification for the Commission to exempt these contract market rules from the open outcry requirements of regulation 1.38.

The concerns which the Commission faces in this proceeding with respect to Section 5(g) of the Act are illustrated by the Comment letter from Salvatore M. Azzara.[53] Mr. Azzara states that "[i]t is helpful for (Brody, White & Company, Inc.) to be able to enter large straddle orders for * * * clients and be assured that * * * the execution will most likely be within 10 points of the actual value." Because "our clients, as well as the floor brokers, are busy executing outright orders during the day * * * many clients are unwilling to enter in a market order for a (straddle) except just prior to [the] session, since the straddle market during the day is not watched as closely, and certain straddles may trade 'out of line' from time to time." [54]

In effect, Mr. Azzara is asserting that his firm and its clients, in executing straddle orders, prefer the security of paying a 10 point premium generally available during the Straddle Call Session rather than the risks which such orders may encounter when executed in a competitive environment, characterized by open outcry. The Commission does not believe, however, that such security is compatible with the public interest in open and competitive executions or that it can be achieved without costs to the ability of the regular trading session to serve the public interest as a central marketplace for price discovery or hedging.

The Commission emphasizes that Comex is designated as a contract market in gold and silver; it has not sought nor been granted separate designation as a contract market to trade silver or gold straddles. Thus, while the Commission recognizes that, as with all contracts which it has designated, straddle transactions will occur as a normal consequence of members simultaneously acquiring long and short positions in different delivery months, it has never before approved a trading session in which only straddles were traded and the price of differentials between months, as opposed to the price of the underlying commodity, was the sole focus of a trader's attention.

Considering the Session as a part of Comex's current designations in silver and gold, the Commission concludes that the rules which authorize conduct of the Session are not consistent with the purposes of Section 5(g) of the Act. While the Commission recognizes that the Straddle Call Session may benefit those traders who rely on the Session as a means of executing straddles at a nominal premium above or below closing settlement price differentials, the Commission must look at how the Session impacts on the economic purpose served by designation of Comex as a contract market. In this regard, the Commission concludes that the existence of the Straddle Call Session diverts volume from the regular trading session and thus diminishes the contract's ability to operate as a vehicle for price discovery or hedging.

Comex asserts that its Straddle Call Session is necessary to alleviate "congestion" during its regular market session, and to facilitate the efficient execution of both outright and straddle trades.[55] While the Commission recognizes that excess order flow can impede the efficiency of a marketplace unequipped to accommodate that order flow, it does not believe that Comex's contention is supported by the facts.[56]

Although Comex rules indicate that the determination to conduct the Session each day is discretionary, the

[48] 7 U.S.C. 7(g) (1976).

[49] When Congress added Section 5 to the Act in 1974, the House and Senate Conferees stated that the language in Section 5(g) included the concept of an "economic purpose" test as provided in H.R. 13113, subject to the final test of the public interest. S. Rep. No. 1194, 93d Cong., 2d Sess. 36 (1974). The "economic purpose" test provided in H.R. 13113 (*See* H.R. 13113, 93d Cong., 2d Sess. Section 207 (April 22, 1974)) has served as the basis for the Commission's adoption of Guideline I, which sets forth the particular showings an exchange must make to justify its initial and continuing designation, consistent with Section 5(g) of the Act. *See* 40 FR 25849 (June 19, 1975); CCH Comm. Fut. L. Rep. ¶6145.

[50] Comex asserts that the economic purpose test of Section 5(g) is applicable only "to aid and guide" the Commission's determination as to whether trading in a particular futures contract will serve the public interest, not as a measure of whether rules governing the trading of a particular future are in the public interest. Comex comment letter at 4. A contract's proposed terms and conditions (*e.g.*, exchange rules setting forth the contract specifications and establishing trading procedures and requirements) each contribute to a contract's potential to serve both an economic purpose and the broader public interest which would justify trading in that contract. Serious deficiencies in one or more of many relevant aspects of a contract's terms and conditions could defeat the contract's ability to serve an economic purpose. Accordingly, the Commission does not believe that the provisions of the Act, or the purposes which underlie application of the public interest test, support Comex's narrow reading of Section 5(g).

[51] *See* text at note 39 *supra*.

[52] *See, e.g.*, letter dated June 19, 1980 from Ross E. Rowland, Jr., Floor Broker Associates, and letter dated July 21, 1980 from Frederick F. Horn, Bache Halsey Stuart Shields Incorporated.

[53] Letter dated June 10, 1980 from Salvatore M. Azzara, Executive Vice President, Brody, White & Company, Inc.

[54] *Id.*

[55] Comex comment letter at 6, 10–15 and 19–21; Economic Aspects Report at 4–5, 8–10.

[56] Comex does not explain why it has not considered or, if considered, did not implement, alternative trading approaches to alleviate congestion during the regular session. For example, Comex could extend the regular trading hours as necessary to accommodate excess order flow in general or at the close. Similarly, Comex could exercise its discretion in the event of high volume at the close of regular trading and call for another trading session meeting the Commission regulation 1.38 requirements for the execution of outright trades as well as straddle trades.

Comex uniformly has conducted the Session regardless of daily trading volume or volume at the close and with no apparent consideration by Comex of whether such a Session was necessary on a daily basis. Further, in response to the Commission's request for comments on the need for a special trading session in silver futures as opposed to any other future, the Exchange contends that while overall trading in its gold contract is considerably larger, the Session in silver is necessary because the ratio of straddle volume to total volume in silver trading is greater than in gold trading.[57]

The Commission notes, however, that the minor differences between these ratios is insignificant when compared to the overall volume of both outright and straddle trading in these contracts.[58] During 1980, monthly gold trading volume ranged from two to sixteen times greater than overall silver volume on the Comex, while the ration of straddle trades to total contracts traded in gold and silver, respectively, generally was comparable. Thus, as a general matter, considerably more straddle transactions are executed in the gold contract (without benefit of a Straddle Call Session) than are executed in the silver contract. Accordingly, Comex's assertion that congestion in the regular silver session necessitates the daily conduct of the Straddle Call Session is contradicted by its determination that a similarly authorized Session in gold has not been necessary, nothwithstanding trading volume in both straddles and outright trades that consistently has exceeded comparable volume in the silver contract.

Moreover, given the importance under the Act of open and competitive price determination, the Commission believes that the primary responsibility of a contract market confronted by operational problems resulting from heavy volume is to implement operational adjustments which would provide an open and competitive marketplace capable of accommodating reasonably anticipated levels of trading activity, rather than to compromise those essential features of the market by dispersing volume between two separate trading sessions. In this regard, the Commission notes that Comex has not supported its claims of undue congestion with any analysis of how such congestion might be accommodated within the trading rules which govern its regular session. For example, Comex has offered no explanation as to why it could not increase participants in its regular silver trading session [59] or why a floor broker having both outright and straddle orders in such quantity that he could not fulfill his fiduciary obligations to both, should not refuse additional orders or "hand off" excess orders to another member to insure that his fiduciary obligations to his customers would be fulfilled.

The manner in which the Straddle Call Session diverts order flow from the regular trading session on the Comex impacts upon the use of the contract for both hedging and price discovery purposes. Moreover, Comex's claim that the Straddle Call Session aids the contract in performing price discovery and hedging functions by permitting members to focus greater attention on outright trading during the regular session does not convince the Commission that the requirements of Section 5(g) of the Act are met. Not only are there alternative ways of easing the pressures (to the extent they exist) of congestive order flow, but the addition of the Straddle Call Sesson does not provide any price discovery function similar to that performed by the regular session, while detracting from the ability of the regular session to perform its price discovery function.

A trader who wishes to trade a straddle during the regular session will weigh the prices then being quoted for each leg of a straddle combination and the risk that he will indeed be able to obtain executions at these prices, against the differentials then being quoted for the execution of a contemporaneous straddle. The trader then will choose the straddle combination most likely to realize the differential he seeks. The trader's or broker's choice and the aggregate choices of all others in the market will force the straddle and regular markets into alignment. While not necessarily identical at any one point in time, the difference between the prices of both legs in the regular market and the differential traded in the straddle market should converge over time. Because of this relationship between the regular and straddle markets, straddle executions aid in the price discovery function of a futures market.

The Straddle Call Session's lack of any independent price determination function is illustrated by Comex's establishment of settlement prices, which are intended to serve as indications of market value and may be used by commercial interests in the pricing of cash commodities in the spot or forward markets. Comex itself, when addressing in an unrelated rulemaking proceeding why contract markets established settlement prices,[60] has noted that "[t]he settlement price, or closing quotation, for a maturity month

[57] Economic Aspects Report at 21–22. The Commission has found, however, that daily total volume and straddle volume, respectively, for silver trading on the Comex during the second half of 1980, ranged from a high of 7,500 total contracts traded (of which 1,454 were straddle trades) on December 19, 1980, to a low of 1,000 contracts traded (73 straddle trades on July 17, 1980). In comparison, daily total and straddle volume in gold on the Comex during the same time period ranged from a high of 110,000 contracts traded (of which 22,196 contracts were straddle trades) on December 15, 1980, to a low of 15,000 contracts (2,055 straddle trades) on August 7, 1980. Moreover, based upon a random sampling of gold and silver straddle and total volumes during the same time period, the ratio of straddle to total volume in either gold or silver generally was similar and on some days there was a greater ratio of straddle to total volume in gold than silver. For example, that ratio in silver ranged from 4.92 percent to 28.14 percent and the same ratio in gold ranged from 3.49 percent to 25.64 percent (Source: Comex Daily Market Reports).

[58] During 1980, the volume of gold and silver futures, respectively, traded monthly on the Comex is set forth as follows:

1980	Gold futures	Silver futures
January	829,267	167,157
February	388,278	76,157
March	560,014	143,473
April	367,325	93,973
May	391,216	46,618
June	652,733	63,260
July	747,225	45,648
August	460,472	41,786
Setember	839,478	100,911
October	191,700	92,919
November	178,599	95,623
December	1,024,681	90,633

(Source: Futures Industry Association Monthly Reports)

[59] The Commission notes that Comex recently submitted a proposal which would create a new membership class providing holders trading privileges solely in its financial instruments futures. Comex stated that this proposal would provide "a sufficient number of floor traders of financial instruments and thereby assuring the desired liquidity in financial instrument futures contracts." Letter from Alan J. Brody, then Counsel of Baer Marks & Upham for the Exchange, to the Executive Secretariat of the Commission dated February 5, 1980.

[60] The Commission notes that it presently is considering whether to disapprove, under Section 5a(12) of the Act, a Comex rule and proposed rule which currently or, if approved, would govern the establishment of settlement prices for all metals traded on Comex. *See* the Commission's Notice of Proposed Disapproval of Comex bylaw section 905 and proposed amendments to bylaw section 905, 45 FR 47160 (July 14, 1980). Following the close of regular trading on the Comex, settlement prices are calculated by a committee of members who meet and review the prices of contracts traded during the closing minutes and throughout the day for a particular future. This committee examines the range of closing prices in one or two contract months that have traded actively immediately prior to the close, and sets a discrete settlement price for each of them. This settlement price is intended to represent the range of prices near the close of trading and to reflect price trends at the close of trading.

of a Comex futures contract represents an indication of the value of that contract at the time trading for the day ceases." [61] Moreover, Comex also has stated that:

[I]n order to provide an indication of market values at the close of trading, settlement prices must take into consideration the differential between the maturities of the contracts. Where there is active trading during the closing period of a maturity, those transactions will contain a large amount of price information upon which an appropriate (settlement price) differential may be settled. Where, on the other hand, there is less trading activity, the settlement price already established for a more active maturity must be considered along with the spread between that maturity and other maturities traded during the day in order to provided a more accurate indication of true market conditions at the close.[62]

The price differentials established during the Straddle Call Session, however, are not considered in the Calculation of daily settlement prices. Further, apparently because of their close relationship to settlement prices and the lack of additional information provided by straddle differentials during the Straddle Call Session,[63] those differentials are not routinely disseminated to the public nor do they appear to be used as reference points for pricing by producers, merchants or consumers. While the Commission's staff, prior to recommending that the Commission designate Comex as a contract market in silver, found that the Exchange's daily settlement prices were disseminated widely and used as reference points for pricing,[64] there is no apparent expectation that the prices established in the Straddle Call Session will serve producers, merchants or consumers as a basis for determining prices.

Finally, the Commission believes that the Session has similar deficiencies with respect to its use for hedging. First, the restriction of the Session exclusively to straddle transactions does not permit the initial hedging of spot or forward positions in the underlying commodity. Second, to the extent that the Session may facilitate hedging or to the extent that it assists the regular trading session in accommodating hedging interests, those possible benefits may be achieved without the concomitant violation of Section 4b and Commission regulation 1.38 which currently result from conduct of the Straddle Call Session.

In effect, the Commission believes that the regular trading sessions in silver and gold provide adequate opportunities for persons to use those contracts for hedging purposes. If Comex believes, however, that the conduct of a Straddle Call Session is essential to alleviate pressure on the regular trading session in silver (notwithstanding the historical lack of such a session in gold),[65] then the Comex should devise means of eliminating such trading pressure or congestion without simultaneously violating the requirements of Section 4b of the Act or Commission regulation 1.38.

In summary, the conduct of a Straddle Call Session in which only straddles may be executed not only violates the open outcry and competitive execution requirements of the Act and Commission regulation 1.38, but has no compensating utility which the Commission believes would benefit the public interest and merit exemption from the requirements of Commission regulation 1.38.

D. Section 15 of the Act

Section 15 of the Act provides that:

[T]he Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order or adopting any Commission rule or regulation or in requiring or approving any bylaw, rule or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.

The Commission believes that the Comex Straddle Call Session does not further the public interests recognized by the Act and that the anticompetitive aspects of the Session outweigh the benefits, if any, which the public interest might derive from the Session. Further, the Comex rules authorizing the Session do not reflect consideration of less anticompetitive alternatives which might be available to the Exchange.[66] Thus, the Commission believes that approval of the rules which authorize the Straddle Call Session would be inconsistent with its obligations under, and the standards set forth in, Section 15 and that the public interest may best be served by their disapproval.

As discussed above, trading during the Straddle Call Session detracts from the ability of the regular trading session to operate in a competitive manner. Straddles which might otherwise be executed during the regular trading session may be traded in the Straddle Call Session, thus depriving the regular trading session of additional orders which would compete openly for executions. This decreased competition may impair the effectiveness and efficiency of the price discovery process and the ability of the market accurately to reflect forces of supply and demand.

The Commission also reiterates its finding that price differentials are not established in an open and competitive manner during the Straddle Call Session. As discussed above, persons who underbid or overoffer for the excess orders during the Session are not allowed to enter subsequent better bids or offers or to participate in any subsequent allocation of excess orders. Furthermore, if there is an insufficient number of excess orders to satisfy all bidders or offerors, the excess orders are allocated among the bidders or offerors by a Comex official for execution at one price.

Finally, the timing of the Straddle Call Session places the public customer at a competitive disadvantage over a member trading for his own account. While the Commission recognizes certain inherent advantages which members may derive from the membership privilege of trading on the floor, the Commission believes that additional unnecessary advantages accrue from the procedures of the Straddle Call Session. In particular, Straddle Call Session prices frequently appear to bear a direct relationship to settlement prices on the Comex. A trader or broker present on the floor has an opportunity to act upon these prices immediately upon commencement of trading in the Session.[67] A public customer, on the other hand, does not have a comparable opportunity since notice of settlement prices is available by posted notice on the Comex wall boards and transmittal to the wire services only minutes before the Session begins. This short period of time between notice of settlement prices and the commencement of the Session does not give a customer's representative

[61] Letter from Mr. Berendt to the Commission dated September 12, 1980, in response to the Commission's request for comments concerning the proposed disapproval of Comex's settlement price procedure (hereinafter cited as Comex settlement price comment letter) at 5.

[62] Comex settlement price comment letter at 7–8.

[63] 45 FR 43820, 43821 (June 30, 1980). Although Session straddle differentials are not publicly quoted or disseminated, they "are available as public information." Economic Aspects Report at 7.

[64] *See, e.g.*, the memorandum to the Commission dated July 10, 1975, from Anthony M. McDonald, Jr., Acting Deputy Executive Director, recommending approval of Comex as a contract market for the trading of silver.

[65] *See* notes 57 and 58 *supra*.

[66] *See* the discussion of possible alternatives in note 56 *supra*.

[67] Comex contends that public customers can achieve nearly equal status as members on the trading floor by staying in close telephone contact with their brokers and/or with the floor. Comex comment letter at 29 and Economic Aspects Report at 21.

adequate time to oblige interested customers' inquiries concerning such settlement prices, nor to determine what trades customers may wish to enter in the Session, since orders must be entered in the Session before the particular straddle is called.

This disadvantage results solely from the Exchange's determination to conduct its Straddle Call Session shortly after the close of regular trading and the procedures governing such trading, rather than from any advantages which might otherwise be expected to result from the presence of traders or brokers on the floor. Accordingly, absent a fair opportunity to receive, consider and act upon those settlement prices, customers are in a less favorable position to participate in the Session than members on the floor.

* * * * *

On the basis of the record of this proceeding and the analysis and discussion presented herein, the Commission hereby disapproves, pursuant to Section 5a(12) of the Act, silver rule 1(b), gold rule 1(b) and the second paragraph of Comex general trading rule 502, as set forth below. The foregoing disapproval of these rules is effective on or before June 26, 1981.

Silver Rule 1(b)

The hours for trading in silver shall be from 9:40 a.m. to 2:15 p.m., subject to the following exception:

(b) When in the judgment of the President of the Floor Committee the maintenance of an orderly handling of straddle orders requires an extension of trading beyond 2:15 p.m. for the handling of straddle orders only, the President or the Floor Committee, as the case may be, shall have the authority to establish a call immediately after 2:15 p.m. The call so established shall begin with the current or nearby month and shall extend through the latest trading month. The call shall terminate no later than 3:00 p.m. provided, however, that it may be extended beyond that hour by the President or his deputy pursuant to General Trading Rule 502. Straddle orders executed during this period shall be reported and recorded in the official record of transactions.

Gold Rule 1(b)

The hours for trading in gold shall be from 9:25 a.m. to 2:30 p.m., subject to the following exception:

(b) When in the judgment of the President or the Floor Committee, the maintenance of an orderly handling of straddle orders requires an extension of trading beyond 2:30 p.m. for the handling of straddle orders only, the President or the Floor Committee, as the case may be, shall have the authority to establish a call immediately after 2:30 p.m. The call so established shall begin with the current or nearby month and shall extend through the latest trading month. The call shall terminate no later than 3:00 p.m. provided, however, that it may be extended beyond that hour by the President or his deputy pursuant to General Trading Rule 502. Straddle orders executed during this period shall be reported and recorded in the official record of transactions.

General Trading Rule 502: Second Paragraph [63]

The President shall have authority to extend the closing time for any commodity when in his judgment such extension shall be desirable to enable the floor brokers to complete their orders for execution of straddles; but the President shall not exercise such authority except under extraordinary circumstances. In the event that the President expects to be absent at any closing hour, he may in advance thereof appoint a deputy who shall have the authority of the President which he may exercise in accordance with the terms and conditions of this rule.

Issued by the Commission on April 22, 1981, in Washington, D.C.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-12529 Filed 4-24-81; 8:45 am]

BILLING CODE 6351-01-M

[63] The first paragraph of Comex general trading rule 502 establishes the trading hours for the regular trading session in each metals contract traded on the Comex, as follows:

The hours for trading in the several commodities shall be as follows (unless otherwise ordered in accordance with the By-Laws and Rules):

Name of Commodity, Hour for Opening, Close

Copper, 9:50 a.m.–2:00 p.m.
Silver, 9:40 a.m.–2:15 p.m.
Gold, 9:25 a.m.–2:30 p.m.
Zinc, 10:15 a.m.–12:45 p.m.

This paragraph of general trading rule 502 is not affected by the Commission's disapproval action. If the Comex believes that a change in the trading hours applicable to the regular trading session in silver would be appropriate in light of the disapproval of the rules authorizing conduct of its Straddle Call Session, the Commission notes that such amendments may be submitted as operational and administrative under Commission regulation 1.41(c).

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Notice of Amendments To Systems of Records

AGENCY: Department of the Army.

ACTION: Proposed deletions and amendments of systems of records.

SUMMARY: The Department of the Army proposes to amend its inventory of systems notices by deleting 9 and amending 1 systems of records subject to the Privacy Act of 1974. Specific changes to the system of records being amended are set forth below, followed by the system printed in its entirety as amended.

DATE: Actions shall be effected as proposed on May 27, 1981 unless comments are received which would result in a contrary determination and require republication for further comments.

ADDRESS: Written public comments are invited and may be submited to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, Room 1146, Hoffman Building I, Alexandria, VA 22331, prior to May 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General (DAAG–AMR–S), HQDA, Room 1146, Hoffman Building I, Alexandria, VA 22331; telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: Department of the Army systems of records appear in the following editions of the Federal Register:

FR Doc 79–37052 (44 FR 73729), December 17, 1979
FR Doc 81–85 (46 FR 1002), January 5, 1981
FR Doc 81–897 (46 FR 6460), January 21, 1981
FR Doc 81–3374 (46 FR 9692), January 29, 1981
FR Doc 81–5885 (46 FR 13544), February 23, 1981
FR Doc 81–7250 (46 FR 15531), March 6, 1981
FR Doc 81–7621 (46 FR 16111), March 11, 1981
FR Doc 81–10724 (46 FR 21220), April 9, 1981
FR Doc 81–10791 (46 FR 21221), April 9, 1981

System being amended does not fall within the criteria of 5 USC 552a(o), as implemented by Transmittal Memoranda 1 and 3 to OMB A–108.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

April 22, 1981.

Deletions

A0102.08aDAAG

SYSTEM NAME:

Army community Service (ACS) Volunteer Record (44 FR 73772), December 17, 1979.

Reason: Records are covered by A0725.01dDAAG, Personal Affairs Army Community Service Assistance Files.

A0102.08bMTMC

SYSTEM NAME:

Casualty Control Card (44 FR 73772), December 17, 1979.

Reason: Records are covered by A0708.05DAAG, Emergency Date Files.

A0404.08aDAPE

SYSTEM NAME:

USMA Legal Files on Military and Civilian Personnel (44 FR 73810), December 17, 1979.

Reason: Records are described by A0402.01aDAJA, General Legal Files.

A0703.08aDAPE

SYSTEM NAME:

Officer personnel Information Files (44 FR 73858), December 17, 1979.

Reason: Records are described by A0703.07aDAPE, Officer Availability and Civil School Management System.

A0709.03bDAPE

SYSTEM NAME:

United States Corps of Cadets Personnel Records (44 FR 73881), December 17, 1979.

Reason: Records are described by proposed amended A0703.03aDAPE, USMA Cadet Personnel Records, printed in this Federal Register.

A0709.05aDAPE

SYSTEM NAME:

Physical Profile (44 FR 73882), December 17, 1979.

Reason: Records are described by proposed amended A0703.03aDAPE, USMA Cadet Personnel Records, printed in this Federal Register.

A0709.08aDAPE

SYSTEM NAME:

Cadet Counseling File (44 FR 73883), December 17, 1979.

Reason: Records are described by proposed amended A0703.03aDAPE, USMA Cadet Personnel Records, printed in this Federal Register.

A0709.09aDAPE

SYSTEM NAME:

Biographical Card File (44 FR 73884), December 17, 1979.

Reason: Records are described by A0102.03aDAAG, Office Personnel Locator/Organizational Rosters.

A0725.01bDAAG

SYSTEM NAME:

Financial Management Planning and Counseling (44 FR 73903), December 17, 1979.

Reason: Records are described by A0725.01dDAAG, Personal Affairs Army Community Service Assistance Files.

Amendment

A0709.03aDAPE

SYSTEM NAME:

United States Military Academy Cadet Files (44 FR 73881), December 17, 1979.

Changes:

System ID:

Delete "a".

System name:

Between "Academy" and "Cadet", insert "Personnel".

System location:

Delete entry and substitute therefor: "U.S. Military Academy, West Point NY 10996."

Categories of individuals covered by the stystem:

Delete entry and substitute therefor: "Present and former cadets of the U.S. Military Academy (USMA)."

Categories of records in the system:

Change to read: "Application and evaluations of cadet for admission; letters of recommendation/endorsement; academic achievements, awards, honors, grades and transcripts; performance counseling; health, physical aptitude and abilities and athletic accomplishments; peer appraisals; supervisory assessments; suitability data, including honor code infractions and disposition.".

Authority for maintenance of the system:

Insert before present entry: "Title 10 U.S.C., Sections 3012 and 4334;".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute the following: "These documents are created and maintained to record the cadet's appointment to the Academy, his/her scholastic and athletic achievements, performance, motivation, discipline, final standing, and potential as a military career officer. School transcripts may be provided other educational institutions."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

To entry, add: "and on microfilm."

Retrievability:

Delete entry and substitute therefor: "By surname or social security number (SSN)."

Retention and disposal:

Delete entry and substitute therefor: "Records are permanent; after 30 years, the cadet's personnel record is accessioned into the USMA Archives at West Point. Management reports are retained until no longer needed.

System manager(s) and address:

Delete entry and substitute therefor: "Superintendent, U.S. Military Academy, West Point NY 10996."

Notification procedure:

Delete entry and substitute therefor: "Individuals wishing to inquire whether this system of records contains information about them should contact the SYSMANAGER."

Record access procedures:

Delete entry and substitute therefor: "Individuals may request access to their records by contacting the SYSMANAGER, furnishing their full name, SSN or Cadet number, and signature."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340-21 (32 CFR Part 505)."

Record source categories:

Delete entry and substitute therefor: "From the individual, his/her sponsors, peer evaluations, grades and reports of USMA academic and physical education department heads, transcripts from other educational institutions, medical examinations/assessments, supervisory counseling/performance reports."

Systems exempted from certain provisions of the act:

Change entry to read: "Portions of this system which fall within 5 U.S.C. 552a(k)(5) and (7) are exempt from subsection (d) of the act."

A0709.03DAPE

SYSTEM NAME:

U.S. Military Academy Personnel Cadet Records

SYSTEM LOCATION:

U.S. Military Academy, West Point, NY 10996.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former cadets of the U.S. Military Academy (USMA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Application and evaluations of cadet for admission; letters of recommendation/endorsement; academic achievements, awards, honors, grades and transcripts; performance counseling; health, physical aptitude and abilities and athletic accomplishments; peer appraisals; supervisory assessments; suitability data, including honor code infractions and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Sections 3012 and 4334; Title 44 U.S.C., Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These documents are created and maintained to record the cadet's appointment to the Academy, his/her scholastic and athletic achievements, performance, motivation, discipline,

final standing, and potential as a military career officer. School transcripts may be provided other educational institutions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual records in file folders and on microfilm.

RETRIEVABILITY:

By surname or social security number (SSN).

RETENTION AND DISPOSAL:

Records are permanent; after 30 years, the cadet's personnel record is accessioned into the USMA Archives at West Point. Management reports are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Military Academy, West Point, NY 10996.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Individuals may request access to their records by contacting the SYSMANAGER, furnishing their full name, SSN or Cadet number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, his/her sponsors, peer evaluations, grades and reports of USMA academic and physical education department heads, transcripts from other educational institutions, medical examinations/assessments, supervisory counseling/performance reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system which fall within 5 U.S.C. 552a(k)(5) and (7) are exempt from subsection (d) of the act.

[FR Doc. 81-12660 Filed 4-24-81; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the quarterly meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: June 1 and 2, 1981, 9:00 a.m. to 5:00 p.m.

ADDRESS: Room 203, Student Life Building, Texas Southern University, 3100 Cleburne Avenue, Houston, Texas 77004.

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Suite 702-6, 1100 17th Street, N.W., Washington, D.C. 20036, AC 202 653-7558.

SUPPLEMENTARY INFORMATION:

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

The Committee was established to examine all approaches to the higher education of Black Americans as well as enhancement of the historically Black colleges and universities and then to advise the Secretary of Education in the identification of several courses of action to raise substantially the participation of Black Americans in all sectors and at all levels of higher education.

The proposed agenda will include status reports on at least three staff research projects: (1) a Fact Book on Black Higher Education and the Historically Black Colleges and Universities—this initial report will describe the current level of participation of Black students, faculty and administrators in higher education, (2) an examination of the costs for implementing the Committee's recommendations to increase Black participation in higher education and ensuing costs for not educating Black youth as referenced in its recent report entitled *Target Date 2000 A.D.: Goals for Achieving Higher Education Equity for Black Americans, Volume 1;* and (3) discussion of a draft position paper on the probable impact of the Administration's Economic Recovery Plan on the higher education of Blacks and the historically Black colleges. Additional items for discussion include a report of staff activities over the past three (3) months, a status report of ongoing research activities, and future courses of action.

The Committee tries to convene at least one of its quarterly meetings in a setting conducive to maximum input from the public concerning its mandate. Hence, at the June meeting statements from the public on issues relevant to the Committee's areas of concern are welcome. Two hours have been set aside on the morning of June 2nd for this purpose, and interested individuals and/or organizations are encouraged to participate in the Committee's deliberations. This may be done by requesting time on the agenda or by submitting a written statement of no more than 20 pages in length. The statements should specifically address the problems and/or potential solutions to the problems presently experienced by Blacks in higher education and/or the historically Black colleges and universities. Requests for agenda time or indication of intent to submit a statement should be sent to and received by the Program Delegate, Ms. Carol J. Smith, on or before COB May 18, 1981.

The meeting will be open to the public beginning at 9:00 a.m. and ending at 5:00 p.m. each day. The meeting will be held in Room 203, Student Life Building, Texas Southern University, 3100 Cleburne Avenue, Houston, Texas, 77004.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 1100 17th Street, N.W., Suite 702-6, Washington, D.C. 20036.

Signed at Washington, D.C. on April 21, 1981.

Edward L. Meador,

Acting Assistant Secretary.

[FR Doc. 81-12451 Filed 4-24-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81-CERT-007]

Long Island Lighting Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On May 13, Long Island Lighting Company (LILCO), 250 Old Country Road, Mineola, New York 11501, was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 80-CERT-016). The certification involved the purchase of natural gas from Equitable Gas Company for use by LILCO at three of its electric generating facilities in New York: The E. F. Barrett Electric Plant in Island Park; the Glenwood Electric Plant in Glenwood Landing; and the Far Rockaway Plant in Far Rockaway. The ERA certificate expires on May 12, 1981.

On March 30, 1981, LILCO filed an application for recertification of an eligible use of natural gas to displace fuel oil during the period May 13, 1981, through May 31, 1981, at its E. F. Barrett and Glenwood Electric Generating Plants pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, NW, Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, LILCO states that the volume of natural gas for which it requests recertification is up to 50,000 dekatherms (approximately 50,000 Mcf) per day during the period May 13, 1981, to May 31, 1981. This volume is estimated to displace the use of approximately 105,000 barrels of residual fuel oil (1.5 percent sulfur) and 1,000 barrels of No. 2 fuel oil (0.3 percent sulfur) at the E. F. Barrett Plant and 25,000 barrels of residual fuel oil (1.0 percent sulfur) at the Glenwood Plant during the period May 13, 1981, to May 31, 1981. The eligible seller of the natural gas is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219 and the gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street, NW, Washington, D.C. 20461. Attention: Albert F. Bass, within ten (10) calendar days of the date of publication of this notice in the Federal Register.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to LILCO and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on April 20, 1981.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81-12503 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-410-000]

Arizona Public Service Co.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that on April 6, 1981, Arizona Public Service Company (APS) tendered for filing as Supplement Agreement No. 1 dated February 19, 1981 to its Yuma Mesa Irrigation & Drainage District (District) Agreement, FPC Rate Schedule No. 31. This Supplement provides for a new delivery point.

The District and APS request that the effective date of this Supplement be July 8, 1980, the date APS made deliveries to the new delivery point.

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 §§ 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 May 11, 1981. 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. 81-12480 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-413-000]

Central Hudson Gas & Electric Corp.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that on April 14, 1981, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1980 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) in accordance with the provisions of its Rate Schedule FERC No. 42.

The actual costs for 1980 amounted to $1.2754 per Mw-day to Con Edison and $4.1469 per Mw-day to Niagara Mohawk and are the basis on which charges for 1981 have been estimated.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1981 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

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 Capital Street NE., Washington, D.C. 20426 in accordance with 18 CFR 1.8, 1.10. All such petitions or protests should be filed on or before May 11, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 81-12481 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-402-000]

Consumers Power Co.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that on April 13, 1981, Consumers Power Company (Consumers Power) tendered for filing its Certificate of Concurrence with the filing by The Detroit Edision Company (Detroit Edison) of Amendment No. 18 to an Operating Agreement dated March 1, 1966 among Consumers Power, Detroit Edision, and Indiana & Michigan Electric Company (I&M). Consumers Power states that Amendment No. 18 incorporates into the service schedules for short-term (one or more weeks) and limited-term (one to twelve months) transactions the 1 mill/kWh cap on the transmission service adder where the energy originates with a third party system, consistent with the Commissioner's Order No. 84 issued May 7, 1980 in Docket No. RM79-29, et al. Consumers Power states that the rates for short-term and limited-term transactions are not otherwise affected by Amendment No. 18. Consumers Power states that it is requesting an effective date of September 1, 1980 for Amendment No. 18.

Consumers Power states that it served copies of its filing on Detroit Edison, I&M and the Public Service Commission of the States of Michigan and Indiana.

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 May 11, 1981. 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. 81-12482 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP78-52-008, et al.]

Consolidated Gas Supply Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

April 20, 1981.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown in the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 5, 1981. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
4/3/81	Consolidated Gas Supply Corp.	RP78-52-008	Report.
4/9/81	Algonquin Gas Transmission Co.	CP77-337-010	Report.
4/10/81	Transwestern Pipeline Co.	RP78-83-009	Report.
4/10/81	Tennessee Gas Pipeline Co.	RP81-38-001	Report.

[FR Doc. 81-12483 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-412-000]

Central Hudson Gas & Electric Corp., filing

April 20, 1981.

The filing Company submits the following:

Take notice that on April 10, 1981, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1980 related to substation service provided to Consolidated Edison Company of New York, Inc. (Con Edison) in accordance with the Provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual cost for 1980 amounted to $307,471 and will be the basis on which estimated charges for 1981 will be billed.

Central Hudson requests waiver of the notice requirements set forth in 18 CFR 35.11 of the Regulation to permit charges to become effective January 1, 1981, as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison and the State of New York Public Service Commission.

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, N.E. Washington, D.C. 20426, in accordance with 18 CFR 1.8, 1.10. All such petitions or protests should be filed on or before May 11, 1981. 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. 81-12484 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-407-000]

Central Hudson Gas and Electric Corp.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that Central Hudson Gas and Electric Corporation (Central Hudson), on April 6, 1981 tendered for filing as a supplement to its Rate Schedule F.P.C. No. 22 a letter of agreement and notification dated January 26, 1981 between Central Hudson and New York State Electric and Gas Corporation. Central Hudson states that this letter provides for a decrease in the monthly facilities charge from $7,130.92 to $6.573.75 in accordance with Article IV.1. of its Rate Schedule F.P.C. No. 22, an increase in the monthly transmission charge from $1625.00 to $3,680.07 in accordance with Articles V. VI. of its Rate Schedule F.P.C. No. 22 and an increase in the annual operation and maintenance charge from $2.142.17 to $2,334.97 in accordance with Article IV.2. of its Rate Schedule F.P.C. No. 22. Central Hudson requests waiver of the notice requirement of Subsection 35.3 of the Commission's Regulations to permit this proposed increase to become effective January 1, 1981.

Copies of this filing were served upon the New York State Electric and Gas Corporation.

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 May 11, 1981. 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. 81-12485 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-39-000]

El Paso Electric Co.; Application

April 20, 1981.

Take notice that on April 13, 1981, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to section 204 of the Federal Power Act to guarantee up to $50,000,000 principal amount of Pollution Control Revenue Bonds to be issued by the City of Farmington, New Mexico, an incorporated municipality, and to issue up to a like principal amount of Second Mortgage Bonds to secure the guarantee.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12486 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-409-000]

Iowa Southern Utilities Co.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that Iowa Southern Utilities Company, Centerville, Iowa (ISU), on April 6, 1981, tendered for filing a Participation Power Agreement with Iowa Electric Light and Power Company, Cedar Rapids, Iowa (IEL&P).

Relating to IEL&P's purchase of 200 MW from April 15, 1981 through April 30, 1984, of participation power according to Service Schedule A of the Mid-Continent Area Power Pool Agreement dated May 31, 1972. This Participation Power Pool Agreement establishes demand and energy charges for such services and is to run from April 15, 1981 through April 30, 1984. ISU requests waiver of the Commission's notice requirements and proposes an effective date of April 15, 1984.

Iowa Southern Utilities Company states the purpose of the proposed rates are to recover reflected costs of the facilities to provide for demand and energy power.

Iowa Southern Utilites Company states copies of the filing have been mailed to IEL&P and to the Iowa State Commerce Commission.

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, 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 May 11, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 81-12487 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-40-000]

Iowa Southern Utilities Co.; Application

April 20, 1981.

Take notice that on April 13, 1981, Iowa Southern Utilities Company (Applicant) filed an application for an order pursuant to section 204 of the Federal Power Act for authorization to issue and sell 200,000 additional shares of its Common Stock, par value $10 per share pursuant to its Automatic Dividend Reinvestment and Stock Purchase Plan.

Any person desiring to be heard or to make any protests with reference to said application should on or before May 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12488 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-414-000]

Kansas Gas and Electric Co.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company on April 9, 1981, tendered for filing a proposed change in its FPC Electric Service Tariff No. 141. The proposed Amendment changes the minimum and maximum amounts of power.

The Amendment is necessary because the present demands are being exceeded.

Copies of this filing were served upon United Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal 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 May 11, 1981. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12489 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP74-11, RP76-8, RP77-5, RP78-10 and RP79-8]

Kansas-Nebraska Natural Gas Co., Inc.; Informal Settlement Conference

April 20, 1981.

Take notice that on May 7, 1981, at 10:00 a.m., an informal conference of all

interested persons will be convened to (1) discuss the Refund Report filed on February 2, 1981, by Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) which provides the amount of refunds Kansas-Nebraska believes is due regarding liquid product revenues for Docket Nos. RP74-11, RP76-8, RP77-5, RP78-10 and RP79-8 and (2) Staff Objections to the February 2, 1981 Refund Report which were filed on April 15, 1981.

The conference will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. in Room 8402. Customers and other interested persons will be permitted to attend the above-mentioned informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12490 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP76-91]

Montana-Dakota Utilities, Inc.; Informal Conference

April 20, 1981.

Take notice that at 10:00 a.m. Thursday, April 30, 1981, Staff will meet with representatives of the above-captioned company for the purpose of discussing possible revisions of the curtailment plan on file in the instance case.

The conference will be held in Room 3200 of the Commission's offices at 941 North Capitol Street, NE., and all interested parties may at their option attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12491 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-2-16-000]

National Fuel Gas Supply Corp.; Proposed Tariff Change

April 20, 1981.

Take notice that on April 13, 1981, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 37 proposed to be effective May 15, 1981.

National states that the purpose of this revised tariff sheet is to make the GRI Adjustment shown on Sheet No. 37 applicable to the I-1 sales where applicable as well as the sales made under rate schedules G-1 and G-1A.

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 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 and 1.10). All such petitions or protests should be filed on or before May 5, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party 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. 81-12492 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-41-000]

Pacific Power & Light Co., Application

April 20, 1981.

Take notice that on April 13, 1981, Pacific Power & Light Company (Applicant) a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an aplication with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking authority to issue $300,000,000 of unsecured promissory notes and Commerical Paper from time to time with a final maturity date of not later than June 30, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 81-12493 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP81-14-000]

Phillips Petroleum Co.; Petition for Declaratory Order and Order Directing Payment

April 20, 1981.

On March 25, 1981, Phillips Petroleum Company (Phillips), 2160 Adams Building, Bartlesville, Oklahoma 74004, filed a petition for a declaratory order and order directing payment pursuant to §§ 1.7 and 1.43 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure.

Phillips alleges the following facts: Phillips sells natural gas in interstate commerce for resale to Southern Natural Gas Company (Southern) under numerous gas sales contracts.[1] Each contract contains an area rate clause which Phillips and Southern agree provides for payments based on prices established pursuant to the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. § 3301 *et seq.* (Supp. II, 1978)). Phillips performs gathering services on behalf of Southern in connection with sales under each contract. Phillips states that some of the gas sold was gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate was in effect on that date, but which subsequently qualified under NGPA section 102 or 103 as new natural gas or new onshore production well gas. As to gas sold under the contracts which qualified as section 102 or 103 gas and was produced between December 1, 1978, and July 24, 1980, Phillips submits that Southern has refused to pay gathering allowances which allegedly accrued during this period of production. Phillips claims that under the contracts and the Commission's regulations it is eligible to collect approximately $92,000.00, the alleged disputed amount, exclusive of interest.

The dispute between Phillips and Southern concerns the interpretation of § 271.1104(a) of the Commission's original interim regulations implementing NGPA section 110(a)(2), effective December 1, 1978, which stated:

(a) *Applicability.* The provisions of this section shall apply only to natural gas which was committed or dedicated to interstate commerce on November 8, 1978 and for which a just and reasonable rate was in effect on that date.

According to Phillips, Southern interprets § 271.1104(a) to mean that the gathering and onshore delivery allowances referenced in § 271.1104(b) of the original interim regulations could

be collected only if the gas for which the gathering or onshore delivery allowance was sought is priced and sold pursuant to NGPA section 104 as gas "committed or dedicated to interstate commerce." Phillips, however, interprets § 271.1104(a) to mean that the gathering and onshore delivery allowances referenced in § 271.1104(b) could be collected for all gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate was in effect on that date, even if the gas subsequently qualifies for pricing under NGPA sections 102, 103, 107 or 108.

Phillips requests that the Commission issue an order:

(1) Confirming the interpretation of § 271.1104 advanced by Phillips as it applied from December 1, 1978, to July 24, 1980;

(2) Directing Southern to make appropriate payments pursuant to § 271.1104, with interest; and

(3) Granting any further relief to whch Phillips may be entitled.

Any person desiring to be heard or to protest this petition must file a petition to intervene or a protest in accordance with §§ 1.8 or 1.10 of the Commission Rules of Practice and Procedure. All petitions or protests shall be filed with the Secretary of the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, on or before May 12, 1981. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make the protestants parties to this proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the petition in this docket are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12494 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-411-000]

Tucson Electric Power Co.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that Tucson Electric Power Company (Tucson) on April 9, 1981, tendered for filing "Contract for Energy Exchanges with Tucson Electric Power Company" dated March 20, 1981, between Tucson and the United States of America, Department of Energy, Western Area Power Administration, Colorado River Storage Project (the United States). The primary purpose of this agreement is to provide for the terms and conditions relative to the exchange of generating capacity and energy between the electric systems of Tucson and the United States, either directly or through the systems of others.

Any person desiring to be heard or to make any application with reference to said agreement 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 May 11, 1981. 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 Contract are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-12495 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-567-001]

Wisconsin Electric Power Co.; Filing

April 20, 1981.

The filing Company submits the following:

Take notice that on March 26, 1981, Wisconsin Electric Power Company (WEP) submitted for filing a revised rate for non-firm transmission service. In docket number ER80-567, WEP inadvertently double counted its rate for non-firm transmission service. The present filing is to correct that error.

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, 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 or 1.10). All such petitions or protests should be filed on or before May 1, 1981. 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. 81-12496 Filed 4-24-81; 8:45 am]

BILLING CODE 6450-85-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-14]

AM Broadcast Application Accepted for Filing and Notification of Cut-off Date

Cut-Off Date: May 26, 1981.

Released: April 17, 1981.

Notice is hereby given that the following application has been accepted for filing. Because it is in conflict with an application previously accepted for filing and subject to a cut-off date for conflicting applications, no application which would be in conflict with it will be accepted with it will be accepted for filing.

Petitions to deny this application must be on file with the Commission not later that the close of business on May 26, 1981.

Minor amendments to this application, and to the one it is in conflict with, may be filed as a matter of right not later than the close of business on May 26, 1981.

BP-810309AS (KCIN), Victorville, California, Sidney King, Has: 1590 kHz, 500 W, Day, Req: 670 kHz, 1kWw, DA-N, U.

Federal Communications Commission.

William J. Tricarico,

Secretary

[FR Doc. 81-12524 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-13]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-Off Date: May 26, 1981.

Released: April 17, 1981.

Notice is hereby given that the following three applications have been accepted for filing. Because they are in conflict with four applications (Fairbanks Broadcasting Company of Massachusetts, Inc., WKOX, Framingham, Massachusetts, BP-20,497; Radio WAGE, Inc., WAGE, Leesburg, Virginia, BP-800813AB; WSOQ, Inc., WSOQ, North Syracuse, New York, BP-800819AD; and Bell Broadcasting Company, WCHB, Inkster, Michigan, BP-801119AA) previously accepted for filing and subject to cut-off dates for

conflicting applications, no application which would be in conflict with any of these applications will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later thatn the close of business on May 26, 1981.

BP-801205AL (WRTT), Vernon, Connecticut, Tolland County Broadcasting, Inc., Has: 1170 kHz, 1 kW, DA, Day, Req: 1200 kHz, 1 kW, DA-2, U

BP-810105AA (WBZY), New Castle, Pennsylvania, Lawrence County Broadcasting Corporation, Has: 1140 kHz, 5 kW, DA, Day, Req: 1200 kHz, 2.5 kW, 10 kW-LS, DA-2, U

BP-801230AA (WANN), Annapolis, Maryland, Annapolis Broadcasting Corporation, Has: 1190 kHz, 10 kW, DA, Day, Req: 1190 kHz, 50 kW, DA, Day.

Minor amendments to all seven of these applications may be filed as a matter of right not later that the close of business on May 26, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-12525 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-12]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-Off Date: May 26, 1981.

Released: April 17, 1981.

Notice is hereby given that the following two applications have been accepted for filing. Because they are in conflict with the application of Midway Broadcasting Corporation (Maywood-Chicago, Illinois, BP-801105AC), which was previously accepted for filing and subject to a cut-off date for conflicting applications, no application which would be in conflict with either of these applications will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on May 26, 1981.

BP-801222AA (WAWA), West Allis-Milwaukee, Wisconsin, Suburbanaire, Inc., Has: 1590 kHz, 1kW, DA, Day (West Allis WI), Req: 1200 kHz, 2.5 kW, 5 kW-LS, DA-2, U (West Allis-Milwaukee WI)

BP-810105AE (New), Chicago, Illinois, CID Broadcasting Inc., Req: 1200 kHz, 2.5 kW, 10 kW-LS, DA-2, U

The application of Clear Channel Communications, Inc. to make minor changes in the facilities of WOAI, San Antonio, Texas (BP-801205AK) is also mutually exclusive with these applications and will be considered with them.

Minor amendments to all four of these applications may be filed as a matter of right not later than the close of business on May 26, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-12527 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-25B]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off-Date; Correction

Released: April 17, 1981.

The following FM application appeared on Cut-Off-Notice, Report A-25, Mimeo No. 00020, released April 3, 1981:

BPED-800721AA (KUCI), Iriving, California, the regents of the University of L.A., Has: 89.9 MHz; Channel No. 210, ERP: 10 KW; HAAT:—190 FT. (LIC), REQ: 89.9 MHz; Channel No. 205, ERP: 10 KW; HAAT:—190 FT.

This is an incorrect listing. The correct listing is:

BPED-800721AA (KUCI), Iriving, California, the regents of the University of L.A., Has: 89.9 MHz; Channel No. 210, ERP: 10 W; HAAT:—190 FT. (LIC), REQ: 88.9 MHz; Channel No. 205, ERP: 10 W; HAAT:—190 FT.

Federal Communications Commission.

William J. Tricarico,

Secretary

[FR Doc. 81-12523 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

April 17, 1981.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 28, 1981, at 10:00 a.m. in Room A-110, of the Federal Communications Commission, 1225 20th Street, N.W., Washington, D.C. This Study Group will deal with U.S. Government aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT meetings. In particular, this meeting of Study Group A will examine the questions and contributions relating to the September/October meetings of CCITT Study Groups I and III.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members may be limited to the seating available.

Requests for further information should be directed to Earl S. Barbely, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-12528 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-21]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: April 17, 1981.

Cut-Off Date: May 29, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Since the applications listed in the attached appendix are in conflict with the renewal application of KVOF-TV, San Francisco, California which was previously subject to a three month "window" period for conflicting applications, no application which would be in conflict with any application listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commisssion not later than the close of business on May 29, 1981. The renewal application of KVOF-TV may also be amended as a matter of right not later than the close of business on May 29, 1981. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary

BPCT-810113KI (new), San Francisco, California, West Coast United Broadcasting Co, Channel 38, ERP: Vis. 5000 kW; HAAT: 1291 feet

BPCT-810115KE (new), San Francisco, California, Together Media Ministries, Channel 38, ERP: Vis. 891 kW; HAAT: 1310 feet

BPCT-810115KF (new), San Francisco, California, LDA Communications, Inc., Channel 38, ERP: Vis. 2570 kW; HAAT: 1280 feet

[FR Doc. 81-12526 Filed 4-24-81; 8:45 am]
BILLING CODE 6712-01-M

[CC Docket No. 81-236; Transmittal No. 13633; FCC 81-165]

American Telephone and Telegraph Co.; Memorandum Opinion and Order Instituting Investigation

In the matter of the American Telephone and Telegraph Company, Revisions to Tariff F.C.C. No. 260, Series 7000, Type 7008-(Satellite Television Services), CC Docket No. 81-236, Transmittal No. 13633.

Adopted: April 9, 1981.

Released: April 22, 1981.

By the Commission: Chairman Ferris not participating; Commissioner Fogarty dissenting; Commissioner Jones concurring in the result.

1. Before the Commission are petitions to reject and suspend and investigate tariff revisions filed by the American Telephone and Telegraph Company (AT&T) which would introduce a new service offering, styled Satellite Television Service, as of April 16, 1981.[1] For reasons discussed below, we do not reject. However, since the filing raises substantial questions of lawfulness under the Communications Act, we shall investigate these tariff revisions and suspend their effectiveness for five months.

Background

2. This Commission, in 1970, determined that a domestic satellite communications system might significantly contribute to the nation's communications network, and requested potential carrier applicants to submit specific proposals for its establishment. *Establishment of Domestic Communications—Satellite Facilities by Non-Government Entities,* 22 F.C.C. 2d 86, 93 (1970). At the same time, we initiated a rulemaking to consider, among other things, the appropriate role of AT&T in this market, and what policies should govern earth stations access. *Notice of Proposed Rulemaking,* 22 F.C.C. 2d 810 (1970). We subsequently determined that the domestic communications satellite facilities field would benefit from an environment in which new communications suppliers would have a bona fide opportunity for entry, and ultimately that the public would benefit from service and technical innovations, and the minimization of costs associated with a competitive market. *Domestic Communications—Satellite Facilities Second Report and Order,* 35 F.C.C. 2d 844, 47 (1972) (Domsat II).

3. Our examination of potential entrants led us to impose certain restrictions on the participation of AT&T, among others. Thus, AT&T's initial use of domestic satellites was restricted to MTS, WATS, private line service to the government, emergency restoration of services in case of terrestrial outages, and services provided to the non-contiguous states and territories of the United States. *Id.* at 851. This restriction was to be removed upon a finding by the Commission that there was substantial utilization of satellite capacity by other authorized carriers, or in any event, after AT&T's satellite system had been operational for three years. It was subsequently removed in 1979 upon a Commission finding that the restriction had achieved its stated purpose. *Satellite Private Line Services,* 72 FCC 2d 895 (1979). The Commission also acknowledged that tariff filings necessarily would precede any AT&T service offering which encompassed rates based exclusively on the satellite mode of transmission. *Id.* at 901. The tariff proposal under consideration here would be AT&T's first public offering of satellite video service.

Description of the Service

4. AT&T initially plans to offer Satellite Television Service on a trial basis, for a period not to exceed three years. The trial period, according to AT&T, would allow it to test market demand and operational techniques for a variety of features. The principle component of this service would be a Series 7000, Type 7008 interexchange channel, i.e. transponder capacity. AT&T proposes to make this channel available on a monthly basis for two-way, non simultaneous television transmission between (1) an AT&T-provided transmit/receive earth station located on either telephone company premises at Coram, New York or the customer's premises and (2) an AT&T-provided transmit/receive earth station on the customer's premises.[2] The rate for Satellite Television Service would be $138,725 per month (24 hours a day, 7 days a week). AT&T thus proposes only a single rate element encompassing both the interexchange channel (space segment) and transmit/receive earth stations.

5. In addition to the transmit/receive earth stations, AT&T would offer 7-meter receive-only earth stations to be located on customer premises at a rate of $1,900 per month plus a non-recurring charge of $27,600. The proposed tariff revisions would permit the use of customer-owned, receive-only earth stations if additional to, and not in lieu of, the two AT&T-provided transmit/receive earth stations. AT&T would not, however, guarantee satisfactory reception over customer-provided equipment or that the type 7008 interchange channel would always be assigned to the same transponder frequency. *Id.* A transportable earth station would also be available at a rate of $5,400 per day, plus special construction charges, for additional customer-designated receive points.

6. AT&T also proposes to offer Satellite Television Service on an occasional basis, in conjunction with an AT&T transportable earth station located on customer premises and its permanent earth station at Hawley, Pennsylvania. The rate would be $5,400 per day plus $550 per hour of use or fraction thereof.

Contentions of the Parties

7. In seeking rejection, or alternatively, suspension and investigation, Wold begins with the premise that Commission policy in the domestic satellite market requires satellite carriers to interconnect their space segment offering with the earth stations of other carriers or users. Wold Therefore views AT&T's failure to allow access to the space segment as patently unlawful. Furthermore, according to Wold, AT&T's proposed rate structure is anticompetitive insofar as it combines or bundles both space segment and earth stations into one rate element, and thereby precludes customers from obtaining the earth station services of competitors. By Wold's reasoning, even if AT&T were to permit interconnection of customer provided earth stations, the bundled rate structure would nevertheless frustrate the efforts of those seeking access to space segment capacity. This unreasonable practice, states Wold, also supports rejection of the tariff revisions.

8. Midwestern, for its part, asserts that AT&T's failure to provide for interconnection of Type 7008 channels with other common carrier (OCC)

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[1] Midwestern Relay Company (Midwestern) has filed a petition to reject the above captioned revisions. Wold Communications, Inc. (Wold) seeks rejection, or alternatively, suspension and Southern Satellite Systems, Inc. has filed comments in support of Wold's petition. AT&T has filed a reply to the petitions.

[2] By two-way non simultaneous transmission, AT&T means that transmission could originate at either transmit/receive earth station "connected" by the type 7008 channel. Of course, only one earth station could be in the transmit mode at one time.

facilities violates both Commission policy and the settlement agreement in Docket No. 20199, *Joint Petition of CPI Microwave, Inc., and Midwestern Relay Company*, 54 F.C.C. 2d 502 (1975), which permits the OCCs to interconnect with AT&T's Series 7000 television private line channels. In addition, Midwestern points out that the Commission conditioned AT&T's Section 214 Domestic Satellite authorization on AT&T's allowing interconnection of the type sought here.

9. AT&T, however, asserts that Wold's characterization of Commission policy with respect to interconnection at the space segment is erroneous. Rather, AT&T views Commission policy as permitting domestic satellite carriers to restrict the use of their space segment to those who utilize their earth station facilities. According to AT&T, the Commission envisioned a developmental period for satellite operations and has chosen to permit variations where definite standards were inappropriate.

10. In response to Wold's contention that AT&T's bundling of service components is unreasonable, AT&T explains that it seeks to offer an end-to-end video service with a unique combination of features, and that to unbundle the service would in effect be to dismantle it. Furthermore, AT&T dismisses Wold's claim of anticompetitive practices on the basis of the Commission's decision in 1972 not to delineate fixed standards for earth station ownership. AT&T also finds support for the bundled nature of its Series 7008 offering in Docket No. 20828, *Second Computer Inquiry Reconsideration*, FCC 80-628, released December 20, 1980, 84 F.C.C. 2d , where, it says, the Commission recognized that transmit/receive earth stations could be part of a necessarily integrated service arrangement.

Discussion

Rejection

11. The Commission's authority to reject a tariff filing is not unlimited. It extends only to instances where the tariff clearly violates the Communications Act, a prior order, or the Commission's rules. *Associated Press v. FCC*, 448 F.2d 1095 (D.C. Cir. 1971); *see also American Broadcasting Companies v. FCC*, No. 79-1261, D.C. Cir., decided October 9, 1980. Although Wold urges the Commission to reject this filing for lack of space segment interconnection, it explicitly recognizes that the Commission has thus far ordered interconnection in the domestic satellite field in the context of the availability of terrestrial facilities for other satellite carriers to connect their earth stations with their customers' premises, but has not yet ordered satellite carriers to permit customer provided transmit earth stations to access their space segment. Under these circumstances, we cannot find that AT&T's failure to provide for interconnection with its space segment patently violates any prior order and, therefore, will not reject the filing of the stated ground.

12. Wold also seeks rejection on the basis of AT&T's omission of a tariff provision which would make transponders available separate and apart from its provision of earth station facilities. Wold cites recent Commission decisions regarding unbundling to support its apparent view that any failure to provide for rate unbundling is *per se* lawful.[3] Significantly, neither of the cited decisions ordered unbundling of transmit earth station facilities in the domestic satellite field, and, moreover, neither purports to make rate unbundling a prerequisite to the offering of any communications service. For this reason, we are not rejecting on this basis either.

13. This brings us to Midwestern's request for rejection on the ground that no provision is made for interconnection of Satellite Television Service with the facilities of other common carriers, thus violating, among other things, the settlement agreement in Docket No. 20199. In its reply, AT&T maintains that it did not intend here to depart from established interconnection policies. However, it does concede that clarifying tariff revisions are warranted.

14. On February 13, 1981, AT&T filed, under Transmittal No. 13663, certain revisions to its Series 7000 video transmission offerings. Among these is a provision for interconnection of Type 7008 channels with the facilities of other common carriers. Pursuant to special permission from the Common Carrier Bureau to file on less than statutory notice, AT&T subsequently filed revisions on March 17, 1981, advancing the effective date of this tariff material to coincide with the April 16, 1981 effective date of the Satellite Television Service proposed offering. As a result of these amendments, interconnection for other common carriers would be available as of April 16, 1981. In our view, these additional provisions cure the defect brought to our attention by Midwestern and obviate the need for rejection.

15. Nevertheless, we wish to ensure that the procedural complications surrounding the filing of the proposed interconnection provision do not deprive Midwestern of any opportunity to show that the OCC interconnection which AT&T would provide is otherwise inadequate or improper. Under § 1.773 of the Commission's Rules, 47 CFR 1.773, petitions to reject or suspend and investigate the March 17 filing would not have been due until April 1, and thus would have been filed too late for consideration in this order. However, since we are investigating these tariff revisions on other grounds, any substantive questions which Midwestern or other interested persons may raise in a petition can be included in our investigation by later order of the Chief, Common Carrier Bureau.

Suspension and Investigation

16. We initially question AT&T's proposal to offer Satellite Television Service on a trial basis. As mentioned, Type 7008 service would terminate by operation of the tariff after three years, unless cancelled sooner by AT&T. Thus, in effect, AT&T seeks to offer this service without incurring the usual obligation of common carriers to continue to provide service if called for the the present or future public convenience and necessity. 47 U.S.C. 214(a).

17. Although there is no express provision in the Communications Act for "experimental" or "trial" service offerings, we have in the past recognized the practical importance of according carriers some tariff flexibility for legitimate service experimentation. However, we have also recognized that the attendant relaxation of Title II obligations and regulatory requirements could in fact work against the interest, if not carefully controlled. See *AT&T Picturephone Meeting Service*, FCC 80-779, released January 5, 1981. Therefore, as a measure of the reasonableness of trial or experimental service offerings, we think it is incumbent upon the filing carrier to justify the requested departure from the normal course of open-ended, generally applicable tariffs.

18. AT&T offers several reasons for proposing Satellite Television Service on a trial basis.[4] The service, it asserts would combine a variety of features, such as centralized remote monitoring and control and end-to-end system maintenance and operation, in a manner which differs from services provided by

[3] *See Customer Use of Telex Service* (Docket No. 21005), 76 F.C.C. 2d 61 (1979), where the Commission ordered the unbundling of terminal equipment, local access loops and international telex transmission service, and *Second Computer Inquiry* (Docket No. 20828), 77 F.C.C. 2d 384 (1980).

[4] AT&T, Volume I, Sections 1 and 2.

other domestic satellite carriers. During the trial period, AT&T proposes to test the market need and willingness to pay for these and other service features. Finally, according to AT&T, the trial would enable it to gain necessary operational experience and to design a general offering of satellite television service which can economically meet the increasingly sophisticated television requirements of customers.

19. While Satellite Television Service may differ in some respects from the video services which other domestic satellite carriers now offer, we are unconvinced that the technological, operational and marketing uncertainty cited by AT&T is any greater than that faced by the industry generally, insofar as new video service offerings are concerned. Indeed, it is common practice for carriers to make general service offerings and later revise their tariffs to adjust to technological changes and marketplace conditions by adding or reconfiguring various service features. Whereas AT&T acknowledges the general market demand for satellite video services, it nevertheless purports to need a service "available as a test vehicle to allow both AT&T and its customers an opportunity to explore the utility of the new technologies available in various market applications." [5] To this end, it lists several service features for which it can evaluate customer demand and briefly discusses some of the ancillary features which customers might later be offered under this tariff. Moreover, as this offering is envisioned by AT&T, capacity would be limited to no more than five transponders during the test period, with only one customer thus far scheduled to subscribe to the service.

20. Even taking AT&T's stated intent at face value, we cannot ascertain from the justification why such service could not be made available on a regular basis under which other potential users could have equal opportunity to take service, and express their own requirements and suggestions. Clearly, the essential elements of program distribution by domestic satellite already are well established. In other words, we fail to see why an open-ended offering cannot provide a true market test for AT&T. Absent such justification, we are concerned that AT&T, utilizing the umbrella of a limited trial, could limit the customers eligible for Satellite Television Service to a select few. We have recently had occasion to consider other carrier-proposed schemes for allocating scarce satellite capacity for video services among numerous competing entities, and have held carriers to a reasonableness standard under Section 201(b) of the Act.[6] See *RCA American Communications, Inc.*, Docket No. 81-41, FCC 81-28, released February 9, 1981; *RCA American Communications, Inc.*, 79 F.C.C. 2d 331 (1980). See also *MCI Telecommunications Corporation*, 81 F.C.C. 2d 568, 1980. Although the proposed tariff revisions are silent on the method of customer selection, AT&T apparently expects to conduct the trial on its own terms, thus reserving the right to choose participating users and also to remove users at will. However, AT&T's justification to date does not satisfy us that it should be free from the reasonable allocation requirements we have imposed upon other carriers for their video service offerings or that the extraordinary cancellation provision it proposes is reasonable under the circumstances. Nor does it adequately explain why it requires a period of up to three years, as opposed to a shorter term, to accomplish the stated goals of its proposed trial.

21. We are also concerned that the derivation of AT&T's cost and revenue figures in the filing is incomplete and, therefore calls into question AT&T's projection that this service will, in fact, earn 22.3 percent and 24.1 percent in Years 1 and 2 respectively. Since the total costs of the satellite are shared by the different transponders using the satellite, the cost of one transponder is dependent to some extent, on the costs allocated to the other transponders. Hence, to be certain that any one transponder, and the service or services using it are recovering an appropriate amount of the costs of the satellite, we must know how these total costs have been allocated among all transponders on the satellite. In this case, the cost support data submitted by AT&T do not specify the allocation of satellite costs to transponders not being used for this service.[7] Consequently, we are unable to determine on the basis of the support data before us whether the rate for Satellite Television Service would, in fact, recover its fair share of the costs of the satellite.

22. As an ancillary matter, we question the usage projections that AT&T has incorporated into its costing procedures. AT&T assumes for purposes of its justification that all transponder capacity it is proposing to make available for video service is used, *i.e.*, 19 service months in Year 1 and 60 service months in Years 2 and 3, every month, that it is available. This is equivalent to assuming that facilities are 100% filled all the time. (Vol. 1 Figure 3-1) Projected revenues from both transponder channels and earth stations (Vol. 1 Figure 3-3) are then used in calculating the earnings ratios for the service (Vol. 1 pp. 1-2 and 5-12). It follows, therefore, that if the trial is terminated for any reason by AT&T before three years, or projected demand does not materialize the earnings for this service would not be as high as AT&T projects. In turn, these revenue requirements might have to be recovered by MTS or other ratepayers.

23. The estimates of demand for Satellite Television Service appear to be related to AT&T's filing of new rates for terrestrial video service. See AT&T Transmittal No. 13363, Series 7000 Television Transmission Service. In that filing, AT&T recognized that the filed terrestrial rate "makes satellite distribution systems more attractive" and states its expectation that "full time [TV] services will begin widespread migration to satellites in 1983." (Volume 1, p. 37) AT&T goes on to explain there that Satellite Television Service has been excluded as an alternative service for terrestrial TV customers because of limited satellite facilities, as well as its expectation that customers will use Type 7008 service primarily for experimental purposes or new applications.

24. In light of AT&T's statement that Satellite Television Service is not an alternative to terrestrial facilities, we are unable to ascertain the source of the demand to fill all five satellite transponders on a full time basis. This apparent inconsistency between AT&T's statements in the Series 7000 filing and its unsupported demand estimates leads us to question the reliability of the AT&T's data, and hence, the reasonableness of the proposed rates.

25. The final issue presented by this filing is whether AT&T, in offering Satellite Television Service, can reasonably preclude use of non-AT&T earth stations except on an

[5] AT&T, Volume 1, Section 2.2. Some of these features include the capability of mixing earth stations on AT&T's property and customer's premises, end-to-end system maintenance and operation, and centralized remote control of AT&T transmit/receive and receive-only earth stations. The ancillary features include centralized customer control of remote AT&T receive-only earth stations for switching between programs, instantaneous switching between programs, and encoding of signals.

[6] 47 U.S.C. 201(b) states in pertinent part that all charges, practices, classifications, and regulations for and in connection with communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is unlawful.

[7] This problem is compounded by the mixture of Comstar lease and Telstar ownership arrangements for the transponders to be used for this service.

supplemental basis.[8] In coming to terms with this issue, it will be helpful to discuss the essentially different perspectives from which Wold and AT&T assess their respective rights.

26. AT&T, on the one hand, asserts its prerogative to offer an integrated end-to-end video service, complete with end-to-end system maintenance and operation. This position assumes that a transmit/receive earth station is an essential, non-separable element of Satellite Television Service. Wold, for its part, welcomes the addition of the AT&T transponders for video services, but views their provision, when tied to AT&T-owned transmit/receive earth stations, as denying customers the right to choose among various providers of earth station facilities.

27. In developing our current domestic satellite policies, we chose not to establish definitive standards for earth station ownership or space segment interconnection practices. Because of the newness of the technology, we did not try to anticipate all conceivable circumstances in which these issues might arise. Instead, we chose to rely on a broad, policy objective of promoting "a flexible ground environment which would permit a variety of earth station ownership patterns and afford diversified access to space segments except where this is impractical." *Domsat II, supra,* para. 2, at 855. Our policy formulation over the years in the domestic satellite field has emphasized this commitment to varied and flexible use by both private users and satellite carriers. In our most recent statement, we explained how our earth station access and deployment policies have contributed to the growth of domestic satellite services:

> Service was initially provided by the satellite carriers between a few, general purpose earth stations located near major metropolitan areas. Service offerings were at first primarily presented at lower cost alternatives to conventional long-haul terrestrial services. Subsequently, domestic satellites were used increasingly to provide new and specialized communications services as additional earth stations were added to the networks by carriers and users. The Commission has consistently encouraged new and developing services by fostering "a flexible ground environment which would permit a variety of earth station ownership patterns and afford diversified access to space segment." For instance, the Commission has approved customer owned earth stations, distribution of diversified program material to cable television systems, the use of smaller, lower cost earth station antennas for transmission and reception, interconnection of non-commercial broadcast stations, carrier provided earth stations directly on customer premises, and deregulation of recieve-only earth stations. Over 3000 earth stations are now being used to provide consumers with a wide range of voice, video and audio services. (Footnote omitted). *Assignment of Orbital Location to Space Station in the Domestic Fixed-Satellite Service,* FCC 80-711, released January 30, 1981, at para. 8.

28. We have not, as a matter of policy, precluded carriers from offering end-to-end satellite services. At the same time, we clearly have emphasized diversified access to satellite facilities, the availability of alternate service arrangements, and generally, the efficient utilization of space segment capacity. While a carrier is afforded latitude in designing the kinds of services it will offer, experience shows that the manner in which it structures a tariff offering can effectively preclude user applications which are in the public interest. We are concerned that AT&T's proposed offering, which forecloses customers from choosing alternative service arrangements, may hamper user applications which would promote the public interest in the efficient utilization of satellite facilities.[9]

29. We do not wish to imply that the provision to the public of end-to-end satellite services by AT&T or other carriers inherently contravenes or inhibits our domestic satellite policies. Nevertheless, when AT&T, the dominant provider of private line video transmission and other services, undertakes for the first time to offer a competitive satellite video service, and would do so only by bundling its component parts, we think that an examination of the potential effects of its tariff proposal upon consumer choice and efficient utilization of both ground and space segment in the competitive earth station market is warranted.[10] The question of earth station access to Satellite Television Service becomes particularly important when it is considered that no other AT&T service offering makes available to the public the component parts of satellite service, notably, the space segment. Our concerns over the adverse effect which Satellite Television Service might have upon efficient utilization of satellite technology stem in part from this lack of other, more fundamental AT&T satellite service offerings.

30. In considering the reasonableness of the proposed restrictions on use of non-AT&T earth stations, it is significant that a number of existing satellite video systems are constructed of facilities which are offered on a non-integrated basis.[11] For example, both RCA American Communications, Inc. and the Western Union Telegraph Company currently offer transponder service separately, thus permitting customers and other carriers to provide their own earth station facilities obtained from a wide number of suppliers. See RCA American Tariff FCC No. 1;[12] Western Union Tariff FCC No. 261. Diversified access by customer-provided earth stations does not, however, mean that their satellites are unprotected from improper use. For example, Western Union's tariff sets forth certain technical specifications which transmitting earth stations must meet in order to interface with the Western Union satellite without interference. *See* Western Union Tariff FCC No. 261 at 3.5; see, also, RCA American Tariff FCC No. 1 at 2.4. In addition, current domestic satellite carrier tariffs specify that customer-provided earth stations must comply with all pertinent Commission regulations.[13]

31. On the basis of our policies concerning diversified access to the space segment, we conclude that AT&T's rate element bundling and tariff restrictions against the use of non-AT&T earth station facilities should be

[8] See paras. 4, 5, *supra.*

[9] In other areas the Commission has provided for flexibility in a customer's use of telecommunication facilities. See *Carterfone,* 13 F.C.C. 2d 420, *recon.* 14 F.C.C. 2d 571 (1968), *Hush-a-Phone, Corp. v. United States,* 238 F. 2d 266 (D.C. Cir. 1956), *Implications of the Telephone Industries' Primary Instrument Concept,* Docket No. 78-36, 63 F.C.C. 2d 1157 (1976).

[10] AT&T finds implied approval with its proposal in our recent statement that "* * * [i]n such offering of integrated satellite systems, such a transmit earth station could constitute a necessary component of the transmission offering for network control purposes. This may not be the case * * * for those entities desiring merely to offer transponder capacity to providers of other services." *Second Computer Inquiry Reconsideration,* FCC 80-628, released December 20, 1980. 84 F.C.C. 2d ——, at para. 60. However, there we were considering only whether transmit/receive earth stations coud be classified as customer premises equipment not subject to Title II of the Act. Thus, the above statement addresses an entirely different question from the one raised here, which goes to the reasonableness of AT&T's proposed exclusion of non-AT&T transmit/receive earth stations from Satellite Television Service in light of our domestic satellite policies. In no sense did this decision endorse bundled rate structures for common carrier service offerings.

[11] Although AT&T stresses the need to maintain control over the transmit/receive earth station facilities used to provide Satellite Television Service, the tariff revisions apparently would allow both integral earth stations to be located on customer premises.

[12] However, RCA American does offer occasional televisions channels with a company-provided transmit earth station only.

[13] Significantly, AT&T itself has fashioned such standards for interconnection with the terrestrial telephone network. *See,* e.g., Part 63 of the Commission's Rules, 47 C.F.R. Part 63. We are aware of no reason why such technical standards could not be designed for earth stations using AT&T's satellite service as well.

investigated under Section 201(b) of the Act.[14] We have also decided to suspend the effectiveness of AT&T's tariff revisions for the full five-month statutory period while we proceed with our investigation. if for no other reason, suspension seems particularly warranted while we determine the lawfulness of AT&T's proposal to conduct a trial of up to three years. As already noted, AT&T has indicated that it would limit satellite capacity for the service to no more than five transponders during the trial period. It is therefore conceivable, given the current shortage in supply of satellite space for video uses, that AT&T would already have assigned all available facilities to one or more customers on a selective basis prior to the completion of our investigation, thereby circumventing its obligation as a common carrier to allocate scarce facilities by a reasonable method. Related to our concern that some potential customers would be deprived of a fair opportunity to obtain services is our reluctance to have the selected few come to rely on Satellite Television Service, perhaps at the cost of other service they currently enjoy, when the ultimate terms and conditions of AT&T's offering are in doubt. Moreover, under these uncertain circumstances, customer decisions regarding service selection would be tentative at best, and competitive entry could be unnecessarily impeded or misdirected.

32. Furthermore, since the reliability of AT&T's cost allocations and demand projections is questionable at best, we are concerned that the proposed rates could be unreasonable. In addition, because the component parts of Satellite Television Service would be offered under a single rate element, there exists the possibility that unlawful cross-subsidization would occur to the detriment of MTS or other AT&T ratepayers. We therefore find that a five-month suspension will protect both ratepayers and other providers of earth station services while we investigate AT&T's ratemaking techniques.

33. Lastly, our concerns over the proposed restrictions on space segment access by non-AT&T earth stations also support a five-month suspension. Should we later find the tariff revisions unlawful under Section 201(b) of the Act for failure to permit reasonably diversified access to this video service, any subsequent unbundling of the rate structure or increase in access could well become a meaningless gesture absent suspension. Were we to allow AT&T to commence service immediately, customers subscribing under the bundled rate structure would be denied any chance to make economic choices in the procurement of earth stations and other carriers providing earth station services could experience competitive harm. Specifically, customers would be unable to avail themselves of lower cost alternatives from other suppliers or use earth stations which they may already own.

34. Accordingly, it is ordered, that pursuant to Section 4(i), 4(j), 201, 202, 203, 204, 205, and 403 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201, 202, 203, 204, 205, and 403, an investigation is instituted into the lawfulness of the American Telephone and Telegraph Company's tariff revisions filed under Transmittal No. 13633.

35. It is further ordered, that the American Telephone and Telegraph Company, Wold Communications, Inc., and Midwestern Relay Company shall be parties to this proceeding. Any other interested person seeking to participate in this investigation may become a party either by filing a notice with the Commission within 30 days of the release of this order, or by filing a reply case of comment in response to the American Telephone and Telegraph Company's direct case.

36. It is further ordered, that the American Telephone and Telegraph Company shall submit its direct case within 45 days of the release of this order. Other parties may file their reply cases or comments within 30 days thereafter. The American Telephone and Telegraph Company may file its response within 15 days thereafter.

37. It is further ordered, that tariff revisions filed by the American Telephone and Telegraph Company under Transmittal No. 13633 are suspended for a period of five months.

38. It is further ordered, that the petitions to reject, or in the alternative, to suspend and investigate the American Telephone and Telegraph Company's tariff revisions are granted to the extent indicated and otherwise are denied.

39. It is further ordered, that this action is effective immediately.

40. It is further ordered, that the Secretary shall cause this Memorandum Opinion and Order to be published in the Federal Register.

Federal Communications Commission.

William J. Tricarico

Secretary.

[FR Doc. 81-12522 Filed 4-24-81; 8:45 am]

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[14] Additionally, by publishing a single rate element for both space segment and earth station services, AT&T would effectively impede our ability to detect cross subsidization of earth station facilities for which the market is highly competitive. Rate element unbundling for Satellite Television Service might well be the only means of ensuring that the rates for its component parts are aligned with costs.

[BC Docket Nos. 81-253—81-255; File Nos. BP-20,620, etc.]

Coastal Empire Broadcasting Co., Inc., et al.; Consolidated Hearing on Stated Issues

In the matter of applications of Coastal Empire Broadcasting Company, Inc., Hilton Head Island, South Carolina, BC Docket No. 81-253, File No. BP-20,620, Req: 1130 kHz, 1 kW, Day; Thomas H. Harvey III and James N. Richardson, Jr. d/b/a Calibogue Broadcasting Company, Hilton Head Island, South Carolina, BC Docket No. 81-254, File No. BP-20,830, Req: 1130 kHz, 1 kW, Day; E. Justin Love, Richard L. Eury, and Diane Berry Love d/b/a Hilton Head Media, Hilton Head Island, South Carolina, BC Docket No. 81-255, File No. BP-780728AC, Req: 1130 kHz, 1 kW, Day; for construction permit.

Adopted: April 3, 1981.

Released: April 23, 1981.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, in additon to various petitions and responsive pleadings.

Coastal Empire Broadcasting Company, Inc.

2. *Missing amendment.* As orginally filed, Coastal's application listed three stockholders, Martha and Ian Wheeler, and Mary Ann O'Connell. The Commission's files show no amendment reporting an ownership change until September 10, 1979, when five stockholders were listed; the additional two were Allana Dyer (15 percent) and Janice Barnwell (10 percent). However, an August 3, 1979 amendment included a financial statement for Dyer, and noted that, "Since the original application, an additional stockholder *was added by way of amendment* and her most current financial statement is submitted * * * (emphasis supplied)." Further, in a September 25, 1979 pleading Coastal stated that Dyer "was previously listed in the application * * *." It therefore appears that the amendment first reporting Dyer as a principal was not received by the Commisson. Coastal should clarity this matter by stating when Dryer became principal and when her interest was first reported by

amendment. If an amendment is missing from the Commission's files, the applicant should re-file it, along with any available documentation as to when it was first tendered.

3. *Other amendments.* By letter of July 2, 1979, the Commission advised all three applicants that the deadline for filing perfecting amendments as a matter of right would be August 2, 1979. Amendments tendered after that date are thus acceptable only upon a showing of good cause for late filing, or pursuant to § 1.65 or § 73.3514 of the Commission's Rules.[1] Coastal filed late amendments on August 3, 1979 (signed July 31); Septeber 10, 1979; September 11, 1979; January 30, 1980; February 4, 1980; and May 16, 1980.

4. With respect to the first three, the applicant states that the Commission's July 2 letter was not mailed to its notified address[2] and that its former attorney did not inform it of his receipt of a copy of the letter. As a result, Coastal maintains, it did not learn of the amendment cut-off date until July 23. Acting without counsel, applicant then submitted its first late amendment (unopposed) on August 3, updating its financial showing, stating its intention to add on unnamed minority stockholder, and requesting a two-week extension to file an additional amendment. On August 24 Coastal's new counsel filed a motion for extension of time until september 10. Both competing applicants opposed the motion, and Coastal replied. The September 10 amendment listed five stockholders and specified a 1.27-kilometer transmitter site change. The September 11 amendment supplied a subscription agreement for stockholder Barnwell, which had inadvertently been omitted from the September 10 amendment. Both competing applicants filed motions to strike the September 10 and 11 amendments, and Coast replied.

5. Since the applicant did not receive the Commission's cut-off letter until three weeks after it was sent, good cause exists for some extension of time to file prefecting amendments. And while Coastal should have sought the extension to September 10 sooner, that period of extension was not unreasonable. Therefore, these three amendments will be accepted.

6. Coastal's January 30, 1980 amendment updated the Wheelers' residence address, corrected a typographical error involving Barnwell's stock interest, and supplied photographs of the proposed transmitter site. Calibogue opposed acceptance of the first two parts of the amendment, maintaining that additional information about the Wheelers' move should have been submitted, and that Barnwell was not properly before the Commission as a Coastal principal. As for the Wheelers' move, supporting details are not generally required, and Calibogue has not shown that they would be relevant here. The argument about Barnwell is moot in light of the acceptance of the amendment adding her as a stockholder. Therefore, this amendment is also accepted.

7 The February 4, 1980 amendment reported a January 31, 1979 Maryland court judgment against Coastal in a lawsuit brought by the applicant's former consulting engineer, and a November 30, 1979 Tennessee court order enforcing it. Its May 16, 1980 amendment consisted of a release executed by the engineer. Both competing applicants objected to the timeliness of the first amendment, and questioned Coastal's financial qualifications and candor in light of it. While the amendment was clearly untimely, there is no substantial question of concealment, since Coastal had earlier disclosed the pendency of the lawsuit. Therefore no issue need be specified, and the amendments will be accepted. The effect of the payment to the engineer on Coastal's financial qualifications may be assessed under the financial issue which must be specified against this applicant.

8. *Financial.* Analysis of Coastal's financial data reveals that $57,522 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment[1] down payment	$4,830
Equipment payments	4,392
Land and building	10,500
Other construction costs	10,900
Operating costs	26,850
Total	57,522

[1] There is substantial discrepancy between the equipment costs listed in response to Question 1(a) of Section III of the application form ($33,450) and in the equipment supplier's deferred credit letter ($48,800), submitted as Exhibit J to the application. The figures used here are based on the higher of the two figures.

Coastal plans to finance construction and operation with $10,000 existing capital, $90,000 new capital,[3] and a $100,000 bank loan. However, the applicant's balance sheet has not been updated to show the effect (if any) of the payment to its former engineer, so the availability of the existing capital claimed is in doubt. With respect to new capital, no subscription has been submitted for Allana Dyer, and none of the subscribers has been shown to have sufficient net liquid assets to meet his or her subscription commitment. Further, the bank's loan commitment letter, submitted in the August 3, 1979 amendment, fails to specify the collateral or security required, and only commits the bank to consider making the loan. Therefore, a limited financial issue will be specified.

9. *Technical showing.* Although Coastal specified a new transmitter site in its September 10, 1979 amemdment, it has not described the proposed ground system, as required by Section V–A, paragraph 10 of FCC Form 301. An amendment is required.

Calibogue Broadcasting Company

10. *Amendments.* On December 28, 1979 Calibogue petitioned for leave to amend its application to specify a new transmitter site[4] and make corresponding changes in its financial proposal, citing an increase in the option price of the original site and the possible sale of the company that owns the original site. On February 23, 1981 applicant sought to specify a slighty different site on the same property, stating that the change was to accommodate development plans by the landowner. Since it appears that Calibogue has shown good cause, the amendments are accepted pursuant to Section 1.65 of the Rules.

11. *Local notice.* Calibogue failed to comply with the Commission's local notice requirement in that its notice was published in a Savannah rather than a Hilton Head Island newspaper.[5] Therefore, this applicant will be required to republish local notice properly.

Hilton Head Media

12. *Amendment.* On December 6, 1979 Media petitioned for leave to amend the

[1] Section 1.65 requires an applicant to report changes in application information and other developments which may be of decisional significance within 30 days. Section 73.3514 permits applicants to amend in response to Commission requests for information.

[2] This is a further indication that an amendment is missing. The Commission's letter was mailed to the address shown in the original application, and our files show no other address for the applicant until its August 3, 1979 amendment complaining that, "The Commission has previously been notified of the correct address."

[3] Although amendments showing revised stock sales and subscriptions have been submitted, Section III of this application has not been correspondingly amended. Therefore, the existing and new capital used for this analysis reflect the funds listed in the original application.

[4] The new site is 3.2 kilometers from the site formerly proposed.

[5] Section 73.3580(c)(1)(iii) of the Rules permits publication in an out-of-town newspaper only if there is no daily or weekly newspaper published in the community to be served. The compositional study of Calibogue's own ascertainment report states there are two newspapers in Hilton Head Island.

financial section of its application by updating its equipment proposal and equipment credit letter. These are ordinary changes which must be reported under § 1.65 of our rules. Accordingly, the amendment is accepted.

13. *Financial.* Analysis of the financial data Media submitted reveals that $83,046 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$14,757
Equipment payments	5,164
Land and building	5,500
Other construction costs	14,500
Operating costs	43,125
Total	83,046

Media plans to finance the station with $22,000 existing capital and $180,000 partnership contribution from Dr. E. Justin Love. However, the applicant has not established the availability of these funds. The partnership's balance sheet shown only $1,000 available to meet these future costs; and because Dr. Love's balance sheet does not properly describe current assets and segregate current from long-term liabilities, it does not show sufficient net liquid assets to cover the remaining anticipated costs. A limited financial issue will be specified.

14. *Air Hazard.* Since no determination has been reached that the antenna proposed by Hilton Head Media would not constitute a menace to air navigation, an issue regarding this matter is required.

Other Matters

15. Data submitted by the applicants indicate that there would be significant differences in the sizes of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

16. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

17. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Coastal Empire Broadcasting Company, Inc.:

a. The source and availability of sufficient funds to meet anticipated costs; and

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to Hilton Head Media:

a. The source and availability of sufficient funds to meet anticipated costs; and

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine whether there is a reasonable possibility that the tower height and location proposed by Hilton Head Media would constitute a hazard to air navigation.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

18. It is further ordered, that Coastal Empire Broadcasting Company, Inc. shall file the amendments specified in paragraphs 2 and 9 above within 30 days after this Order is published in the Federal Register. (May 27, 1981).

19. It is further ordered, that Calibogue Broadcasting Company shall publish local notice of the filing of its application as required by § 73.3580 of the Commission's rules, and shall file a statement of publication with the presiding Administrative Law Judge within 40 days after this Order is published in the Federal Register. (June 8, 1981).

20. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

21. It is further ordered, that to avail themselves of the opportunity to be heard, and pursuant to § 1.221(c) of the Commission's rules, the parties shall, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

22. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing (either individually or jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-12521 Filed 4-27-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-266-81-267; File Nos. BP-790531AG, BP-800801AC]

Professional Radio Broadcasting Corp. and Family Radio Broadcasting, Inc.; Consolidated Hearing on Stated Issues

In re applications of Professional Radio Broadcasting Corporation, Lajas, Puerto Rico, BC Docket No. 81-266, File No. BP-790531AG, Req: 1510 kHz, 1 kW, DA-1, U, Family Radio Broadcasting Inc., Guanica, Puerto Rico, BC Docket No. 81-267, File No. BP-800801AC, Req: 1510 kHz, 500 W, DA-1, U, for construction permit.

Adopted: April 15, 1981.

Released: April 22, 1981.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations.

2. *Preliminary technical matters.* At one time, both proposals had interference problems relating to co-channel station HIBL, Santo Domingo, Dominican Republic. However, according to the May 31, 1980 Region 2 requirement list, as submitted to the International Frequency Registration Board, HIBL has been moved to 1520 kHz and thus apparently no longer conflicts with either application.

3. *Professional Radio Broadcasting Corporation.* German Velez, a Professional stockholder, officer, and director, is employed a program director at noncommercial television station WIPM-TV, Mayaguez, Puerto Rico. Since WIPM-TV's Grade A signal encompasses Lajas, Velez should state his intentions with respect to that management-level position in the event Professional's application is granted.

4. Analysis of the financial data Professional submitted reveals that at least $38,583 will be required to construct its proposed station and operate for three months, itemized as follows:

Equipment down payment	$15,722
Equipment payments	2,961
Other construction costs	9,900
Operating costs	10,000
Total	38,583

Professional states it will lease land and buildings for its station, but has not listed thee expenses in its cost estimates. The applicant proposes to finance the station with existing capital of $6,000 and stock subscriptions of $90,000. It has shown the existing capital and two minor subscriptions totalling $17,500 to be available, but its principal stockholder's balance sheet shown sufficient net liquid assets to meet only $13,000 of his $72,500 commitment. Therefore, a limited financial issue must be specified.

5. *Family Radio Broadcasting Inc.* Jaime Bermudez, Family's proposed general manager, is similarly employed at AM station WKFE, Yauco, Puerto Rico, less than 10 kilometers from Guanica.. Since the 1 mV/m contours of WKFE and Family's proposed station would overlap substantially, Family should state whether Bermudez would hold management-level positions at both stations in the event Family's application is granted.

6. Analysis of Family's financial data reveals that at least $140,826 will be required to construct and operate its proposed facility for three months, itemized as follows:

Equipment	$79,200
Other construction costs	35,000
Operating costs	26,626
Total	140,826

However, Family neither stated the basis for its equipment-cost estimates nor provided for the cost of land and buildings. The applicant proposes to finance the station with $9,000 existing capital and $141,000 in stock subscriptions. But it did not submit a corporate balance sheet to substantiate the existing capital; and the documentation submitted by the proposed stock subscribers, which includes a vague bank loan commitment letter, does not show any net liquid assets available to meet their commitments. A limited financial issue will be specified.

7. We have no evidence that Family gave local notice of its application, as required by § 73.3580 of the Commission's rules. It will therefore be required to demonstrate compliance with the requirement.

8. *Other matters.* The two proposals, although for different communities, would serve substantial common areas. Consequently, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

9. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

10. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Professional Radio Broadcasting Corporation:

a. Whether it has provided for the cost of securing land and buildings for its station in its estimate of construction and operating costs;

b. The source and availability of additional funds over and above the $36,500 indicated; and

c. Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

2. To determine with respect to Family Radio Broadcasting Inc.:

a. Whether the amount it proposes for equipping its station is sufficient for that purpose,

b. Whether it has provided for the cost of acquiring and readying land and buildings for its station in its estimate of construction and operting costs,

c. The source and availability of sufficient funds to meet anticipated costs, and

d. Whether in light of the evidence adduced pursuant to (a), (b), and (c) above, the applicant is financially qualified.

3. To determine the areas and populations which would receive primary service from each proposal and the availability of other primary aural service to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

11. It is further ordered, that Professional and Family shall file the amendments indicated in paragraphs 3 and 5 above, within 30 days after this Order is printed in the Federal Register. (May 27, 1981).

12. It is further ordered, that Family Radio Broadcasting Inc. shall publish local notice of its application (if it has not already done so) and file a statement of notice with the presiding Administrative Law Judge within 40 days after this Order is published in the Federal Register. (June 8, 1981).

13. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-12520 Filed 4-24-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

First Delta Corporation; Formation of Bank Holding Company

First Delta Corporation, Helena, Arkansas, 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 per cent or more of the voting shares of First National Bank of Phillips County, Helena, Arkansas. 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 May 20, 1980. Any comment on an application that

requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-12497 Filed 4-24-81; 8:45 am]

BILLING CODE 6210-01-M

Lee County Bancorp., Inc.; Formation of Bank Holding Company

Lee County Bancorp., Inc., Fort Madison, 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 100 per cent of the voting shares of Lee County Savings Bank, Fort Madison, 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 May 20, 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, April 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-12498 Filed 4-21-81; 8:45 am]

BILLING CODE 6210-01-M

Southeast Financial Bankstock Corp.; Formation of Bank Holding Company

Southeast Financial Bankstock Corportion, McGehee, Arkansas, has applied for the Board's approval under sec. 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80 percent of the voting shares of McGehee Bank, McGehee, Arkansas. The factors that are considered in acting on the application are set forth in sec. 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 May 20, 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, April 21, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-12499 Filed 4-24-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations; Noncompliance Determinations

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of Health Maintenance Organizations: Determination of noncompliance.

SUMMARY: On June 13, 1980, the Office of Health Maintenance Organizations determined that Crossroads Health Plan (CHP), 141 South Harrison Street, East Orange, New Jersey 07018, a federally qualified health maintenance organization (HMO), was not in compliance with the assurances it had provided to the Secretary that it would (1) maintain a fiscally sound operation and (2) comply with the National Data Reporting Requirements. The determination of noncompliance does not itself affect the status of CHP as a federally qualified HMO. Rather, CHP has, in fact, initiated corrective action to bring itself into compliance with the assurances it gave the Secretary.

FOR FURTHER INFORMATION CONTACT: John O'Rourke, Acting Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)) (the Act), if the Secretary makes a determination under Section 1312(a) that a qualified HMO which provided assurances to the Secretary under section 1310(d)(1) is not organized or operated in the manner prescribed by section 1301(c), then he shall (1) notify the HMO in writing of the determination, (2) direct the HMO to initiate such action as may be necessary to bring it into compliance with the assurances, and (3) publish the determination in the Federal Register.

On June 13, 1980, OHMO notified CHP that it was not in compliance with the assurances that it had given the Secretary that it would (1) maintain a fiscally sound operation and (2) comply with the National Data Reporting Requirements. On March 10, 1981, OHMO approved a plan for CHP to restore compliance with these requirements.

Dated: April 20, 1981.

John O'Rourke,

Acting Director, Office of Health Maintenance Organizations.

[FR Doc. 81-12532 Filed 4-24-81; 8:45 am]

BILLING CODE 4110-85-M

Health Maintenance Organizations; Noncompliance Determination and Revocation of Federal Qualification

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of health maintenance organizations: Determination of noncompliance and revocation of Federal qualification.

SUMMARY: On February 10, 1981, the Office of Health Maintenance Organizations (OHMO) determined that Los Padres Group Health Plan (LPGH), 1171 Toro Street, San Luis Obispo, California 93401, a federally qualified health maintenance organization (HMO), was not in compliance with the assurances it had provided to the Secretary that it would (1) maintain a fiscally sound operation and (2) maintain satisfactory administrative and managerial arrangements. On March 10, 1981, the Director of OHMO notified LPGH that he was revoking LPGH's Federal qualification. Accordingly, LPGH is no longer a federally qualified HMO.

FOR FURTHER INFORMATION CONTACT: John O'Rourke, Acting Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (the Act) (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination and (2) directed to initiate corrective action to bring it into compliance with the assurances it

provided to the Secretary under section 1310(d)(1). The notice of February 10, 1981, gave LPGH an opportunity to initiate corrective action to bring it into compliance with the assurances that it would (1) maintain a fiscally sound operation and (2) maintain satisfactory administrative and managerial arrangements. The basis for the revocation of Federal qualification was OHMO's determination that LPGH had not carried out and would not carry out the corrective action necessary to return to compliance. LPGH is now in receivership pursuant to California State statute and is no longer providing health care services as required by Title XIII. The revocation of qualification was effective five working days after LPGH received the March 10 letter.

The effect of the revocation of LPGH's Federal qualification is as follows: (1) LPGH may not seek inclusion in employees' health benefits plans under section 1310 of the Act; (2) with respect to employers including LPGH in the health benefits plan offered their employees, LPGH is not a qualified HMO for purposes of section 1310 of the Act; (3) the inclusion of LPGH in an employees' health benefits plan will be disregarded for purposes of determining whether, and to what extent, the employer is subject to 42 CFR Part 110, Subpart H, and will not constitute compliance with the requirements of that subpart; and (4) LPGH is not a qualified HMO for purposes of the financial assistance programs under 42 CFR Part 110.

Section 1312(b)(1) of the Act requires that a notice of the determination of noncompliance and of the revocation of Federal qualification of an HMO be published in the Federal Register.

Dated: April 20, 1981.

John O'Rourke,

Acting Director, Office of Health Maintenance Organizations.

[FR Doc. 81-12533 Filed 4-24-81; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Relocation of Colorado State Office; Denver, Colorado

The Bureau of Land Management Colorado State Office will relocate its office personnel, equipment, and functions from the present location at 1600 Broadway, Denver, Colorado, to 2000 Arapahoe Street, Denver, Colorado.

The move will commence at 7:45 a.m., May 26, 1981 and be completed by 7:45 a.m., June 3, 1981. The relocation involves the move of the Public Land Records Offices and Cashiers Office which will be closed from 7:45 a.m., May 27, 1981, and be open for business in the new location at 7:45 a.m., June 3, 1981.

In accordance with Title 43 CFR 1821.2: 2-1; 2-2; 2-3, applications, payments, and other documents received for filing in Bureau of Land Management, Colorado State Office during the normal course of business from May 27, 1981 through June 2, 1981, shall be deemed to be filed or received as of 7:45 a.m., June 3, 1981. Those documents required by regulations to be filed or received during the period 7:45 a.m., May 27, 1981 through 4:15 p.m., June 2, 1981 will be timely filed if received and time and date stamped in the Cashiers Office in its new location not later than 4:15 p.m. on June 3, 1981.

The mailing address for the new office location will be effective June 1, 1981 and will be: Bureau of Land Management, Colorado State Office, 2000 Arapahoe Street, Denver, Colorado, 80205.

George C. Francis,

State Director.

[FR Doc. 81-12228 Filed 4-24-81; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

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

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

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

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-2-051

Decided: April 20, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

MC 24583 (Sub-42F), filed April 9, 1981. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. Transporting *asphalt and asphalt products*, between Pulaski and Union Counties, AR, and points in LA, TX, OH, MS, TN, MO, KY, IA, AL, KS, NC, PA, OH and CA.

MC 107743 (Sub-60), filed April 9, 1981. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456 TA, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101. Transporting (1) *building materials*, (2)

Lumber and wood products, and (3) *forest products,* (a) between points in NE, KS, TX, OK, and AR, (b) between points in NE, KS, OK, TX, AR, MT, NM and AZ, on the one hand, and, on the other, points in MN, MO, IL, WI, OH, MI, IN and IA and (c) between points in CA, on the one hand, and, on the other, points in AR, OK and TX.

MC 113362 (Sub-417), filed April 9, 1981. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912, (507) 433-3427. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of petroleum and petroleum products, between points in the U.S., under continuing contract(s) with Pennzoil Products Company, of Houston, TX.

MC 135762 (Sub-18), filed April 9, 1981. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902, (501) 782-1001. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Olympic Distributors, Inc., of Houston, TX.

MC 139323 (Sub-6), filed April 8, 1981. Applicant: KARS TRANSPORT, INC., 3333 NW 116th St., Miami, FL 33167. Representative: Robert L. Cope, Suite 501, 1730 M St., NW, Washington, DC 20036. Transporting *general commodities (except Classes A and B explosives),* between points in FL.

MC 139743 (Sub-10), filed April 8, 1981. Applicant: GEORGIA CARPET EXPRESS, INC., P.O. Box 1680, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, 404-321-1765. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of floor coverings, between points in Catoosa, Murray, Waker and Whitfield Counties, GA, Dallas County, TX and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. in and west of MN, IA, MO, AR and LA.

MC 144023 (Sub-7), filed April 10, 1981. Applicant: KMT, INC., d.b.a. TAYLOR TRANSPORT, 6335 Old Pineville Rd., Charlotte, NC 28210. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis TN 38137. Transporting *such commodities* as are dealt in or used by hardware stores, between points in CA, on the one hand, and, on the other, points in the U.S.

MC 146193 (Sub-7), filed April 9, 1981. Applicant: CAMPBELL GRAIN CORPORATION, Box 94, Humeston, IA 50123. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 146553 (Sub-21), filed April 9, 1981. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *pulp, paper and related products,* between points in Scott County, IA, Lancaster County, PA, and Franklin County, OH, on the one hand, and, on the other, points in the U.S.

MC 146553 (Sub-22), filed April 8, 1981. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *rubber and plastic products,* between points in Scott County, IA, on the one hand, and, on the other, points in the US., and (2) *rubber and plastic products, and chemicals and related products,* between the facilities of Bandag, Inc., at points in the U.S., on the one hand, and, on the other, points in CA, GA, IA, NC, and TX.

MC 146623 (Sub-7), filed April 9, 1981. Applicant: STAMEY ENTERPRISES, INC., 7350 102d Place, South, Boynton Beach, FL 33435. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW. 53d St., Miami, FL 33166, (305) 592-0036. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of household and marine fixtures and accessories, between points in FL, on the one hand, and, on the other, points in the U.S.

MC 146742 (Sub-3), filed March 12, 1981. Applicant: H & F TRUCKING COMPANY, INC., R.R. #4, Mattoon, IL 61938. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *printed matter,* between points in Jefferson and Marion Counties, IL, on the one hand, and, on the other, points in IL and Indianapolis, IN.

Volume No. OPY4-093

Decided: April 20, 1981.

By The Commission, Review Board No. 2, Members Carleton, Fortier and Williams.

MC 63417 (Sub-306), filed April 16, 1981. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, (same address as applicant), (703) 342-1835. Transporting *furniture and fixtures,* between points in Hinds County, MS, on the one hand, and, on the other, points in the U.S.

MC 142987 (Sub-2), filed April 13, 1981. Applicant: WILLIAM C. CHERWIN, d.b.a., BOADY ENTERPRISES, 1955 Diehl Rd., Aurora, IL 60505. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705, (608) 238-3119. Transporting (1) *building materials,* between points in the U.S., under countinuing contract(s) with Lumberman's Wholesale, Inc., of Aurora, IL, and (2) *animal food,* between points in the U.S., under continuing contract(s) with (a) Triumph Pet Industries, Inc., of Hillburn, NY, and (b) Evanger's Dog and Cat Food Co., Inc., of Wheeling, IL.

MC 143537 (Sub-2), filed April 16, 1981. Applicant: CHARLES W. HOLTCAMP, d.b.a., C BAR S FARMS, 15731 North County Rd., Wellington, CO 80549. Representative: Lee E. Lucero, 450 Capitol Life Ct., Denver, CO 80203, (303) 568-3285. Transporting (1) *building materials,* and (2) *those commodities which because of size or weight require the use of special handling or equipment,* between ponts in the U.S., under continuing contract(s) with Tri-State Steel Co., of Cheyenne, WY.

MC 143587 (Sub-2), filed April 15, 1981. Applicant: SOUTHERN PAPER STOCK COMPANY, a corporation, P.O. Box 622, Spartanburg, SC 29304. Representative: Willima P. Jackson, Jr., 3426 N. Wahington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. Transporting *such commodities* as are dealt in or used by manufactures and distributors of pulp, paper and related products and chemicals and related products, between points in the U.S., under continuing contract(s) with Westvaca Corporation, of New York, NY.

MC 144477 (Sub-2), filed April 15, 1981. Applicant: GARDEN CITY TRANSPORTATION CO., INC., 900 E. William St., San Jose, CA 95116. Representative: John L. Shea (same address as applicant), (408) 297-6400. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 148647 (Sub-25), filed April 16, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 W. 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N. LaSalle St., Chicago, IL 60601, (312) 332-5106. Transporting *general commodities* (except classes A and B explosives),

between points in the U.S., under continuing contract(s) with Ford Motor Company, of Dearborn, MI.

MC 153707 (Sub-1), filed April 13, 1981. Applicant: JOSEPH ROMEO, d.b.a. VALLEY TRUCKING CO., Rm. 201, 7 Lewis St., Binghamton, NY 13901. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344-8030. Transporting *general commodities* (except classes A and B explosives), between the facilities of Northeastern Pennsylvania Shipper's Cooperative, Inc., at points in PA, NY, and NJ, on the one hand, and, on the other, points in the U.S.

MC 155317, filed April 13, 1981. Applicant: JAMES D. KILBER, d.b.a. GREELEY CHARTER SERVICE, 1542 7th Ave., Greeley, CO 80631. Representative: Jack B. Wolfe, 655 Capitol Life Center, 1600 Sherman St., Denver, CO 80203, (303) 839-5856. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in Weld, Larimer, Logan and Morgan Counties, CO, and extending to points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12560 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 67]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: April 21, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issed to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirments for common and contract carriers.

By the Commission, Restrictions Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 1367 (Sub-6)X, filed March 13, 1981, notice in the Federal Register of April 1, 1981, republished as corrected this issue. Applicant: OWL TRANSFER & STORAGE, INC., 3623 6th Ave. S., Seattle, WA 98134. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. Applicant seeks to remove restrictions in its Sub-Nos. 2 and 5 certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)," (2) remove restriction that requires traffic to be transported in shipper-owned or shipper-leased containers or trailers in Sub-No. 5, (3) remove restriction to shipments having prior or subsequent movement by water in Sub-No. 5.; (4) remove restriction to traffic moving to or from AK and HI and the territories and possessions of the U.S., in Sub-No. 2, (5) authorize two-way authority in place of one-way authority in Sub-No. 2 and authorize service at all intermediate points along its route between Seattle and Tacoma, WA; and (6) broaden the territorial description in Sub-No. 5, from city-wide to county-wide authority as follows: Whatcom County, WA from Bellingham and Blaine, WA; Snohomish and Island Counties, WA for Everett, WA; Grays Harbor County, WA for Aberdeen and Hoquiam, WA; Cowlitz County, WA for Kelso and Longview, WA; Chelan and Douglas Counties, WA for Wenatchee, WA; Kittitas County, WA for Ellensburg, WA; Yakima County, WA for Yakima, WA; King, Pierce, Kitsap, and Snohomish Counties, WA for Seattle and Tacoma, WA and Clark County, WA and Multnomah County, OR for Vancouver, WA. The purpose of republication is to clarify the counties included in the expansion of Everett, Wenatchee and Vancouver, WA.

MC 16903 (Sub-87)X, filed April 13, 1981. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its Sub-Nos. 46, 66, 69 and 83 certificates to (1) broaden the commodity descriptions to "mental products" from steel pressure vessels, in Sub-No. 46, from fabricated metal products, in Sub-No. 66F, from iron and steel articles, in Sub-Nos. 69F and 83F, (2) remove the originating at and destined to restrictions in Sub-No. 46, (3) broaden the territorial description from one-way authority to radial authority and to replace specified plantsites with county-wide authority to authorize service (a) between Lawrence County, IN and points in the U.S., in Sub-No. 46, (b) between Cook County, IL (for Franklin Park, IL) and points in the U.S. in and east of MI, IL, MO, AR and LA, in Sub-No. 66 (c) between Youngstown, OH; Beaver County, PA (for Beaver and Aliquippa, PA) and points in CT, MA, ME, NH, RI, VT and those in Dutchess, Orange, Putnam and Ulstra Counties, NY and those in IN and south of IN Hwy 28, in Sub-No. 69 and (d) between Middlesex County, NJ (for Perth Amboy, NJ) and points in the U.S. in and east of MN, IA, MO, OK and TX, in Sub-No. 83, and (4) remove the exception of IN, AK, and HI in Sub-No. 46.

MC 22311 (Sub-32)X, filed April 13, 1981. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Applicant seeks to remove restrictions in its Sub-Nos. 8F, 10F, 17F, 22F and 23F certificates to (1) broaden the commodity descriptions to (a) "metal products and materials, equipment and supplies used in the manufacture and distribution thereof" from iron and steel articles and materials equipment,and supplies used in the manufacture and distribution of these commodities in Sub-Nos. 8F and 22F, iron and steel pipe in Sub-Nos. 17F, and (b) "building materials and metal products" from roofing and sheathing, steel, asbestos and asphalt combined, and iron or steel builidng construction sections in Sub-Nos. 10F and railway track equipment, materials and supplies, and iron and steel articles in Sub-No. 23F; (2) remove the "except commodities in bulk" restrictions in Sub-Nos. 8F and 22F; (3) remove the plantsites and/or originating at and destined to restrictions in Sub-Nos. 8F, 10F, 17F, and 22F; (4) replace cities with authority to serve the county: Sterling and Rock Falls with Whiteside County, IL, in Sub-No. 8F; Ambridge with Beaver and Allegheny Counties, PA, in Sub-No. 10F; Nitro with Kanawah County, WV, in Sub-No. 17F; and Elyria with Lorain County, OH, in Sub-No. 22F; and (5) change its one-way authorities to radial authorities (a) between Whiteside County, IL, and, points in the U.S. in and east of WI, IA, NE, KS, OK, and TX in

Sub-No. 8F; (b) between Beaver and Allegheny Counties, PA, and points in IL, IN, MI, and WI in Sub-No. 10F; and (c) between Kanawah County, WV, and, point in OH, PA, IN, IL, KY, NY, VA, and MD in Sub-No. 17F.

MC 32882 (Sub-165)X, filed April 17, 1981. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Blvd., Portland, OR 97217. Representative: David G. Lister, P.O. Box 17039, Portland, OR 97217. Applicant seeks to remove restrictions in its Sub-No. 96F certificate and E-7 letter-notice to: (1) remove all exceptions to its "general commodities" authority other than classes A and B explosives and remove the "mixed shipments" restriction in Sub-No. 96F (2) remove the restriction against the transportation of Mercer and earth-drilling commodities between points in UT, NV, WY and CO in Sub-No. 96F; (3) broaden the commodity description to "general commodities (expect Classes A and B explosives)" from (1) commodities which by reason of size or weight, require special handling or the use of special equipment, and commodities (except motor vehicles and motor vehicle cabs and bodies, and except classes A and B explosives), which do not require special handling or the use of special equipment when moving in the same shipments on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment: (2) self-propelled vehicles, weighing 15,000 pounds or more, transported on trailers and related machinery, tools, parts, and supplies moving in connection therewith; (3) iron and steel articles as described in *Descriptions* 61 MCC 209 and 766; (4) pipe and pipe fittings (except iron and steel); and (5) construction materials (other than forest products, lumber, lumber products, and wood products, and commodities in bulk) in E-7.

MC 39568 (Sub-14)X, filed April 13, 1981. Applicant: ARROW TRANSFER & STORAGE CO., 1116 Market St., Chattanooga, TN 37402. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Applicant seeks to remove restrictions in its lead and Sub-No. 6 certificates to (1) broaden the commodity descriptions from new household, office and store furniture and fixtures to "household goods and furniture and fixtures"; from general commodities (with exceptions) to "general commodities (except Classes A and B explosives)"; from meat, meat products, meat by-products, dairy products, articles distributed by meat packing houses and frozen foods to "food and related products" in the lead and from salt and salt products to "food and related products and chemicals and related products" in Sub-No. 6 (2) remove the mechanical refrigeration restriction in the lead, (3) change city to county-wide authority: from Chattanooga, TN to Hamilton County, TN, in paragraph (4) of the lead, and (4) change one-way to radial authority between (a) points in Hamilton County, TN, and points in AL, GA and TN within 50 miles of Chattanooga, TN, but not including those within 15 miles of Chattanooga, TN in the lead and (b) points in 3 TN counties, and, points in 7 states in Sub-No. 6.

MC 48441 (Sub-71)X, filed February 24, 1981, previously noticed in the Federal Register of March 17, 1981, republished as corrected this issue Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street NW., Washington, DC 20001. Applicant seeks to remove restrictions in its lead certificate to (1) broaden its commodity descriptions (a) in its regular route authority, from glass, glass products, yeast, malt products, and brewery supplies, to "clay, concrete, glass or stone products, food and related products, metal products, pulp, paper and related products, and chemicals and related products", (b) in its irregular route authority, from general commodities with the usual exceptions to "general commodities (except classes A and B explosives)", from building materials, paint, roofing, and iron and steel construction products, to "building materials, chemicals and related products and metal products", from beer, and malt products, canned goods, animal feed, and canned foodstuffs, to "food and related products", from empty malt beverage containers to "clay, concrete, glass, or stone products and metal products", from paper, and paper products, to "pulp, paper and related products", from telephone directories and telephone director pages to "printed matter", from glass containers, to "clay, concrete, glass or stone products", and from iron containers and steel containers, to "metal products"; and (2) broaden its territorial description (a) to authorize service at all intermediate points on described route between Milwaukee, WI, and Alton, IL, in the regular route portion of its lead authority, (b) change its one-way authority to radial authority between several named states, and replace cities and plantsite facilities with county-wide authority in the irregular route portion: Momence, IL with Kankakee County, IL, named facilities at Dwight, IL, with Livingston County, IL, Jonesboro, AR, with Craighead County, AR, named facilities at Plymouth, IN, with Marshall County, IN, Hamilton, MI, with Allegan County, MI, Danville, IL, with Vermilion County, IL, and Franklin, KY, with Simpson County, KY, and (c) replace Chicago Heights, IL with Chicago, IL under household goods commodity description, sheet No. 2. The purpose of this republication is to (1) add the proposed broadened commodity description of general commodities (except classes A and B explosives) to part (1)(b) which was omitted inadvertently in the original notice; (2) omit under part (2)(b) the description "Alton, Streator, and Peoria, IL, with Madison, La Salle and Peoria Counties IL" as this is an improper broadening of applicant's regular-route authority, although noticed as being irregular-route authority; (3) replace Momence, IL with Kankakee County, IL in part (2)(b), territory which was inadvertently omitted in the original notice; (4) add section (2)(c), replacing Chicago Heights, IL with Chicago, IL; and (5) change the commodity description in part (1)(a) and add the broaden commodity description in part (1)(b) for empty malt beverage containers which was omitted in the original notice.

MC 65802 (Sub-74)X, filed April 15, 1981. Applicant: LYNDEN TRANSPORT, INC, 5615 W. Marginal, Southwest, Seattle, WA 98106. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-No. 66 certificate to (1) remove all exceptions except classes A and B explosives from its general commodities authority, (2) remove the restriction to "in containers", (3) remove the restriction against movements between the ports of San Francisco and Los Angeles, and (4) remove a restriction limiting traffic moving from CA to ID to that having a prior move by water.

MC 105774 (Sub-8)X, filed April 6, 1981. Applicant: JOHNSON TRUCK LINE, INC., Jct U.S. Hwy 281 & U.S. Hwy 24, Osborne, KS 67473. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Applicant seeks to remove restrictions in its Sub-Nos. 3 and 4 certificates to (1) broaden the commodity description to "metal products and machinery" from (a) iron and steel articles and parts and materials to be used in the manufacture of agricultural machinery, in Sub-No. 3, and (b) agricultural machinery and parts, in Sub-Nos. 3 and 4, and, (2) broaden the territorial description to

county-wide authority to replace existing facilities and city-wide service: (a) Clay and Osborne Counties, KS, for facilities at Clay center KS, and for facilities at Osborne, KS, in Sub-No. 3, and (b) Mitchell County, KS, for facilities at or near Beloit, KS, in Sub-No. 4.

MC 110328 (Sub-21)X, filed April 10, 1981. Applicant: ROY A. LEIPHART TRUCKING, INC., 1298 Toronita St., York, PA. Representative: Charles E. Creager, P.O. Box 1417, Hagerstown, MD 21740. Applicant seeks to remove restrictions from its lead certificate to (1) broaden the commodity description from fertilizer to "chemicals and related products"; from chains to "metal products"; from canned goods and groceries to "food and related products"; from homosote to "chemcials and related products"; from groceries to "food and related products"; from oil, in drums, to "petroleum, natural gas and their products"; from feed fertilizer and farm products to "food and related products, chemicals and related products, and farm products"; from metal ignots to "metal products"; from scrap metal to "metal products" and from general commodities (with exceptions) to "general commodities (except Classes A and B explosives)", (2) remove the "in bulk" restriction, (3) change city to county-wide authority (a) from Wilmington, DE and York, PA to New Castle County, DE and York County, PA, (b) from Boston, Fall River, Lowell, MA and Utica, NY to Middlesex, Bristol, and Suffolk Counties, MA and Oneida County, NY (c) from Dallastown, Lebanon, Lykens, Harrisburgh, Lancaster, Reading, Shamohen, Sunbury, York, Hanover, Red Lion, and Hershey PA to Lebanon, Dauphin, Lancaster, Berks, Northumberland, and York Counties, PA, (d) from Trenton, NJ and Windsor, PA, to Mercer County, NJ and York County, PA, (e) from Windsor, PA to York County, PA, (f) from Claymont, DE and York, PA to New Castle County, DE and York County, PA, and (g) from Columbia, PA to Lancaster County, PA; and (4) change one way to radial authority between various combinations of points in the Northeastern U.S.

MC 60014 (Sub-208)X, filed March 30, 1981. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-Nos. 43, 59, 77F, 78F, 79F, 107F, 108F, 109F, 110F, 111F, 112F, 114F, 138F, 139F, 141F, 145F, 146F, 149F, 153F, 156F, 159F, 161F, 165F, 177F, 181F, 184F, 187F, 189F, 194F and 204 certificates to (A) broaden the commodity descriptions to (1) "metal products and materials, equipment and supplies used in the manufacture and distribution thereof" from aluminum products and supplies, materials, and equipment and zinc products, in Sub-No. 43, (2) "metal products and construction materials" from iron, steel, zinc, lead, and articles or products thereof, and springs, in Sub-No. 59, (3) "metal products and contractors' equipment and supplies" from contractors' equipment and supplies, bulk storage tanks and smoke stacks which because of their size or weight, require special handling and use of special equipment, in Sub-No. 77F (4) "metal products" from (a) iron and steel articles, in Sub-No. 79F, 109F, 138F, 146F, 149F, 161F, 181F (b) metal articles, in Sub-No. 107F, (c) steel building components, in Sub-No. 108F, (d) fabricated iron, steel articles, and aluminum articles, in Sub-No. 110F, (e) iron and steel fencing, in Sub-No. 141F, (f) fencing, wire and wire products, in Sub-No. 145F, (g) waste and pollution equipment and filters, in Sub-No. 112F (h) non-ferrous metals, in Sub-No. 156F, (i) metal buildings, in Sub-No. 177F, (j) fabricated steel articles, in Sub-No. 112F and 184F, (k) brass and bronze articles, in Sub-No. 189F, (1) aluminum and aluminum articles, in Sub-No. 194F, and (m) metal articles and pipe, in Sub-No. 204, (2) "clay and refractory products" from face brick, firebrick, fire clay, and structural facing tile, in Sub-No. 78F, (3) "rubber and plastic products" from plastic pipe and fittings and materials, supplies and accessories, in Sub-Nos. 112F and 114F, (5) "lumber and wood products" from lumber products, in Sub-No. 139F, (6) "contractors' materials" from (a) building materials and components therefor, (b) roofing materials, and supplies and accessories, in Sub-No. 165F, and (c) prefinished panel siding and materials and supplies, in Sub-No. 187F, (7) "machinery" from clean air equipment, filter and accessories, in Sub-No. 181F, (8) "transportation equipment" from (a) truck equipment, parts and accessories, in Sub-No. 181F, and (b) railway and locomotive wheels and axles, in Sub-No. 153F, (9) "metal products, and, lumber and wood products" from light poles and light pole accessories, in Sub-No. 111F, and (10) "clay, concrete, glass or stone products" from clay pipe, in Sub-No. 112F; (B) remove the (a) commodities "in bulk" exception, in Sub-Nos. 43, 59, 77F part (2), 109F, and 187; and (2) "foreign commerce" restriction, in Sub-No. 59; (C) remove the restriction prohibiting service to (1) AK and HI, in Sub-Nos. 43, 59, 77F, 108F, 111F, 114F, 138F, 145F, 153F, 156F, 159F, 177F, 181F, 184F, 187F, 194F and 204, (2) MN, in Sub-No. 77F and (3) HI, in Sub-No. 149F; (D) remove the restriction (1) limiting service to the transportation of traffic originating at or destined to named facilities, in Sub-Nos. 43, 59, 77F, and (2) prohibiting the transportation of specified commodities, in Sub-No. 107F; (E) eliminate the facilities restrictions, in Sub-Nos. 43, 59, 77F, 78F, 79F, 107F, 108F, 109F, 110F, 111F, 112F, 114F, 138F, 139F, 141F, 145F, 146F, 149F, 153F, 156F, 159F, 161F, 165F, 181F, 184F, 187F, 189F, 194F, and 204; (F) broaden the city-wide service to county-wide authority; (1) Morgan County, AL, for Decatur, AL; Pinal County, AZ, for Casa Grande, AZ; Los Angeles, Riverside, Tulare and Yolo Counties, CA, for Long Beach, Riverside, Visalia, Perris Valley and Woodland, CA; Larimer County, CO, for Loveland, CO; Marion and Hillsborough Counties, FL, for Ocala and Plant City, FL; Fayetteville and Clayton Counties, GA, for Peachtree City and Jonesboro, GA; Ada and Twin Falls Counties, ID, for Boise and Twin Falls, ID; Cook, Grundy and Kane Counties, IL, for Chicago, Morris and St. Charles, IL; Johnson and Knox Counties, IN, for Franklin and Bicknell, IN; McPherson County, KS, for McPherson, KS; Chippewa County, MN, for Montevido, MN; Desoto County, MS, for Hernando, MS; Chautauqua County, NY, for Dunkirk, NY; Rockingham County, NC, for Reidsville, NC; Cuyahoga County, OH, for Cleveland, OH; Tulsa and McIntosh Counties, OK, for Tulsa and Checotah, OK; Marion County, OR, for Stayton, OR; Columbia County, PA, for Bloomsburg, PA; Grayson and Tarrant Counties, TX, for Denison and Mansfield, TX; Whatcom and Spokane Counties, WA, for Spokane and Ferndale, WA; and Woods County, WI, for Marshfield, WI, in Sub-No. 43, (2) Cook and Will Counties, IL, for Blue Island and Joliet, IL; Hamilton, Elkhart, Allen and Howard Counties, IN, for Cicero, Elkhart, Ft. Wayne and Kokomo, IN; Appanoose County, IA, for Centerville, IA; Kent and Ingham Counties, MI, for Grand Rapids and Lansing, MI; Hinds County, MS, for Jackson, MS; and Franklin and Lucas Counties, OH, for Columbus and Toledo, OH, in Sub-No. 59, (3) Ramsey County, MN, for Eagan, MN, in Sub-No. 77F, (4) Polk County, IA, for Des Moines, IA, in Sub-No. 79F, (5) Harris County, TX for Houston, TX, and Fulton County, GA, for East Point, GA, in Sub-No. 107F, (6) Fort Bend County, TX, for Stafford, TX, in Sub-No. 108F, (7) Jefferson County, TX, for Beaumont, TX, in Sub-No. 109F, (8) Harris County, TX, for Houston, TX,

in Sub-No. 110F, 111F, and 159F, (9) Palo Pinto County, TX, for Mineral Wells, TX; Marion County, MS, for Columbia, MS, and White County, TN, for Sparta, TN, in Sub-No. 112F, (10) Cuyahoga County, OH, for Cleveland, OH; DeKalb County, GA, for Stone Mountain, GA; Kern, Los Angeles and Orange Counties, CA, for Bakersfield, Sun Valley and Santa Ana, CA, in Sub-No. 114F, (11) Hempstead County, AR, for Hope, AR, and Fayette County, TX, for Plum, TX, in Sub-No. 138F, (12) Jefferson and Grant Counties, AR, for Pine Bluff and Sheridan, AR, in Sub-No. 139F, (13) Crawford County, AR, for Van Buren, AR, in Sub-No. 145F, (14) Jefferson County, AL for Fairfield, AL; and Harris, Dallas and Orange Counties, TX for Baytown, Garland and Orange, TX, in Sub-No. 146F, (15) Montgomery County, TX, for Conroe, TX, in Sub-No. 149F, (16) Lee County, IA, for Keokuk, IA, in Sub-No. 153F, (17) San Bernadino County, CA, for Fontana, CA; Ray County, MO, for Henrietta, MO; and Franklin, Calhoun and Colbert Counties, AL, for Russellville, Anniston and Sheffield, AL, in Sub-No. 156, (18) Huron County, OH, for Bellevue, OH; Wagoner County, OK, for Wagoner, OK; Shelby County, TN, for Memphis, TN; Orleans Parish, LA, for New Orleans, LA; Harris County, TX, for Houston, TX, in Sub-No. 161F, (19) Tuscaloosa County, AL, for Tuscaloosa, AL; and Quachita County, AR, for Stevens, AR, in Sub-No. 165F, (20) Bernalillo County, NM, for Albuquerque, NM, in Sub-No. 181F (21) Santa Clara County, CA, for Santa Clara, CA, in Sub-No. 181F and 187F, (22) Los Angeles County, CA for Paramount, CA, in Sub-No. 189F, (23) Hancock County, KY, for Lewisport, KY; Polk County, OR, for Dallas, OR; and Los Angeles County, CA, for Torrance, CA, in Sub-No. 194F, and (24) Richland County, SC, for Columbia, SC; Pasco County, FL, for Locoochee, FL; Hartford County, MD, for Perryman, MD; Macomb County, MI, for Romeo, MI; Cuyahoga County, OH, for Solon, OH; Morris County, NJ, for Wharton, NJ; Columbia County, NY, for Hudson, NY; and Northampton County, VA, for Cape Charles, VA, in Sub-No. 204; and (G) authorize radial authority to replace one-way service between cities and counties in various combinations of States throughout the U.S., in Sub-Nos. 59, 77F, 78F, 79F, 107F, 108F, 109F, 110F, 111F, 112F, 114F, 138F, 139F, 141F, 145F, 146F, 149F, 153F, 156F, 159F, 165F, 177F, 181F, 184F, 187F, and 189F.

MC 109593 (Sub-16)X, filed April 13, 1981. Applicant: H. R. HILL, P.O. Box 875, Muskogee, OK 74401. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Applicant seeks to remove restrictions in its Sub-Nos. 4 and 11F permits to (A) broaden the commodity descriptions: in Sub-No. 4 to "pulp, paper, and related products" from paper and paper products; and Sub-No. 11 to "rubber and plastic products" from plastic articles, equipment, materials, and supplies (except size and weight commodities); and (B) broaden the territorial descriptions in each permit to authorize service between points in the U.S., under continuing contract(s) with a named shipper.

MC 114292 (Sub-1)X, filed April 10, 1981. Applicant: OIL EXPRESS, INC., 1634 W. Circle Avenue, South Bend, IN 46628. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from petroleum and petroleum products, in bulk, in tank vehicles to "petroleum, natural gas and their products", and (2) broaden its territorial description from one-way authority to radial authority and to replace city with county-wide authority between Berrian County, MI (for Niles, MI and 5 miles thereof) and points in a described portion of IN.

MC 116227 (Sub-15)X, filed April 16, 1981. Applicant: POLMAN TRANSFER, INC., Route 3, Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Applicant seeks to remove restrictions in its permit No. MC-108523 (Sub-No. 14)F which authorizes the transportation of canned and preserved foodstuffs from five facilities to points in six States to (1) broaden its commodity description to "food and related products"; and (2) broaden the territorial scope to between points in the U.S., under continuing contract(s) with a named shipper.

MC 118370 (Sub-9)X, filed April 9, 1981. Applicant: BANANA TRANSPORT, INC., 12712 No. Oregon Avenue, Tampa, FL 33612. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 3F, 6F, 7F, and 8F to (A) broaden the commodity descriptions from bananas to "food and related products" in the lead and Sub-Nos. 2, and 3F; from (1) central heating and air conditioning units and (2) components parts for central heating and air conditioning units, to "metal products and machinery" in Sub-No. 6F; from (1) meats, meat products, meat byproducts and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) and (2) foodstuffs in mixed loads with the commodities in (1) above, to "food and related products" in Sub-No. 7F; and from (1) heating and air conditioning units, (2) parts for the commodities in (1) above; and (3) materials and supplies used in the manufacture and distribution of the commodities in (1) and (2) above, to "metal products and machinery and materials, equipment and supplies used in the manufacture and distribution of the commodities thereof", in Sub-No. 8F; (B) broaden the territorial scope by (a) removing the restriction against the transportation of traffic having an immediately prior movement by water in Sub-No. 2; (b) by replacing one-way with radial authority in the lead and Sub-Nos. 2, 3F and 7F; and (c) by replacing named facilities with county-wide authority in Sub-No. 7F as follows: (1) between points in Davidson County (Goodlettsville), TN, and points in AL, FL, and GA and (2) between points in Cass County (Beardstown), IL, and points in Davidson County, TN, and FL.

MC 120737 (Sub-88)X, filed April 13, 1981. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James Hardman, 33N. LaSalle St., Chicago, IL 60602. Applicant seeks to remove restrictions in its Sub-Nos. 11, 17, 23 and 28 certificates to (1) broaden the commodity description to "metal products and machinery" from heating, cooling and air handling systems and materials and supplies used in the installation of such systems in Sub-No. 11; from livestock feeder tanks, fuel tanks, stalls, grain boxes, and electronic fence posts in Sub-No. 17; from castings, forgings, and tractor and engine parts in Sub-No. 23; and, from tractor parts, argicultural implement parts and castings, road making machinery and machinery parts in Sub-No. 28 (2) remove plantsite limitations and replace Rockford, IL, with Winnebago County, IL, in Sub-No. 11, (3) change city to county-wide authority: from Bushnell, IL, to McDonough County, IL, in Sub-No. 17; from Melrose Park, IL, to Cook County, IL, in Sub-No. 23; and, from Canton, Rock Island, Libertyville and Melrose Park, IL, to Fulton, Rock Island, Lake and Cook Counties, IL, in Sub-No. 28, (4) remove the originating at and destined to named points retriction in Sub-Nos. 11, 23, and 28, (5) remove the restrictions against commodities in bulk and those which because of size or weight require special equipment in Sub-No. 11, and (5) change one-way to radial authority between (a) points in 1 IL

county, and, points in 12 states in Sub-No. 11, (b) points in 1 IL county, and, points in 10 states in Sub-No. 17; (c) Louisville, KY, and, points in Cook County, IL, in Sub-No. 23, (d) Rock Island, IL, and Louisville, KY and Memphis, TN; and, Memphis, TN, and, Rock Island, Fulton, Lake and Cook Counties, IL, and East Moline, IL, in Sub-No. 28.

MC 125380 (Sub-3)X, filed April 17, 1981. Applicant: SOULANGES TRANSPORT, INC., P.O. Box 3500, Calgary, Alberta, Canada, T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Applicant seeks to remove restrictions in its lead and Sub-No. 2 permits to (1) broaden its commodity descriptions from cement, in bags and in bulk, to "building materials"; in both permits; (2) broaden its territorial authority to between points in the U.S., under a continuing contract(s) with a named shipper, in both permits; and (3) eliminate the restriction limiting transportation to traffic moving from points in the Province of Quebec, Canada, in both permits.

MC 125533 (Sub-49)X, filed March 30, 1981. Applicant: GEORGE W. KUGLER, INC., 2800 E. Waterloo Rd., Akron, OH 44312. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove retrictions in its Sub-Nos. 1, 6, 10, 11, 12, 17, 18, 19, 20, 21, 22F and 23F (part 5) (acquired in MC-F-13566), 25F, 26F, 27F, 28F, 30F, 31F, 32F, 34F, 35F, 37F, 40F, 41F, 44 and 45 certificates to (1) broaden the commodity descriptions from (a) pipe, pipe fittings, couplings, connections, and accessories, except iron and steel pipe; manhole covers, gratings, castings, and attachments, parts, and fittings for such commodities cast iron pipe, attachments, parts and fittings for cast iron pipe, and materials and supplies used in the manufacturing and distribution of cast iron products; iron and steel conduit and metallic tubing and fittings for such commodities; fire hydrants; hydrants, valves, fittings and couplings; pipe, cable, conduit wire, and strip steel; tubing; aluminum articles and equipment and supplies used in their manufacture, distribution and installation; accessories used in the installation of asbestos cement pipe and iron and steel articles to "metal products," in Sub-Nos. 1, 6, 11, 12, 19, 21, 23, 26, 27, 28, 31, 32, and 44; (b) sewer pipe, fiber pipe and attachments, parts, and fittings for same; plastic pipe, conduit, and fittings; pipe except iron and steel; materials and supplies used in the installation of plastic pipe; plastics and plastic articles; and fitting compounds to "rubber and plastic products," in Sub-Nos. 1, 6, 11, 17, 18, 19, 23, 25, 26, 27, 28, 30, 32, 34, 37, 41, and 44; (c) clay products, refractories and materials and supplies used in the manufature and installation of same; sewer pipe; concrete pipe; pipe except iron and steel; brick; clay and shale products, fitting compounds; pipe and conduit; fiber pipe; clay roofing tile; pipe fittings, valves, hydrants, castings and accessories used in the installation of same; pipe couplings and connections and accessories used in the installation of same; asbestos cement pipe and fittings and accessories used in the installation of same; clay and shale products and fitting compounds and materials and supplies used in the installation of same to "clay, concrete, glass or stone products" in Sub-Nos. 1, 6, 11, 17, 18, 19, 20, 23, 25, 26, 27, 28, 30, 32, 34, 37, 41, and 44; (d) hydraulic machinery and hydraulic machinery parts and accessories, equipment, materials and supplies used in the manufacture, distribution, and installation of aluminum articles and the various above-mentioned types of pipe and conduit to "machinery," in Sub-Nos. 6, 28, 31, and 32; (e) polyvinyl chloride; shale products and fitting compounds; and polystyrene products to "chemicals and related products" in Sub-Nos. 1, 6, 34, and 35; (f) propane gas; materials used in the installation of clay roofing tile; accessories used in the installation of pipe, fittings, valves, hydrants, castings, couplings, connections, bricks, and clay and refractory products; shale products, and petroleum and petroluem products to "petroleum, natural gas, and their products" in Sub-Nos. 6, 25, 26, 27, 28, 32, 34, 40, and 44; (g) materials and supplies used in the manufacture and installation of clay and refractory products; materials and supplies and accessories used in the installation of pipe, fittings, valves, hydrants, castings, couplings, connections, bricks, clay, refractory products, asbestos cement pipe; shale products, and fitting compounds to "coal and coal tar products" in Sub-Nos. 6, 25, 26, 27, and 28; (h) materials and supplies used in the manufacture and installation of clay and refractory products, pipe, fittings, valves, hydrants, castings, couplings, connections, bricks, shale products, and fitting compounds to "lumber and wood products," in Sub-Nos. 6, 26, 27, 28, and 34; (i) materials and supplies used in the manufacture and installation of clay and refractory products, pipe, fittings, valves, hydrants, castings, couplings, connections, shale products, and fitting compounds to "transportation equipment" in Sub-Nos. 6, 26, 27, 28, and 34; (j) materials and supplies used in the manufacture and installation and processing of aluminum articles and clay, refractory and shale products and fitting compounds to "ores and minerals" in Sub-Nos. 6, 18, 31, and 44; and general commodities, except commodities in bulk and motor vehicles, to "general commodities, except class A and B explosives" in Sub-No. 22; (2) remove the "size or weight" restriction, in Sub-No. 1; (3) remove the restriction prohibiting (a) the transportation of specified commodities, in Sub-Nos. 1 and 6 part 23, and (b) joint line service in Sub-No. 6 parts (10) through (24); (4) remove the commodities (a) "in bulk" restriction, in Sub-Nos. 6 parts (1), (2) and (6), 17, 18, 21, 22F, 26F, 27F, 28F, 34F and 40F; (b) "in tank vehicles" restriction, in Sub-Nos. 6 part (7), and 21, and (c) in "motor vehicles" restriction, in Sub-No. 22F; (5) remove the restriction limiting service to the transportation of shipments originating at and/or destined to named points, in Sub-Nos. 6 parts (1) through (13) and (16), 6, 11 and 12; (6) replace city-wide or facilities authority with county-wide authority as follows: Sangamon County, IL for Springfield, IL, in Sub-No. 1; Montgomery County, PA, for facilities at Pittstown, PA; Tuscarawas County, OH for facilities at Parral and Uhrichsville, OH; Clearfield County, Pa for facilities at Clearfield, PA; Summit County, Oh for facilities at Mogadore, OH, and Tallmadge, OH; Providence County, RI, for Providence, RI; LaSalle County, IL for facilities at Streator, IL; Allegheny County, PA for Oakdale, PA; Baltimore County, MD for Relay and Sparrows Point, MD; Kalamazoo County, MI, for Portage, MI; Hamilton County, OH, for facilities at Ancor, OH; Portage County, OH, for facilities at Diamond, Uhrichsville, and Windham, OH; Broward County, FL for Ft. Lauderdale, FL; Marion County for Ocala, FL; Coos County, NH for Berlin, NH; Burlington County, NJ, for Lumberton Township and Florence, NJ; Calument County, WI for Brillion, WI; Union County, NJ, for Kenilworth, NJ; Glouster County, NJ, for facilities at Williamstown and Paulsboro, NJ; Winnebago County, WI, for facilities at Neenah, WI; Westmoreland County, PA, for facilities at New Kensington, PA; Kanawha County, WV for Charleston, WV; Morris County, NJ for Dover, NJ; Hudson County, NJ, for South Kearny, NJ; Bergen County, NJ for Little Ferry, NJ; Union County, NJ for Kenilworth, NJ; Delaware County, PA, for Marcus Hook, PA in Sub-No. 6; Portage County, OH, for (a) Mantua Township, OH, in Sub-No. 10, (b) Ravenna, OH, in Sub-No. 11, (c)

Windham, OH, in Sub-No. 30F; Upshur County, WV, for facilities at Buckhannon, WV; Somerset County, NJ for facilities at Somerville, NJ; DuPage County, IL, for facilities at Carol Stream, IL, in Sub-Nos. 6 and 17; Chatham County, NC, for facilities at Gulf, NC; Guilford County, NC, for facilities at Greensboro, NC, in Sub-No. 18; Marshall County, WV, for facilities at Glendale, WV, in Sub-No. 19; Chester County, PA, for Phoenixville, PA in Sub-No. 20; Anderson County, SC for facilities at Anderson, SC; Broome County, NY for facilities at Vestal, NY, in Sub-No. 21; Perry County, OH, for New Lexington, OH, in Sub-No. 25; Jefferson County, AL, for facilities at Birmingham, AL; St. Clair County, AL for facilities at Pell City, AL in Sub-No. 26F; Boone County, MO, for facilities at Columbia, MO, in Sub-No. 27F; Tuscarawas County, OH, for Parral, OH, in Sub-No. 28F; Calloway County, MO, for facilities at Fulton, MO; Audrian County, MO for facilities at Vandalia, and Farber, MO; Scioto County, OH for facilities at Portsmouth, OH; Armstrong County, PA, for facilities at Templeton, PA; Clearfield County, PA, for Clearfield, PA; Cecil County, MD, for facilities at Leslie, MD; Garrett County, MD, for facilities at Jennings, MD, in Sub-No. 30F; Oswego County, NY, for Oswego, NY; Middlesex County, NJ, for Woodbridge, NJ; Marion County, WV, for Fairmont, WV, in Sub-No. 31; Montgomery County, PA for Ambler, PA, in Sub-No. 32F; Chatham and Guilford Counties, NC, for Gulf and Greensboro, NC, in Sub-No. 34F; Summit County, OH for Tallmadge, OH, in Sub-No. 35F; Adrian County, MO, for Farber, MO, in Sub-No. 37; Gloucester County, NJ, for Paulsboro, NJ; Caledonia and Marion Counties, OH, for Caledonia and Morral, OH, in Sub-No. 41F; Chatham County, NC for Gulf, NC; Baldwin County, GA for Milledgeville, GA; Richland County, SC for Columbia, SC; Baltimore County, MD for Sparrows Point, MD; Bucks and Northampton, PA for Morrisville and Bethlehem, PA; and Butler County, OH, for Middletown, OH, in Sub-No. 44; Montgomery County, PA, for Pottstown, PA in Sub-No. 45; and (7) authorize radial authority to replace one-way service between cities and counties in various combinations of States throughout the U.S., in Sub-Nos. 1, 6, 10, 11, 12, 17, 18, 20, 23F, 25F, 28F, 32F, 34F, 35F, 40F, 41F, and 44.

MC 127484 (Sub-11)X, filed April 13, 1981. Applicant: HOLT MOTOR EXPRES, INC, 701 North Broadway, Gloucester City, NJ 08030. Representative: Thomas J. Holt (same as the applicant). Applicant seeks to remove restrictions in its Sub-Nos. 2,5, and 8 certificates to (1) broaden the commodity descriptions from general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in all subs; (2) in Sub No. 2 remove the restriction limiting service to shipments moving to or from public warehouses in Philadelphia; (3) in Sub-No. 5(a) remove the facilities limitation and replace with New York, NY, and (b) remove the restriction requiring prior or subsequent movement by water; and (4) in Sub-No. 8 (a) remove the facilities limitations and replace with New York, NY and Baltimore, MD, and (b) remove the restriction requiring prior or subsequent movement by water.

MC 133383 (Sub-3)X, filed April 13, 1981. Applicant: MERCURY TANKLINE LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403, Applicant seeks to remove restrictions in its MC-125420 Sub-Nos. 2,4,6, 12, 19, 20, 23, 25, 27F and 28F permits to (1) broaden the commodity description to "food and related products" from (a) alcoholic beverages in Sub-Nos. 2, 4, 6, 12, 19, and 20, (b) alcoholic liquors and wine in Sub-No. 23, (c) alcoholic, beverages, and alcoholic liquors in Sub-No. 25, (d) beverages in Sub-No. 27F and (e) alcohol in Sub-No. 28F, and (2) broaden the territorial description to between points in the U.S. under continuing contract(s) with named shippers.

MC 134548 (Sub-9)X, filed April 7, 1981. Applicant: ZENITH TRANSPORT, LTD, 2381 Rogers Ave., Coquitlam, B.C., Canada Y3k 5Y2. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. Applicant seeks to remove restrictions in its Sub-Nos. 1,3, 5, 6 and 7 certificates to: (1) broaden the commodity description from bananas, in Sub-No. 6 and from Frozen foods and canned goods in Sub-No. 6 to "food and related products"; from paper felt products in Sub-No. 3 and wood pulp in Sub-No. 5 to "pulp, paper and related products"; from tungsten concentrate in sub-No. 7 to "ores and minerals"; (2) remove various restriction such as "in roles" in Sub-No. 3; "in bales" in Sub-No. 5; and "in boxes" in Sub-No. 7; (3) remove the facilities limitation at Hollister, CA, and replace with San Benito County, CA, in Sub-No. 3; (4) remove the restrictions requiring a subsequent movement in foreign commerce and that traffic be destined to named storage and warehouse facilities in Canada in Sub-No. 6; (5) replace city with county-wide authority in (a) Sub-No. 5 from Pomona, CA, to Los Angeles County, CA, (b) in Sub-No. 7 from Upper Schulite, CA, and Fallon, NV, to Inyo County, CA, and Churchill County, NV, (6) remove specific port of entry on the U.S.-Canada International Boaundary line at Blaire, WA, in Sub-Nos. 1,3,5,6, and 7 and at Lynden and Sumas, WA, in Sub-Nos. 5 and 7 and (7) change one-way to radial authority between (a) 1 California point and 1 Washington point, and, ports of entry on the U.S.-Canada Boundary line located in WA in Sub-No. 1, (b) ports of entry in WA, and, in San Benito County, CA, in Sub-No. 3, (c) ports of entry in WA, and, Los Angeles County, CA, in Sub-No.5, (d) points in 3 states, and, ports of entry in WA, in Sub-No. 6, and (e) ports of entry in WA, and, in Inyo County, CA, and Churchill County, NV, in Sub-No. 7.

MC 134548 (Sub-10)X, filed April 7, 1981. Applicant: ZENITH TRANSPORT LTD., 2381 Rogers Ave., Coquitlam, British Columbia, Canada V3K5Y2. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. Applicant seeks to remove restrictions in its No. MC-144908 and Sub-Nos. 1 and 3 permits and No. MC-134548 (Sub-No. 8) permit to (1) broaden the commodity description from wire and nails to "metal products" in its lead; from sugar syrup in Sub-No. 1 and coffee in Sub-No. 3 to "food and related products"; from rubber mats to "rubber and plastic products" in Sub-No. 3; and from asbestos fiber to "ore and minerals" in Sub-No. 8; and (2) expand the territorial descriptions to between points in the U.S. under continuing contract(s) with named shippers in all the above authorities.

MC 134637 (Sub-6)X, filed April 2, 1981. Applicant: SILICA TRANSPORT, INC., P.O. Box 232, West Market Street, Guion, AR 72540. Representative: Jack A. Knight (same address as above). Applicant seeks to remove restrictions in its Sub-No. 4F certificate to (1) broaden the commodity description from commodities in bulk, bentonite and abrasives and sand, to "commodities in bulk, and in bags"; (2) replace city-wide authority with county-wide authority: Oregon, IL with Ogle County, IL; Carlsbad, NM with Eddy County, NM; Batesville, AR with Independence County, AR; and Muskogee, OK with Muskogee County, OK; and (3) replace one-way authority with radial authority between points in (a) GA, and, MS, (b) TN and KY, and, AL (c) Ogle County, IL and Eddy County, NM, and, AR, (d) Independence County, AR, and points in the U.S., (e) Baxter County, AR, and, points in the U.S., (f) KY and TN, and,

AL, (g) KY and, TN, and (h) Muskogee County, OK, and points in the U.S.

MC 134645 (Sub-42)X, filed April 10, 1981. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Applicant seeks to remove restrictions in its Sub-No. 32F certificate to (1) broaden the commodity description from foodstuffs (except in bulk) to "food and related products"; (2) replace New Hope with Hennepin County, MN; (3) remove restriction limiting service to that originating at facilities at New Hope and Minneapolis, MN; and (4) replace one-way with radial authority between Hennepin County and Minneapolis, MN, and WA, OR, CA, AZ, CO, ID, UT, NV, and MT.

MC 135980 (Sub-1)X, filed April 6, 1981. Applicant: L. M. JAMISON, 3010 Clearbrook, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description to "apparel" from salvaged wearing apparel, in bales or in bags; (2) authorize radial, county-wide authority to replace existing one-way, city-wide service: between New York, NY (from a described part of the commercial zone), Bergen, Union and Hudson Counties, NJ (for Hackensack, Elizabeth and Kearney, NJ), and, Cameron, El Paso, Hidalgo and Webb Counties, TX (for Brownsville, McAllen, Laredo, and El Paso, TX).

MC 136123 (Sub-25)X, filed April 14, 1981. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same address as above). Applicant seeks to remove restrictions in its MC-128555 (Sub-No. 12) permit to (1) broaden the commodity description from citrus products, fruit juices, beverages and beverage preparations, except in bulk, to "food and related products"; and (2) broaden the territorial scope to between points in the U.S., under continuing contract(s) with a named shipper.

MC 136771 (Sub-9)X, filed April 10, 1981. Applicant: HY-WAY TRANSIT, INC., Route 1, Cedar Grove, WI 53013. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Applicant seeks to remove restrictions in its Sub-No. 5F, permit to broaden (1) the commodity description from steel wire and steel billets to "metal products" (2) the territorial description to between points in the U.S. under continuing contract(s) with a named shipper.

MC 141532 (Sub-112)X, filed April 6, 1981. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Ramona Vance, 1905 South Redwood Road, Salt Lake City, UT 84104. Applicant seeks to remove restrictions in its lead and Sub-Nos. 10, 11, 13, 15, 16, 25F, 28F, 39F, 45F, 46F, 50F, 51F, 69F, 75F, 78F, 85F, 92F, and 97F certificates to (1) broaden its commodity descriptions (a) in the lead, from wood cabinets and parts thereof, and wood paneling, to "lumber and wood products"; from doors and door frames, to "lumber and wood products, and metal products"; from forest products, lumber, and lumber mill products, to "forest products, and lumber and wood products"; from iron and steel articles, and construction materials, to "metal products, and building materials"; from iron and steel articles, iron and steel articles used in the manufacture of mobile homes, motor homes and campers, and industrial flourescent lighting and medical electrical appliances, to "metal products"; from aluminum and aluminum products, lumber and lumber mill products, paneling, particleboard, and composition board, used in the manufacture of mobile homes, motor homes and campers, to "metal products, lumber and wood products, and building materials"; from groceries, to "food and related products", from ore (not including coal), binder twine boats, poles, pilings, agricultural products, and livestock, to "ores and minerals, boats, metal products, lumber and wood products, clay, concrete, glass or stone products, food and related produces, and farm products"; from heavy machinery, structural steel, culverts, pipe, and construction and building materials and equipment, to "machinery, metal products, and building materials"; from commodities, the transportation of which, by reason of size or weight, require the use of special equipment, and related machinery parts and related contractor's materials and supplies when their transportation is incidental to the transportation of the authorized commodities to "machinery and commodities which because of size or weight require the use of special handling or equipment"; from heavy machinery, and contractor's equipment, to "machinery"; and from machinery, and construction materials and equipment, to "machinery and building materials"; (b) in all of the above sub-numbers except the lead, from various commodities such as iron bodied valves and fire hydrants; crushed automobiles and scrap automobile parts, pipe (with exceptions); aluminum and aluminum products; iron and steel, articles; titanium and titanium products and materials used in thereof; draft gear and rigging for railway cars and locomotives; prefabricated metal structural components, and parts and accessories used in the manufacture and installation thereof; wire, wire products, and fencing; aluminum and sheet plate; and iron and aluminum pipe and pipe fittings; copper and steel wire, aluminum, copper and steel cable and strands, reels used in the distribution thereof, and equipment materials and supplies used in the manufacture thereof; hand tools; and railroad ties, railroad rails, plate, bar, spikes, switchgear apparatus, springs, coils, and accessaries for the commodities thereof, to "metal products"; (2) replace its facilities and/or cities with county-wide authority (a) in the lead certificate, Corona, CA, with Riverside County, CA; El Monte, City of Industry, and Los Angeles, Ca, with Los Angeles County, CA; Kaiser, CA, with San Bernardino County, CA; Spokane, WA, with Spokane County, WA, (b) in Sub-No. 10, facilities at or near Sparks, NV, with Washoe County, NV, (c) in Sub-No. 13, facilities in Madera County, Ca, with Madera County, CA, (d) in Sub-No. 16, Portland, OR, and Sparks, NV, with Multnomah County, or, and Washoe County, NV,(e) in Sub-No. 25, Las Vegas, NV, with Clark County, NV, (f) in Sub-No. 28F, facilities at or near Fort Worth, TX, with Tarrent County, TX; and Portland, OR, with Multnomah County, OR, (g) in Sub-No. 39F, facilities at or near Carson City, NV, with Carson City County, NV, (h) in Sub-No. 45F, facilities at or near Van Buren, AR, with Crawford County, AR, (i) in Sub-No. 50F, facilities at or near Martins Ferry and Cambridge, OH, with Belmont and Guernsey Counties, OH, (j) in Sub-No. 51F, Orange, Buene Park, Long Beach, Commerce, and San Jose, Ca, Portland, OR, Alington, TX, Harrisonville, MO, Sycamore, IL, LaGrange, KY, Forest Park and Watkinsville, GA, and Eden and Tarboro, NC, with Orange, Los Angeles, and Santa Clara Counties, Ca, Multnomah County, OR, Tarrant County, TX Cass County, MO, DeKalo County, ILL, Oldham County, KY, Clayton and Oconee Counties, Ga, Rockingham and Edgecombe Counties, NC, (k) in Sub-No. 69F, facilities at or near Conroe, TX, with Montgomery County, TX, (1) in Sub-No. 75F, facilities at Trentwood, WA, with Spokane County, WA, (m) in Sub-No. 78F, facilities at or near Wheeling, WV, with Ohio County, WV, and (n) in Sub-No. 85F, facilities at or near Lewisport, KY,

with Hancock County, KY; (3) Change its one-way authority to radial authority between 14 specified counties and States, and points in several specified counties and States and points in the U.S., in the lead certificate and all sub-numbers except Sub-Nos. 85F, 92F, and 97F; (4) eliminate (a) in the lead and Sub-Nos. 13, 16, 25, 45F, 51F, 69F, and 85F, the originating at and destined to restrictions, (b) in the lead, the joinder only restriction, and (c) in Sub-Nos. 51F, 69F, and 85F, the AK and HI exceptions.

MC 427151 (Sub-115)X, filed April 16, 1981. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Applicant seeks to remove restrictions from its Sub-Nos. 21F, 36F, 74F, and 79 certificates to (1) broaden the commodity descriptions from metal containers, composite containers, container ends and containers to "such commodities as are dealt in or used by manufacturers and distributors of containers" in Sub-Nos. 21F, and 36F; (2) remove the "except commodities in bulk" restrictions in Sub-Nos. 74F, and 79; (3) remove the facilities limitation in Sub-Nos. 21F, ad 74F; (4) broaden Massillon, OH to, Stark County, OH, in Sub-No. 21F; Green Bay to Brown County, WI, in Sub-No. 36F; Lithonia and Stone Mountain to DeKalb County, GA; Chattanooga to Hamilton County, TN in Sub-No. 74F; Solon to Cuyahoga County, OH, in Sub-No. 79; (5) remove the "originating at and destined to" restrictions in Sub-Nos. 21F, 36F, 74F, and 79; and (6) expand its one-way authority to radial authority in Sub-Nos. 21F, 36F, and 79, between the above counties and numerous midwestern and southern States.

MC 142998 (Sub-17)X, filed April 10, 1981. Applicant: LAUGHLIN LINES, INC., 2527 N. Carson St., Suite 205, Carson City, NV 89701. Representative: Harley E. Laughlin (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 9F, 12F and 13F certificates to (1) broaden the commodity from food stuffs in 9F parts (2) and (3) and in Sub-No. 12F from frozen foods to "foods and related products"; (2) remove exceptions to general commodities (except classes A and B explosives) in Sub-No. 13F; (3) remove the originating at named facilities restriction in Sub-No. 9F; (4) replace authority to serve facilities at named points (a) Los Angeles County for Irwindale, CA, in Sub-No. 9F part (1) and Terminal Island, CA, in Sub-No. 9F part (2); (b) Orange County for Anaheim and Brea, CA, in Sub-No. 9F part (3); and (c) Hartford County for Hartford and Wethersfield, CT, in Sub-No. 12F; and (5) remove the HI exception in Sub-Nos. 9F and 13F.

MC 144557 (Sub-23)X, filed April 13, 1981. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions in its Permit No. MC-139113 and Sub-Nos. 2, 6, 15F, and 17F to (1) broaden its commodity descriptions (a) in Sub-Nos. 2 and 17F, from mayonnaise, salad dressing and salad dressing products, mustard, ketchup, jelly, tartar sauce, gelatin and gelatin products, and foodstuffs (except frozen, and in bulk), to "food and related products", and (b) in Sub-No. 6, from lawn, garden and recreation equipment, to "furniture and furniture fixtures, clay, concrete, glass or stone products, metal products, and machinery"; (2) broaden its territorial authority to, between points in the U.S. under continuing contract(s) with a named shipper, in the lead and all of the above subnumbers; and (3) eliminate the commodities in bulk restrictions, in Sub-Nos. 2, 6, 15F, and 17F.

MC 146035 (Sub-5)X, filed April 16, 1981. Applicant: SOUTHERN DRAYAGE, INC., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Applicant seeks to remove restrictions in its No. MC-147787 Sub-Nos. 6F and 7F permits to broaden its territorial authority to between points in the U.S. under continuing contract(s) with a named shipper, in both of the above sub-numbered permits.

MC 146079 (Sub-15)X; filed April 10, 1981. Applicant: JACKSON TRANSPORTATION, INC., R. R. 1, Box 410-C, Clayton, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its Sub-No. 12 certificate to (A) broaden the commodity description from general commodities, with the usual exceptions, to "general commodities (except classes A and B explosives)"; (B) broaden the territorial scope by replacing facilities with city or county-wide authority as follows: at (a) Detroit with Wayne County, MI; (b) Los Angeles and city of Industry with Los Angeles and Los Angeles County, CA; (c) Berkeley Heights with Union County, NJ; (d) Lemont, Orland Park and Chicago with Cook County and Chicago, IL; (e) Patterson with Passaic County, NJ; (f) West Haven with New Haven County, CT; (g) Holyoke with Hampden County, MA; (h) Beacon and Alden with Dutchess and Erie Counties, NY; (i) Conneaut with Ashtabula County, OH; (j) Houston with Houston and Harris County, TX; (k) Lynchburg with Campbell County, VA; (l) Indianapolis (city-wide), IN and (m) Philadelphia with Neshoba County, MS.

MC 148135 (Sub-3)X; filed April 6, 1981. Applicant: C. C. CASTOR, 10539 Valensin Road, Galt, CA 95632. Representative: Thomas M. Loughran, 100 Bush St., San Francisco, CA 94104. Applicant seeks to remove restrictions in its Sub-Nos. 1F and 2F permits to (1) broaden the commodity description to "buildings and building materials" from (a) houses or buildings (set-up, knocked down or in sections), and parts, walls, roofs and floor sections, in Sub-No. 1F, and (b) gypsum wallboard, in Sub-No. 2F, and (2) broaden territorial description to between points in the United States, under continuing contract(s) with a named shipper, in both permits.

MC 148158 (Sub-13)X; filed April 3, 1981. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA. Representative: Robert L. Cope, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Applicant seeks to remove restrictions in its Sub-Nos. 5F, 7F, 8F and 9F certificates and No. MC-139171 and Sub-Nos. 2F, 5F, 6F, 7F, 8F, 9F, 10F and 11F permits and No. MC-148158 Sub-No. 10F permit to (1) broaden the commodity descriptions (a) in certificates 5F, 7F and 9F and permits 6F, 7F, 8F, 9F, 10F, 11F and No. 148158 (Sub-No. 10) from general commodities (with exceptions) to "general commodities except Classes A and B explosives;" (b) in certificate 8F from dehydrated potatoes, onions and garlic to "food and related products; (c) in its lead permit from trailers, semi-trailers, trailer chasis, and dollies, containers, parts, equipment, accessories and supplies thereto to "trailers and containers", and (d) in permit 5F from ceramic tile to "building materials"; (2) authorize (a) in Certificate 8F, Madison, Bonneville and Binghem Counties, UT, for named facilities in these counties; and (b) in 9F, Los Angelos, Ventura and Orange Counties, CA, for a named shippers association facilities at Los Angeles, CA; Maricopa and Pinal Counties, AZ, for Phoenix, AZ; Cobb, DeKalb, Fulton, Douglas, and Fayette, and Clayton Counties, GA, for Atlanta, GA; Columbia, Washington, Yamhill, Clackamus, and Multnomah Counties, OR, and Clark Counties, WA, for Portland, OR; Crittenden County, AR, De Soto County, MS, and Fayette,

Shelby and Tipton Counties, TN, for Memphis, TN; Collin, Davis, Denton, Ellis, Kaufman, Rockwall and Tarrant Counties, TX, for Dallas, TX; El Paso County, TX, and Dona Ana County, NM, for El Paso, TX; Brazoria, Chambers, Fort Bend, Galveston, Harris, and Montgomery Counties, TX, for Houston TX; Davis, Morgan and Salt Lake Counties, UT for Salt Lake City, UT; and Island, King, Kitsap and Snohomish Counties, WA, for Seattle, WA; (3) authorize radial service for one-way service: between points in the US, and named facilities in UT, in Sub-No. 5; and between points in 3 ID Counties, and points in the US, in Sub-No. 8F; (4) remove restrictions against service to points in AK and HI in 5F and 8F; (5) remove a restriction in certificate 7F limiting service to traffic originating at or destined to a named shipper association; and (6) authorize service between points in the US under continuing contract(s) with names shippers in all permits.

MC 148614 (Sub-2)X, filed April 16, 1981. Applicant: CALDWELL TRUCKING, INC., Box 120, Star Route, Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions in its permit No. MC-135884 Sub-Nos. 1, 9, and 18F to (1) broaden the commodity descriptions from (a) unfinished and primed furniture, furniture parts, furniture hardware, and furniture samples to "furniture and fixtures, and furniture hardware" in Sub-No. 1; (b) canned and/or packaged baby formula, powdered soy milk, and vegetable protein to "food and related products" in Sub-No. 9; (c) soybeans to "farm products" in Sub-No. 9; (d) kitchen and bathroom cabinets to "lumber and wood products, and furniture and fixtures" in Sub-No. 18; (2) authorize service to all points in the U.S., under continuing contract(s) with named shippers in all referenced permits.

MC 148959F (Sub-1)X, filed April 13, 1981. Applicant: WILLIS TRUCKING COMPANY, 73 East Main Street, Mechanicsburg, PA 17055. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from lime, limestone and limestone products to "clay, concrete, glass and stone products", and (2) to broaden its territorial description from one-way authority to radial authority and to replace a specified plantsite with county-wide authority to authorize service between York County, PA (for York, PA), and points in DE and MD.

MC 149078 (Sub-8)X, filed April 3, 1981. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1F, 2F, 3F, 4F, 5F, and 6F certificates to (1) change the commodity descriptions as follows: from industrial fasteners and auto parts and materials, equipment, and supplies to "transportation equipment and metal products" in its lead; from label stock, and equipment, parts and supplies to "printed matter" in Sub-No. 1F; from auto parts, and equipment, materials and supplies to "transportation equipment" in Sub-No. 2F; from plastic liquid, resin, coal tar, and petroleum and resin compounds to "rubber and plastic products, chemicals and related products and petroleum or coal products" in Sub-No. 4F; to add "building materials" to materials, equipment and supplies used in the manufacture, prefabrication, construction, erection or installation of buildings, in Sub-No. 5F; and, from paint and paint materials to "chemicals and related products and paint materials", in Sub-No. 6F; (2) to replace authority to serve plantsites or named points with county-wide authority: Hardin County, KY (for plantsite at Elizabethtown, KY) in lead; Fayette and Coweta County, GA (for Peach Tree City, GA), Worcester County, MA (for Fitchburg, MA), Hampden and Hampshire Counties, MA (for Holyoke, MA), Koochiching County, MN (for International Falls, MN), Summit, Medina, Portage, Stark and Wayne Counties, OH (for Akron, OH); Montgomery, Greene, Miami, Warren, and Clark Counties, OH (for Dayton, OH), Butler County, OH (for Hamilton, OH), Lake County, OH (for Painesville, OH), Bucks County, PA (for Quakertown, PA), Oneida County, WI (for Rheinlander, WI), and San Bernardino County, CA (for Cucamonga, CA) in Sub-No. 1F; Des Moines and Lee Counties, IA (for Burlington, IA) in Sub-No. 2F; Wayne, Oakland, Macomb, Washtenaw, and Monroe Counties, MI (for Detroit and Warren, MI), Lenawee County, MI (for Morenci, MI), in Sub-No. 3F; Wayne, Oakland, Macomb, Monroe, and Washtenaw Counties, MI (for Detroit, MI) in Sub-No. 4F; Summit and Portage Counties, OH (for Cuyahoga Falls, OH), Wayne County, OH (for West Salem, OH), and Medina County, OH (for Wadsworth, OH) in Sub-No. 5F; Wayne, Oakland, Macomb, Monroe, and Washitenaw Counties, MI (for Detroit, MI), and Kent, Ottowa, Allegan and Barry Counties, MI (for Grand Rapids, MI) in Sub-No. 6F; (3) substitute radial authority in place of one-way authority betwen points in Lynchburg, VA and IA counties in Sub-No. 2F, part (1); and (4) remove the restriction against the transportation of commodities in bulk or in special equipment in Sub-Nos. 1F, 3F, 4F, and 6F.

[FR Doc. 81-12562 Filed 2-24-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a

major regulatory action under the Energy Policy and Conservation Act of 1975.

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

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

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

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY5-42

Decided: April 17, 1981.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 96878 (Sub-8), filed April 6, 1981. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Tancy Road, North Kansas City, MO 64116. Representative: Alfred L. King (same address as applicant, (816) 221-3411. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, and (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 145088 (Sub-11); filed April 6, 1981. Applicant: S & T TRUCKLOAD, INC, P.O. Box 4408, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Forth Worth, TX 76103, 817-332-4718. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 155088, filed March 31, 1981. Applicant: ALL FREIGHT DISTRIBUTORS, INC., 11 Nebo Road, Sunderland, MA 01375. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732-1136. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 155238, filed April 9, 1981. Applicant: EVAN F. SITTON, 2211 Whistler Park Rd., Roseburg, OR 97470. Representative: Kerry D. Montgomery, 400 Pacific Bldg., Portland, OR 97204, 503-228-5275. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12577 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

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

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

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

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY5-40

Decided: April 17, 1981.

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

FF 548, filed March 31, 1981. Applicant: AIR LAND FORWARDERS, SUDDATH, INC., 5266 Highway Avenue, Jacksonville, FL 32236. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006, (202) 833-8884. To operate as a freight forwarder, in interstate or foreign commerce of *household goods*, between points in the U.S. CONDITION: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite

issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 5, Room 6370.

MC 113059 (Sub-13), filed February 27, 1981, previously noticed in Federal Register issue of March 24, 1981. Applicant: KELLER TRANSPORT, INC., Route 9 Katy Lane, Billings, MT 59101. Representative: F. E. Keller (same address as applicant), (406) 656-1403. Transporting *petroleum, natural gas, and their products,* between points in Missoula County, MT, on the one hand, and, on the other, those points in ID in and north of Washington, Adams, Valley, Custer, and Lemhi Counties.

Note.—This republication corrects the base state of MT in lieu of MO as was previously noticed.

MC 124078 (Sub-1040), filed March 31, 1981. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201 (414) 671-1600. Transporting *such commodities* as are dealt in or used by the manufacturers of glass containers, between Los Angeles, CA, Forest Park, GA, Indianapolis, IN, and Jackson, MS, points in Contra Costa and Alameda Counties, CA, Windham County, CT, Grant County, IN, Clarion and Forest Counties, PA, and Anderson County, TX, on on the one hand, and, on the other, points in the U.S.

MC 134978 (Sub-22), filed April 2, 1981. Applicant: C. P. BELUE, d.b.a. BELUE'S TRUCKING, Route 3, Campobello, SC 29322. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602, (803) 288-9300. Transporting *such commodities* as are dealt in by manufacturers and distributors of building materials, (1) between points in AL, GA, NC, SC, and VA, and (2) between points in AL, GA, NC, SC, AND VA, on the one hand, and, on the other, points in FL, IL, IN, KY, MD, MI, OH, PA, TN, WV, and WI.

MC 138308 (Sub-141), filed April 2, 1981. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948-8820. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., on the one hand, and, on the other, the facilities used by Nationwide Shippers Cooperative Association, Inc., and its members, at points in the U.S.

MC 141318 (Sub-8), filed March 27, 1981. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., 129 North Main St., Box Ltd., Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *pulp, paper and related products* between the ports of entry on the international boundary line between the United States and Canada at points in ND and MN, on the one hand, and, on the other, points in the U.S.

MC 141688 (Sub-6), filed April 7, 1981. Applicant: HENRY E. REYNOLDS, SR., d.b.a. HANK'S TRUCKING, 400 Parson St., P.O. Box 1214, West Columbia, SC 29169. Representative: Harry S. Dent, P.O. Box 528, Columbia, SC 29202. Transporting *metal products,* between points in Georgetown County, SC, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Andrews Wire Corp. of Andrews, SC.

MC 147148 (Sub-3), filed March 27, 1981. Applicant: GOLDEN TRIANGLE TRANSPORTATION, INC., Highway 82 East, P.O. Box 2043, Columbus, MS 39701. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948-5711. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Ribelin Sales, Inc., of Houston, TX.

MC 148428 (Sub-20), filed March 27, 1981. Applicant: BEST LINE, INC., P.O. Box 765, Hopkins, MN 55343. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting (1) *ordnance and accessories* (except classes A and B explosives), and (2) *building materials,* between points in Anoka County, MN, on the one hand, and, on the other, points in the U.S.

MC 148479 (Sub-20), filed April 6, 1981. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main St., Atchison, KS 66002. Representative: Kenneth E. Smith (same address as applicant) 913-367-1480. Transporting *food and related products,* betwen points in the U.S. under continuing contract(s) with Julius Wile Sons & Co., Inc. of Lake Success, NY.

MC 149579 (Sub-2), filed April 7, 1981. Applicant: TRANSPORT SERVICE, INC., 216 Amaral St., P.O. Box 4167, East Providence, RI 02914. Representative: Jeffery A. Vogelman, Suite 400, Overlook Bldg, 6121 Lincolnia Rd., Alexandria, VA 22312, 703-750-1112. Transporting *lumber and wood products,* between Charles City and New Kent Counties, VA, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT.

MC 151118 (Sub-9), filed April 6, 1981. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *textile mill products,* between points in Kennebec County, ME, on the one hand, and, on the other, those points in the U.S. in and east of AZ, CO, NE, SD, and ND.

MC 151788 (Sub-4), filed April 6, 1981. Applicant: MEL JARVIS CONSTRUCTION CO., INC., 2934 Arnold Ave., Salina, KS 67401. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, 913-234-0565. Transporting *waste or scrap materials not identified by industry producing,* between points in Salina County, KS, on the one hand, and, on the other, points in the U.S.

MC 152849 (Sub-1), filed April 6, 1981. Applicant: S.T.S. TRANSPORT SERVICE, INC., 12400 South Keeler, Alsip, IL 60658. Representative: Patrick H. Smyth, 19 South LaSalle St., Suite 401, Chicago, IL 60603, 312-263-2397. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with Griffith Laboratories U.S.A. of Alsip, IL.

MC 153548 (Sub-1), filed April 6, 1981. Applicant: CECIL R. GODDARD, 515 Golf Rd., Webb City, MO 64870. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, 417-883-7311. Transporting *machinery,* between points in the U.S. under continuing contract(s) with Cardinal Scale Manufacturing Co., of Webb City, MO.

MC 153749 (Sub-2), filed March 13, 1981. Applicant: REPUBLIC GYPSUM COMPANY, P.O. Drawer C, Duke, OK 73532. Representative: David L. Ross, (same address as applicant), (405) 679-3391. Tranporting *building materials* between points in Union, Pike, Lafayette, Clark, Howard, Ashley, Columbia, and Hot Spring Counties, AR, Winn, Webster, Lincoln, and Ouachita Counties, LA, McCurtain, OK, Angelina, Polk, Hardin, and Jasper Counties, TX, on the one hand, and, on the other, points in TX and OK.

MC 153758, filed April 2, 1981. Applicant: LAMPMAN BROKERAGE, INC., d.b.a. MASTRO ENTERPRISE, 4233 Sierra Madre, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting (1) *furniture and fixtures,* and (2) *food and related products,* between points in the U.S., under continuing contract(s) in (1) with Northern Kitchens, Inc., of Rib Lake, WI, and in (2) with Pacific Cheese Company, Inc., of San Francisco, CA, and Armour & Company of Phoenix, AZ.

MC 155139, filed April 6, 1981. Applicant: KING'S EXPRESS, INC., 600 Dabney Dr., Henderson, NC 27536. Representative: Edward D. Greenberg, 1054 Thirty-first St., N.W., Washington, D.C. 20007. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Galanides Raleigh, Inc., and B.J.T., Inc., of Raleigh, NC, Carolina Distributing Co., Inc, of Durham, NC, Dodd Distributing Company, Inc, of Rocky Mount, NC, Facet Enterprises, General Products Division, of Henderson, NC, and Laurens Class Company, a division of Indianhead, Inc., of New York, NY.

Volume No. OPY 5-4

Decided: April 17, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dawell.

MC 488 (Sub-25), filed April 6, 1981. Applicant: BREMAN'S EXPRESS COMPANY, 318 Haymaker Rd., Monroeville, PA 15146. Representative: Joseph E. Breman, 700 Fifth Ave., Bldg., Fifth Floor, Pittsburgh, PA 15219, (412) 281-1980. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of malt beverages, between points in Westmoreland County, PA, on the one hand, and, on the other, points in DE, MD, NC, NJ, NY, OH, VA, and WV.

MC 28088 (Sub-59), filed April 10, 1981. Applicant: NORTH & SOUTH LINES, INC., 2810 S. Main St., P.O. Box 49, Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Ave., 425 13th St., N.W., Washington, D.C. 20004, (202) 347-8862. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 47848 (Sub-5), filed April 10, 1981. Applicant: HUDSON TRUCKING CO., INC., P.O. Box 222, Kendallville, IN 46755. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 111548 (Sub-35), filed April 9, 1981. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004, (202) 628-4600. Transporting *food and related products,* between points in Fresno and Merced Counties, CA, Morgan County, IL, Grayson County, TX, Gibson County, TN, and Green, Waupaca and Dodge Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 113059 (Sub-14), filed April 9, 1981. Applicant: KELLER TRANSPORT, INC., Route 9 Katy Lane, Billings, MT 59101. Representative: F. E. Keller (same address as applicant), (406) 656-1403. Transporting *petroleum, natural gas and their products,* between points in Big Horn and Washakie Counties, WY, on the one hand, and, on the other, Laurel, MT.

MC 119908 (Sub-50), filed April 6, 1981. Applicant: WESTERN LINES, INC., 3523 N. McCarty Drive, P.O. Box 1145, Houston, TX 77001. Representative: Wayne A. Premeaux (same address as applicant), (713) 672-2481. Transporting *metal products,* between points in Orleans and Jefferson Parishes, LA, and Jefferson and Mobile Counties, AL, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN, and TX.

MC 135598 (Sub-58), filed April 8, 1981. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle ST., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with the Moorman Manufacturing Co., of Quincy, IL.

MC 140889 (Sub-15), filed April 6, 1981. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219, 412-321-3658. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Premier Industrial Corporation of Cleveland, OH.

MC 141249 (Sub-4), filed April 9, 1981. Applicant: WEEKS CARTAGE, INC., 1900 Dahlia Rd., Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL, 904-632-2300. Transporting *general commodities* (except classes A and B explosives), between points in Duval County, FL, on the one hand, and, on the other, points in AL.

MC 142888 (Sub-17), filed April 6, 1981. Applicant: COX TRANSFER, INC., Box 168, Eureka, IL 61530. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5468. Transporting *food and related products,* between points in Peoria County, IL, and Milwaukee County, WI on the one hand, and, on the other, points in IA, IL, IN, MI, MO, OH and WI.

MC 146149 (Sub-20), filed March 27, 1981. Applicant: KENNEDY FREIGHT LINES, INC., 4989 Vulcan Ave., Columbus, OH 43228. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228-8575. Transporting *metal products,* between points in Oswego County, NY, on the one hand, and, on the other, points in VA and DC.

Note.—Applicant is relying on traffic studies rather than shipper support for the authority sought.

MC 150339 (Sub-28), filed April 8, 1981. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant), (301) 673-7151. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Bausch & Lomb Corporation, SOFLENS Division, of Rochester, NY.

MC 150499 (Sub-5), filed April 10, 1981. Applicant: ENGELS TRUCK SERVICE, INC., RR 3, Box 58, Worthington, MN 56187. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101, (605) 335-1777. Transporting *food and related products,* between points in Nobles County, MN, Beadle County, SD, and Madison County, NE, on the one hand, and, on the other, points in AL, AR, AZ, CO, CT, DE, GA, ID, IN, KS, KY, LA, MA, MD, ME, MI, MS, MT, NC, NH, NJ, NM, NV, OH, OK, PA, RI, SC, TN, TX, UT, VA, VT, WV, WY, and DC.

MC 151138 (Sub-3), filed April 10, 1981. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3707 Fern View Dr., Kingwood, TX 77339. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306, 713-358-4176. Transporting *such commodities* as are dealt in, or used by, manufacturers and distributors of resins and foundry core compounds, between points in the U.S.

MC 154739 (Sub-1), filed April 9, 1981. Applicant: JEBCO LEASING, INC., 515 El Camino Rd., Greenwood, IN 46142. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204, 317-634-6313. Transporting (1) *Pulp, paper and related products,* and (2) *printed matter,* between points in the U.S. under continuing contract(s) with Willamette Industries, Inc., of Indianapolis, IN.

MC 155098 filed April 3, 1981, 1981. Applicant: GOLDEN HORSE TOURS, INC., 40 Bowery St., New York, NY

10013. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838-0600. To engage in operations as a *broker*, at New York, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter and special operations, beginning and ending at points in the U.S.

MC 155239, filed April 9, 1981. Applicant: HOLLOWAY TRANSFER & STORAGE COMPANY, INC., P.O. Box 1994, Hattiesburg, MS 39401. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, DC 20036, 202-463-6044. Transporting *household goods*, between points in VA, NC, SC, GA, TN, AL, MS, LA, TX, AR, KY, FL and WV.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12578 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

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 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinance 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 evironment resulting from approval of its application.

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

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-114

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 141940 (Sub-1-2TA), filed April 14, 1981. Applicant: R. B. BATOR TRUCKING, INC., Lime Street, Adams, MA 01220. Representative: Gerald A. Denmark, Esq., 120 South Street, Pittsfield, MA 01201. *Food intended for human consumption, including canned goods, flour, table salt, sugar and soft drinks; grocery products; soaps; rock salt, motor oil; and related items* between points in CT, DE, DC, ME, MD, NH, NJ, NY, PA, RI and VT and Adams, MA. Supporting shipper: Butler Wholesale Products, Inc., 37 Pleasant Street, Adams, MA 01220.

MC 135684 (Sub-1-7TA), filed April 14, 1981. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue NW., Washington, DC 20006. *Sheet vinyl* from Salem, NJ to Rolling Meadows, IL. Supporting shipper: All Title, Inc., 3940 Industrial, Rolling Meadows, IL 60008.

MC 111729 (Sub-1-11TA), filed April 9, 1981. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same as applicant). *Drug and sundries, in packages weighing 70 lbs each, not to exceed 750 lbs in the aggregate*, (1) between Kansas City, MO, on the one hand, and, on the other, points in AR, KS and OK; (2) between Council Bluffs, IA, on the one hand, and, on the other, points in ND and SD; (3) between Des Moines, IA, on the one hand, and, on the other, points in MN and WI; and (4) between St. Louis, MO, on the one hand, and, on the other, points in IL. Supporting shipper: McPike, Inc., 1315 N. Chouteau Trafficway, Kansas City, MO 64141.

MC 150360 (Sub-1-3TA), filed April 13, 1981. Applicant: KENNEDY CO., INC., d.b.a. BRENNAN TRANSPORTATION SERVICES, Pike Road, Mt. Laurel, NJ 08054. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. and Cottman St., Jenkintown, PA 19046. *Cleaning products and supplies and related products* between Bristol and Cornwells Height, PA and Burlington, NJ, on the one hand, and, on the other, DE, MD, NJ and NY. Supporting shipper: Purex Industries, Inc., 1414 N. Radcliff Street, Bristol, PA 19007.

MC 82101 (Sub-1-3TA), filed April 13, 1981. Applicant: WESTWOOD CARTAGE, INC., 62 Everett Street, Westwood, MA 02090. 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 footwear and related accessories* between Nashua and Dover, NH on the one hand, and, on the other, Bridgewater, VA, under continuing contracts(s) with J. F. McElwain Co., Division of Melville Corporation. Supporting shipper: J. F. McElwain Co., Division of Melville Corporation, 12 Murphy Drive, Nashua, NH 03061.

MC 1693 (Sub-1-1TA), filed April 10, 1981. Applicant: P. J. FLYNN, INC., 1000 Coolidge Street, So. Plainfield, NJ 07080. Representative: R. G. Light (same as applicant). *Contract carrier:* regular routes: *minerals, color pigments, and chemicals*, from Easton, PA to So. Plainfield, NJ via routes 78 and 287, under continuing contracts(s) with Whittaker, Clark & Daniels, Inc., of Plainfield, NJ. Supporting shipper: Whittaker, Clark & Daniels, Inc., 1000 Coolidge St., So. Plainfield, NJ 07080.

MC 142603 (Sub-1-21TA), filed April 10, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Susan E. Mitchell (same as applicant). *Contract carrier:* irregular routes: *General commodities, (except Classes A and B explosives)* between points in the U.S. under continuing contracts(s) with General Tire & Rubber Company, Akron, OH. Supporting shipper: General Tire & Rubber Company, One General Street, Akron, OH 44329.

MC 155250 (Sub-1-1TA), filed April 10, 1981. Applicant: BLIEK TRANSPORT, INC., 4781 Steel Point Road, Marion, NY 14505. Representative: Herbert M. Canter, Esq., Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. *Food and related products* between points in Cayuga, Ontario, Wayne and Yates Counties, NY, on the one hand, and, on the other, points in the U.S. in and east of CO, NE, ND, OK, SD, and TX. Supporting shipper: Seneca

Foods Corporation, 3736 South Main Street, Marion, NY 14505.

MC 135684 (Sub-1-6TA), filed April 13, 1981. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue, N.W., Washington, D.C. 20006. *Mayonnaise, salad dressings, and edible oils* from Franklin Park, IL to Long Island City, NY. Supporting shipper: Conway Imports, 2133-59 Borden Avenue, Long Island City, NY 11101.

MC 154677 (Sub-1-2TA), filed April 13, 1981. Applicant: THREE R TRANSPORTATION, INC., Padelford Street, Berkley, MA 02780. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Lime, in bulk, in dump vehicles,* from New Hamberg, NY and Cannan, CT, to Berkley, MA. Supporting shipper: Agway, Inc., Padelford Street, Berkley, MA 02780.

MC 155235 (Sub-1-1TA), filed April 10, 1981. Applicant: WILLIAM A. DAVIDSON d.b.a. DAVIDSON TRUCKING COMPANY, 140 Canal Street, Malden, MA 02148. Representative: Robert M. Murphy, 40 Court Street, Boston, MA 02108. *Contract carrier:* irregular routes: *General commodities,* between points in MA, ME, NH, VT, RI, CT, NY, NJ, PA, MD, DC, OH, IN, IL, under continuing contract(s) with Bellesteel Industries, Inc. of East Boston, MA. Supporting shipper: Bellesteel Industries, Inc., 150 McClellan Highway, East Boston, MA 02128.

MC 148893 (Sub-1-5TA), filed April 13, 1981. Applicant: WREN TRUCKING, INC., 1989 Harlem Road, Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Commodities (except Classes A and B explosives as dealt in by lawn and garden supply stores* between points in NY, on the one hand, and, on the other, points in AR, CT, DC, IL, IN, IA, KY, ME, ND, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV and WI. (Restricted to traffic originating at, or destined to, the facilities and/or customers of Spaulding, Sturdevant and Amabile, Inc. of Corfu, NY. Supporting shipper: Spaulding, Sturdevant and Amabile, Inc., 2495 Genesee Street, Corfu, NY 14036.

MC 87451 (Sub-1-22TA), filed April 10, 1981. Applicant: CARGO TRANSPORT, INC., 91 Mountain Road, Burlington, MA 01803. Representative: Samuel A. Bithoney, Jr. (same as applicant). *Contract carrier:* irregular routes: *Drugs, medicines, and toilet preparations, and equipment, materials and supplies used in the manufacture, sale and distribution thereof, (except classes A & B explosives and household goods as defined by the Commission),* between Bedford, MA, Atlanta, GA, Los Angeles, CA, Bridgeport, CT, on the one hand, and, on the other, points and places in the U.S. (except AK & HI), under continuing contract(s) with Fisons Corp., Bedford, MA. Supporting shipper: Fisons Corporation, 2 Preston Court, Bedford, MA 01730.

MC 154823 (Sub-1-1TA), filed April 1, 1981. Applicant: WIZARD METHOD, INC., 1100 Connecting Road, Niagara Falls, NY 14304. Representative: Garlen B. Stoneman (same as applicant). *Liquid, semi-liquids, sludges and solid forms of hazardous waste* between points in NY, OH, PA and WV. Supporting shipper: Hooker Chemicals & Plastics Corp., P.O. Box 344, Niagara Falls, NY 14302.

MC 87451 (Sub-1-21TA), filed April 9, 1981. Applicant: CARGO TRANSPORT, INC., 91 Mountain Road, Burlington, MA 01803. Representative: Samuel A. Bithoney, Jr. (same as applicant). *Contract carrier:* irregular routes: *Steel bar joist and steel roof decking, and articles used in the manufacture, sale and distribution thereof, (except commodities in bulk, classes A & B explosives and household goods as described by the Commission),* between points and places in CT, DC, DE, FL, GA, IN, KY, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, and WV, under continuing contract(s) with M. P. Flaherty & Assoc. Inc. of Wilmington, MA. Supporting shipper: M. P. Flaherty & Assoc. Inc., 269 Ballardvale Street, Wilmington, MA 01887.

MC 146379 (Sub-1-3TA), filed April 8, 1981. Applicant: AUTO EXPRESS, INC., 466 River Street, Hackensack, NJ 07601. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Used passenger automobiles, in secondary movements in truckaway service,* (1) between points in the US (except AK, HI, CA, TX, NM, CO, AZ, UT, OK, LA, AR, KS, and MO), and (2) between points in ME, UT, NH, MA, CT, RI, NY, PA, NJ, DE, TN, KY, AL, MS, MD, VA, WV, NC, SC, GA, FL, and DC, on the one hand, and, on the other, points in CA, TX, NM, CO, AZ, UT, OK, LA, AR, KS, AND MO. Supporting shipper(s): There are 6 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 23558 (Sub-1-1TA), filed April 9, 1981. Applicant: STRATFORD BUS LINES, INC., 70 Chestnut Avenue, Stratford, CT 06497. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. *Passengers and their baggage in the same vehicles with passengers in round trip, charter operations* between Hartford County, Fairfield County and New Haven County, CT on the one hand, and, on the other, NY, NJ, PA, MD, VA, and DC. Supporting shipper: Connecticut Pleasure Tours, Inc., 140 Captains Walk, New London, CT 06320.

MC 112627 (Sub-1-3TA), filed April 9, 1981. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Glass containers and materials used in the manufacture thereof,* from Mt. Vernon and Shelby, OH to Hammondsport, NY. Supporting shipper: Chattanooga Glass Company, P.O. Box 7037, Chattanooga, TN 37410.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 145794 (Sub-3-5TA), filed April 10, 1981. Applicant: ARDS TRUCKING COMPANY, INCORPORATED, P.O. Box 362, Darlington, SC 29532. Representative: Martin S. Driggers, P.O. Box 1439, Hartsville, SC 29550. *Iron and iron articles, and steel and steel articles* between points in all states east of the Mississippi River and LA, TX and MO. Supporting shipper: Diversified Steel Services, Inc., 907 South 20th St., Tampa, FL 33675.

MC 152544 (Sub-3-12TA), filed April 9, 1981. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract,* irregular; *General Commodities (except commodities in bulk and Classes A and B explosives),* between points in the U.S. under continuing contracts with Distribution Services of America of Boston, MA and United Freight, Inc. of Morrow, GA. Supporting shippers: Distribution Services of America, 660 Summer Street, Boston, MA 02210 and United Freight, Inc., 1260 Southern Road, Morrow, GA 30260.

MC 143988 (Sub-3-2TA), filed April 9, 1981. Applicant: JAMES W. TATE, d.b.a. JAMAR TRUCKING, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. (1) *Water pumps, component parts of water pumps, water pump accessories,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities listed above in (1); between the facilities of Layne &

Bowler, Inc. at Memphis, TN on the one hand, and, on the other, New Orleans, LA and points in TX, NM, AZ, NV, ID, WA, OR and UT. Supporting shipper: Layne & Bowler, Inc., 900 Chelsea Ave., Memphis, TN 38108.

MC 154908 (Sub-3-1TA), filed April 6, 1981. Applicant: BOB'S FOOD SERVICE, INC., P.O. Box 792, Mt. Sterling, KY 40353. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Contract:* irregular *electric motors or parts, aluminum pigs, and copper and aluminum wire* from Mt. Sterling, KY, and commercial zone, to Hartselle, AL and Bristol, TN and commercial zones, under continuing contract with A. O. Smith Corporation. Supporting shipper, A. O. Smith Corporation, Route No. 4, Stop 27A, Mt. Sterling, KY 40353. An underlying ETA seeks 120 days.

MC 2934 (Sub-3-33TA), filed April 9, 1981. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as above). *Aluminum furniture* from McKenney, VA; to points and places in the states of: CT, DE, DC, GA, IN, KY, ME, MD, MA, MI, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VT and WV. Supporting shipper: Keller Industries, 1800 State Road 9, Miami, FL 33162.

MC 2934 (Sub-3-32TA), filed April 9, 1981. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as above). *Wooden and aluminum ladders and furniture,* from Deland, FL to Muscatein, IA; Milford, VA; Waynesboro, GA; Caldwell, TX; and Merced, CA. Supporting shipper: Keller Industries, 1800 State Road 9, Miami, FL 33162.

MC 148020 (Sub-3-1TA), filed April 6, 1981. Applicant: BIG "M" TRANSPORT, INC., 3100 Hilton Street, Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Chemicals (not in bulk),* from Savannah, GA, to points in the U.S. (except AK and HI). Supporting shipper: Reddy International Chemical, Inc., 407 Montgomery Cross Road, Savannah, GA 31402.

MC 98478 (Sub-3-3TA), filed April 7, 1981. Applicant: ROBBINS TRUCK LINE, INC., Route 1, Hardinsburg, KY 40143. Representative: Peter A. Greene, 1920 N Street, N.W., Suite 700, Washington, D.C. 20036. *General Commodities (except classes A and B explosives),* between points in KY, on the one hand, and, on the other, points in IN, IL and OH. There are six statements of support attached to this application and they may be reviewed at the Atlanta Regional Office. Applicant intends to interline at Nashville, TN; Cincinnati, OH; and Louisville, KY.

MC 150865 (Sub-3-7TA), filed April 9, 1981. Applicant: ATLANTIC & WESTERN TRANSPORTATION CO., INC., 3934 Thurman Road, Forest Park, GA 30051. Representative: Ronald J. Turner (same as above). *Construction Materials* from all points in the U.S. to the ports of Houston, TX; Galveston, TX; Port Arthur, TX; New Orleans, LA; Gulfport, MS; Mobile, AL; Pensacola, FL; Tampa, FL; Miami, FL; Ft. Lauderdale, FL; Jacksonville, FL; Savannah, GA; Charleston, SC; Wilmington, NC; Norfolk, VA; Baltimore, MD; Philadelphia, PA; and New York City, NY, restricted to traffic having subsequent movement by water. Supporting shipper: American Export Group International Services, Inc., 2600 Watergate, 2600 Virginia Ave., N.W., Washington, D.C. 20037

MC 149133 (Sub-3-15TA), filed April 10, 1981. Applicant: DIST/TRANS MILTI-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 or used by retail department stores and mail order merchandisers;* between points in GA, NC, SC, KS, WI, and OH, restricted to service performed under a continuing contract or contracts with J. C. Penney Company, Inc. of New York, NY. Supporting shipper: J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, New York, 10019.

MC 107515 (Sub-3-113TA), filed April 10, 1981. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Electrical Appliances and Related Articles* between facilities of Superior Electric Products Corporation at Cape Girardeau, MO, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Superior Electric Products Corp., P.O. Box 10, Cape Girardeau, MO 63701.

MC 136285 (Sub-3-2TA), filed April 10, 1981. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. *General commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and motor vehicles),* in containers or in trailers, having an immediately prior or subsequent movement by water, and empty containers, trailers and trailer chassis, between New Orleans, LA, and points in its commercial zone, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, and TN; between Mobile, AL, and points in its commercial zone, on the one hand, and, on the other, points in LA and MS. There are eight shipper statements attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 107515 (Sub-3-114TA), filed April 9, 1981. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *General Commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, and articles which because of size or weight require the use of special equipment)* between points in the US, restricted to traffic originating at or destined to the facilities utilized by ITOFCA, Inc., or its members, and restricted to shipments moving on bills of lading of the above shippers association. Supporting shipper: ITOFCA, Inc., 2 Walker Avenue, Clarendon Hills, IL 60514.

MC 154686 (Sub-3-1TA), filed April 10, 1981. Applicant: GENE FARRIS, d.b.a. FARRIS TRUCKING, 1705 Alabama Avenue, Haleyville, AL. Representative: Gene Farris (same as above). *Contract Irregular: (1) Furniture, furniture parts and equipment, any materials used in the manufacture of furniture. (2) Any supplies used in the sale and distribution of furniture,* between Haleyville, AL, Detroit, MI, and Chicago, IL, on the one hand, and on the other, points in the States of AL, GA, MS, LA, and FL. Supporting shipper: Winston Furniture Co., P.O. Box 868, Haleyville, AL 35565.

MC 114848 (Sub-3-6TA), filed April 10, 1981. Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Avenue, P.O. Box 13068, Memphis, TN 38113. Representative: Robert T. Wharton (same as above). *Clay in bulk* from Wilkinson County, GA to Calloway County, MO, Lowndes County, MS and Mercer, NJ. Supporting shipper: M & M Clays Inc., P.O. Box 98, McIntyre, GA 31054.

MC 30446 (Sub-3-7TA), filed April 10, 1981. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 3408

North Graham Street, P.O. Box 5647, Charlotte, NC 28225. Representative: Leon Thompson (same as above). *Contract Carrier:* Irregular: *Department store supplies and merchandise and those articles used in the sale and distribution of department store supplies and merchandise,* between U.S. points in and east of MS, TN, KY, IN and MI. Supporting shipper: The Gap Stores, Inc., 3434 Mineola Pike, Erlanger, KY 41018.

MC 154697 (Sub-3-2TA), filed April 10, 1981. Applicant: BAKER TRUCK LEASING AND SALES, INC., P.O. Box 3126, Highway 301 South, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. *Metal products,* between Hillside and Springfield, NJ; and Philadelphia, PA on the one hand, and, on the other, Raleigh, NC. Supporting shipper: Atlantic Metal Products, Inc., 21 Fadem Road, Springfield, NJ 07081.

MC 111545 (Sub-3-11TA), filed April 9, 1981. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as applicant). *Steel plate and sheet* from Bristol, CT to Marquette and Pontiac, MI; Wentzville, MO; Craig, CO; Baltimore, MD; and Beulah, ND; and points in the commercial zones of the destination cities. Supporting shipper: Morin Building Products Co., Inc., P.O. Box 503, 685 Middle Street, Bristol, CT 06010.

MC 121654 (Sub-30TA), filed April 9, 1981. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., NE., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Supplies, Equipment and Parts used in the production, manufacture and/or distribution of air pollution equipment* from the facilities of Hasbrouck Plastics, Inc., at or near Hamburg, NY to facilities of Andersen 2000, Inc. at or near College Park, GA. Supporting shipper: Andersen 2000 Sullivan Road, College Park, GA 30337.

MC 147672 (Sub-2-1TA), filed April 9, 1981. Applicant: T. D. REEVES, d.b.a. T & R TRUCKING P.O. Box 36, Darden, Tennessee 38328. Representatives: Martin & Perky, 43 N. Broad, Lexington, TN 38351. *Contract carrier; irregular light aggregate, in bulk in dump vehicles* from West Memphis AR to Jackson, Madison County, TN and from West Memphis AR to Bells, Crockett County, TN. Supporting shipper: Concrete Products Company, P.O. Box 1027, Jackson, TN 38301, Bell Block Company, P.O. Box B, Bells, TN 38006.

MC 155311 (Sub-3-1TA), filed April 15, 1981. Applicant: SUNCO CARRIERS, INC., 2029 W. Memorial Blvd. Lakeland, FL 33803. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, Georgia 30328. (1) *Foodstuffs and non-exempt kindred products,* from points in FL to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and VA. Restricted to the transportation of traffic originating at the facilities of the Coca-Cola Company, Foods Division; General Foods Corporation; and Citrus Central, Inc.; (2) *Foodstuffs,* from points in GA to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and VA. Restricted to the transportation of traffic originating at the facilities of Golden States Foods Corporation; Seabrook Foods, Inc., Southern Division; and Commercial Cold Storage, Inc. (3) *Foodstuffs,* from Harrison County, MS to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and VA. Restricted to the transportation of traffic originating at the facilities of Castle and Cooke Foods, Division of Castle and Cooke, Inc. Supporting shippers: Castle and Cooke Foods, Divison of Castle and Cooke, Inc., 3300 Buckeye Rd., Chamblee, GA 30341; Golden State Foods Corporation, 1525 Old Covington Rd., Conyers, GA 30207; The Coca-Cola Company, Foods Division, P.O. Box 247, Auburndale, FL 33823; General Foods Corporation, 2200 Third St., NW., Winter Haven, FL 33880; Seabrook Foods, Inc., Southern Division, P.O. Box 306, Montezuma, GA 31063; Commercial Cold Storage, Inc., 300 Pleasantdale Rd., Atlanta, GA 30340 and Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32860.

MC 150072 (Sub-3-5TA), filed April 15, 1981. Applicant: DEWEY ENTERPRISES, INC., 3320 New So. Province Blvd., Fort Myers, FL 33907. Representative: Leonard E. Mondschein, Esq., Mondschein and Mondschein, P.A. Suite 108, 1515 NW. 7th Street, Miami, Florida 33125. *Contract irregular routes, Malt Beverages and Advertising Materials* from Baltimore, MD and Lehigh Valley, PA to the facilities of Cronin Distributors at Fort Myers, FL. Supporting shipper: Cronin Distributors, 3544 Work Drive, Ft. Myers, FL 33901.

MC 150865 (Sub-3-8TA), filed April 15, 1981. Applicant: ATLANTIC & WESTERN TRANSPORTATION CO., INC., 3934 Thurman Road, Forest Park, GA 30051. Representative: Ronald J. Turner (same as above). *Iron/Steel Beams, Iron/Steel Angles, Carriers, Cranes and Hoists,* from Attalla, AL to all points in the U.S. Supporting shipper: Whiting Corporation, 600 Utility Ave, Attalla, AL 35954.

MC 144776 (Sub-3-1TA), filed April 15, 1981. Applicant: APACHE TRANSPORT, INC., 833 Warner Street, SW., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *MonoProp Mold Killer, and animal feed additive and equipment and supplies used in the manufacture and distribution and sale thereof,* (1) to points in the United States, from the facilities of ANITOX CORP and (2) from points in the United States to the facilities of ANITOX CORP. Supporting shipper: ANITOX CORP., P.O. Box 435, Buford, GA 30518

MC 155313 (Sub-3-1TA), filed April 15, 1981. Applicant: JAMES M. GRAY, STERLING GRAY AND BRENT GRAY, d.b.a. GRAY BROTHERS, Route 1, Box 72, Philadelphia, MS 390350. Representative: Donald L. Kilgore, P.O. Box 96, Philadelphia, MS 39350. *Lumber and forest products* between facilities utilized by Weyerhaeuser Company at points in AL, LA, MS, and TN. Supporting shipper: Weyerhaeuser Company, P.O. Box 2288, Columbus, MS 39701.

MC 148715 (Sub-3-1TA), filed April 15, 1981. Applicant: DANIEL E. HAYNES, d.b.a. HAYNES TRUCKING COMPANY, Route 2, Box 102, Section, AL 35771. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Store fixtures, and materials, equipment and supplies used in the manufacture, distribution and installation thereof* between points in the U.S. in and east of ND, SD, NE, KS, OK and TX for the account of H. L. Coshatt Company, Inc. Supporting shipper: H. L. Coshatt Company, Inc., Corporate East Bldg., Suite 227, Birmingham, AL 35235.

MC 140460 (Sub-3-6TA), filed April 15, 1981. Applicant: COAST REGRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue NW., Washington, DC 20006. *Incandescent lamps, fluorescent tubes, and materials, equipment, and supplies used in the manufacture of those products* between Mullins, SC, on the one hand, and, on the other, points in the U.S. Supporting shipper: Marvel Lighting Corporation, P.O. Box 799, Mullins, SC 29574.

MC 150741 (Sub-3-3TA), filed April 15, 1981. Applicant: HUEY TRANSPORTATION COMPANY, 2802 Lomb Avenue, P.O. Box 211, Birmingham, AL 35201. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Metal products and machinery* between the

facilities of Barron Industries, Inc. or its subcontractors, on the one hand, and, on the other, points in the U.S. Supporting shipper: Barron Industries, Inc., P.O. Drawer One, Leeds, AL 35094.

MC 144715 (Sub-3-12TA), filed April 15, 1981. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Box meat,* between points in TX, IA and NE, on the one hand, and, on the other, points in NC, MD and VA. Supporting shipper(s): Associated Meat, Inc., 11215 Oakleaf Drive 120, Silver Spring, MD 20901.

MC 141261 (Sub-III-3-3TA), filed April 15, 1981. Applicant: SOUTHERN FURNITURE TRANSPORT, INC., 2003 Viscount Row, Orlando, FL 32809. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street NW., Washington, DC 20005. *New furniture and furniture parts, and materials, supplies and equipment used or useful in the manufacture thereof,* between points in Hialeah, FL, on the one hand, and, on the other, points in OH. Supporting shipper: New Creations, 3320 West 17th Court, Hialeah, FL 33012.

MC 129712 (Sub-3-11TA), filed April 15, 1981. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract;* irregular, *Merchandise, equipment and supplies used, sold, or dealt in by a manufacturer of induction heating and melting systems,* between all points in the U.S., under continuing contract(s) with American Induction Heating Corp. Supporting shipper: American Induction Heating Corp., 5353 Concord Ave., Detroit, MI 48211.

MC 115841 (Sub-3-53TA), filed April 15, 1981. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 22168, McBride Lane, Knoxville, TN 37922. Representative: Chester G. Groebel (same as above). *Air conditioning parts (charged lines),* from Wayne, AR to Nashville and Lewisburg, TN. Supporting shipper: Heil-Quaker Corp., 1714 Heil-Quaker Blvd., Lavergne, TN 37068.

MC 125037 (Sub-3-13TA) filed April 15, 1981. Applicant: DIXIE MIDWEST EXPRESS, INC., P.O. Box 372, Greensboro, AL 36744. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *General commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions),* between points in the U.S. restricted to service for the account of West Coast Shippers Association. Supporting shipper: West Coast Shippers Association, 2000 South 71st Street, Philadelphia, PA 19142.

MC 124887 (Sub-3-16TA), filed April 15, 1981. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Building and Construction Materials,* between points in the U.S. restricted to traffic originating at or destined to suppliers or customers of American Paneling, Inc. Supporting shipper: American Paneling, Inc., P.O. Box 177, Nederland, TX 77627.

MC 152664 (Sub-3-3TA), filed March 3, 1981. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Adamsville, TN 38310. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Glass cylinders* from Connellsville and Knox, PA; Lancaster, OH; Palestine, TX; Lincoln, IL; Salem, NJ; Marion, IN; and Harrison County, WV, to facilities utilized by Henco, Inc. at Selmer, TN. Supporting shipper: Henco, Inc., Selmer Industrial Park, Selmer, TN 38375.

MC 152544 (Sub-3-13TA), filed April 15, 1981. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Construction materials* between Rochester, NY on the one hand, and, on the other, points in FL, GA, OH, and MI. Supporting shipper: CCS-Concrete Construction Systems, Inc., Box 134, Penfield, NY 14526.

MC 155230 (Sub-3-1TA), filed April 16, 1981. Applicant: GINGER TRUCKING COMPANY, Julip Route, Box 130A, Williamsburg, KY 40769. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Coal,* from the facilities of American Pioneer, Inc., in Knox County, KY, to points in AL, IN, NC, OH and TN. Supporting shipper: American Pioneer, Inc., Bryant's Store, KY 40921.

MC 116300 (Sub-3-9TA), filed April 15, 1981. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Insulation,* (1) between New Iberia, LA and New Carlisle, IN; (2) between New Iberia, LA and New Orleans, LA, restricted to shipments having prior or subsequent movement by rail; and (3) from New Iberia, LA to Houston, TX. (Supporting shipper: Carborundum Co.-Insulation Div., Star Route—Box 9216, New Iberia, LA 70560).

MC 154632 (Sub-3-2TA), filed April 15, 1981. Applicant: K & A TRANSPORTATION, INC., P.O. Box 1708, Marion, NC 28752. Representative: Gary E. Morgan (same address as applicant). *Sheet steel containers, Can ends and material used in the manufacturer of such* between Arden, NC and points in the U.S. Supporting shipper: Carolina Can Company, Rt. 3 Box 367, Arden, NC 28704.

MC 150388 (Sub-3-5TA), filed April 16, 1981. Applicant: BOSS TRANSPORTATION CO., INC., P.O. Box 40977, Memphis, TN 38104. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Contract:* irregular routes: *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between points in the U.S., under continuing contracts with (a) United Freight, Inc. of Morrow, GA and (b) Distribution Services of America, of Boston, MA. Supporting shippers: United Freight, Inc. 1260 Southern Road, Morrow, GA 30260 and Distribution Service of America, 666 Summer Street, Boston, MA 02210.

MC 107912 (Sub-3-8TA), filed April 16, 1981. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood, Memphis, TN 38118. Representative: Mark Allen, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Common;* regular; *general commodities (except Class A and B explosives)* between Melville, LA on the one hand, and, on the other, Baton Rouge, LA. Applicant requests authority to tack the herein applied for authority to authority held by it under MC-107912 and subs thereunder and to interline this traffic at Baton Rouge, LA; Jackson, MS and Memphis, TN. Supporting shipper: Dan Mougeat Processing Plant, P.O. Box 148, Melville, LA 71353.

MC 138635 (Sub-3-17TA), filed April 16, 1981. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, D.C. 20005. *Such commodities as are dealt in by chain grocery and food business houses* between points in FL, GA, NC, and SC restricted to traffic originating at or destined to the facilities of WINN-DIXIE Stores, Inc. and its subsidiary Astor Products, Inc. Supporting shipper: Astor Products, Inc., Department 100—P.O. Box B, Jacksonville, FL 32203.

MC 153509 (Sub-3-11TA), filed April 16, 1981. Applicant: KENTUCKY

DISPATCH, INC., 3303 Camp Ground Road, Louisville, Kentucky 40216. Representative: James B. Murphy, Suite 102, Interchange Bldg., 835 West Jefferson Street, Louisville, Kentucky 40202. *Contract;* irregular; *crane parts; boom derricking; and revolving cranes mounted on trucks; and supplies used in the manufacture of this equipment,* between Bowling Green, KY, on the one hand, and, on the other, points in the U.S. under a continuing contract with F.M.C. Corporation. Supporting shipper: F.M.C. Corporation, P.O. Box 9500, Nashville Rd., Bowling Green, KY 42101.

MC 138157 (Sub-3-50TA), filed April 16, 1981. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Hospital supplies* from San Bernardino County, CA to points in the United States. Restricted to traffic originating at the facilities of C. R. Bard, Inc. Supporting shipper: C. R. Bard, Inc., 8600 Archibald Avenue, Rancho Cucamonga, CA 91730.

MC 114098 (Sub-3-2TA), filed April 16, 1981. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117, C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, 425 13th St., N.W., Suite 1032, Washington, DC 20004. *Contract carrier;* irregular routes, *metal products* between points in the U.S. under a continuing contract with Penn Ventilator Co., Inc., and Kent-Moore Corp. Supporting shippers: Penn Ventilator Co., Inc., Red Lion and Gantry Roads, Philadelphia, PA 19115, and Kent-Moore Corp., York, SC 29745.

MC 140460 (Sub-3-7TA), filed April 17, 1981. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. *Meat and meat products* between points in the U.S., restricted to traffic originating at the facilities of American Pantry, Inc. Supporting shipper: American Pantry, Inc., P.O. Box 9284, Phoenix, AZ 85008.

The following applications were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 4761 (Sub-4-1TA), filed April 13, 1981. Applicant: LOCK CITY TRANSPORTATION COMPANY, 3213 Tenth Street, Menominee, MI 49858. Representative: James A. Spiegel, Olde Towne Office Park; 6425 Odana Road, Madison, WI 53719. *Petroleum, natural gas, and their products* from Marathon County, WI, to points in the Upper Peninsula of MI. Supporting shipper: Erickson Diversified Corp., Erickson Oil Products Division, 509½ Second Street, Hudson, WI 54016.

MC 29886 (Sub-4-9TA), filed April 14, 1981. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Carl G. Van Dyke (same address as applicant). *Storage tanks,* between points in Ouachita Parish, LA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Poly Processing Company, P.O. Box 4150, Monroe, LA 71203.

MC 123407 (Sub-4-60TA), filed April 13, 1981. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: Sterling W. Hygema (same address as applicant). *Lumber or wood products* between Beltrami County, MN, on the one hand, and, on the other, points in the U.S. Supporting shipper: The Mead Corporation, Courthouse Plaza, N.E., Dayton, OH 45463.

MC 123640 (Sub-4-2TA), filed April 9, 1981. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Ave., Ft. Wayne, IN 46803. Representative: Irving Klein, 371 Seventh Ave., New York, NY 10001. *Such commodities as are sold and dealt in by hardware wholesale houses,* between Dixon, IL on the one hand, and, on the other, points in the State of MI on and east of a line beginning at the Indiana-Michigan State Line, thence north along Interstate Hwy 69 to its intersection with U.S. Hwy 27 at Charlotte, thence north along U.S. Hwy 27 to its intersection with Interstate Hwy 75, thence along Interstate Hwy 75 to the international boundary line between the United States and Canada. Supporting shipper: Hardware Wholesalers, Inc., Progress Road, Dixon, IL.

MC 133666 (Sub-4-2TA), filed April 14, 1981. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue, South, Wheaton, MN 52696. Representative: Thomas J. Burke, Jr., Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center, Denver, CO 80264. *Liquid fertilizer solutions, in bulk,* between points in MN, ND, SD, IA and NE. Supporting shippers: N-ReN Corporation, St. Paul Ammonia Products Division, Box 418, South St. Paul, MN 55075 and Land-o-Lakes, Inc., 2827 Eighth Ave., South, Fort Dodge, IA 50501.

MC 136899 (Sub-4-10TA), filed April 13, 1981. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 637, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Wearing apparel* from Alsip, IL to Minneapolis, MN; Des Moines, IA; Indianapolis, IN; and Kansas City and St. Louis, MO. An underlying ETA seeks 120 day authority. Supporting shipper: K mart Apparel Corporation, 7373 Westside Ave., North Bergen, NJ 07047.

MC 146628 (Sub-4-5), filed April 10, 1981. Applicant: HUNT SUPER SERVICE, INC., P.O. Box 270, Bradley, IL 60915. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Contract* Irregular: *Instant cocoa, hot cocoa mix and syrup,* between Momence, IL on the one hand, and, on the other, points in the U.S. Restricted to traffic moving under continuing contract with Ko-Pak, Inc. Supporting shipper: Ko-Pak, Inc., 305 East Washington St., Momence, IL 60954.

MC 146758 (Sub-4-5), filed April 13, 1981. Applicant: LADLIE TRANSPORTATION, INC., 103 East Main Street, Albert Lea, MN 56007. Representative: Phillip H. Ladlie (address same as applicant). *Food and related products* between all points in the U.S. (Except AL and HI). Restricted to the traffic originating at the facilities used by World Services, Inc. Supporting shipper: World Services, Inc., 250 Chester, St. Paul, MN.

MC 150251 (Sub-4-2TA), filed April 13, 1981. Applicant: COURTESY CARTAGE COMPANY, 24711 Sherwood, Center Line, MI 48015. Representative: Bernard J. Kompare, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Contract: Such commodities as are dealt in or used by manufacturers or distributors of household appliances (except in bulk),* between the facilities of Courtesy Cartage Co., located in the Detroit, MI, commercial zone, on the one hand, and, on the other, points in MI, under contract(s) with General Electric Company. Supporting shipper: General Electric Company, Appliance Park, Louisville, KY 40225.

MC 150746 (Sub-4-7TA), filed April 13, 1981. Applicant: DFC TRANSPORTATION COMPANY, 12007 Smith Drive (P.O. Box 929), Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Contract:* Irregular *Metal and plastic products, and materials, equipment and supplies* used in the manufacture and distribution of metal and plastic products, between Fountain Inn and Sumter, SC, and points in their respective commercial zones, on the one hand, and, on the other, West Conshohocken, PA, Charlotte, NC, East

Point, GA, Arlington, TX, and Chicago, IL, and points in their respective commercial zones, under contract with Interlake, Inc. Supporting shipper: Interlake, Inc., 135th Street and Perry Avenue, Riverdale, IL 60627.

MC 151556 (Sub-4-8), filed April 9, 1981. Applicant: ALLSTATE TRANSPORTATION COMPANY, 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Marvin M. Mueller (address same as applicant). *Contract:* Irregular *Clothing and products used in the manufacture of clothing* under continuing contracts with the Munsingwear Corp., between points in IN, IA, IL, MN, ND, NE, SD, WI, KS, MO, IN, MI, OK, NC, TN, TX and CA. Supporting shipper: Munsingwear Inc., 718 Glenwood Avenue, Minneapolis, MN 55405.

MC 155244 (Sub-4-1TA), filed April 10, 1981. Applicant: TOTAL ARMORED CAR SERVICE, INC., 13802 W. Seven Mile Road, Detroit, MI 48235. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. *Contract* irregular: *General commodities* (except Classes A and B explosives) between points in the U.S. under a continuing contract with American Bakeries Company and Frank's Nursery and Crafts, Inc. Supporting shippers: American Bakeries Company, 316 Walnut St., Toledo, OH 43604; Franks Nursery and Crafts, Inc., 6399 E. Nevada, Detroit, MI 48234.

MC 155255 (Sub-4-1TA), filed April 13, 1981. Applicant: D & L TRANSPORTATION, INC., 3245 Fourth Street Southeast, Minneapolis, MN 55414. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424. *General commodities* (except Classes A and B explosives) between those points in MN in and south of Traverse, Stevens, Pope, Stearns, Benton, Sherburne, Isanti and Chicago Counties, MN. There are seven supporting shippers.

MC 78684 (Sub-4-1TA), filed April 14, 1981. Applicant: CENTRAL IND-ILL TRUCKING, INC., P.O. Box 67, Rochester, IN. 46075. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN. 46240. *Contract* irregular: *Liquid asphalt,* in bulk, in tank vehicles, from Detroit, MI, to Lowell, IN. Restricted to service to be performed under continuing contracts with Globe Industries, Inc., Chicago, IL. Supporting shipper: Globe Industries, Inc., 2638 E. 126th St., Chicago, IL 60633.

MC 108859 (Sub-4-10TA), filed April 16, 1981. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *General commodities (except household goods as defined by the Commission, classes A & B explosives, hazardous wastes, and those requiring special equipment),* between the facilities of Waupaca Foundries, Inc. and its divisions and subsidiaries located at or near Waupaca (Waupaca County), WI, on the one hand, and, on the other, points in Boone County, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Webb Wheel Division of Marmon Industries, Inc., 510 Indianapolis Avenue, Lebanon, IN 46052.

MC 111310 (Sub-4-8TA), filed April 13, 1981. Applicant: BEER TRANSIT, INC., Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Malt beverages* from Chicago, IL to points in AR, IL, IA, MN, MO and WI. Supporting shipper: The Stroh Brewing Company, 1 Stroh Drive, Detroit, MI 48226.

MC 118838 (Sub-4-8), filed April 16, 1981. Applicant: GARBOR TRUCKING, INC., R.R. 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402. *Contract:* Irregular, *Charcoal, charcoal briquets, hickory chips, lighter fluid, and materials and supplies used in the distribution thereof* (1) from Stark County, ND and Insanti County, MN, to points in the States of CA, CO, IA, ID, IL, IN, MI, MN, MT, NE, ND, NV, OH, OR, SD, UT, WA, WI and WY: and (2) from Waupaca County, WI, to points on the U.S.-Canadian border in ID, MI, MN, MT, ND and WA, under continuing contract(s) with Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346.

MC 134477 (Sub-4-43TA), filed April 15, 1981. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *General commodities (except classes A and B explosives)* between CT, NJ, NY, OH, and PA on the one hand, and, on the other, points in the U.S. Restricted to traffic originating at or destined to the facilities of Northeastern Pennsylvania Shipper's Cooperative Association, Inc., or its members. Supporting shipper: Pennsylvania Shipper's Cooperative Association, Inc., 1212 O'Neill Highway, Dunmore, PA 18512.

MC 134612 (Sub-4-12TA), filed April 16, 1981. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Contract* Irregular *General commodities (except classes A and B explosives)* for the account of Boyle-Midway a Division of American Home Products, between points in the U.S. Supporting shipper: Boyle-Midway, a Division of American Home Products Corporation, 5151 West 73rd Street, Chicago, IL 60638.

MC 136899 (Sub-4-11TA), filed April 14, 1981. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 637, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such merchandise as is dealt in by discount and variety stores (except commodities in bulk)* between the facilities of K-mart Corp at Lawrence, KS, on the one hand, and, on the other, points in IL and MO. Supporting shipper: K-mart Corporation, 3100 West Big Beaver, Troy, MI 48084.

MC 136899 (Sub-4-12TA), filed April 14, 1981. Applicant: HIGGINS TRANSPORTATION, LTD., P.O. Box 637, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Charcoal, hickory chips, and lighter fluid and materials, equipment, and supplies used in the manufacture of distribution of charcoal and charcoal products* between the facilities of Husky Industries, Inc., at or near Dickinson, ND and Isanti, MN on the one hand, and, on the other, points in the United States, in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Husky Industries, Inc., 62 Perimeter, Atlanta, GA 30346.

MC 138493 (Sub-4-5TA), filed April 15, 1981. Applicant: JAKUM TRUCKING, INC., Rural Route 2, Miley Road, Sheboygan Falls, WI 53085. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Plastic and metal products, filters, filter cartridges, filter housings, meter valve and control boxes, and such commodities as are used in the manufacture, sale or distribution of these products,* from Sheboygan, WI to AZ, CA, CO, ID, LA, NE, NV, NM, OK, OR, TX, UT and WA. Supporting shipper: Ametek, Inc., Plymouth Products Division, 502 Indiana Avenue, Sheboygan, WI 53081.

MC 139420 (Sub-4-3TA), filed April 16, 1981. Applicant: GLACIER TRANSPORT, INC., P.O. Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402. *General commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions),* between points in MN, ND and SD, on the one hand, and, on the other, points

in the U.S. There are 23 statements of shipper support accompanying the application.

MC 139482 (Sub-4-3TA), filed April 10, 1981. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. *Printed matter and such commodities used in the manufacture, processing, sale and distribution of printed matter,* between Chicago, IL, on the one hand, and, on the other, points in the United States. Restricted to the transportation of traffic originating at or destined to the facilities of or utilized by W. F. Hall Printing Co. Supporting shipper: W. F. Hall Printing Company, 4600 W. Diversey Avenue, Chicago, IL 60639.

MC 140273 (Sub-4-1TA), filed April 14, 1981. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356. Representative: Val M. Higgins, 1600 TCF Tower, 122 So. 8th St., Minneapolis, MN 55402. *Flour,* from Cando, ND to Detroit, MI, Buffalo, NY, Rochester, NY, Lincoln, NE, Omaha, NE, St. Louis, MO, Kansas City, KS, Minneapolis, MN, St. Paul, MN. Supporting shipper: Noodles By Leonardo Inc., Cando, North Dakota 58324.

MC 141899 (Sub-4-2TA), filed April 13, 1981. Applicant: BILL & GENE'S TRUCKING, INC., Box 303 W. Hwy 34, Madison, SD 52042. Representative: Thomas J. Simmons, Box 480, Sioux Falls, SD 57101. *Fertilizer, dry, manufactured, in bulk or in containers,* between points in IA, MN, NE, and SD. An underlying ETA seeks 120 days authority. Supporting shipper: Chevron Chemical Co., Ortho Division, P.O. Box 282, Fort Madison, IA.

MC 143280 (Sub-4-18TA), filed April 16, 1981. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Avenue South, Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Plastic articles and fabricated metal products,* between Will County, IL, on the one hand, and, on the other, points in the U.S. Supporting shipper: Bennett Industries, 515 First St., Peotone, IL 60468.

MC 143280 (Sub-4-19TA), filed April 16, 1981. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Avenue South, Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Paper products, plastic products, chemicals and metal products,* between points in Brown and Winnebago Counties, WI, on the one hand, and, on the other, points in the 48 states. Supporting shipper: Bay West Paper, 1100 W. Mason St., Green Bay, WI 54303.

MC 144370 (Sub-4-2TA), filed April 15, 1981. Applicant: DON NASS TRUCKING, INC., 210 Front Street, Clinton, WI 53525. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. *Rough and semi-finished forgings, and materials, equipment and supplies* used in the production of these commodities (1) from the facilities of Scot Forge Co., located at or near Clinton, WI to points in the Chicago, IL commercial zone (as defined by the Commission); (2) between the facilities of Scot Forge Co., located at or near Cicero and Spring Grove, IL, on the one hand, and, on the other, points in the Milwaukee, WI commercial zone (as defined by the Commission), and (3) between the facilities of Scot Forge Co., at or near Clinton, WI, Cicero and Spring Grove, IL. An underlying ETA seeks 120 days authority. Supporting shipper: Scot Forge Co., Atlas Avenue & Delco Drive, P.O. Box 686, Clinton, WI 53525.

MC 145974 (Sub-4-5TA), filed April 14, 1981. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Fertilizer and fertilizer ingredients* from points in Minneapolis-St. Paul, MN Commercial Zone to points in MT and points in ND on and west of U.S. Hwy 83. An underlying ETA seeks 120 days authority. Supporting shipper: Agri-Business, Inc., Box 106, Reserve, MT 59258.

MC 148866 (Sub-4-1), filed April 16, 1981. Applicant: GILBERT F. & RAYMOND L. GUSTAFSON, d.b.a. G & R GUSTAFSON TRANSPORT, 211 West Mosier Street, Grant Park, IL 60940. Representative: Abraham A. Diamond, 29 South La Salle, Street, Chicago, IL 60603. *(a) Plastic Articles, Paper & Paper Products; (b) Equipment, Material & Supplies, used or useful in the manufacturer, sale, or distribution of commodities described in (a)* between Blue Island and Grant Park, IL on the one hand, and, on the other, points in the U.S. Supporting shipper: Malanco, Inc., 2200 W. 138th Street, Blue Island, IL 60406.

MC 150189 (Sub-4-3), filed April 14, 1981. Applicant: R. G. BERRY, d.b.a. R. G. BERRY TRUCKING, P.O. Box 8, Shawneetown, IL 62984. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Foodstuffs and related products;* between the facilities of the Anderson-Clayton Company located at Jacksonville, IL, Monroe, Waupaca and Mayville, WI on the one hand, and, on the other, points in the U.S. Supporting shipper: Anderson Clayton Foods, P.O. Box 226165, Dallas, TX 75266.

MC 150825 (Sub-4-2TA), filed April 14, 1981. Applicant: B & T MAIL SERVICE, INC., 2521 South Ronke Lane, New Berlin, WI 53151. Representative: Joseph E. Ludden, 2707 South Avenue, P.O. Box 1567, LaCrosse, WI 54601. *Contract* irregular: *Printed matter and materials, equipment and supplies in the manufacturer of those products* between GA, IL, IN, IA, KS, KY, MA, MI, MN, MD, MO, NC, NJ, NY,, PA, OH, OK, TN, TX, DC, and WI. Supporting shipper: Quad/Graphics, Inc., W224 N 3322, Duplainville Rd., Pewaukee, WI 53072.

MC 150885 (Sub-4-2TA), filed April 16, 1981. Applicant: ROBERT WHEELER, III, Rural Route 3, Canton, IL 61520. Representative: Thomas M. O'Brien, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Coal, scrap iron and metal,* between points in Fulton, Peoria, Knox and Vermilion Counties, IL and points in Scott, Muscatine, Des Moines, Louisa and Lee Counties, IA. An Underlying ETA seeks 120 days authority. Supporting shippers: (1) Gavenda Bros., Inc., 352 South Second Avenue, Canton, IL 61520; (2) Freeman United Coal Mining Company, 300 West Washington Street, Chicago, IL 60606.

MC 151049 (Sub-4-3TA), filed April 14, 1981. Applicant: ED WIERSMA TRUCKING, 239 Holborn Drive, Kitchener, Ontario, Canada. Representative: John C. Scherbarth, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Lumber and lumber products* between the U.S. and CD Borders, on the one hand, and, on the other points in the U.S. Supporting shipper: Southern Wood Products Limited, P.O. Box 1450, 147 Tank Street, Petrolia, Ontario, CD.

MC 151422 (Sub-4-4TA), filed April 16, 1981. Applicant: MINN DAK TRANSPORT, INC., P.O. Box 98, Audubon, MN 56511. Representative: Cameron Haukedahl, P.O. Box 98, Audubon, MN 56511. *Steel and aluminum sheets and extrusions, engines, transmissions, garage doors, fertilizer spreaders and loaders and items used in the manufacture of fertilizer spreaders and loaders and garage doors and allied components and parts.* Between points in IL, IN, IA, KY, MI, MN, MO, MT, NE, NY, NC, OH, SD, SC, WI, and VA and points in ND. Supporting shippers: Midland Garage Door Mfg. Co., 830 38th Street No., Fargo, ND 58105; Mobility Inc., 3110 Main Av., Fargo, ND 58102.

MC 155022 (Sub-4-2TA), filed April 13, 1981. Applicant: PROCHNOW FARMS,

INC., Route 5, Medford, WI 54451. Representative: James A. Siegel, Olde-Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* irregular; *such commodities as are dealt in by manufacturers and distributors of animal feeds and farm supplies* between points in IA, IL, MN and WI. Restricted to transportation to be performed under a continuing contract(s) with Dale Prochnow. An underlying ETA seeks 120 days authority. Supporting shipper: Dale Prochnow, Route 5, Medford, WI 54451.

MC 155121 (Sub-4-1TA), filed April 14, 1981. Applicant: AARON HOSMER TRUCKING, 710 S.W. First St., Wadena, MN 55482. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Ten South 5th St., Minneapolis, MN 55402. *Lumber and wood products,* between Wadena, MN on the one hand, and, on the other, points in MN, WI, IA, ND, SD, MT, ID, WA, OR, pursuant to continuing contracts with Wadena Sawmills, Inc., Wadena, MN. Supporting shipper: Wadena Sawmills, P.O. Box 109, Wadena, MN 56482.

MC 155135 (Sub-4-1TA), filed April 15, 1981. Applicant: JOHN A. DeVRIES, R.R. 2, Oregon, IL 61061. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Fertilizer and Anhydrous Ammonia* between points in IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MN, MO and WI. Supporting shippers: Terra Chemicals International, Inc., P.O. Box 1828, Sioux City, IA 51102; Triple T. Chemical, Inc., 1519 E. First, Streator, IL 61364; and Royster Comany, 3868 Camelot Drive, Decatur, IL 62526.

MC 155254 (Sub-4-1TA), filed April 13, 1981. Applicant: FAISON TRANSPORTATION, INC., 7547 Southfield Drive, Indianapolis, IN 46227. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *Printed matter and materials, equipment and supplies used in the manufacture and distribution thereof,* between points in the U.S. Restricted to services provided pursuant to contract(s) with R. R. Donnelley & Sons, Inc. Supporting shipper: R. R. Donnelley & Sons, 1009 Sloan, Crawfordsville, IN 47933.

MC 155298 (Sub-4-1TA), filed April 14, 1981. Applicant: CENTRAL CARRIERS, INC., P.O. BOX 2, Rugby, ND 58368. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108. *Transportation equipment, machinery, and building materials,* between points in Pierce County, ND, on the one hand, and, on the other, points in the U.S. Supporting shippers: Rugby Manufacturing Co., Industrial Road, Rugby, ND 58368, Fossum's Lumber, Highway 2 West, Rugby, ND 58368, Rugby, Equipment Inc., R. R. 1, Box 8, Rugby, ND 58368, Hoffart Equipment Corp., 119 Second Avenue East, Rugby, ND 58368.

MC 155299 (Sub-4-1TA), filed April 14, 1981. Applicant: L & K CARTAGE COMPANY, INC., 22431 Barton, St. Clair Shores, MI 48080. Representative: Frank J. Kerwin, 24055 Jefferson, Suite 200, P.O. Box 319, St. Clair Shores, MI 48080, (313) 777-0400. *Such commodities as are dealt in by retail and grocery stores* between points in MI, on the one hand, and points in OH, IN, IL, on the other. Supporting shippers: Grocers Packaging Supply, 14420 Livernois, Detroit, MI 48238; Chatham Supermarkets, Inc., 2300 E. 10 Mile Road, Warren, MI 48091.

MC 155300 (Sub-4-1TA), filed April 14, 1981. Applicant: WIARDS ORCHARDS, INC., 5565 Merritt Road, Ypsilanti, MI 48197. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Toilet preparations and related sundries,* between the facilities of Supreme Distributors of Southfield, MI, on the one hand, and, on the other, points in the United States. An underlying ETA seeks 120 days authority. Supporting shipper: Supreme Distributors Company, Southfield, MI 48037.

MC 155302 (Sub-4-1TA), filed April 14, 1981. Applicant: MACH FARMS, INC., Box 107, Plover, WI 54467. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* irregular; *foodstuffs, and materials, equipment and supplies* used in the manufacture and distribution of such commodities between points in the U.S. restricted to transportation performed under continuing contract(s) with Hillshire Farms Co., Div. of Consolidated Foods Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Hillshire Farms Co., Div. of Consolidated Foods Corporation, Box 227, New London, WI 54961.

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 10343 (Sub-5-1TA), filed April 17, 1981. Applicant: CHURCHILL TRUCK LINES, INC., P.O. Box 250, Hwy. 36 West, Chillicothe, MO 64601. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Common; regular: *General commodities (except Classes A and B explosives and household goods as defined by the Commission)* (1) between Omaha, NE and Des Moines, IA: From Omaha, NE over Interstate Hwy 80 to Des Moines, IA, and return over the same route; (2) between Omaha, NE, and St. Joseph, MO: From Omaha, NE over Interstate Hwy 80 to junction Interstate Hwy 29 to St. Joseph, MO, and return over the same route; (3) between Omaha, NE and Atchison, KS: From Omaha, NE over U.S. Hwy 73 to Atchison, KS, and return over the same route; (4) between Omaha, NE and Topeka, KS: From Omaha, NE over U.S. Hwy 75 to Topeka, KS, and return over the same route; (5) between Omaha, NE and Junction City, KS: From Omaha, NE over Interstate Hwy 80 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Junction City, KS, and return over the same route, serving the intermediate point of Lincoln, NE; (6) between Lincoln, NE and junction of U.S. Hwy 34 and U.S. Hwy 75: From Lincoln, NE over U.S. Hwy 34 to junction U.S. Hwy 34 and U.S. Hwy 75, and return over the same route, serving the junction of U.S. Hwy 34 and U.S. Hwy 75 for purpose of joinder only; (7) between Lincoln, NE and junction of U.S. Hwy 75 and NE Hwy 2: From Lincoln, NE over NE Hwy 2 to junction NE Hwy 2 and U.S. Hwy 75, and return over the same route, serving the junction of NE Hwy 2 and U.S. Hwy 75, for purpose of joinder only; (8) between Wichita, KS and Oklahoma City, OK: (a) From Wichita, KS over Interstate Hwy 35 to Oklahoma City, OK, and return over the same route, serving the junction of Interstate Hwy 35 and U.S. Hwy 60, the junction of Interstate Hwy 35 and U.S. Hwy 64, and the junction of Interstate Hwy 35 and OK Hwy 33, for purpose of joinder only; (b) from Wichita, KS over Interstate Hwy 35 to junction U.S. Hwy 177, then over U.S. Hwy 177 to junction of U.S. Hwy 177 and U.S. Hwy 77, then over U.S. Hwy 77 to junction of U.S. Hwy 77 and Interstate Hwy 35 (South of Guthrie, OK), then over Interstate Hwy 35 to Oklahoma City, OK, and return over the same route, serving the intermediate points of Tonkawa, Perry, Blackwell, and Guthrie, OK; (c) from Wichita, KS over Interstate Hwy 35 to junction U.S. Hwy 166, then over U.S. Hwy 166 to junction U.S. Hwy 81, then over U.S. Hwy 81 to OK Hwy 3, then over OK Hwy 3 to Oklahoma City, OK, and return over the same route, serving the intermediate point of Enid, OK; (d) from Wichita, KS over KS Hwy 15 to junction U.S. Hwy 77, then over U.S. Hwy 77 to junction U.S. Hwy 177, then over U.S. Hwy 177 to junction Interstate Hwy 44, and return over the same route, serving the intermediate points of Ponca City and Stillwater, OK, and the junction of U.S. Hwy 177 and Interstate Hwy 44, and the junction of U.S. Hwy 177 and KS

Hwy 15 for purpose of joinder only; (9) between Enid, OK and Muskogee, OK: (a) From Enid, OK over U.S. Hwy 64 to Muskogee, OK, and return over the same route, serving the intermediate points of Perry and Tulsa, OK, and the junction of U.S. Hwy 64 and Interstate Hwy 35 for purpose of joinder only; (b) from Enid, OK over U.S. Hwy 64 to junction Cimarron Turnpike, then Cimarron Turnpike to junction Muskogee Turnpike, then Muskogee Turnpike to Muskogee, OK, and return over the same route, serving the intermediate point of Tulsa, OK; (10) between junction Interstate Hwy 35 and U.S. Hwy 60, and junction U.S. Hwy 60 and U.S. Hwy 75: From the junction Interstate Hwy 35 and U.S. Hwy 60 over U.S. Hwy 60 to junction U.S. Hwy 75, and return over the same route, serving the intermediate points of Ponca City and Bartlesville, OK, and the junction of U.S. Hwy 60 and U.S. Hwy 75 for purpose of joinder only; (11) between Stillwater, OK and junction OK Hwy 33 and Interstate Hwy 35: from Stillwater, OK over U.S. Hwy 177 to junction OK Hwy 33, then over OK Hwy 33 to junction Interstate Hwy 35, and return over the same route; (12) between Oklahoma City, OK and Ft. Worth, TX: From Oklahoma City, OK over Interstate Hwy 35 to junction Interstate Hwy 35W, then Interstate Hwy 35W to Ft. Worth, TX, and return over the same route, serving the intermediate points of Pauls Valley and Ardmore, OK, and, the junction of Interstate Hwy 35 and Interstate Hwy 35W for purpose of joinder only; (13) between junction of Interstate Hwy 35 and Interstate Hwy 35E and Dallas, TX: From junction of Interstate Hwy 35 and Interstate Hwy 35E, then over Interstate Hwy 35E to Dallas, TX, and return over the same route; (14) between Topeka, KS and Tulsa, OK: From Topeka, KS over U.S. Hwy 75 to Tulsa, OK, and return over the same route, serving the intermediate points of Bartlesville and Dewey, OK, and the junction of U.S. Hwy 75 and Interstate Hwy 35 for purpose of joinder only; (15) between Kansas City, MO and junction Interstate Hwy 35 and U.S. Hwy 75: From Kansas City, MO over Interstate Hwy 35 to junction U.S. Hwy 75, and return over the same route; (16) between Kansas City, MO and Tulsa, OK: From Kansas City, MO over Interstate Hwy 35 to junction U.S. Hwy 169, then over U.S. Hwy 169 to Tulsa, OK, and return over the same route; (17) between Topeka, KS and junction U.S. Hwy 77 and KS Hwy 15: From Topeka, KS over Interstate Hwy 35 to junction U.S. Hwy 77, then over U.S. Hwy 77 to junction KS Hwy 15, and return over the same route, serving the junction of U.S. Hwy 77 and KS Hwy 15 for purpose of joinder only; (18) between Springfield, MO and Oklahoma City, OK: (a) From Springfield, MO over Interstate Hwy 44 to Oklahoma City, OK and return over the same route, serving the intermediate points of Joplin, MO and Tulsa, OK; (b) from Springfield, MO over U.S. Hwy 66 to Oklahoma City, OK, and return over the same routes, serving the intermediate points of Joplin, MO and Tulsa, OK; (19) between Kansas City, MO and Bella Vista, AR: From Kansas City, MO over U.S. Hwy 71 to Bella Vista, AR, and return over the same route, serving the intermediate point of Joplin, MO; (20) between Tulsa, OK and junction U.S. Hwy 69 and Indian Nation Turnpike: From Tulsa, OK over U.S. Hwy 75 to junction Indian Nation Turnpike, then Indian Nation Turnpike to junction U.S. Hwy 69, and return over the same route, serving the intermediate points of Okmulgee and Henryetta, OK. Applicant proposes to tack and interline and serve the commercial zones of the points involved. Supporting shippers: 111.

MC 96992 (Sub-5-6TA), filed April 17, 1981. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Liquefied petroleum gas* from Evangeline, Lincoln and St. Martin Parishes, LA to Union County, AR. Supporting shipper: Olympia Petroleum, Inc., Houston, TX.

MC 99427 (Sub-5-14TA), filed April 17, 1981. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, P.O. Box 855, Des Moines, IA 50304. *Sulfuric acid,* from E. Chicago, IN, to Phoenix, AZ. Supporting shipper: E.I. duPont Nemours & Co., 1007 Market St., Wilmington, DE 19898.

MC 100666 (Sub-5-19TA), filed April 17, 1981. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Mercer commodities and machinery,* between Laurel, MS and points in AL, AR, FL, GA, KS, LA, OK and TX. There are 12 supporting shippers.

MC 102546 (Sub-5-1TA), filed April 17, 1981. Applicant: BLUE FLASH EXPRESS, INC., Route 1, Box 233, Zachary, LA 70791. Representative: L. F. Aguillard (same as applicant). Contract; Irregular. *Dry Chemicals, in Bulk or Packaged (Plastic Pellets),* between all points in the US. Supporting shipper: Allied Chemical Corporation Plastics Division, P.O. Box 53006, Baton Rouge, LA.

MC 126822 (Sub-5-55TA), filed April 17, 1981. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Metal and metal products* from, to or between the facilities of Nucor Corporation and points in the U.S. Supporting shipper: Nucor Corporation, 4425 Randolph Road, Charlotte, NC 28211.

MC 134783 (Sub-5-5TA), filed April 17, 1981. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, 940 East 66th St., Lubbock, TX 79408. Representative: Mark A. Davidson, 1600 Sherman St., #665, Denver, CO 80203. *Corrugated cartons* from Gastonia, NC to Houston, TX and its commercial zone. Supporting shipper: Westvaco, Inc., P.O. Box 728, Gastonia, NC 28052.

MC 135762 (Sub-5-8TA), filed April 16, 1981. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. *Contract;* Irregular: *General commodities,* except classes A and B explosives and household goods as defined by the Commission, (1) between Fort Smith, AR, on the one hand, and, on the other, points in the U.S. except AK and HI, under a continuing contract(s) with Willard Mirrors, Inc., and (2) between Memphis, TN, on the one hand, and, on the other, points in the U.S., except AK and HI, under a continuing contract(s) with Speltz Plywood Corp. Supporting shippers: Willard Mirrors, Inc., P.O. Box 1426, Ft. Smith, AR 72901 and Speltz Plywood Corp., P.O. Box 9206, Memphis, TN 38109.

MC 135936 (Sub-5-4TA), filed April 16, 1981. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* from the facilities of Tama Meat Packing Company at Tama, IA to points in CT, DE, DC, KS, ME, MD, MA, MI, NE, NH, NJ, NY, OH, PA, RI, VT, VA, TN, AR, KY, WV, IN, IL, MO, SD, MN, and WI. Supporting shipper: Tama Meat Packing Company, Box 209, Tama, IA 52339.

MC 136540 (Sub-5-1TA), filed April 17, 1981. Applicant: REFINERS TRANSPORT SERVICE, INC., P.O. Box 742, Metairie, LA 70001. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Contract; Irregular. *Paper and paper*

products and any commodities used in the manufacture of paper bags (except liquid commodities in bulk) under continuing contract(s) with Westvaco Corporation between New Orleans, LA, on the one hand, and, on the other, all points in the AL, AR, FL, GA, IL, KY, LA, MS, MO, OK, TN and TX. Supporting shipper: Westvaco Corporation, 1400 Annunciation Street, New Orleans, LA.

MC 136553 (Sub-5-5TA), filed April 17, 1981. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Limestone products and gypsum products,* (1) from points in Marion County, IA, to points in CO, OK and TX and (2) from points in Breckinridge County, KY, to points in IL, IN, and MI. Supporting shipper: American Pelletizing Corporation, 7200 Hickman Road, Des Moines, IA 50322.

MC 142431 (Sub-5-11TA), filed April 17, 1981. Applicant: WAYMAR TRANSPORT CORP., 1755 S.E. 108th Street, Runnells, IA 50237. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Non-alcoholic beverages and beverage mixers* from Warwick, RI to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NY, OH, OK, PA, TN, TX and WI. Supporting shipper: Jefferson Bottling Co., Division of L. Rose & Co., Ltd., 101 Jefferson Blvd., Warwick, RI 02888.

MC 146729 (Sub-5-3TA), filed April 17, 1981. Applicant: JAMES S. HELWIG AND ALLEN S. GRIMLAND, d.b.a. H & G LEASING, 2509 Inwood Rd., Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Food and related products;* between Anderson County, TX on the one hand and on the other, points in the States of AL, AZ, AR, CA, CO, FL, GA, IL, IA, KS, KY, LA, MI, MN, MS, MO, NY, NM, NC, NE, OH, OK, PA, SC, TN, WI, UT and VA. Supporting shipper(s): Vernon Calhoun Packing Company, P.O. Box 709, Palestine, TX 78501.

MC 146876 (Sub-5-1TA), filed April 16, 1981. Applicant: WILLIAM W. EGGERS, d.b.a. CEDAR VALLEY TRANSPORT, Box 309, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Electrical machinery, equipment and supplies* between Hamilton County, IA on the one hand and, on the other, points in WI, IL and IN. Supporting shipper: Webster City Products, Webster City, IA 50595.

MC 147676 (Sub-5-5TA), filed April 17, 1981. Applicant: KEATON TRUCK LINES, INC., 1000 South Lelia Street, P.O. Box 1187, Texarkana, TX 75504. Representative: Patsy R. Washington, CPA (same as above). Contract—irregular: *Meat, Fresh or Frozen, in carcass or containers and packages, in straight or mixed shipments,* between Houston, TX and all points in IA, KS, and NE. Supporting shipper: Blue Ribbon Packing Co., 4767 Calhoun Road, Houston, TX 77004.

MC 149408 (Sub-5-3TA), filed July 14, 1981. Applicant: PAL TEX TRANSPORT CO., P.O. Box 296, Palestine, TX 75801. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Such commodities as are dealt in or used by discount and variety stores (except commodities in bulk)* from points in the U.S. to points in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN and TX. Supporting shipper: Wal-Mart Stores, Inc., Bentonville, AR.

MC 149568 (Sub-5-3TA), filed April 17, 1981. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. Contract; Irregular. *Such Commodities as are dealt in or used by hospitals (except commodities in bulk),* between points in CA, CT, FL, GA, IL, NE, NJ, NY, SC, TX, and UT. Supporting shipper: Becton, Dickinson and Company of Rutherford, NJ.

MC 150592 (Sub-5-10TA), filed April 17, 1981. Applicant: SUNFLOWER CARRIERS, INC., P.O. BOX 561, 12th and Academy, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Pulp, paper, or allied products,* between Adams County, NE, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Great Plains Containers Corp., John Z. Segal, Vice President, 2000 Summit Avenue, Box 2148, Hastings, NE 68901.

MC 150592 (Sub-5-11TA), filed April 17, 1981. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, 12th and Academy, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Automotive care products,* between Orange County, CA, on the one hand, and, on the other, points in OH. Supporting shipper: B.A.F. Industries, Otis F. Bell, President, 1910 South Yale, Santa Ana, CA 92704.

MC 151202 (Sub-5-2TA), filed April 17, 1981. Applicant: R. L. & H. DISTRIBUTION CO., INC., 10909 Bob Stone, El Paso, TX 79936. Representative: Henry G. Kreiner (same as applicant). Contract; Irregular. *Roofing and Building Materials and Accessories* between the U.S.-Mexican boundary line and points in the U.S., except AK and HI, under continuing contract with Casahi, Inc. Supporting shipper: Casahi, Inc., 747 Horizon Blvd. So., El Paso, TX 79927.

MC 154696 (Sub-5-2TA), filed April 17, 1981. Applicant: SILLIMAN BROS. FREIGHT CO., INC., Route 1, Box 150, Bernie, MO 63822. Representative: B. W. Latourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63015. *Liquid Propane* between Memphis, TN; Light and West Memphis, AR; and Wood River, IL, on the one hand, and, on the other, Bernie, MO. Supporting shipper: Semo Gas Co., Inc., Bernie, MO 63822.

MC 154723 (Sub-5-2TA), filed April 17, 1981. Applicant: C. M. PENN & SONS, INC., Route 1, Box 349 A, Greenwell Springs, LA 70739. Representative: Jackson Salasky, Post Office Box 45538, Dallas, TX 75245. *Waste material, hazardous and/or non-hazardous* from Hearne, TX to Lake Charles, LA. Supporting shipper: Denka Chemicals, 8700 Park Place Boulevard, Houston, TX 77017.

MC 155205 (Sub-5-1TA), filed April 17, 1981. Applicant: T. L. VAN, INC., P.O. Box. 116, Center, TX. 75935. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Malt Beverages and related advertising materials; and return of empty, used beverage containers and materials, equipment and supplies used in and dealt with by breweries,* Between Jefferson County, CO, on the one hand, and TX and LA, on the other. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 155341 (Sub-5-1TA), filed April 16, 1981. Applicant: PIONEER EXPRESS, INC., 1715 S.E. Skyline Drive, Oklahoma City, OK 73125. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036. Common, Regular. *General Commodities, (except class A & B explosives),* between Oklahoma City, OK and Shamrock, TX, over U.S. Hwy 66 and Interstate Hwy 40, serving the intermediate points of Hydro, Weatherford, Clinton, Foss, Canute, Elk City, Sayre, Erick and Texola, OK; and the off-route points of Arapaho, Bessie, Cordell and Burns Flat, OK. Applicant proposes to interline with other motor carriers. Supporting shippers: There are 106 supporting shippers.

MC 155350 (Sub-5-1TA), filed April 17, 1981. Applicant: UTLEY LUMBER COMPANY, INC., 804 N. Walnut, P.O. Box 207, Steele, MO 63877. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Lumber and lumber mill products* (A) From facilities of (1)

Anthony Timberlands, Inc. at Bearden and Malvern, AR; (2) Leaf River Forest Products, Inc. at New Augusta, MS; (3) Harrigan Lumber Co. at Monroeville, AL; (4) Copiah County Manufacturing Co. at Hazelhurst, MS; (5) Masonite Corporation, Southern Lumber Div. at Hattiesburg, Laurel, Quitman, Wiggins, Crosby and Hermanville, MS and Melvin, AL; to points in IL, IN, IA, MI, MN, MO and WI; and (B) From facilities of the suppliers of Broadview Lumber Co., Inc. of Carthage, MO at points in AL, MS and AR to points in IA, IL and MO.

MC 155360 (Sub-5-1TA), filed April 17, 1981. Applicant: SOUTH TEXAS LIQUID TERMINAL, 604 Carolina Street, P.O. Box 666, San Antonio, TX 78293. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Liquid corn products, in bulk,* between points in Bexar County, TX, on the one hand, and, on the other, points in NM. Supporting shipper: ADM Corn Sweeteners, 3300 South Gessner, Suite 150, Houston, TX 77063.

MC 155365 (Sub-5-1TA), filed April 17, 1981. Applicant: BEVERAGE TRANSPORTS, INC., 3741 Walton, Fort Worth, TX 76133. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *(1) Beer, Ale, Malt Liquor, and related advertising materials, and (2) empty containers and pallets,* between San Antonio, Galveston and Fort Worth, TX, on the one hand, and, on the other, points in Albuquerque, NM; Ardmore, Chickasha, Lawton, and Oklahoma City, OK. Supporting shippers: Solari Sales, 745 Trading Post Trail, Albuquerque, NM 87123; Southern Sales, Inc., 202 E. Main, Ardmore, OK.

MC 155366 (Sub-5-1TA), filed April 17, 1981. Applicant: JOSEPH H. AYOUB, d.b.a. SAWAYA TRUCKING COMPANY, 6935 Commerce, El Paso, TX 79915. Representative: Joseph H. Ayoub (same as applicant). Contract; Irregular. *Alcoholic Beverages, tobaccos, candy confections, household appliances, and other articles as dealt in by retail discount stores,* between El Paso County, TX and points and places in the U.S., under continuning contract(s) with Border Tobacco, Inc., 501 E. Paisano, El Paso, TX; Ayoub Exports, Inc., 919 S. Stanton, El Paso, TX.

MC 155371 (Sub-5-1TA), filed April 17, 1981. Applicant: JERRY L. ELLIS, d.b.a. JERRY L. ELLIS TRUCKING COMPANY, 505 Metcalf, Mansfield, TX 76063. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104. *Plastic pipe* from the facilities of Bay Plastics, Inc. in Johnson County, TX to points in AR, CO, KS, LA, NM and OK. Supporting shipper: Bay Plastics, Inc., 1100 South Dobson, Burleson, TX 76028.

MC 3062 (Sub-5-10TA), filed April 13, 1981. Applicant: INMAN FREIGHT. SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). *General commodities (except classes A and B explosives),* (1) between Memphis, TN and Jackson, MS over US Hwy 51, (2) between Winona, MS and Greenville, MS over US Hwy 82 serving all intermediate points in (1) and (2) and serving points in Madison and Washington Counties, MS and those in MS on and north of MS Hwy 8 and on and west of Interstate Hwy 55 as off-route points. Tacking and interlining is intended. Supporting shippers: 13.

MC 53965 (Sub-5-10TA), filed April 13, 1981. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Post Office Drawer 1387, Salina, KS 67401. Representative: Bruce A. Bullock, One Woodward Avenue, Detroit, MI 48226. *General commodities, except calsses A and B explosives,* serving Stillwater, OK and points in its Commercial Zone as off-route points in connection with carrier's authorized regular routes (applicant intends to tack and interline). Supporting shippers: (8).

MC 61231 (Sub-5-6TA), filed April 13, 1981. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 2400 Financial Center Des Moines, IA 50309. *Insulation,* from Dallas, TX, to pts. in AZ, AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, WI and WY. Supporting shipper: Rmax, Inc., 13525 Welch Road, Dallas, TX 75234.

MC 96719 (Sub-5-2TA), filed April 13, 1981. Applicant: THRASHER TRUCKING COMPANY, P.O. Box 116, Monahans, TX 79756. Representative: J. W. Thrasher, Jr., Address: same as above. (A) *Machinery, equipment, materials and supplies used in, or in, connection with the discovery, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (B) Machinery, equipment, materials and supplies used in, or in, connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; (c) Commodities as specified in (A) & (B) above, which, because of size or weight, require the use of special equipment, and parts thereof when their transportation is incidental to the transportation of such commodities.* From points in Ector and Midland Counties, TX to points in AL and MS. Supporting shippers: Texas Tanque Mfg. Co., Inc., P.O. Drawer 154, Odessa, TX 79760, The Ortloff Corporation, P.O. Box 3199, Midland, TX 79701.

MC 114284 (Sub-5-11TA), filed April 13, 1981. Applicant: FOX-SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Food and Related Products,* From the facilities of Hormel in MO to points in IA, KS, MN, NE, OK and SD. Supporting shipper: Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912.

MC 118180 (Sub-5-1TA), filed April 13, 1981. Applicant: ARCTIC EXPRESS, INC., P.O. Box 180175, Dallas, TX 75228. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Wine and liquor* between New Orleans, LA, and its commercial zone, on the one hand, and points in TX, on the other. Supporting shipper: Longhorn Liquors Ltd., Inc., 626-106th Street, Arlington, TX 76011.

MC 119988 (Sub-5-36TA), filed April 13, 1981. Applicant: GREAT WESTERN TRUCKING CO., Inc., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood (same as applicant). *Paper and Paper Products,* Between Palatka, FL, on the one hand, and, on the other, points in AR, CA, KS, LA, MS, MO, NE and TX. Supporting shipper: Central States Diversified, Inc., 1400 Reid St., Palatka, FL 32077.

MC 128273 (Sub-5-38TA), filed April 13, 1981. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as applicant). *General commodities (except commodities in bulk, in tank vehicles, Classes A & B explosives, household goods as defined by the Commission, and commodities which because of size or weight require the use of special equipment),* from the facilities of Kaiser Aluminum and Chemical Corp., at or near Toledo, OH, to points in the U.S. (except AK and HI). Supporting shipper: Kaiser Aluminum & Chemical Corp., 300 lakeside Drive, Oakland, CA 94643.

MC 128273 (Sub-5-39TA), filed April 13, 1981. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as applicant). *General commodities (except commodities in bulk, in tank vehicles, Classes A & B explosives, household goods as defined*

by the Commission, and commodities which because of size or weight require the use of specialized equipment), between the facilities of Essex Group, Inc., a subsidiary of United Technologies Corp. on the one hand, and, on the other, points in the U.S. (Except AK and HI). Supporting shipper: Essex Group, Inc., a subsidiary of United Technologies Corp., P.O. Box 1216, Fort Wayne, IN 46801.

MC 134755 (Sub-5-19TA), filed April 13, 1981. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same as applicant). *General commodities,* from points in MN, WI, MI, MA, RI, NC, and SC, to the facilities of Wal-Mart Stores, Inc. in KS, OK, TX, LA, AL, MS, KY, TN, IL, MO, and AR. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, OK 72712.

MC 138328 (Sub-5-22TA), filed April 13, 1981. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). *Wood kitchen cabinets,* from Salt Lake City, UT, to Tucson, AZ; Los Angeles and Vallejo, CA; Denver, CO; Reno, NV; and Kent and Spokane, WA, and pts in their commercial zones. Supporting shipper: Olympia Sales Company, 1537 S. 700 West, Salt Lake City, UT 84104.

MC 138328 (Sub-5-23TA), filed April 13, 1981. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). *Refractories, and materials and supplies used in the manufacture of refractories,* from Salt Lake City, UT, to pts in the U.S. located in and west of MN, IA, MO, AR, and LA. Supporting shipper: Rocky Mountain Refractories, Inc., 2436 Andrews Ave., Salt Lake City, UT 84104.

MC 139843 (Sub-5-2TA), filed April 13, 1981. Applicant: VERNON G. SAWYER, P.O. Box Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203. *Such Commodities as are dealt in and used by manufacturers of papers and paper products,* between the states of AR and Co. Supporting shipper: Georgia Pacific Corporation, P.O. Box 520, Crossett, AR 71635.

MC 142508 (Sub-5-52TA), filed April 13, 1981. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Food and kindred items* from CA, FL, OR, and WA, to points in CT, FL, MA, ME, NY, and RI. Supporting shipper: Merkert Enterprises, Inc., Dorann Foods Divison, 500 Turnpike Street, Canton, MA 02021.

MC 142672 (Sub-5-23TA), filed April 13, 1981. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Foodstuffs (except in bulk)*—Between the facilities of Buitoni Foods, Inc., on the one hand, and, on the other, points in the U.S. (except MA, ME, MT, ND, NH, RI, SD, VT and WY). Supporting shipper: Buitoni Foods, Inc., 450 Huyler Street, South Hackensack, NJ 07607.

MC 144603 (Sub-5-40TA), filed April 13, 1981. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same as applicant). *Rubber and plastic products* from Kansas City MO/KS and its commercial zone to Chicago, IL, Dallas, TX, Jackson, MS and their respective commercial zones (restricted to traffic moving for the account of World Tire Company). Supporting shipper: World Tire Company, 4156 Hoffmeister, St. Louis, MO 63125.

MC 1483230 (Sub-5-1TA), filed April 13, 1981. Applicant: J & H GRAIN CO., INC., P.O. Box 98, Thayer, KS 66776. Representative: Clyde N. Christey, 1010 Tyler, Suite 1101, Topeka, KS 66612. Contract, irregular, *fertilizer* between points and places in the states of OK, KS, NE, MO, AR, NM, and FL. Supporting shipper: W-G Fertilizer, Inc., P.O. Box 177, Thayer, KS 66776.

MC 152674 (Sub-5-4TA), filed April 13, 1981. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: Michael H. Lennox, 531 North Portland, Oklahoma City, OK 73147. *Embalming fluid and Supplies used in embalming,* between the state of MA on the one hand, and on the other, points in the States of CA, IL, and TX. Supporting shipper: Dodge Chemical Co., 165 Rindge Ave. Ext., Cambridge, MA 02140.

MC 153133 (Sub-5-8TA), filed April 13, 1981. Applicant: TRANS AMERICAN TRANSPORTATION SYSTEM, INC., 811 Jackson Street, Suite 108, Richmond, TX 77469. Representative: C. Thomas Stradley II, P.O. Box 861, Richmond, TX 77469. *(1) Rubber, Plastic Products, Prepackaged foods and foodstuffs, pulp, paper, and those commodities used in the manufacture or distribution of pulp, and paper products,* (1) between points in OK, AR, LA, and KS and, (2) between points in TX, on the one hand, and points in OK, AR, LA, and KS, on the other hand. Supporting shippers: There are six supporting shippers.

MC 155097 (Sub-5-1TA), filed April 13, 1981. Applicant: METRO AUTO AUCTION TRANSPORT, INC., 101 W. Oldham Parkway, Lee's Summit, MO 64063. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. *Transportation equipment,* between Jackson County, MO on the one hand, and, on the other, all points in the U.S. Supporting shippers: Metro Auto Auction of Kansas City, Inc., 101 W. Oldham Parkway, Lee's Summit, MO. 64063, Larry Gardner Used Cars, Route 1, Hardin, KY 42071.

MC 155256 (Sub-5-1TA), filed April 13, 1981. Applicant: KASSEL TRANSFER, INC., Route 1, Letts, IA 52754. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *General commodities, except Classes A and B explosives and hazardous materials,* between Davenport, IA, on the one hand, and, on the other, pts in that part of IA located on and south of U.S. Highway 20 and on and east of U.S. Highway 65, and pts in IL on and north of U.S. Highway 136, and on and west of IL Highway 47, restricted to traffic having a prior or subsequent movement by rail. Supporting shipper: Midwest Shippers Agents, Inc., 407 Cleavelend Bldg., Rock Island, IL 61201.

MC 3062 (Sub-5-11TA), filed April 15, 1981. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). *Nitro-Carbo-Nitrate* between St. Francois County, MO and points in IN. Supporting shipper: Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166.

MC 3062 (Sub-5-12 TA), filed April 15, 1981. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). *Nitro-Carbo-Nitrate* between St. Francois County, MO and points in KY. Supporting shipper: Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166.

MC 78259 (Sub-5-1 TA), filed April 14, 1981. Applicant: MERCURY TRUCK LINES, INC., P.O. Box 3386, Omaha, NE 68103. Representative: Patricia Branstetter, 601 Thirty Second Avenue, Council Bluffs, IA 51501. *Meats, meat products, meat by-products and related products distributed by meat packinghouses, and dairy products,* between points in IA and NE, on the one hand, and, on the other, points in IL (except Chicago), IN, MI, CT, DE, NJ,

NY, MA, OH, PA, RI, KS, MO, and WI. Supporting shippers: (1) Dubuque Packing Co., Omaha, NE: (2) John Roth & Son, Omaha, NE; and (3) Union Packing Co., Omaha, NE.

MC 111401 (Sub-5-38 TA), filed April 15, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant. *Creosote coal tar solution, in bulk,* from Lone Star, TX to Vivian, LA. Supporting shipper: Reilly Tar and Chemical Co., Box 247, Lone Star, TX 75668.

MC 111401 (Sub-5-39 TA), filed April 15, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Petroleum lubricating oil, in bulk,* from Kansas City, KS to points in ID. Supporting shipper: Phillips Petroleum Co., 734 Adams Bldg., Bartlesville, OK 74004.

MC 117836 (Sub-5-1 TA), filed April 14, 1981. Applicant: STINSON MOTOR LINES, Route 1, Box 256, Glen Rose, TX 76043. Representative: Marilyn R. Stinson (same as applicant). *Bananas* (1) between Gulfport, MS and Albuquerque, NM and (2) between Los Angeles, CA and Albuquerque, MN. Supporting shippers: Hutchinson Fruit Co., P.O. Drawer 6506. Albuquerque, NM 87197. Castle & Cooke Foods, 20 East Main, Suite 645, Mesa, AZ.

MC 124411 (Sub-1), filed April 14, 1981. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: Arland Vander Leest, 601 8th St., Sully, IA 50251. *Anhydrous Ammonia* in bulk, in tank vehicles, from La Plate, NE to PTS in IA east of I35 and South of I80. Supporting shipper: Kaiser Agricultural Chemicals, West Des Moines, IA.

MC 135861 (Sub-5-18TA), filed April 14, 1981. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Forth Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract; irregular; *Malt beverages,* from Milwaukee, WI; Peoria, IL; and Pabst, GA; to points in AR, LA, OK and TX, under continuing contract(s) with Pabst Brewing Company, Milwaukee, WI. Supporting shipper: Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, WI 53201.

MC 138104 (Sub-5-9TA), filed April 14, 1981. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX, 76116. *Foundry materials, supplies and equipment,* between points in AR, LA and TX on the one hand, and, on the other, points in the U.S. Supporting shippers: There are five supporting shippers.

MC 140033 (Sub-5-14TA), filed April 14, 1981. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75245. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Floor coverings and related materials and supplies,* between the facilities of the L. D. Brinkman Co. located at or near Irving, TX, on the one hand, and on the other, Phoenix, AZ, Jackson and Nashville, TN, and Salt Lake City, UT. Supporting shipper(s): L. D. Brinkman Company, P.O. Box 47586, Dallas, TX 75247.

MC 144622 (Sub-5-80), filed April 15, 1981. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Drugs, medicines, toilet preparations, shampoo, and advertising materials* between Hillside, NJ; St. Louis, MO; Morrisville, NC; Cleveland, OH; Jacksonville, FL; Chicago, IL; Plymouth, MI; Detroit, MI; Atlanta, GA; Midland, MI; La Mirda, CA; Dallas, TX; and Seattle, WA. Supporting shipper: Bristol-Myers Products, 225 Long Avenue, Hillside, NJ 07207.

MC 145396 (Sub-5-4TA), filed April 9, 1981. Applicant: BOYCE HOWARD, d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Memphis, TN 38103. *Chemicals or Allied Products, including without limitation, herbicides and pesticides,* from Memphis, TN to points in AR, LA, MS, and MO, restricted to the facilities of U.S.S. Agri-Chemicals, its customers and suppliers. Applicant intend to tack. Supporting shipper: U.S.S. Agri-Chemicals, a Division of U.S. Steel Corporation, 233 Peachtree St., N.E., Atlanta, GA 30303.

MC 147378 (Sub-5-5TA), filed April 15, 1981. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, irregular; Scrap Plastics and Plastic Resins, between points in the U.S. under a continuing contract with Simpson Plastics, Inc., 11521 East Pine, Tulsa, OK 74116.

MC 148482 (Sub-5-2TA), filed April 15, 1981. Applicant: CRUSADER COACH LINES, INC., 422 E.-7th Street, Logan, IA 51546. Representative: David P. Lovell, RFD 1, Logan, IA 51546. *Passengers, their baggage, and incidentals in charter and special operations,* between, all pts within and between the states of IA and NE which lie within a radius of one hundred and fifty miles (150) from the IA town of Logan, and all pts within the continental USA. Supporting shippers: 12.

MC 152959 (Sub-5-8TA), filed April 14, 1981. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, Longview, TX 75607. Representative: Robert Nieman (same as applicant). Contract; Irregular; *Liquid tank-type semi-trailers; double liquid tank-type semi-trailers, and any and all related component parts thereof,* between the facilities of Custom Trailer, Inc., on the one hand, and any and all points in the U.S. and AK, on the other hand. Supporting shipper: Custom Trailer, Inc., P.O. Box 310, Springfield, MO 65801.

MC 153138 (Sub-5-2TA), filed April 14, 1981. Applicant: LARRY DON EASLEY, d.b.a. EASLEY TRUCKING, P.O. Box 103, Ben Wheeler, TX 75754. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Foodstuffs and related products,* from WA, OR, ID and CA to Shreveport, LA. Supporting shipper(s): Monroe Frozen Foods, Inc., 1111 Burt St., Shreveport, LA 71107.

MC 154488 (Sub-5-2TA), filed April 15, 1981. Applicant: JOE T. LASLEY, d.b.a. LASLEY TRUCKING COMPANY, Highway 64 East, P.O. Box 1368, Conway, AR 72032. Representative: John B. Fowlkes, Jr., Route One, Mt. Vernon, AR 72032, 501-849-2589. Contract; Irregular, (1) *Lumber* and (2) *Wooden Pallets,* (1) from the facilities of Pinecrest Lumber Company, located at or near Menifee, AR, on the one hand to points in IL, IN, IA, KS, LA, MI, MN, MO, NE, OH, TX, and WI on the other hand and (2) from the facilities of Shetler's Pallet Shop, located at or near McRae, AR, on the one hand to points in AL, LA, MS, and TX on the other hand under continuing contract (1) with Pinecrest Lumber Company and (2) with Shetler's Pallet Shop. Supporting shippers: Pinecrest Lumber Company, Highway 64 East, P.O. Box 156, Plummerville, AR 72127; Shetler's Pallet Shop, Route #4, Searcy, AR 72143.

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 144779 (Sub-6-3TA), filed April 14, 1981. Applicant: AHA, INC., Box 158, Panguitch, UT 84759. Representative: Glen M. Hatch, 80 W. Broadway, Suite

300, Salt Lake City, UT 84101. *Contract Carrier;* Irregular Routes: *Furniture, and Fixtures, and Metal products* between points in Iron County, UT on the one hand, and on the other, points in Maricopa County, AZ under a continuing contract with Morton Metalcraft, Cedar City, UT for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Morton Metalcraft Co., 498 N. 2774 W., Cedar City, UT 84720.

MC 155253 (Sub-6-1TA), filed April 13, 1981. Applicant: CASCADE INTERMODAL, INC., 6361 1st Ave. South, Seattle, WA 98108. Representative: Ted R. Sharp (same as applicant). *General Commodities, except Class A & B Explosives, having prior or subsequent movement by water or rail,* between water and rail facilities in ID, MT, OR, UT, and WA, on the one hand, and, on the other, points in ID, MT, OR, UT, and WA, for 270 days. There are 6 shippers. Their statements may be examined at the Regional Office listed.

MC 155083 (Sub-6-1TA), filed April 13, 1981. Applicant: CHEMICAL AND MINING TRANSPORT, INC., 2590 Bonneville Terrace Dr., Ogden, UT 84401. Representative: Nolan M. Loftus (same address as applicant). *Contract;* irregular routes; *barite ore,* in bulk, between points in UT and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: American Chemical and Energy, 1405 East 2100 South, Salt Lake City, UT 84105; Barex Corporation, 5600 North, Lindon, UT 84057.

MC 155293 (Sub-6-1TA), filed April 13, 1981. Applicant: CITY SERVICE, INC., 1645 Hwy. 93, Kalispell, MT 59901. Representative: David R. Waatti (same address as applicant). *Liquid Agriculture Soil Conditioners & fertilizers,* from points in MT, ID, and WA to points in MT; for 270 days. Supporting shipper: Irrigation Equipment Sales, Inc., Hot Springs, MT 59845.

MC 136605 (Sub-6-38TA), filed April 14, 1981. Applicant: DAVIS TRANSPORT, INC., P.O.B. 8129, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Gas and oil drilling pipe and pumping units,* between Pueblo, CO: Morgan City, LA: Edmond, OK: Houston, TX: and Casper, WY and points in CO, ID, MT, ND, SD, UT and WY, (restricted to the account of Redman Pipe and Supply Co., Inc) for 270 days. Supporting shipper: Redman Pipe and Supply, Inc., P.O.B. 35632, Tulsa, OK 74135.

MC 155105 (Sub-6-1TA), filed April 13, 1981. Applicant: DOUBLE EAGLE CARRIERS, INC., P.O. Box 128, Moxee City, WA 98936. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Frozen potato products,* from the facilities of U and I Incorporated at Boardman, Metolius and Hermiston, OR and Walla Walla, WA to points in the U.S. for 270 days. Supporting shipper(s): U and I Incorporated, P.O. Box 2308 Tri-Cities, WA 99302.

MC 139018 (Sub-6-2TA), filed April 13, 1981. Applicant: GUNTER BROTHERS, INC., 19060 Frager Rd., Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract Carrier,* Irregular routes: *Coal tar emulsion,* from points in Pierce County, WA, to points in ID and MT, for the account of Cascade Asphalt Sealing Co., for 270 days. Supporting shipper: Cascade Asphalt Sealing Co., 6238 South Tacoma Way, P.O. Box 9217, Tacoma, WA 98409.

MC 139906 (Sub-6-69-TA), filed April 9, 1981. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O.B. 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O.B. 81849, Lincoln, NE 68501. *Cigars,* between Dothan, AL, on the one hand, and, on the other, points in CA for 270 days. Supporting shipper: Jno. H. Swisher & Son Co., P.O.B. 2230, Jacksonville, FL 32203.

MC 153656 (Sub-6-2TA), filed April 13, 1981. Applicant: KARNIL FUELS, LTD., 1066 E. 53rd Ave., Vancouver, B.C. Canada V5X 1J6. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Contract Carrier,* irregular routes, *Building Materials, Lumber, Plywood, Steel, Bags of Cement* between points on the International Boundary Line between the U.S. and Canada in WA and points in CA and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Kadola Sales Ltd., 12751 Mitchell, Richmond, B.C. Canada; Weldwood of Canada Ltd., 900 E. Kent St., Vancouver, B.C. Canada; Dominion Steel Ltd., #35 2216 Folkestone Way W. Vancouver.

MC 155303 (Sub-6-1TA), filed April 13, 1981. Applicant: MATERIALS HANDLING, LARRY E. ROCKEWEG, d.b.a. 9710 N. Exeter, Portland, OR 97203. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Building Materials, Wood Products, Recyclables (salvage), Military and Government Surplus* between points in CA, ID, NV, OR, UT, TX and WA for 270 days. Supporting shippers: Short Electronics Company, 8311 Pomona Way, Fair Oaks, CA 95628; Westway Timber Products, Inc., 2094 Roberts Creek Road, Roseburg, OR 97470; Minfu Products Corp., P.O.B. 2441, Richardson, TX 75080.

MC 138505 (Sub-6-3TA), filed April 9, 1981. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 6000 So. Ulster, Suite 206, Englewood, CO 80111. Representative: Ralph F. Fox (same as applicant). *Contract Carrier:* Regular routes: *Such commodities as are dealt in by wholesale drug suppliers,* from Kansas City, MO to points in Des Moines, IA and between along Interstate 35, for the account of McPike, Inc., for 270 days. An underlying ETA seeks 120 days authority: Supporting shipper: McPike, Inc., 1315 N. Chouteau Trafficway, Kansas City, MO 64141.

MC 125916 (Sub-6-9TA), filed April 9, 1981. Applicant: NORWOOD TRANSPORTATION, INC., 2232 South 7200 West, Magna, UT 84044. Representative: Macoy A. McMurray, Attorney, 800 Beneficial Life Tower, 36 South State St., Salt Lake City, UT 84111. *Hazardous and Industrial Waste Materials* from points in Salt Lake County, UT; to Casa Grande, AZ; Denver, CO; Grandview, ID; or Beatty, NV. An underlying ETA seeks 120 days authority. Supporting shippers: Sperry Univac, 322 North 2200 West, Salt Lake City, UT 84116; and Applied Digital Data Systems, 12953 South State Street, Draper, UT 84020.

MC 150937 (Sub-6-4TA), filed April 13, 1981. Applicant: R & R DISTRIBUTING, INC., 1355 Abbott St., Salinas, CA 93901. Representative: William J. Monheim, P.O.B. 1756, Whittier, CA 90609. *Beer,* from Las Vegas, NV, to Rockaway, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lake Beer and Soda Distributors, Inc., 314 Rt. 46, Rockaway, NJ 07866.

MC 133718 (Sub-6-1TA), filed April 13, 1981. Applicant: WILBURN H. HAMSEY, d.b.a. W. H. RAMSEY & SONS TRUCKING, P.O. Box 445, Lincoln, CA 95648. Representative: Wilburn H. Ramsey (same as applicant). *Contract Carrier;* Irregular Routes; *Ceramics, Quarry Tile, and Sundry products,* between Placer County, CA and all counties within OR and WA, for 270 days. Supporting shipper: American Olean Tile Company, 8250 Industrial Ave., Roseville, CA 95678.

MC 126514 (Sub-6-31TA), filed April 13, 1981. Applicant: SCHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Automobile parts, mufflers, exhaust pipe and tubing, fibreglass auto parts, motorcycle parts, vinyl covers, bumpers, air filter elements, auto body parts and*

fibreboard boxes from Ontario, CA to points in the US for 270 days. Supporting shipper: Hooker Industries, Inc., 1009 W. Brooks St., Ontario, CA 91761.

MC 154967 (Sub-6-1TA), filed April 13, 1981. Applicant: SQUARE 'B' TRUCKING (1979) LTD., 2720 Barlow Trail NE., Calgary, Alberta T1Y 1A1. Representative: Harry McPhee (same as applicant). *Machinery, equipment, materials, skid-mounted buildings and supplies, used in connection with drilling oilwells and gaswells.* No shipment in bulk or tank vehicles, between CN/US International border points in WA, ID, MT or ND on the one hand, and, on the other, points in the US in and west of ND, SD, NE, KS, OK and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Westburne Drilling (CN) Ltd., #200 535—7 Ave. SW, Calgary, CN; and Corab Services Ltd., 4609 Manitoba Rd. SE, Calgary, CN.

MC 113140 (Sub-6-1TA), filed April 13, 1981. Applicant: STEEL TRANSPORTERS OF CALIFORNIA, 607 West B St., Wilmington, CA 90744. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111. *Metal products,* between points in CA and UT, on the one hand, and, on the other hand, points in CA, OR, WE, ID, NV, AZ, MT, WY, UT, NM and CO. An underlying ETA seeks 120 days authority. Supporting shippers: There are six (6) supporting shippers. Their statements may be examined at the Regional office.

MC 150667 (Sub-6-1TA), filed April 14, 1981. Applicant: WORTHING TRANSPORT (EDSON), LTD., P.O. Box 2580, Edson, Alberta, Canada, TOE OPO. Representative: David T. Chambers (same as applicant). *Rubber tired seismic machines,* between the ports of entry on the international Boundary Line between the U.S. and Canada located in MT, on the one hand, and on the other, points in TX for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Grant Geophysical Ltd., 7535 Flint Rd. S.E., Calgary, Alberta, Canada.

MC 52750 (Sub-6-1TA), filed April 15, 1981. Applicant: BLUE LINE TRANSPORTATION CO., INC., P.O. Box 11125, Portland, OR 97211. Representative: Randall D. Imes, 1407 N. Baldwin Street, Portland, OR 97217. *Fertilizer,* between points in OR, WA, CA, ID, and MT, for 270 days. Supporting shippers: Round Butte Seed Growers, Inc., P.O. Box 117, Culver, OR, 97734 and Webfoot Fertilizer Co., Inc., 201 S.E. Washington St., Portland, OR, 97214.

MC 136605 (Sub-6-39TA), filed April 16, 1981. Applicant: DAVIS TRANSPORT, INC., P.O.B. 8129, Missoula, MT 59807, Representative: Allen P. Felton (same as applicant). *Steel pipe and seamless oil well casing,* between points in the U.S. in and west of ND, SD, NE, KS, OK, TX (except AK & HI) for 270 days. Supporting shipper: Cal Cut Companies, P.O.B. 2999, Reno, NV 89505.

MC 136605 (Sub-6-40TA), filed April 16, 1981. Applicant: DAVIS TRANSPORT, INC., P.O.B. 8129, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Metal buildings (KD) materials and supplies, used in connection with metal buildings,* from the facilities of Delta Steel Building Company located at or near Dallas, TX to points in the U.S. (except AK & HI), for 270 cays. An underlying ETA seeks 120 days authority. Supporting shipper: Delta Steel Building Co., P.O.B. 20977, Dallas, TX 75220.

MC 155105 (Sub-6-2TA), filed April 16, 1981. Applicant: DOUBLE EAGLE CARRIERS, INC., P.O.B. 128, Moxee City, WA 98936. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *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), from the facilities of Terminal Freight Cooperative Association (1) at or near North Bergen, NJ; Philadelphia, PA; Columbus, OH; and Chicago, IL to Los Angeles, CA; Portland OR; and Seattle, WA, and (2) at or near Los Angeles, CA to Portland, OR and Seattle, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Terminal Freight Cooperative Association, 1430 Branding Lane, Downers Grove, IL 60515

MC 140688 (Sub-6-1TA), filed April 15, 1981. Applicant: NICOLL TRUCKING (Medicine Hat) LTD., P.O.B. 8009, Station F, Calgary, Alberta, Canada T2J 4B4. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Chemicals and related products,* between ports of entry on the International Boundary between the U.S. and Canada located in MT, ID and WA, on the one hand, and, on the other, points in OR, WA, ID, MT, CA, UT, WY and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: North Pacific Trading Co., P.O.B. 3915, Portland, OR 97208.

MC 143060 (Sub-6-3TA), filed April 15, 1981. Applicant: PENN-PACIFIC, INC., 20815 Currier Rd., Walnut, CA 91789. Representative: William J. Monheim, P.O.B. 1756, Whittier, CA 90609 *Commodities dealt in by manufacturers and distributors of products utilized by fast-food restaurants,* from Aberdeen, Heyburn, and Nampa, ID; Clearfield, UT; and Walla Walla, WA, to the facilities of Golden State Foods Corp. at City of Industry, CA, and Phoenix, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Golden State Foods Corp., 640 6th Ave., City of Industry, CA 91749.

MC 148083 (Sub-6-3TA), filed April 16, 1981. Applicant: SELLARS TRANSPORT SERVICE, 1620, Parnell Dr., Eugene, OR. 97404. Representative: Robert W. Sellars (same address as applicant). *Hydraulic Knuckleboom Units and Related Products and Accessories,* From and To Springfield, OR. and points in the U.S. (excluding AK. and HI.) for 270 days. Supporting shipper: Grizzly Mfg. Corp., 3240-Olympic Blvd., Springfield, OR. 97477.

MC 151571 (Sub-6-2TA), filed April 15, 1981. Applicant: STORES DELIVERY SERVICE, INC., d.b.a. SOUND DELIVERY SERVICE, 3601 South 263rd St., Kent, WA 98031. Representative: Daivd Ramey, 9302 10th Ave. South, Seattle, WA 98108. *Iron & Steel articles: Scrap Iron and Steel; Crushed Cars; Building Materials, Sod and Agricultural Limestone and Soil Conditioners,* between points in ID, WA, OR for 270 days. Supporting shippers: Scott Sutton & Sons, Rte 2, Box 2369B, Kennewick, WA. 99336, Whitcomb Car Crushing, Box 1, Route 1, Deary, ID. 82823, Allied Minerals, Inc., Springdale, WA. 99173.

MC 155347 (Sub-6-1TA), filed April 15, 1981. Applicant: STEVEN D. MYERS and JAMES C. McCURLEY, d.b.a. STOCKTON DRYWALL SUPPLIES, 939 West Charter Way, Stockton, CA 95206. Representative: CHARLES T. ANDERSON, 1149 N. El Dorado Street, Suite B, Stockton, CA 95202. *Contract Carrier,* Irregular route: *Gypsum Wallboard Paper,* from Stockton, CA to Apex, NV for the account of Pacific Coast Building Products, Inc., for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Pacific Coast Building Products, Inc., P.O.B. 160488, Sacramento, CA 95816.

MC 148281 (Sub-6-3TA), filed April 15, 1981. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Ceramic tile,* from Canton, OH and San Antonio, TX to points in CA, Phoenix, AZ, Denver, CO and Seattle, WA,

restricted to traffic originating at or destined to the facilities of Quality Marble and Tile Distributors, Inc, for 270 days. Supporting shipper: Quality Marble and Tile Distributors, Inc., 11961 Vose St., North Hollywood, CA 91605.

MC 150821 (Sub-6-1TA), filed April 13, 1981. Applicant: UTAH VALLEY TRANSIT, 555 South 500 East, Provo, UT 84601. Representative: Harry T. Hardman (same as applicant). *Passengers and their baggage in charter operations* from points in Beaver, Carbon, Duchesne, Iron, Juab, Kane, Millard, Sanpete, Sevier, Uintah, Utah, Wasatch, Washington, Summit, Garfield, Piute and Wayne Counties, UT, Navajo and Conconi Counties, AZ, and McKinnley and San Juan Counties, NM to and from all points and places within the continental U.S. for 270 days. Supporting shipper: LDS Social Services, 1190 N. 900 E., Provo, UT, 84601.

MC 92633 (Sub-6-4TA), filed April 15, 1981. Applicant: ZIRBEL TRANSPORT, INC., 420 28th St N, Lewiston, ID 83501. Representative: William R. Seehafer (same as applicant). *Contract Carrier,* irregular route: *Lumber and Wood Products; Pulp, Paper, and Related Products; Metal Products, Building Materials; and Commodities used in the manufacture of the above,* between the facilities of Lousiana-Pacific Corporation in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, on the one hand, and on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. Restricted to shipments moving for the account of Lousiana-Pacific Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: James A. MacArthur, Division TM, Lousiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12575 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 81-7282, appearing on page 15802, in the issue of Monday, March 9, 1981, make the following correction.

In MC 144452 (Sub-4-4TA) appearing on page 15816, second column, tenth line, the listing of states should have read; ". . . CO, KS, IA, MO, NE, OK, and WY.".

BILLING CODE 1505-01-M

[Docket No. AB-2 (Sub-28)]

Louisville and Nashville Railroad Co.; Abandonment—Between Russellville and Drakesboro, Ky.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903, that an administratively final decision was issued by the Commission, Division 2, Acting as an Appellate Division on April 21, 1981, stating that public convenience and necessity permit the Louisville and Nashville Railroad Company to abandon 27 miles of railroad between Russellville and Drakesboro, KY. The abandonment is subject to employee protective conditions in *Oregon Short Line R. Co. Abandonment—Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Louisville and Nashville Railroad Company based on the above finding of abandonment, 15 days after publication of this notice unless 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 rail service involved to be continued. The offer must be filed with the Commission and served concurrently on applicant, with copies to Ms. Ellen Hanson, Rm. 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice and;

(2) It is likely that such preferred assistance would: (a) cover the difference between revenues which are attributable to the line of railroad and the avoidable cost of providing rail service on the line, together with a reasonable return on the value on the line, or (b) cover the acquisition cost of all or any portion of the line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror 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 for 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. When the Commission is notified that an assistance or acquisition or operating agreement is executed, it will postpone the issuance of the certificate for the period of time the 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 in the statute as well as the instructions contained in the Commission's decision in this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12576 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29615]

Mount Vernon Terminal Railway, Inc.; Construction and Operation of a Line of Railroad in Whatcom County, WA

April 21, 1981.

Mount Vernon Terminal Railway, Inc. (Applicant), represented by Mr. George H. Stephenson, President, Mount Vernon Terminal Railway, Inc., P.O. Box 216, Clear Lake, WA 98235, hereby gives notice that on the 24th day of March, 1981, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing it to construct and operate lines of railroad from the U.S. Canadian border at the town of Sumas, Whatcom County, WA approximately 22 miles to the proposed deep water bulk cargo terminal near Cherry Point, Whatcom County, WA.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), as amended by the Commission's decision in Ex Parte No. 55 (Sub-No. 22), *Revision of National Environmental Policy Act Guidelines,* 363 I.C.C. 653 (1980), 45 FR 79810 (December 2, 1980), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant,

within 30 days after date of publication of this notice in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-12564 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

[Amdt. No. 8 to ICC Order No. 65 Under Service Order No. 1344]

Railroads; Rerouting Traffic

To: All Railroads:

Upon further consideration of I.C.C. Order No. 65, and good cause appearing therefore:

Is is ordered, ICC Order No. 65 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., May 31, 1981, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., April 15, 1981.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 15, 1981.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 81-12563 Filed 4-24-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATIONS AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The U.S. Advisory Commission on Public Diplomacy will be meeting on May 6, 1981. The topic covered will be Motion Picture and Television Programs of the International Communication Agency. The meeting will be held in the Screening Room, Basement Level, Patrick Henry Building, 601 D Street, NW 9-11 a.m. Since space is limited, please call Mrs. Carole Vogel, 724-7244, if you are interested in attending the meeting.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 81-12476 Filed 4-24-81; 8:45 am]

BILLING CODE 8230-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[81-38]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aircraft Controls and Guidance.

DATE AND TIME: May 19, 1981, 8:30 a.m. to 5 p.m.; May 20, 1981, 8:15 a.m. to 4:30 p.m.; May 21, 1981, 8:30 a.m. to 2 p.m.

ADDRESS: NASA Langley Research Center, Building 1202, Room 247, Hampton, VA.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546 (202/755-2243).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aircraft Controls and Guidance was established to assist the NASA in assessing the overall program. Particular emphasis is placed on the responsiveness to the critical needs, significant technology gaps and exploiting new opportunities with high potential benefits. The Subcommittee, chaired by Mr. Duane McRuer, is comprised of 9 members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA

May 19, 1981

8:30 a.m.—Introductory Remarks.
9 a.m.—Overview of NASA/Office of Aeronautics and Space Technology (OAST) Aeronautics Long Range Plan.
11 a.m.—OAST Facility Productivity Improvement Program.
1 p.m.—Aircraft Controls and Guidance Long Range Plan.
3 p.m.—NASA Technology Demonstration and Validation Proposed Programs.
5 p.m.—Adjourn.

May 20, 1981

8:15 a.m.—NASA/Langley Aircraft Controls and Guidance Research and Technolgy Programs.
4:30 p.m.—Adjourn.

May 21, 1981.

8:30 a.m.—Subcommittee Deliberations and Recommendations on the Aircraft Controls and Guidance Programs and Plans.
2 p.m.—Adjourn.

April 20, 1981.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

[FR Doc. 81-1256 Filed 4-24-81; 8:45 am]

BILLING CODE 7510-01-M

[81-36]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Chemical Propulsion Technology.

DATE AND TIME: May 19, 1981, 8:30 a.m. to 5 p.m.; May 20, 1981, 8:30 a.m. to 5 p.m.; May 21, 1981, 8:30 a.m. to 12 Noon.

ADDRESS: NASA Headquarters, 600 Independence Avenue SW., Room 647, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Raymond S. Colladay, National Aeronautics and Space Administration, Code RTP-6, Washington, DC 20546 (202/755-3273).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Chemical Propulsion Technology was established to advise the NASA on the appropriateness, relevancy, and adequacy of its current and planned program in the area of chemical propulsion technology and to recommend program additions, deletions, or changes in scope or emphasis that may be found necessary to support the overall NASA space research and technoloy objectives. The chairperson is Mr. Gerard W. Elverum, Jr., and there are six members on the

Subcommittee. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the Subcommittee members and participants).

AGENDA

May 19, 1981

8:30 a.m.—Introductory Remarks.
9 a.m.—Review of Office of Aeronautics and Space Technology Ten-Year Plan.
10 a.m.—Review of Advanced High Pressure Oxygen-Hydrogen Propulsion Technology Plan.
1:30 p.m.—Review of Advanced Earth-to-Orbit Oxygen-Hydrocarbon Propulsion Technology Plan.
3 p.m.—Review of Advanced Orbital Transfer Propulsion Technology Plan.
5 p.m.—Adjourn.

May 20, 1981

8:30 a.m.—Review of Planetary Spacecraft Propulsion Technology Plan.
10:30 a.m.—Advanced Space Transportation Systems Long-Range Plan.
11:15 a.m.—Advanced Spacecraft Systems Long-Range Plan.
1 p.m.—Subcommittee Discussion of NASA Chemical Propulsion Technology Program.
5 p.m.—Adjourn.

May 21, 1981

8:30 a.m.—Subcommittee Formulation of Recommendations.
12 Noon—Adjourn.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

April 20, 1981.

[FR Doc. 81-12457 Filed 4-27-81; 8:45 am]

BILLING CODE 7510-01-M

[81-37]

NASA Advisory Council, Space Systems Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems Technology Advisory Committee, Informal Advisory Subcommittee on Space Systems.

DATA AND TIME: May 19, 1981, 8:30 a.m. to 5 p.m.; May 20, 1981, 8:30 a.m. to 4:30 p.m.

ADDRESS: General Research Corporation, Auditorium, 7655 Old Springhouse Road, McLean, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Stan R. Sadin, National Aeronautics and Space Administration, Code RS-5, Washington, DC 20546 (202/755-2406.)

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Systems was established to assess the programs and provide recommendations to the system technology efforts of the National Aeronautics and Space Administration. The Subcommittee, chaired by Mr. Lawrence Jenkins, is comprised of six members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA

May 19, 1981

8:30 a.m.—fiscal year 1983 NASA Long Range Plan.
10:30 a.m.—fiscal year 1983 Space Research and Technology Long Range Plan.
1 p.m.—Research and Technology Base Programs.
5 p.m.—Adjourn.

May 20, 1981

8:30 a.m.—Technology Demonstration Programs.
1 p.m.—Military Space Systems Technology Model.
2 p.m.—Space Club Meeting—June Agenda Discussion.
3 p.m.—Summary Discussion, Feedback.
4:30 p.m.—Adjourn.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

April 20, 1981.

[FR Doc. 81-12458 Filed 4-24-81; 8:45 am]

BILLING CODE 7510-01-M

[81-39]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on General Aviation Technology.

DATE AND TIME: May 14, 1981, 8:30 a.m. to 5 p.m.; May 15, 1981, 8:15 a.m. to 3:30 p.m.

ADDRESS: NASA Langley Research Center, Building 225, Room 1219, Langley Field, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Harry W. Johnson, National Aeronautics and Space Administration, Code RJG-2, Washington, DC 20546 (202/755-2380).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on General Aviation Technology was established to assist the NASA in assessing the adequacy of its aeronautics research and technology program to meet the specific needs of general aviation, including commuter transport aircraft, and to recommend any modifications of augmentations of current and planned activities deemed necessary to increase their value and effectiveness in achieving commuter and general aviation program objectives. These objectives include advanced technology for increased safety, energy efficiency, utility, environmental compatibility, and economic usefulness. The program is multidisciplinary in scope, encompassing aerodynamics and flight dynamics, propulsion, materials and structures, avionics, controls and human factors. The Subcommittee, chaired by Mr. John W. Olcott, is comprised of seven members. The meeting will be open to the public up to the capacity of the room (approximately 50 persons including Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA

May 14, 1981

8:30 a.m.—Opening Remarks.
9 a.m.—Status of NASA Aeronautics Long Range Planning.
11 a.m.—Status of Facilities Productivity Improvement Studies.
1 p.m.—Summary of NASA FY 1981-82 Commuter and General Aviation Research and Technology Programs: Langley Research Center, Ames Research Center, Wallops Flight Center, Lewis Research Center.
5 p.m.—Adjourn.

May 15, 1981

8:15 a.m.—Continuation of NASA FY 1981-82 Commuter and General Aviation Research and Technology Programs Summary.
10:30 a.m.—Subcommittee Conclusions and Recommendations.
3:30 p.m.—Adjourn.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

April 20, 1981.

[FR Doc. 81-12459 Filed 4-24-81; 8:45 am]

BILLING CODE 7510-11-M

[Notice (81—40)]

NASA Advisory Council (NAC) Life Sciences Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee.

DATE AND TIME: May 12, 1981, 8:30 a.m. to 5:30 p.m.; May 13, 1981, 8:30 a.m. to 5:30 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Ave., SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Donald L. DeVincenzi, Code SBT-3, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-3732).

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public from 10:00 a.m. to 5:30 p.m. on May 12 and from 8:30 a.m. to 5:30 p.m. on May 13 for a discussion of the experiments that are being considered for selection on the first dedicated Life Sciences Mission. Although individual experiments have been evaluated and categorized, additional advice and counsel is being sought from the Committee on the merits of experiment combinations, the designation of primary and supplemental experiments and upon the value of the fully integrated payload. Throughout these sessions, the qualifications of the proposers will be candidly discussed and appraised. Since these sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that these sessions should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including committee members and other participants).

The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

AGENDA:

May 12, 1981

8:30 a.m./9:00 a.m.—Introductory Remarks (open session).
9:00 a.m./10:00 a.m.—Status Report on Shuttle Operational Tests (open session).
10:00 a.m./5:30—Presentation of Experiments (closed session).

May 13, 1981

8:30 a.m./12:00 p.m.—Discussion of Experiments (closed session).
1:00 p.m./3:00 p.m.—Discussion of Mission Priorities (closed session).
3:00 p.m./5:30 p.m.—Committee Recommendations (closed session).

Russell Ritchie,
Acting Associate Administrator for External Relations.

April 22, 1981.

[FR Doc. 81-12572 Filed 4-24-81; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (Shoreham Nuclear Power Station Unit 1); Meeting Postponement

The ACRS Subcommitte on Shoreham Nuclear Power Station Unit 1 scheduled for April 30, 1981 has been postponed indefinitely. Notice of this meeting was published on Wednesday, April 15, 1981 (46 FR 22089).

Dated: April 21, 1981.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 81-12506 Filed 4-24-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-70 (Show Cause)]

General Electric Co. (Vallecitos Nuclear Center—General Electric Test Reactor, Operating License No. TR-1); Order Setting Final Prehearing Conference

Please take notice that a final prehearing in this proceeding has been scheduled for 10:00 a.m. on May 12, 1981 at the Ceremonial Court Room, U.S. District Court, Federal Building, 450 Golden Gate Avenue, San Francisco, California. The purpose of the conference is to discuss all of the matters specified in 19 CFR § 2.752. Pursuant to the schedule already adopted, the hearing is scheduled to begin on May 27, 1981 near the reactor site and to be moved to San Francisco the next week.

The parties or their counsel are directed to attend the prehearing conference. No limited appearance statements will be heard at the conference. Limited appearances will be admitted at the hearing near the reactor site and when the hearing reconvenes in San Francisco.

The parties are requested to file their suggestions, if any, by May 6, 1981 with regard to all actions to be taken by the Board at the prehearing conference.

By Order of the Board.

Dated at Bethesda, Maryland this 21st day of April 1981.

For the Atomic Safety and Licensing Board.

Herbert Grossman,
Administrative Judge.

[FR Doc. 81-12507 Filed 4-24-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. STN 50-483-OL]

Union Electric Co. (Callaway Plant, Unit 1); Hearing

April 21, 1981.

On August 26 and November 21, 1980, the Nuclear Regulatory Commission published in the Federal Register a notice that the Commission had received a final safety analysis report and an environmental report in support of an application for a facility operating license from the Union Electric Company to possess, use and operate the Callaway Plant, Unit 1, a pressurized water nuclear reactor in Callaway County, Missouri. The notice provided that any person whose interest may be affected by the proceeding could file a petition for leave to intervene in accordance with the Commission's Rules of Practice, 10 CFR Part 2.

An Atomic Safety and Licensing Board composed of James P. Gleason, Chairman, Mr. Glenn O. Bright and Dr. Jerry R. Kline was appointed to rule on the petitions for intervention and requests for a hearing and to preside over the proceedings. After holding a special prehearing conference pursuant to 10 CFR 2.751(a), the Board hereby confirm its previous Order granting the petitions to intervene of John G. Reed and the Joint Intervenors. The Board confirms its denial of other petitions and approves its prior Order granting State and local government representatives participation under 10 CFR 2.715(c).

Please take notice that several hearings will be conducted in this proceeding and the Board will hold two prehearing conferences pursuant to 10 CFR 2.752. The public is invited to attend any prehearing or hearing sessions and may make limited appearance statements at such times. However, requests to make such statements should be forwarded to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For further details, see the application for the facility operating license, the safety analysis report and the environmental report, dated October 19, 1979, and any papers filed in connection with petitions to intervene and requests for hearing, all of which are available

for public inspection at the Commission's Public Document Room, 1717 H St., N.W., Washington, D.C., and at the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri, and the Fulton City Library, 709 Market St., Fulton, Missouri. The following documents will also be available at these locations as they become available:

(1) The Staff's Safety Evaluation Report, the Draft Environmental and Final Environmental Statements;

(2) The report of the Commission's Advisory Committee on Reactor Safeguards on the application;

(3) The proposed Facility Operating License; and

(4) The Technical Specifications which will be attached to the proposed Facility Operating License.

Dated April 21, 1981, at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

James P. Gleason,

Chairman, Administrative Judge.

[FR Doc. 81-12512 Filed 4-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-58, and Amendment No. 29 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised the Facility Operating Licenses of the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments add license conditions to include the Commission-approved Safeguards Contingency Plan as part of the licenses.

The licensee's filings comply with standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filings dated March 23, 1979, April 21, 1980 and January 20, 1981 are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12

For further details with respect to this action, see (1) Amendment Nos. 45 and 29 to License Nos. DPR-58 and DPR-74, and (2) the Commission's related letter to the licensee dated April 13, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated: April 17, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-12508 Filed 4-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket no. 50-322]

Long Island Lighting Company; Availability of Safety Evaluation Report for Shoreham Nuclear Power Station, Unit No. 1

Notice is hereby given that the Office of Nuclear Reactor Regulations has published its Safety Evaluation Report on the proposed operation of the Shoreham Nuclear Power Station, Unit No. 1 to be located in Suffolk County, New York. Notice of receipt of the Long Island Lighting Company's application to operate the Shoreham Nuclear Power Station, Unit No. 1 was published in the Federal Register on March 18, 1976 (41 FR 11367).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11901 for inspection and copying. The report (Document No. NUREG-0420) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 17th day of April, 1981.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81-12509 Filed 4-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-387 and 50-388]

Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc.; Availability of Safety Evaluation Report for Susquehanna Steam Electric Station, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Susquehanna Steam Electric Station, Units 1 and 2, to be located in Salem Township, Luzerne County, Pennsylvania. Notice of receipt of the application submitted by Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. to operate the Susquehanna Steam Electric Station, Units 1 and 2 was published in the Federal Register on August 9, 1978 (43 FR 35406).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701 for inspection and copying. The report (Document No. NUREG-0776) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5238 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 17th day of April 1981.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81-12510 Filed 4-24-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Provisional Operating License No. DPR-18, to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment incorporates technical specifications regarding control rod position indication.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment notarized August 29, 1980 (transmitted by letter dated September 3, 1980), (2) Amendment No. 40 to License No. DPR-18, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of April, 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-12511 Filed 4-24-81; 8:45 am]

BILLING CODE 7590-01-M

Privacy Act of 1974; Systems of Records; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed Amendments of Systems of Records.

SUMMARY: The Nuclear Regulatory Commission is proposing minor amendments to the NRC Systems of Records, NRC-18. The amendments clarify and update the information contained in the Systems of Records in the paragraph covering "Systems exempted from certain provisions of the act." In the course of investigations, inspections, and audits, the Office of Inspector and Auditor frequently incorporates data from other systems which are exempt under (k)(6) of the Privacy Act. This creates the need to add the (k)(6) exemption to the list available for NRC-18. The amendments also revoke NRC-35. The data collected for IE Household Move Survey was used for a one-time compilation. All the records were subsequently destroyed.

COMMENT DATE: Comments are due on or before May 27, 1981. Comments received after May 27, 1981 will be considered if it is practical to do so; but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: All interested persons who desire to submit written comments for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docket and Service Branch by . Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sarah N. Wigginton, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Phone: (301) 492-8133.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an additional identifier. The notices were published as a document subject to publication in the annual compilation of Privacy Act documents.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 552a of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to the NRC System of Records is contemplated.

1. The first paragraph of NRC-18, which begins with the words "Pursuant to 5 U.S.C. 552a(k)(1) * * *," should be inserted after the paragraph entitled "Record source categories," and revised to read as follows:

NRC-18

SYSTEM NAME:

Office of Inspector and Auditor Index File and Associated Records—NRC.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552 (k)(1), (k)(2), (k)(5) and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f). The exemption rule is contained in Section 9.95 of the NRC regulation (10 CFR 9.95).

* * * * *

2. System NRC-35 is revoked.

Dated at Bethesda, Maryland this 16th day of April 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-12622 Filed 4-24-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

April 22, 1981.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and

grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether Section 3504(h) of P.L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

• Agricultural Cooperatives Service
Marketing and Transportation of Grain by Local Cooperatives
Nonrecurring
Business or Other Institutions
Local Cooperatives Handling Grain
SIC: 515
Small businesses or organizations
Agricultural research and services, 1,157 responses, 386 hours, $80,000 Federal cost, 1 form, not applicable under 3504(H)
Charles A. Ellett, 202-395-7340

Provides information at local country level on grain flow, volume handled, storage capacities, rail equipment, membership and selected operating practices to assist cooperatives in planning more efficient new elevators or additions to existing elevators.

• Agricultural Cooperative Service
Farmer Perceptions of Cooperative Fertilizer Outlets in Iowa
Nonrecurring
Farms
Iowa farmers throughout the State
SIC: 011 013 016
Agricultural Research and Services, 900 responses, 450 hours, $70,000 Federal Cost, 1 form, not applicable under 3504(H)
Charles A. Ellett, 202-395-7340

Farmers need as much marketing strength as they can attain. Cooperatives are one of their market interventions for obtaining readily-available fertilizers and related services of high quality at minimum costs. Cooperatives will use study results to help farmers. Policymakers and others will use these results to support cooperatives.

Extensions (Burden Change)

• Econimics and Statistics Service
Vegetable Seed Surveys
CE10-0050 CE10-0051
Semiannually
Businesses or other institutions
Vegetable seed cleaners and handlers
SIC: 016 072
Small businesses or organizations
Agriculture research and services, 231 responses, 528 hours, $4,000 Federal cost, 2 forms, not applicable under 3504(H)
Off. of Federal Statistical Policy and Standard, 202-673-7974

Provides data to estimate nationally harvested acreage, production and stocks for 42 kinds of vegetable seeds and 250 different varieties and types. Acreage estimates provide indication of anticipated production for the year while stocks estimates are used to determine supply and disappearance.

Extensions (No Change)

• Forest Service
Visitor's Permit and Visitor Registration Card
FS-2300-32 FS-2300-30
On occasion
Individuals or households
Visitors to restricted areas on national forest lands
Conservation and land management, 216,500 responses, 10,825 hours, $75,600 Federal cost, 2 forms, not applicable under 3504(H)
Charles A. Ellett, 202-395-7340

Permits are required for entry onto some national forest system land. Information used to determine amount of visitor use and where it occurs. Registration forms allow recreation visitors to register voluntarily. Information from these forms is used to: develop maintenance, management and administrative plans; conduct search and rescue operations; improve services.

DEPARTMENT OF EDUCATION

(Agency Clearance Officer—Wallace McPherson—202-426-5030)

New

• Departmental Management
Call Report—Lender's Annual Report on Guaranteed Student Loans and Parent Loans for Undergraduate Students
Outstanding
ED 799-1
Annually
Businesses or other institutions
Eligible lending institutions
SIC: 822, 601, 602, 603, 604, 605
Small businesses or organizations

Higher education, 12,000 responses, 96,000 hours, $20,000 Federal cost, 1 form, not applicable under 3504(H)
Federal Education Data Acquisition Council, 202-426-5030

This form is used by GSLB to collect on an annual basis, essential data on lenders (primarily banks, savings and loan associations and credit unions).

• Office of Educational Research and Improvement
1980 HEGIS Post-Survey Validation Study
ED (NCES) 2426-1, 2, 3 and 4
Nonrecurring
Businesses or other institutions
College and university officials
SIC: 822
Research and general education aids, 240 responses, 720 hours, $289,000 Federal cost, 4 forms, Not applicable under 3504(H)
Federal Education Data Acquisition Council, 202-426-5030

The wide use made of Hegis financial and faculty data in important education deicisons lands high priority to their accuracy. Hegis data are increasingly being used by educational researchers and planners and used by Federal agencies in the allocation of funds. The results of the study will be used to institute necessary improvements in Hegis instruments, instructions and definitions.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488)

Extensions (Burden Change)

• Health Care Financing Administration
Inpatient Hospital and Skilled Nursing Facility Admission and Billing
HCFA-1453
On occasion
State or local governments/businesses or other institutions
Public and private hospitals and skilled nursing facilities
SIC: 805 806
Small businesses or organizations
Health, 11,250,000 responses, 2,812,500 hours, $69,410,000 Federal cost, 1 form, not applicable under 3504(H)
Richard Eisinger, 202-395-6880

This form is used by all participating private and state-owned hospitals and skilled nursing facilities for billing medicare inpatient services under the Social Security Act.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202-755-5184

Extensions (Burden Change)

• Housing Programs
Loan Management Reports
HUD-4370A, HUD-4370-PFL
On occasion
State or local governments
Municipalities and other special units of local government
SIC: 822 953
Community development, 1,500 responses, 750 hours, $5,590 Federal cost, 2 forms, not applicable under 3504(H)
Richard Sheppard, 202-395-6880

Title II of the Housing Amendments of 1955 (Pub. L. 345.69 Stat. 635.642: 42 U.S.C. 1491) gives HUD authority to require reports from program participants regarding public facilities loans.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6331.

• Employment and Training Administration
Evaluation of Economic Impact of the Job Corps Program
MT-1067
Nonrecurring
Individuals or households
Job Corps terminees and comparisons sample of youths
Training and Employment, 4,430 responses, 2,215 hours, $907,610 Federal cost, 1 form, not applicable under 3504(H)
Arnold Strasser, 202-395-6880

This study examines the extent to which Job Corps program participants increase their employment and earnings, return to school, enter college, enter the military, rely less on welfare, and reduce antisocial behavior. It includes an analysis of program costs in relation to societal benefits as a basis for future program planning.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202-426-1887

New

• Coast Guard
Application for bridge permit
On occasion
State or local governments/businesses or other institutions
State and local departments, rail. comp. and indiv. Fed. Agncs.
SIC: 911 912
Water Transportation, 240 responses, 1,920 hours, $33,490 Federal cost, 1 form, not applicable under 3504(H)
Terry Grindstaff, 202-395-7340

Congress requires the Secretary of Transportation (U.S. Cost Guard) to approve the location and plans of bridges across navigable waters of the United States. The prospective bridge builder must make a written request to the Coast Guard for such an approval.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202-634-5394

New

• Comptroller of the Currency
Salary Survey
Annually
Businesses or other institutions
Cross section of national banks with 150 or more employees
SIC: 602
Small businesses or organizations
Other advancement and regulation of commerce, 124 responses, 124 hours, $1,544 Federal cost, 1 form, not applicable under 3504(H)
Warren Topelius, 202-395-7340

This form is used to record pertinent salary information from national banks who voluntarily participate in the salary survey. Information developed is used to calculate and maintain our compensation program.

ENVIRONMENTAL PROTECTION AGENCY

AGENCY CLEARANCE OFFICER—MR. PHILLIP ROSS—202-287-0747

New

• Review of Plans for Construction and Modification Under New Source Performance Standards[1]
Nonrecurring
Businesses or other institutions
New, mod. or recon. sources covered under NPS categories
SIC: 333, 491, 142, 327, 331, 121, 287, 495, 324, 281
Small businesses or organizations
Pollution control and abatement, 54 responses, 54 hours, $5,400 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

At a source's request, the administrator will determine whether that source is subject to any applicable

[1] Over the next several weeks, the Environmental Protection Agency will be requesting clearance for several hundred reporting and recordkeeping requirements that were administered previously without OMB approval. In order to provide a thorough review without unnecessarily disrupting EPA programs, OMB may grant interim approvals for many of these requests, after an initial screening. Interim approvals would be followed by full reviews and final approval or disapproval decisions which would be announced in future editions of the Federal Register.

new source performance standards, and will provide technical advice to the owner or operator. This provision aids the source in knowing what it is subject to and what type of controls may be necessary.

- Petroleum Refineries—Excess Emission Reports Detected by Emission Monitoring [1]

On occasion, other—see SF83
Businesses or other institutions
Petroleum refineries
SIC: 291
Pollution control and abatement, 225 responses, 225 hours, $187,500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340(H)

Owner or operator shall report excess emissions detected by emission monitoring and shall record daily operating parameters in order for the administrator to judge the continuing compliance of the source.

- Emission and Fuel Monitoring for Fossil Fuel-Fired Steam Generators [1]

Quarterly, other—see SF83
Businesses or other institutions
New, mod. or recon. fossil fuel-fired steam gen. over 73 MW
SIC: 491
Pollution Control and Abatement, 42,340 responses, 42,340 hours, $187,000 Federal cost, 1 form not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

A source shall record opacity, sulfur dioxide, nitrogen oxides and either oxygen or carbon dioxide continuously, and submit quarterly excess emission reports. Continuous monitoring is essential because EPA does not have the resources to check each source for compliance, and continuous monitoring indicates to the source if the control equipment is being maintained properly.

- Incinerator Monitoring Provisions [1]

Other-see SF83
Businesses or other institutions
New, mod. or recon. incin. of over 50 tons/day charging rate
SIC: 495
Pollution control and abatement, 4,745 responses, 949 hours, $2,500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Recording the daily charging rates and hours of operation seeks to insure that production conditions are the same as when the source was tested, and hence the source is meeting the standard. It avoids subjecting the source to additional testing and requires data the source would need for its daily operations.

- Storage Vessels for Petroleum Liquids—Monitoring [1]

Monthly
Businesses or other institutions
Petroleum refineries, bulk storage
SIC: 291, 422, 517
Pollution control and abatement, 6,240 responses, 12,480 hours, $6,500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Source shall maintain records of petroleum liquid stored, storage period, temperature, and vapor pressure to enable verification of the storage vessel being operated in compliance. Source may make written application for equivalent equipment and procedures.

- Emission Monitoring of Nitric Acid Plants [1]

Quarterly, other—see SF83
Businesses or other institutions
Any covered nitric acid production unit
SIC: 287
Small businesses or organizations
Pollution control and abatement, 8,395 responses, 4,198 hours, $10,000 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

The owner or operator shall record the daily production rate and hours of operation and shall continuously monitor nitrogen oxide emissions and submit quarterly excess emission reports. These reports tell EPA and the source if controls are working properly.

- Emission Monitoring for Sulfuric Acid Plants [1]

Quarterly, other—see SF83
Businesses or other institutions
Each new, modified or recon. sulfuric acid production unit
SIC: 281
Small businesses or organizations
Pollution control and abatement, 15,694 responses, 7,847 hours, $25,000 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

A continuous monitoring system for sulfur dioxide shall be installed, and excess emissions reports submitted quarterly. These reports tell the source if controls are operating properly. All conversion factors used to determine emissions shall be retained for 2 years.

- Portland Cement Plant Monitoring Provisions [1]

Other—see SF83
Businesses or other institutions
New, modified or reconstructed portland cement plants
SIC: 324
Small businesses or organizations
Pollution control and abatement, 22,360 responses, 4,472 hours, $12,500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Recording the daily production rates and kiln feed rates seeks to insure that conditions are similar to conditions when the source was performance tested. The source would use this data for its daily operations. The data is kept for 2 years

- Monitoring Requirements for Sewage Treatment Plants [1]

Other—see SF83
State or local governments/businesses or other institutions
Incin. com. over 10% SL. or charg. over 2205 LB/DY SEW. SL.
SIC: 495
Pollution control and abatement, 13,505 responses, 2,701 hours, $7,500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Source must monitor either the mass or volume of sludge charged to the incinerator, and maintain and operate a weighing device for determining mass of solid waste. This is used to determine if conditions varied from those when the performance test was performed. The source most probably would want this data independent of EPA requirements.

- Monitoring Requirements for Coal Preparation Plants [1]

Other—see SF83
Businesses or other institutions
All covered coal preparation plants
SIC: 121
Pollution control and abatement, 66,065 responses, 16,516 hours, $5,000 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Sources shall continuously monitor temperature of the gas stream, and (if applicable) pressure loss through the venturi and water supply pressure to the scrubber. This indicates if the control equipment is operating properly, without the need for additional test

- Monitoring Requirements for Electric Arc Furnaces in Steel Plants [1]

Quarterly, other—see SF83
Businesses or other institutions
All steel plants having electric arc furnaces
SIC: 331
Pollution control and abatement, 18,250 responses, 9,125 hours, $37,500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Excess opacity emissions shall be reported quarterly, as an indicator of proper control equipment operations. Daily production records, and

continuous monitoring of volumetric flow rate shall be recorded. The source may petition for a change in flow rates or change in free space pressure. These requirements provide assurance the conditions are the same as during the performance test, and the standard is being met.

- RCRA 3004 Reporting and Recordkeeping (Phase II)

Nonrecurring
Businesses or other institutions
Own. and oper. of hazard. waste treat., stor. and disp. centers
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 26,400 responses, 390,032 hours, 5 forms, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

The reporting and recordkeeping requirements are needed for the establishment and enforcement of a national hazardous waste management system mandated by Congress in Pub. L. 94-580. Approval was previously granted for several components of this system, and is now requested for additional requirements pertaining to hazardous waste treatment, storage, and disposal facilities.

- Monitoring Requirements for Lime Manufacturing Plants [1]

Quarterly, other—see SF83
Businesses or other institutions
New, mod. or recon. sources engaged in the manuf. of lime
SIC: 142, 327
Small businesses or organizations
Pollution control and abatement, 7,300 responses, 1,825 hours, $250 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Sources shall either continuously monitor opacity and report excess emissions, or shall record pressure loss of the gas stream and scrubbing liquid supply pressure. Source shall also measure the mass rate of limestone feed and lime feed. These process factors provide an indication of the effectiveness of the control device, without the need for additional testing.

- Monitoring Requirements for Phosphate Fertilizer Plants [1]

Other—see SF83
Businesses or other institutions
Wet-proc. phos. and superphos. acid, diam. and tr. superph. pls.
SIC: 287
Small businesses or organizations
Pollution control and abatement, 4,015 responses, 1,004 hours, $500 Federal cost, 1 form, not applicable under 3504(H)
Edward H. Clarke, 202-395-7340

Sources covered under subparts T, U, V, and W must operate a monitoring device to determine the mass flow of phosphorous-bearing feed material and one to continuously monitor and record pressure drop across the scrubber. Additionally, sources shall maintain a daily record of equivalent P205 feed as specified in applicable regulations. These process records tell the source if the scrubber is operating properly.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202-632-7737

Extensions (No Change)

- Initial Certification of Full-Time School Attendance

BRI 49-224.1
On occasion
Individuals or households
18 and 22 yr. old students, Dep. of Dec. Fed. Civil Serv. Emp.
Federal employee retirement and disability, 7,000 responses, 2,333 hours, $2,400 Federal cost, 1 form, not applicable under 3504(H)
Federal Education Data Acquisition Council, 202-426-5030

Title 5, U.S.C., Section 8341(A)(3)(C) provides survivor benefits to children between the ages of 18 and 22 if they are unmarried, full-time students. This form is provided to children who appear to be eligible for benefits when the death claim is initially received.

C. Louis Kincannon,
Assistant Administrator for Reports Management.

[FR Doc. 81-12573 Filed 4-24-81; 8:45 am]
BILLING CODE 3110-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Presentations on Screening for Genetic Disorders and Discussions of a Draft Report on Compensation for Research Injuries; Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committees Act, that the ninth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in Room 2010 of the New Executive Office Building, 1726 Jackson Place, N.W., Washington, D.C. from 9:00 a.m. to 5:30 p.m. on Friday, May 8, 1981 and from 9:00 a.m. to 4:00 p.m. on Saturday, May 9, 1981.

The meeting will be open to the public, subject to limitations of available space. The agenda of this Commission meeting will include, among other things, presentations on ethical and legal implications of screening for genetic disorders, and discussion of a draft report on compensation for research injuries and of the Commission's future plans.

During the afternoon of Friday, May 8, one-half hour will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time or those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission's office, located in Suite 555, 2000 K Street NW., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653-8051.

Alexander M. Capron,
Executive Director.

[FR Doc. 81-12505 Filed 4-24-81; 8:45 am]
BILLING CODE 6820-AV-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11741 (812-4832)]

Leasco Corp.; Application for Order Declaring That Applicant Is Not an Investment Company

April 21, 1981.

Notice is hereby given that Leasco Corporation ("Leasco"), 919 Third Avenue, New York, NY 10022, filed an application with the Commission on March 4, 1981, and an amendment thereto on April 8, 1981, for an order of the Commission pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act"), declaring Leasco to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities. All interested persons are referred to the application on file with the Commission for a statement of Leasco's representations, which are summarized below.

According to the application, Leasco was incorporated in 1978, as a wholly-owned subsidiary of Reliance Group, Incorporated ("Reliance"), in order to acquire the computer leasing operations of Reliance which, prior to that time, had been conducted by two other Reliance subsidiaries. Thereafter, on January 29, 1979, Reliance's board of

directors declared a dividend of Leasco's common stock to be distributed to holders of Reliance common stock, and on May 14, 1979, Leasco's common stock was so distributed. The application states that because of certain risks inherent in the computer leasing business, Leasco's officers and directors investigated opportunities for the acquisition of businesses outside the computer leasing area in order to add stability and profits to its operations, and Leasco determined that Reliance compares favorably with other companies investigated in terms of past and prospective returns on investment.

On September 18, 1980, the Commission issued an order pursuant to Sections 6(c) and 6(e) of the Act exempting Leasco, with certain exceptions, from all provisions of the Act (Investment Company Act Release No. 11361). The application states that the issuance of this order permitted Leasco to acquire shares of Reliance without the requirement that it register under the Act. Since that time, the application further states, Leasco has acquired and now owns 1,600,000 shares of common stock of Reliance, or 25.1% of Reliance's outstanding voting securities as of April 6, 1981. Leasco states that it is not purchasing shares of Reliance for purposes of resale but that its management is experienced and expert in the operation of Reliance's wholly-owned businesses and it expects to continue to participate fully in Reliance's operation. Leasco asserts that more than 70% of Leasco's unconsolidated assets (as of April 6, 1981) are invested in Reliance. In addition to shares of Reliance, Leasco affirms that it holds the following additional investment securities: (1) a warrant to purchase 40% of the outstanding common stock of North American Broadcasting Company, Inc. ("Broadcasting"), for $20,000 and subordinated notes issued by Broadcasting with a face value of $2,000,000; and (2) preferred stock of Securilease, Inc., with a redemption value of $380,000. Leasco avers that these additional holdings of investment securities constitute approximately 2% of Leasco's unconsolidated assets of April 6, 1981.

Section 3(a)(3) of the Act defines an investment company to include any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Thus, on the basis of its holdings of investment securities, including shares of Reliance, Leasco would be deemed to be an investment company under Section 3(a)(3) of the Act.

Leasco asserts, however, it should be excluded from the definition of investment company under the Act by virtue of Section 3(b)(2). Section 3(b)(2) states, in part, that notwithstanding Section 3(a)(3), any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses, is not an investment company within the meaning of the Act. Section 3(b)(2) further provides, in part, that whenever the Commission, upon its own motion or upon application, finds that the circumstances which gave rise to the issuance of an order granting an application under Section 3(b)(2) no longer exist, the Commission shall by order revoke such order.

Leasco declares that it is primarily engaged in the insurance business through its control and ownership of Reliance. The application states that through wholly-owned subsidiaries, Reliance engages in the issuance of a full line of insurance policies and services, property development, and management services. Leasco submits that it is presumed to control Reliance by virtue of Section 2(a)(9) of the Act because it owns more than 25% of the outstanding voting securities of Reliance. Leasco also submits that, in addition to being entitled to the statutory presumption of control, it in fact exercises a controlling influence over Reliance. According to the application, Leasco's board of directors has expressed the intention to include on the agenda of each Leasco board meeting a review of major aspects of Reliance's business. The application cites certain instances of this review: for example, at a recent meeting held jointly with Reliance's board, Leasco's board of directors reviewed the current status of, and prospects for, the insurance industry generally and Reliance's major insurance subsidiary specifically, questioning that company's premium pricing policy and discussing various rate cutting efforts by other insurers. At that meeting, Leasco's board also approved continuation of the current pricing policy of Reliance's major insurance subsidiary.

Leasco alleges that its historical development, its public representations of policy, the activity of its officers and directors, the nature of its present assets and the sources of its present income demonstrate that it is not an investment company. According to the application, Leasco is a relatively new company, but its predecessors and subsidiaries have engaged in the computer leasing business for 15 years. The application asserts that the prospects for this business are not promising and Leasco determined to look for other operating businesses into which to diversify and engage. Leasco states that its public representations, including its most recent Form 10-K, affirm that its primary business is engaging in the insurance business through its common stock interest in Reliance. Leasco states that the management of Leasco and Reliance is largely the responsibility of the same individuals: six of Leasco's 10 directors hold positions on Reliance's board. In addition, the application states, two of Leasco's outside directors are experienced in various aspects of the insurance business. Reliance is a Delaware corporation, and, according to the application, Delaware corporate law provides that the management of a corporation rests with its board, a majority of which constitutes a quorum. Further, the application states that under Delaware law a vote of a majority of directors at a meeting at which a quorum is present is the vote of the board. Accordingly, the application alleges, because six of Reliance's 10 directors are also Leasco directors, the Leasco directors on Reliance's board maintain control over Reliance. The application also states that apart from one Leasco executive who is responsible for, and devotes 100% of his time to, Leasco's leasing operations, Leasco's executive management group expends more than 80% of its time managing and performing staff work for the operation of Reliance. Leasco declares that on December 31, 1980, 67% of its unconsolidated assets were invested in Reliance common stock and that the value of this holding has increased as a result of market movement and other acquisitions so that the holding as of April 6, 1981, exceeds 70% of unconsolidated assets. Leasco also declares that during 1980, approximately 65% of Leasco's net income was derived from its equity in the net income of Reliance.

The application notes that Saul P. Steinberg, chairman of the board, president and chief executive officer of Leasco, is also chairman of the board, president and chief executive officer of

Reliance. The application also notes that Mr. Steinberg, members of his family and estates of and trusts for the benefit of family members own directly 13.07% of Reliance common stock. The application states that those persons also own approximately 51% of Leasco. The application says that Mr. Steinberg is the founder of Reliance and is the dominant force in effecting its general direction as well as any significant or extra-ordinary action.

Notice is further given that any interested party may, not later than May 18, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issue of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication 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 Leasco at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders 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. 81-12558 Filed 4-24-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22017; (70-6588)]

Monongahela Power Co.; Proposed Issuance and Sale of Preferred Stock

April 21, 1981.

Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, an electric utility subsidiary company of Allegheny Power System, Inc., a registered holding company, had filed a declaration with this Commission pursuant to sections 6(a), 7, and 12 (e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 thereunder. Monongahela proposes to amend its Charter so as to increase the number of shares of Cumulative Preferred Stock which it is authorized to issue from 690,000 shares to 940,000 shares and to issue and sell and aggregate amount, not to exceed 250,000 shares, of its $———Cumulative Preferred Stock, Series K, par value $100 per share. Monongahela intends to sell the preferred stock pursuant to competitive bidding unless market conditions make competitive bidding impractical or undesirable, in which event, Monongahela proposes, subject to authorization by the Commission by further order, either to privately place the preferred stock with institutional investors or to negotiate with underwriters for the sale thereof. The Stock may have a sinking fund if required under the circumstances. The proceeds from the sale of preferred stock are expected to be used, together with other funds, to pay or pre-pay to the extent desirable Monongahela's short-term debt and to operate its business as an electric utility, including the financing of its construction program which is estimated for 1981 at $55 million for 1982 at between $54 and $56 million.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 18, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request.

Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

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

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-12559 Filed 4-24-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/398]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on May 7, 1981, at 1:30 P.M., in Room 8238 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. The normally scheduled meeting of the Working Group on May 21, 1981, will not be held.

The purpose of the meeting is to prepare position documents for the Twenty-third Session of the Subcommittee on Radio-communications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London, May 11, 1981. In particular, the working group will discuss the following topics:

—Survival craft radio equipment
—Operational requirements for future EPIRBs
—Operational standards for shipboard radio equipment
—Maritime distress system

For further information contact LCDR R. F. Carlson, U.S. Coast Guard (G-OTM-3/32), 2100 2nd Street, S.W., Washington, D.C. 20593. Telephone (202) 426-1345.

Dated: April 10, 1981.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 81-12530 Filed 4-24-81; 8:45 am]

BILLING CODE 4701-07-M

[Public Notice CM-8/399]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 28, 1981 at 10:00 a.m. in Room A-110, of the Federal Communications Commission, 1225 20th Street, N.W., Washington, D.C. This Study Group will deal with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT meetings. In particular, this meeting of Study Group A will examine the questions and contributions relating to the upcoming September meetings of CCITT Study Groups 1 and 3.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Earl S. Barbely, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Dated: April 9, 1981.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 81-12531 Filed 4-24-81; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 81-029]

Ship Structure Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act) Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Committee to be held Thursday, May 28, 1981 at 8:30 a.m. in Room 3201, Third Floor, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, D.C. The agenda for this meeting is as follows: To approve research projects of the Committee for fiscal year 1982 and to review ongoing research programs.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify Cdr. T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2205 not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: April 22, 1981.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 81-12591 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Air Traffic Control Tower; Commissioning

Notice is hereby given that on May 21, 1981, through October 1, 1981, the Airport Traffic Control Tower at the Martha's Vineyard Airport, Martha's Vineyard, Massachusetts, will be commissioned as a part-time FAA facility. Tower hours of operation and the effective hours of the Martha's, Vineyard, Massachusetts, Control Zone, will be established in advance by a Notice of Airmen, and thereafter be published in the Airman's Information Manual. The designated facility identification for the FAA Airport Control Tower: Vineyard Tower. This information will be reflected in the FAA Organization Statement the next time it is issued.

Communications to the tower should be directed to: Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 71, Vineyard Haven, Massachusette 02568.

Section 313(a), 72 Stat. 752; 49 USC 1354(a) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c)).

Issued in Burlington, Massachusetts, on April 15, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-12298 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-13-M

Aviation Human Factors Workshop

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces a forthcoming workshop which will permit the air traffic control segments of the aviation community to express and discuss their views on human factors issues.

DATE: The workshop will be from 9 a.m. to 5 p.m. at the Brighton Hotel, Atlantic City, New Jersey 08401, and at the FAA Technical Center, Atlantic City Airport, New Jersey 08405, on May 13, 14, and 15, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Lenzmeier, extension 1106-07, or Dr. George E. Long, extension 2171, FAA Technical Center, Atlantic City Airport, New Jersey 08405, 609-641-8200. Parties who are interested in the workshop or who expect to attend are requested to notify the FAA Technical Center.

SUPPLEMENTARY INFORMATION: The interaction which will occur at this workshop is expected to support the development of the Federal Aviation Administration's Civil Aviation Human Factors Research Program. This is the fourth in a series of workshops. The first day will be devoted to presentation by the FAA and various representatives of the aviation community. The second day will consist of workshops, each focused on one of the following issues: The Controller Role in an Automated Environment; Technicians in Automation; Impact of Transition on the Human—Near and Long Term; Controller/Pilot Issues; and, Controller Performance as Affected by the Environment. The third day will consist of (1) workshops summary reports to the General Session and (2) a visit to the FAA Technical Center facilities used for human factors investigations.

Dated: April 16, 1981.

Joseph M. Del Balzo,

Director, Federal Aviation Administration Technical Center.

[FR Doc. 81-12239 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-13-M

Informal Airspace Meeting on Establishment of Military Operations' Area in New Hampshire

AGENCY: Federal Aviation Administration/DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: Notice is hereby given that a public informal airspace meeting will be held to give interested persons the opportunity to comment on the proposed establishment of a Military Operations' Area (MOA) in the State of New Hampshire to be called Yankee II by the Department of the Air Force.

DATE: April 28, 1981.

Notice is hereby given that a public informal airspace meeting will be held by the FAA at the Civil Air Patrol Building, 51 Airport Road, Concord, New Hampshire, on Tuesday, April 28, 1981, at 1:30 p.m. to give interested persons the opportunity to comment on the proposed establishment of a Military Operations' Area (MOA) in the State of New Hampshire to be called Yankee II by the Department of the Air Force.

Yankee II will be located beneath part of the existing Yankee I MOA at an

altitude ranging from 100' AGL to 9,000 MSL. The public is invited to attend this informal airspace meeting to present facts pertinent to the safe and efficient use of navigable airspace as it relates to the proposal.

Comments may be submitted in writing at this meeting or within five days thereafter, addressed to the following: Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. For further information contact Mr. David J. Hurley, Chief, Operations, Procedures & Airspace Branch, ANE-530, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7285, office hours 8:00 a.m. to 4:30 p.m.

Issued in Burlington, Massachuseets, on April 15, 1981.

David J. Hurley,

Chief, Operations, Procedures & Airspace Branch.

[FR Doc.81-12297 Filed 4-24-81 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Mendocino County, Calif., Highway Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Mendocino County, California.

FOR FURTHER INFORMATION CONTACT: David Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, CA 95809. Telephone (916) 440-3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an Environmental Impact Statement (EIS) for a proposal to replace Bridge #10-48 over Mill Creek and to widen State Route 1 to a 32' roadway section between post miles 64.3 and 65.1 approximately 3 miles north of Fort Bragg in coastal Mendocino County, CA. The highway would remain a two-lane facility with traffic lanes widened to 12' and the addition of 4' wide paved shoulders. The existing highway is subject to a high accident rate due to a narrow roadway, poor sight distance and heavy tourist traffic in the summer months.

Alternatives under investigation include the no project alternate and three possible alignments which vary only where the highway is adjacent to MacKerricher State Park. Outside of the park area, the three construction alternates are on identical alignments.

Public input on the proposed project has been solicited in a public informational meeting held March 12, 1981 near the project area. Responsible agencies (including the U.S. Army Corps of Engineers, Regional Water Quality Control Board, California Department of Fish and Game and the California Coastal Zone Commission) have been requested to provide their input on the proposal. Additional agencies including the Mendocino County Planning Department, State Department of Parks and Recreation and the U.S. Fish and Wildlife Service have been contacted.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: April 13, 1981.

David Eyres,

District Engineer, Sacramento, CA.

[FR Doc. 81-12303 Filed 4-24-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Sparks, Nevada, Highway Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Sparks, Nevada.

FOR FURTHER INFORMATION CONTACT: A. J. Horner, Division Administrator, Federal Highway Administration, 1050 East William Street, Carson City, Nevada 89701. Jack King, Supervisor, Roadside Development and Environmental Services, Nevada Department of Transportation, 1263 South Stewart Street, Carson City, Nevada 89712. Robert Churn, Public Works Director, City of Sparks, 431 Prater Way, Sparks, Nevada 89431.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Nevada Department of Transportation and the City of Sparks, will prepare an environmental impact statement (EIS) on a proposal to provide additional access to Interstate 80 (I-80) in Sparks, Nevada (1980 population 41,000) and to upgrade an existing adjacent interchange.

Interstate 80 passes through the center of Sparks in an east-west direction (refer to sketch). There are five interchanges in Sparks that allow access to I-80. Both residential and commercial growth will take place in the eastern portion of the City (both north and south of I-80). To meet existing and projected traffic needs, it is proposed to provide an interchange allowing an additional route across I-80 as well as access to I-80. Included as part of the proposal is the improvement of the adjacent interchange at Vista Drive.

Alternatives under consideration include: (1) no action; (2) full interchange at Sparks Boulevard; (3) improvements (safety and increased capacities) to Vista Drive interchange; and (4) grade separation at Sparks Boulevard. Design variations will be incorporated into the various alternatives.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to owners of property in the project areas. Discussions with local property owners and business operators will also be held. A public informational meeting will be held in Sparks. The time and place will be advertised in local newspapers. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

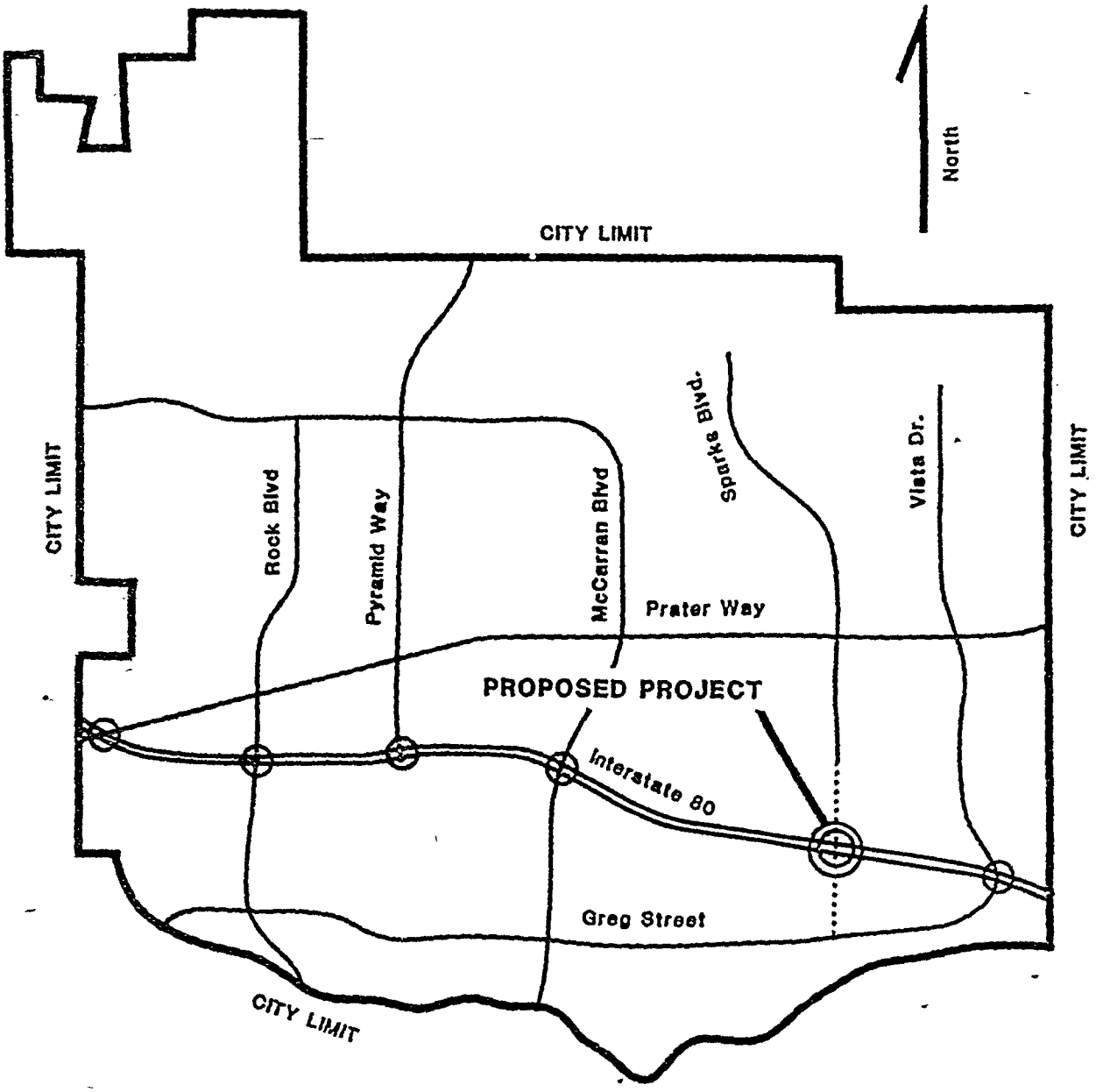
(Catalog of Federal Domestic Assistance Program Number 20.205. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: April 14, 1981.

A. J. Horner,

Division Administrator, Carson City, Nevada.

BILLING CODE 4910-22-M



Sparks, Nevada

[FR Doc. 81-12303 Filed 4-24-81; 8:45 am]
BILLING CODE 4910-22-C

National Highway Traffic Safety Administration

Automotive Fuel Economy Program; Report to Congress

The attached document, "Automotive Fuel Economy Program, Fifth Annual Report to Congress" has been prepared under the direction of the prior Administrator pursuant to Section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163). That provision requires in pertinent part that "not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the Federal Register a review of average fuel economy standards under this part." The Report was submitted to Congress on January 14.

Diane K. Steed,
Acting Administrator.

January 14, 1981.

Hon. Walter F. Mondale,
President of the Senate, Washington, D.C.

Dear Mr. President: Transmitted herewith is the Fifth Annual Report of the Automotive Fuel Economy Program as required by Section 502(a)2 of the Motor Vehicle Information and Cost Savings Act.

The report is designed to inform the Congress of the progress that has been made during Fiscal Year 1980 in administering the fuel economy regulatory program. In addition, it summarizes comprehensively the accomplishments of the program over the last five years.

The fleet average fuel economy for new domestic passenger automobiles has increased from 16.5 mpg in model year (MY) 1976 to 21.8 mpg in MY 1980, and is projected to increase to 31 mpg by MY 1985. Fleet average fuel economy for light trucks has increased from 13 mpg in MY 1976 to nearly 17 mpg in MY 1980 and is projected to rise to about 23 mpg in MY 1985.

I commend this report for your review.

Sincerely,

Thomas G. Allison,
Acting Secretary.

January 14, 1981.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives, Washington, D.C.

Dear Mr. Speaker: Transmitted herewith is the Fifth Annual Report of the Automotive Fuel Economy Program as required by Section 502(a)2 of the Motor Vehicle Information and Cost Savings Act.

The report is designed to inform the Congress of the progress that has been made during Fiscal Year 1980 in administering the fuel economy regulatory program. In addition, it summarizes comprehensively the accomplishments of the program over the last five years.

The fleet average fuel economy for new domestic passenger automobiles has increased from 16.5 mpg in model year (MY) 1976 to 21.8 mpg in MY 1980, and is projected to increase to 31 mpg by MY 1985. Fleet average fuel economy for light trucks has increased from 13 mpg in MY 1976 to nearly 17 mpg in MY 1980 and is projected to rise to about 23 mpg in MY 1985.

I commend this report for your review.

Sincerely,

Thomas G. Allison,
Acting Secretary.

Automotive Fuel Economy Program

Fifth Annual Report To The Congress, January 1981

Preface

This report presents a five year reflection of the achievements of the Automotive Fuel Economy Program. Even prior to 1975, the year in which Congress presently enacted the Energy Policy and Conservation Act, improved automobile fuel efficiency has been one of the single most important efforts in reducing this Nation's energy consumption.

Over the last 4 model years, domestic new car fuel economy has increased a phenomenal 32 percent and is expected to increase an additional 42 percent by 1985—resulting in nearly a doubling of fuel efficiency in only a 10-year period. The technological improvements in vehicle fuel efficiency adopted by the automobile manufacturers, coupled with a shift in consumer demand toward these vehicles, has been the prime factor in our reduction in gasoline consumption. Although people are driving more efficiently, as well as driving less—a 5 percent reduction in 1979 compared to 1978 and an 8 percent reduction for the first six months of 1980 compared to the same period last year—new vehicle fuel economy has provided the bulk of the reduction in gasoline consumption. More than half of the reduction in 1980 is a direct result of the improved automotive and light truck fuel economy.

Besides being a critical element in our national energy policy, fuel economy improvements brought about by the regulatory program and changes in consumer demand have:

- Benefited consumers by saving the average purchaser of a 1980 car $1,700 in gasoline costs when compared to a pre-fuel economy standards vehicle, and saving the purchaser of a 1985 car an *additional* $1,600.
- Contributed to a stabilization of the dollar and to a reduction in the inflation rate.
- Enhanced national security by lessening our growing dependence on imported oil—a dependence which greatly affects foreign as well as domestic economic policy.
- Reduced fuel consumption of passenger cars to the degree that by 1990 the cumulative fuel savings are estimated to be 3.9 billion barrels and by 2000 are estimated to be 11.0 billion barrels.
- Reduced fuel consumption of light trucks to the degree that by 1990 the cumulative fuel savings are estimated to be 1.5 billion barrels and by 2000 are estimated to be 4.7 billion barrels. These fuel savings are additive to those for passenger cars, shown above, and result in a total savings of nearly 16 billion barrels of oil by 2000.
- Reduced the outflow of dollars to purchase foreign oil by nearly $3 billion in 1980. Over the next 20 years, fuel economy improvements will save the Nation about 1 *trillion* dollars in imported oil—or about $200 per person for each and every year.

The fuel economy regulatory program alone can be credited with:

- Providing domestic manufacturers stable planning targets for minimum fuel efficiency, enabling them to be better prepared than they would have been for the dramatic shift in consumer demand experienced after the Iranian revolution in 1979.
- Advancing the schedule of passenger car fuel economy improvements which manufacturers would have implemented under a voluntary program.
- Providing the major impetus in accelerating the improvement of light truck fuel economy.

This report details these achievements and particularly the activities of the past year.

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Executive Summary

This is the Fifth Annual Report to the Congress on the Department of Transportation's Automotive Fuel Economy Program. It identifies the accomplishments of the Fuel Economy Program over the five years since its enactment and provides a short history of the events which preceded the Program. The report discusses the automotive industry and the technologies it uses to improve motor vehicle fuel economy, as well as trends in vehicle sales that affect motor fuel use. It also presents some of the issues that will have to be resolved in future Federal policy on automotive fuel economy.

The automotive fuel economy programs implemented by the Federal Government since 1973 are paying off now, and the improvement in fuel economy will provide even more significant energy savings during the next two decades. Fleet average fuel economy for new domestic passenger automobiles has increased from about 13 mpg in model year (MY) 1974 to 21.8 mpg in MY 1980, and is projected to increase to 31 mpg by MY 1985. Fleet average fuel economy of new domestic light trucks has increased from about 13 mpg in MY 1976 to neary 17 mpg in MY 1980 and is projected to rise to about 23 mpg by MY 1985. Figure E-1 shows the Federal fuel economy standards for passenger cars and light trucks, and the actual and projected fuel economy for these vehicles.

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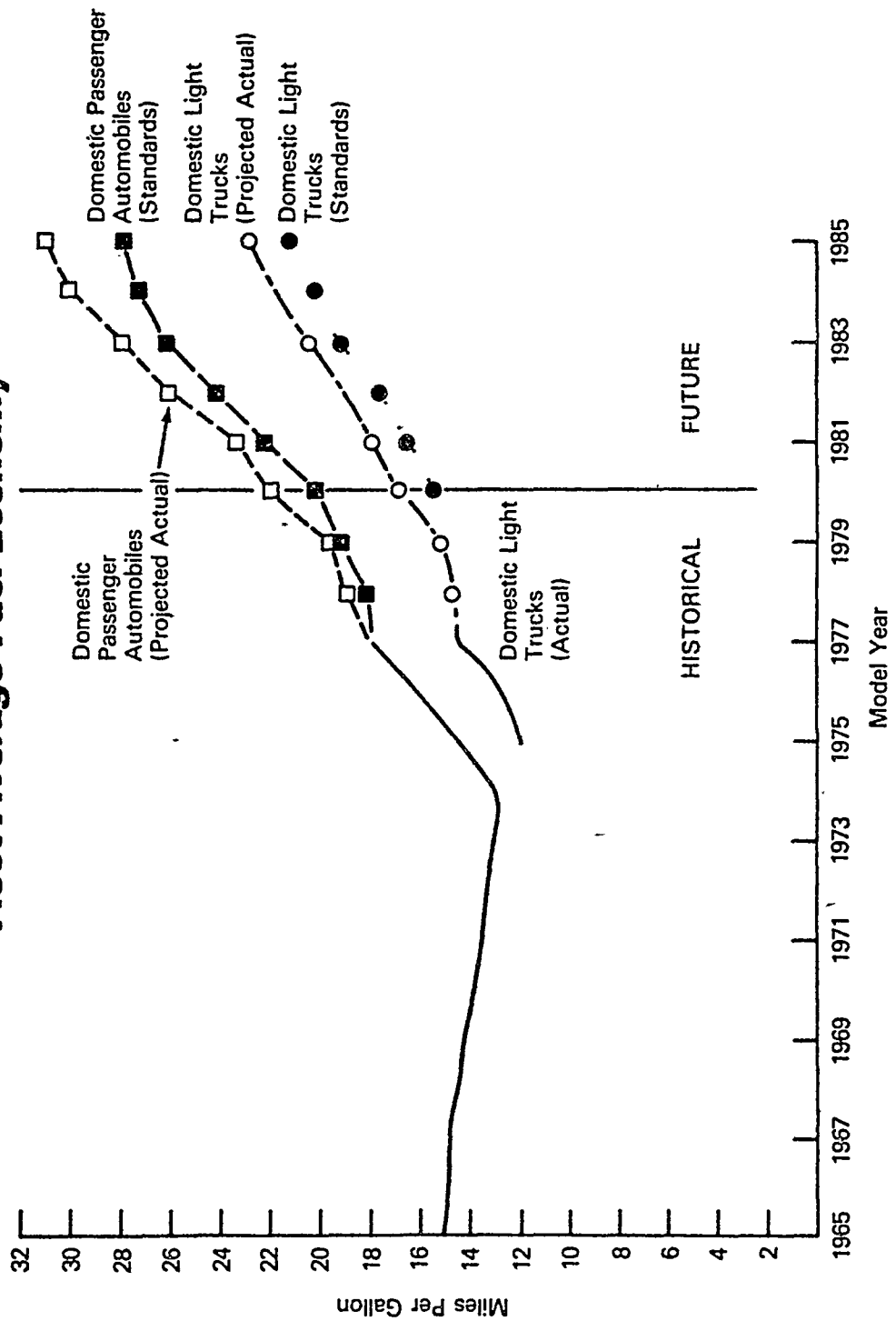
Figure E-1

Fleet Average Fuel Economy



Source: Derived From NHTSA Data Base

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The realized average fuel economy of the new car and truck fleet was above the standards in 1978 through 1980. The expectation for the next 5 years is that market forces will reinforce the efforts of manufacturers to improve fuel economy and that the gap between the standards and the real car fleet fuel economy will widen. By 1985, the projected automobile fuel economy is 3.5 mpg above the statutory standard of 27.5 mpg.

A. Benefits of Improved Fuel Economy

The major benefit of the passenger automobile and light truck fuel economy standards is a significant conservation of motor fuels. There are also a number of secondary benefits, including:

—Improved U.S. balance of trade and balance of payments resulting from reduced oil imports,

—Reduced inflationary pressure arising from increased oil prices,

—Less dependence of the U.S. economy on foreign supplies of petroleum, and

—Stimulation of substantial innovation in automotive design and production technology.

If auto makers merely complied with the minimum Federal fuel economy standards for model years 1978 through 1985 for passenger cars and light trucks, the total cumulative fuel savings are projected to be about 658 billion gallons (15.7 billion barrels) through the end of the century, compared with the fuel that would have been consumed if new vehicle fuel economy had remained at MY 1976 levels, the fuel economy levels when the regulatory program was enacted. In fact, the auto makers are expected to substantially exceed the minimum standards for an additional saving of 8.5 billion gallons.

The annual savings for selected calendar years relative to MY 1976 fuel economy levels are shown in Table E-1. It also lists estimates of the dollar value of fuel savings in various years. For example, in 1990 the value of fuel saved is projected at about $44 billion.[1]

Increasing fuel economy most directly benefits the people who own and drive the more efficient vehicles. To illustrate this point, over its average lifetime, a car with the average EPA measured MY 1976 fuel economy of 16.5 mpg will use 7,900 gallons of gasoline. The increase to 21.8 mpg for the average car in 1980 would decrease consumption to 6,000 gallons, a savings of more than 1,900 gallons with a discounted value of $1,680 to the owner. Similarly, a car with an average MY 1985 fuel economy of 31.0 mpg (EPA rating) would consume about 4,200 gallons over its lifetime and save its owner about $3,240 compared with the car rated at 16.5 mpg. These dollar savings assume increasing gasoline prices, reaching approximately $1.52[2] per gallon in 1985 (in 1980 dollars).

Table E-1.—*Annual Savings for Meeting Fuel Economy Standards Through 1985*[1] *Compared With MY 1976 Fuel Economy Levels, for Selected Years*

[Millions of barrels of oil]

Model year	Passenger cars	Light trucks	Total	Value[2] in billions of Dollars
1980	68.1	28.6	96.7	$2.7
1985	357.6	136.7	494.3	20.5
1990	620.7	252.8	873.5	43.5
1995	716.7	312.4	1,029.1	62.6
2000	745.2	339.0	1,084.2	82.2

[1] Barrels of oil saved derived from NHTSA data base.
[2] Projected real price of crude oil derived from DRI, "Long Term Review," (Fall 1980), TrendLong Projection, using GNP deflator and projected current price.

Projected Real Price (1980 Dollars) of Crude Oil Per Barrel

Year	Price
1980	$28.70
1985	41.53
1990	49.85
1995	60.85
2000	75.84

B. Fuel Economy Standards

The decade of the 1970's brought profound changes in both the supply and economics of energy in the U.S. and worldwide. Increasing U.S. dependence on foreign oil, coupled with the growth of a strong and unified OPEC cartel, resulted in dramatic increases in petroleum prices and periodic energy supply interruptions. These events, in turn, have adversely affected the balance of payments, inflation, unemployment and economic growth. Furthermore, consumers have adjusted to this new situation there have been major shifts in motor vehicle demand and fundamental changes in the automobile industry.

Japan has become the world's leading automobile producing nation, by a small margin, and the U.S. auto industry has been thrown into disarray, at least in part because of its inability to supply fuel efficient, small cars for the U.S. market quickly enough to respond to the major shift in consumer demand. One U.S. company, the Chrysler Corporation, was saved from bankruptcy by a Federal loan guarantee in 1979, and the three major U.S. auto producers lost a total of $3.5 billion during the first three quarters of 1980.

As early as 1972, the U.S. Department of Transportation began to anticipate that fuel economy of motor vehicles would become a major issue in the 1970's and beyond. The Department pursued research to determine what changes were feasible to improve the efficiency of automobiles in the U.S. while simultaneously reducing highway crash losses, emissions, and the overall cost of automobile ownership. In 1974 the Department initiated a voluntary fuel economy improvement program in cooperation with the Federal Energy Administration (FEA), now a part of the Department of Energy. This program was a precursor to the Automotive Fuel Economy Program. In 1975, the Congress passed the Energy Policy and Conservation Act (Pub. L. 94-163) which empowered the Secretary of Transportation to establish and enforce fleet average fuel economy standards for passenger automobiles and light trucks.

The standards for Corporate Average Fuel Economy (CAFE) of passenger cars from 1978 through 1980 were set at 18, 19, and 20 mpg in the Act, at levels slightly in excess of what the industry in 1975 voluntarily agreed to achieve. The standard of 27.5 miles per gallon (mpg) was established by the Congress for the 1985 model year and thereafter unless higher standards are set by the Secretary subject to Congressional veto. Passenger car standards for 1981 through 1984 and all light truck standards were to be set by the Secretary.[3] Fuel economy standards have been established for passenger cars and light trucks through the 1985 model year. These standards are shown in Table E-2.

[1] Based upon automobile manufacturers just meeting established fuel economy standards through MY 1985.

[2] Compiled from official Department of Energy projections, "Energy Balances—Medium Case," dated May 22, 1980; and Data Resources, Inc., Trend Long Projection, Summer 1980.

[3] The Secretary delegated day-to-day regulatory responsibility to the National Highway Traffic Safety Administration (NHTSA) which already had the safety regulatory responsibility and mechanism.

Table E-2.—*Fuel Economy Standards for Passenger Cars and Light Trucks for the 1978 through 1985 Model Years (in MPG)*

Model year	Passenger cars	Light trucks[2]		
		2-wheel drive	4-wheel drive	Composite[3]
1978	[1] 18.0	(?)	(?)	(?)
1979[4]	[1] 19.0	17.2	15.8	17.2
1980[4]	[1] 20.0	16.0	14.0	———
1981[4]	22.0	16.7	15.0	———
1982	24.0	18.0	16.0	———

Table E-2.—*Fuel Economy Standards for Passenger Cars and Light Trucks for the 1978 through 1985 Model Years (in MPG)*

Model year	Passenger cars	Light trucks[2]		
		2-wheel drive	4-wheel drive	Composite[3]
1983	26.0	19.5	17.5	19.0
1984	27.0	20.3	18.5	20.0
1985	[1][5]27.5	21.6	19.0	21.0

[1] Established by Congress in the Energy Policy and Conservation Act of 1975.

[2] Standards for 1979 model light trucks were established for vehicles with a gross vehicle weight rating (GVWR) of 6000 lbs. or less. Standards for 1980 through 1985 are for light trucks with a GVWR of up to 8500 lbs.

[3] For model years 1983-1985 manufacturers may comply with either the two-wheel and four-wheel drive standards or may combine their two-wheel and four-wheel drive light trucks and comply with the combined standard.

[4] Light trucks manufactured by a manufacturer whose fleet is powered exclusively by basic engines which are not also used in passenger automobiles must meet standards of 14 mpg and 14.5 mpg in model years 1980 and 1981 respectively.

[5] For MY 1985 and thereafter.

[6] For 1979, light truck manufacturers may comply separately with standards for four-wheel drive, general utility vehicles and all other light trucks, or combine their trucks into a single fleet and comply with the 17.2 mpg standard.

[7] Not established.

While the standards for passenger automobiles were set in place through MY 1985 as early as June 1977, the fuel economy standards for light trucks have evolved over a much longer time in a much more involved process. In March 1977, NHTSA set the light truck standards for MY 1979. These standards covered only the light trucks with gross vehicle weight rating (GVWR) of 6000 lb. or less. A year later, NHTSA set the standards for MY's 1980 and 1981 for two-wheel drive and four-wheel drive classes, increased the number of vehicles covered by a factor of three by raising the GVWR limit to 8500 lb. and created a separate class of captive imports. About a year later, the standard for two-wheel drive light trucks in MY 1981 was lowered slightly in response to a request and new information from Chrysler Corporation. The standards for MY 1982 were set in March 1980. In the Fall of 1980, the standards for model years 1983–1985 were set. This last rulemaking provides a composite standard, covering all of a manufacturer's light trucks which it may elect to meet instead of the separate standards for the two-wheel drive and four-wheel drive classes. The MY 1985 composite standard of 21.0 mpg is 40% above the equivalent average fuel economy of the MY 1979 light trucks (0–8500 lb. GVWR) of 15 mpg.

In the absence of adequate market signals encouraging fuel economy improvements, fuel economy regulations provided a rational approach toward integrating requirements of technical feasibility, and economic practicability with the need of the nation to conserve energy. In so doing, both benefits and cost (indirect as well as direct), were thoroughly considered, based on the most up-to-date information available. The Act has also considered the need for built-in flexibility for manufacturers in responding to changes in economic conditions.

The standards have given a direction to the industry when the market was slow to initiate such signals and have also insured a present and future vehicle mix which reflects the fuel-efficiency attributes appropriate for the economic and energy environment of the 1980's. The fuel economy-related changes to vehicles which the standards have encouraged have proven to be highly cost effective in achieving fuel conservation.

In summary, the DOT has assessed realistically and conservatively the capability of manufacturers to increase the average fuel economy of their passenger automobiles and light trucks in its administration of the regulatory program.

C. Marketplace Incentives to Increase Fuel Economy

Stable gasoline prices and supplies from 1976 to 1979 resulted in a return to purchases of larger cars and light trucks for personal transportation. See Figure E-2. During this period, Federal fuel economy standards played a major role in keeping pressure on the manufacturers to develop more fuel economical vehicles for the 1980's despite the temporary lack of market demand for them and a return of consumer preference toward less fuel-efficient vehicles. In the absence of fuel economy standards, the market alone would have dictated a future motor vehicle market mix reflecting the influence of only short-term phenomena such declining real fuel prices. Major changes in product offerings, embodying new technology, require higher risk corporate strategies than would not have through market forces alone, given the manufacturers' long lead time for planning and implementing these changes.

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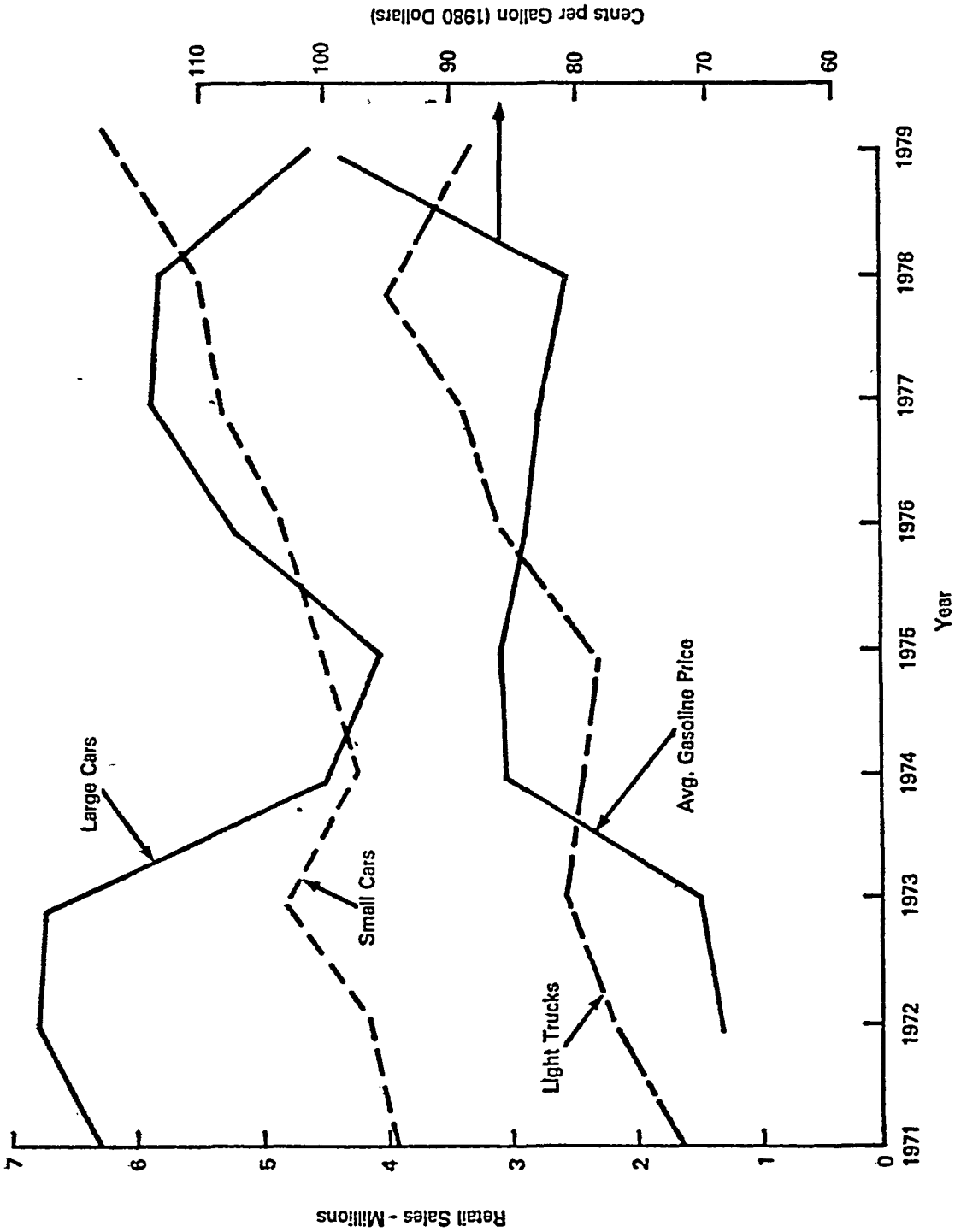
FIGURE E 2

Retail Sales of Vehicles and Average Real Gasoline Prices



Small Cars Include All Imports, Domestic Subcompacts, and Compacts
Large Cars Include Intermediate, Full Size and Luxury.
Gasoline Prices Adopted From, "Lundberg Letter," (Feb. 11, 1980) P.1. (June 6, 1980) P 6.
A Projected 1980 C.P.I was used as the Deflator

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Since 1979, the public has responded directly to sharp increases in the price of gasoline and temporary gasoline shortages by purchasing fewer large cars and light trucks while buying more of the smaller, more fuel efficient vehicles, many of which are imported. The immediate result has been a projected increase for 1981 in the overall fleet average fuel economy average of new cars which is above the levels required by Federal standards by almost one mpg for every manufacturer. The major changes which account for this average fuel economy improvement are weight reduction, other technological improvements, and increased usage of smaller engines.

D. Research and Analysis.

The Department has supported its rulemaking activities with an extensive research and development program. The National Highway Traffic Safety Administration (NHTSA), which administers the Automotive Fuel Economy Program, sponsors research both directly and through the Department's Transportation Systems Center in Cambridge, Massachusetts. This work includes:

—Development and maintenance of an economic and technical data base on the motor vehicle industry and the automotive transportation system,

—Analysis of the motor vehicle industry's capability to adopt new technologies to improve automotive fuel economy,

—Engineering and testing of new concepts and technologies for improving automotive fuel economy, and

—Studies of the automotive market to determine the public's willingness to accept more fuel efficient vehicles.

E. Technologies to Increase Fuel Economy

The dramatic improvements in automotive fuel economy are being achieved by the application of a variety of new design concepts, technologies, and materials. One of the most important changes in new cars is the decrease in weight that is being achieved by the use of new materials and reductions in exterior size without a similar decrease in interior room. Specifically, the average inertia weight of the new domestic car fleet is expected to decrease from 4100 lbs. in MY 1975 to 3300 lbs. in MY 1980 to 2900 lbs. in MY 1985.

While this downsizing has potentially serious safety implications, the implementation of the automatic occupant crash protection standard in the early 1980's as well as the improvements in the crashworthiness of small dometic cars seen in the NHTSA's recent 35 mph barrier crash tests, indicate that public safety need not be compromised for fuel economy improvements. The Agency's production of experimental safety vehicles in 1978 based on designs and technology from 1974, when the project began, shows without question that small cars can be far safer than small cars on the road today.

A number of other new technologies are being used for passenger cars and light trucks. These include: electronic engine controls and three-way catalytic converters, turbochargers and diesel engines, small engines and engines that can vary the number of cylinders that are operating for a given load condition, four-speed automatic transmissions with lockup torque converters, more efficient accessories, new "slippery" lubricants, and tires that run at high inflation pressures to reduce rolling resistance. More attention is also being paid to aerodynamic body designs to reduce drag.

In the future, an even wider variety of new technologies and materials are expected to contribute to more fuel economical and safer passenger cars and light trucks.

F. Fuel Economy Policies After 1985

Currently, the Department of Transportation is attempting to formulate a policy for automotive fuel conservation beyond 1985. New passenger car fleets with an average fuel economy in the range of 45 to 55 mpg, and new light truck fleets with an average fuel economy in the range of 25 to 35 mpg are likely to be technologically feasible without significant loss of transportation utility by the mid-1990's or earlier. There are economic and marketing factors that may limit future increases in fleet fuel economy, but unforeseen changes in the price or availability of motor fuels may stimulate the development and production of even more fuel economical vehicles. There is a need to coordinate the national policy of fuel economy increases with national energy and economic policies. A point to remember is that the U.S. auto market has become much more competitive, with the overseas based manufacturers offering products that compete strongly with those of the domestic manufacturers, particularly in the area of fuel economy.

There are a number of research questions that must be answered and issues that must be resolved in order to establish Federal policy on automotive fuel economy beyond 1985. The issues to be addressed include:

—In order to achieve further improvements in fuel economy after 1985, should the Federal Government continue the regulatory program as a backstop in the event of weak demand for fuel efficiency vehicles or should it place greater reliance on the market and the use of incentives or disincentives, such as taxes or subsidies?

—To what extent should consideration of marginal cost-effectiveness of increasing average fuel economy determine the levels of future fuel economy standards?

—To what degree should secondary benefits of motor fuel conservation, such as improved national security and reduced inflationary pressures, be considered in determining future fuel economy levels especially considering the adverse effects that large outlays for imported oil ($56 billion in 1979 and $39 billion for the first six months of 1980) have had on the stability of the U.S. economy.

—Should the cost-effectiveness of investments to increase fuel economy be compared with the cost-effectiveness of investments to develop new domestic energy resources in determining Federal fuel economy standards?

—To what extent should the financial health of and employment in the domestic automobile industry be a factor in determining Federal fuel economy policies, and will higher fuel economy standards after 1985 help or hurt the domestic industry and its workers?

Some of these issues are currently being addressed in a separate report by the Department of Transportation on the automotive industry.

This report is organized as follows: Chapter I discusses petroleum usage and prices, motor vehicle sales, and other factors and circumstances to provide a background for the National Highway Traffic Safety Administration's programs for automotive fuel conservation. Chapter II describes how the Department implemented the requirements of the Energy Policy and Conservation Act to administer the regulatory fuel economy program for passenger automobiles and light trucks and gives details of the Federal fuel economy standards as well as a summary of the program's statutory requirements and procedural rules. Chapter III discusses the current and projected benefits of improvements in average fuel economy since model year 1976.

Chapter IV presents the Federal government's fuel economy research and development achievements. It emphasizes the development of

analytical tools and capabilities to support fuel economy rulemaking.

Chapter V summarizes the fuel economy improvements made by the motor vehicle industry and describes the degree to which advanced technologies have been used in production vehicles to improve fuel economy. This chapter specifically provides information on the application of advanced technology by the automotive industry that is to be reported to the Congress according to the requirements of the Department of Energy Act.[4]

Finally, Chapter VI discusses other accomplishments and activities related to automotive fuel conservation of the Environmental Protection Agency, Department of Energy, and the General Services Administration that derive from the statutory requirements of the Program. These activities include assessment and modifications of fuel economy test procedures, studies of the actual fuel economy of vehicles as used on public roads, the procurement of fuel economical vehicles by the Federal Government, and dissemination of consumer information.

The Department of Transportation wishes to acknowledge the willing cooperation and assistance of domestic and foreign automobiles manufacturers in providing pictures and diagrams for publication in this, as well as prior, annual reports to The Congress.

CHAPTER I

Background

This chapter illustrates the changes which took place in key variables throughout the 1970s, including changes in fuel prices, consumer demand for cars and light trucks, oil imports and the domestic automotive industry. It is designed to provide an understanding of the prevailing economic atmosphere and its influence on this nation's fuel conservation program.

[4] Department of Energy Act of 1978—Civilian Applications, Public Law 95-238.

A. Energy Supply and Price in the 1970s

During the decade of the 1970s, profound changes took place in energy supplies and prices, both domestically and internationally. Increasing U.S. dependence on foreign sources of oil, coupled with the development of a strong and unified mid-east oil cartel and political turbulence in that area of the world resulted in dramatic increases in petroleum prices and periodic energy supply interruptions. These events, in turn, adversely affected a number of key macroeconomic variables such as the balance of payments, inflation, unemployment and economic growth. Furthermore, as consumers have adjusted to these new conditions, there have been major shifts in motor vehicle demand and fundamental changes in the world automotive industry.

Prior to the oil embargo of 1973, petroleum supplies had become increasingly available throughout the world at relatively low prices. This easy availability fostered rapid expansion in demand for petroleum while inducing sluggish growth in domestic crude oil production. Consequently, the U.S. became increasingly reliant on foreign sources of oil. During this period, the Organization of Petroleum Exporting Countries (OPEC) was formed. As world demand for crude oil escalated, OPEC achieved greater unity. This unity was expressed at the onset of the 1970s when member nations began raising product prices. By January 1972, the benchmark price of OPEC oil—which had remained constant at $1.80 per barrel [5] throughout the 1960s—was quoted at $2.48 per barrel.[6]

In October of 1973, the Arab member nations of OPEC imposed an oil embargo on the U.S. The consequent reduction in petroleum production paved the way for major oil price increases. Over the period from January 1, 1973, to January 1, 1974, the benchmark price of Saudi Arabian light crude quadrupled from $2.59 per barrel to $10.95 per barrel. OPEC continued to raise the price of its oil at frequent intervals so that by June 1, 1980, Saudi Arabian crude had a posted price of $28.95 per barrel.[7] Most of this increase has occurred since 1978.

The U.S. petroleum demand, which had escalated throughout the 1960s, and early 1970s, declined dramatically subsequent to the Arab oil embargo. Between 1960 and 1972, U.S. petroleum consumption expanded from approximately 3.59 to 5.99 billion barrels per year, an increase of 67% at a compound average annual rate of 4.4%. From 1973 to 1978 petroleum consumption rose from 6.32 to 6.88 billion barrels, an increase of 8.9% or an average annual rate of roughly 1.7%. Since 1978, petroleum consumption has actually decreased in large measure because of the automotive fuel economy improvements under the Energy Conservation Act (Figure I-1). However, as a result of continued sluggish domestic oil production, imports of crude oil accounted for an increasing portion of U.S. petroleum consumption, standing at 50% by 1979 (Figure I-2).

In the 1960s the value of petroleum imports increased approximately 66%, from $1.5 billion in 1960 to $2.5 billion in 1969. Since the price of imported oil remained relatively constant throughout this period, the increase in the value of imported oil can be attributed to an increase in the quantity imported, not to price increases. During the same period, petroleum imports as a percentage of total imports (Figure I-3) never exceeded 12%. The merchandise trade balance—the difference between exports and imports of physical goods—was in surplus during these years.

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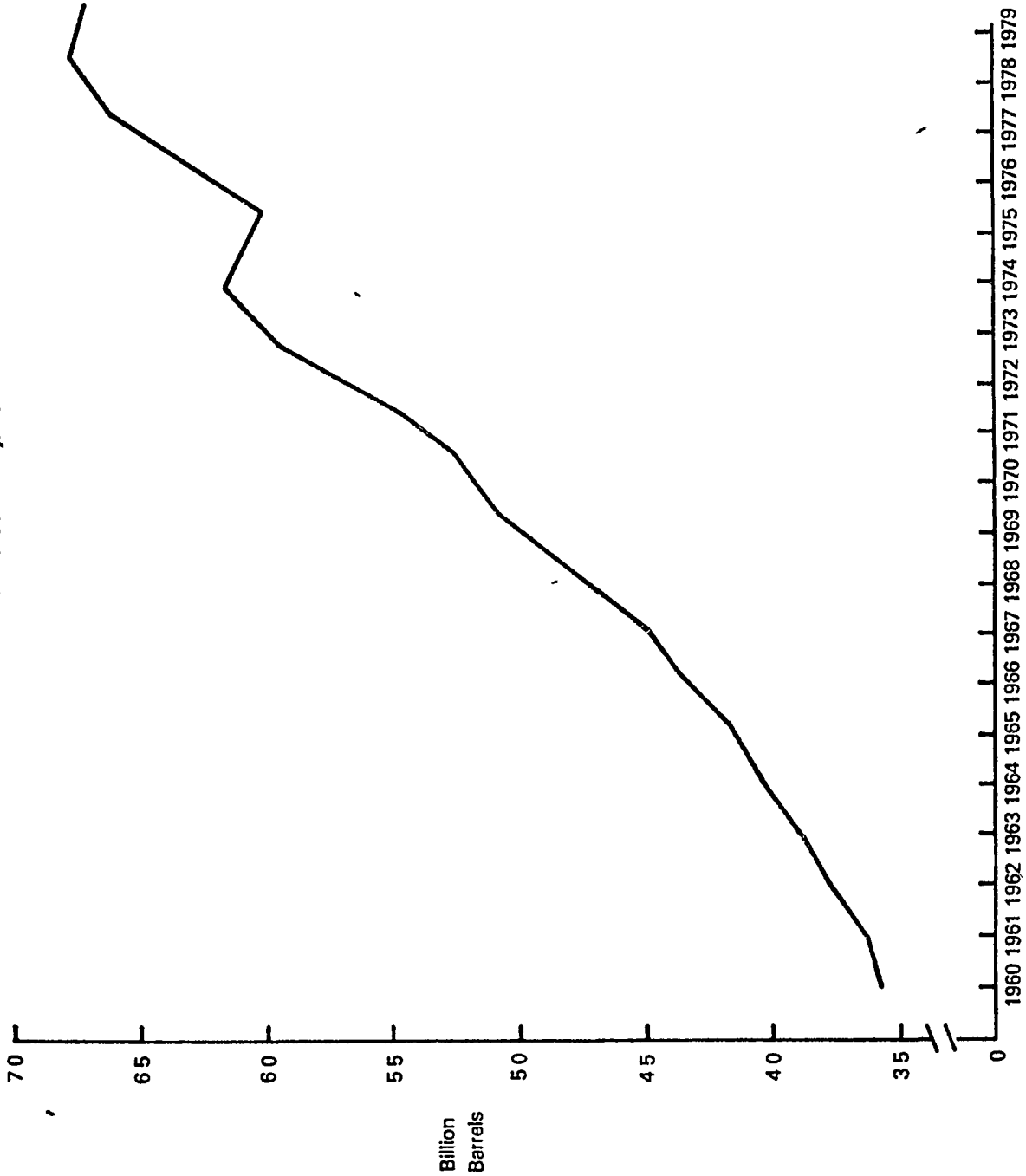
[5] *Energy Prices*, 1960-1973. Foster Associates. P. 18.

[6] "The Effect of Legislative and Regulatory Actions on Competition in Petroleum Markets." Energy Policy Study. Vol. 2.

[7] *Monthly Energy Review*. October 1980. P. 76.

FIGURE I 1

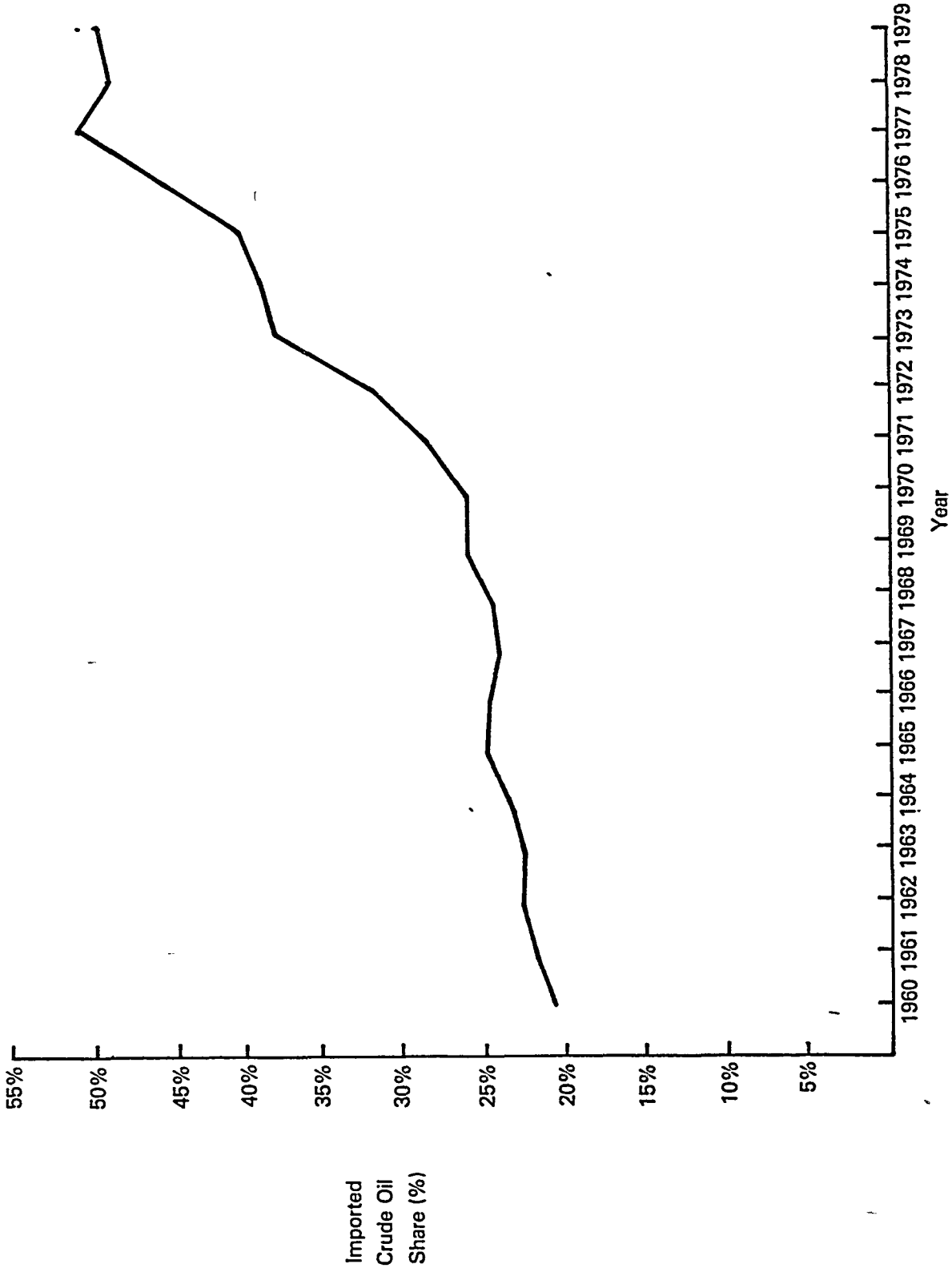
U.S. Annual Petroleum Consumption



Ref: Annual Report to Congress 1979 Dept. of Energy Vol 2 P 7

FIGURE I 2

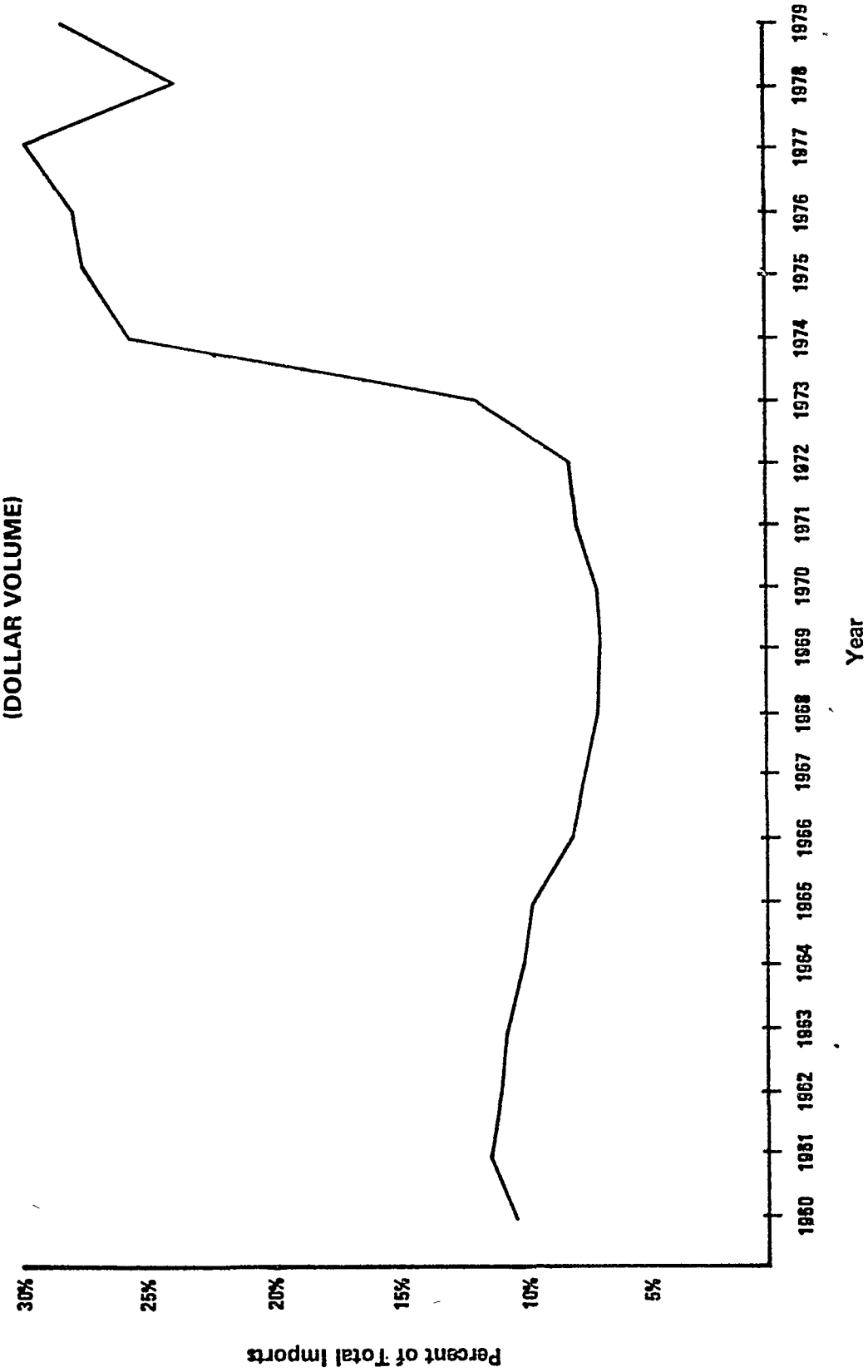
Imported Crude Oil Share of U.S. Petroleum Use



Adapted from Data Resources Inc "U S. Long Term Review," Winter 1979 80

FIGURE I-3

PETROLEUM IMPORTS AS A PERCENT OF TOTAL IMPORTS*
(DOLLAR VOLUME)



*See Appendix 1 for Source

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The 1970s were very different. The value of imported petroleum and petroleum products increased over five-fold between 1972 and 1974. In 1972, they amounted to $4.7 billion. By 1974, the cost of imported oil to the U.S. exceeded $26 billion. This constituted approximately one-quarter of the total value of all products imported into the country. Since the quantity of oil imported remained roughly constant over this period, due to the existence of a quota system on imported oil, the increased cost of this oil was almost exclusively due to price increases. This trend continued throughout the decade. For example, the value of petroleum imports increased from $27 billion in 1975 to over $60 billion in 1979, principally as a result of price increases. The U.S., in 1971, experienced its first merchandise trade deficit in 36 years. Such trade deficits, due in large measure to the cost of imported petroleum, continued to dominate the 1970s, occurring in eight out of ten years. These trade deficits, in turn, adversely affected the U.S. balance of payments and served to undermine confidence in the dollar.[8]

Greater U.S. dependence on foreign oil as a primary source of energy and the attendant price rises have also adversely affected other aspects of the U.S. economy. Escalating oil prices have resulted in a net transfer of purchasing power from the U.S. to the oil exporting countries. This transfer has depressed the U.S. economy, exacerbated unemployment and inflation, and reduced economic growth.

Throughout the 1970s real gasoline prices rose substantially, as illustrated in Figure I-4. At the beginning of the decade, the average pump price of a gallon of gasoline was 35¢, or, 70¢ expressed in 1980 dollars. By May 1980, it stood at $1.23 per gallon, an increase of about 76% (Figure I-4) [9]

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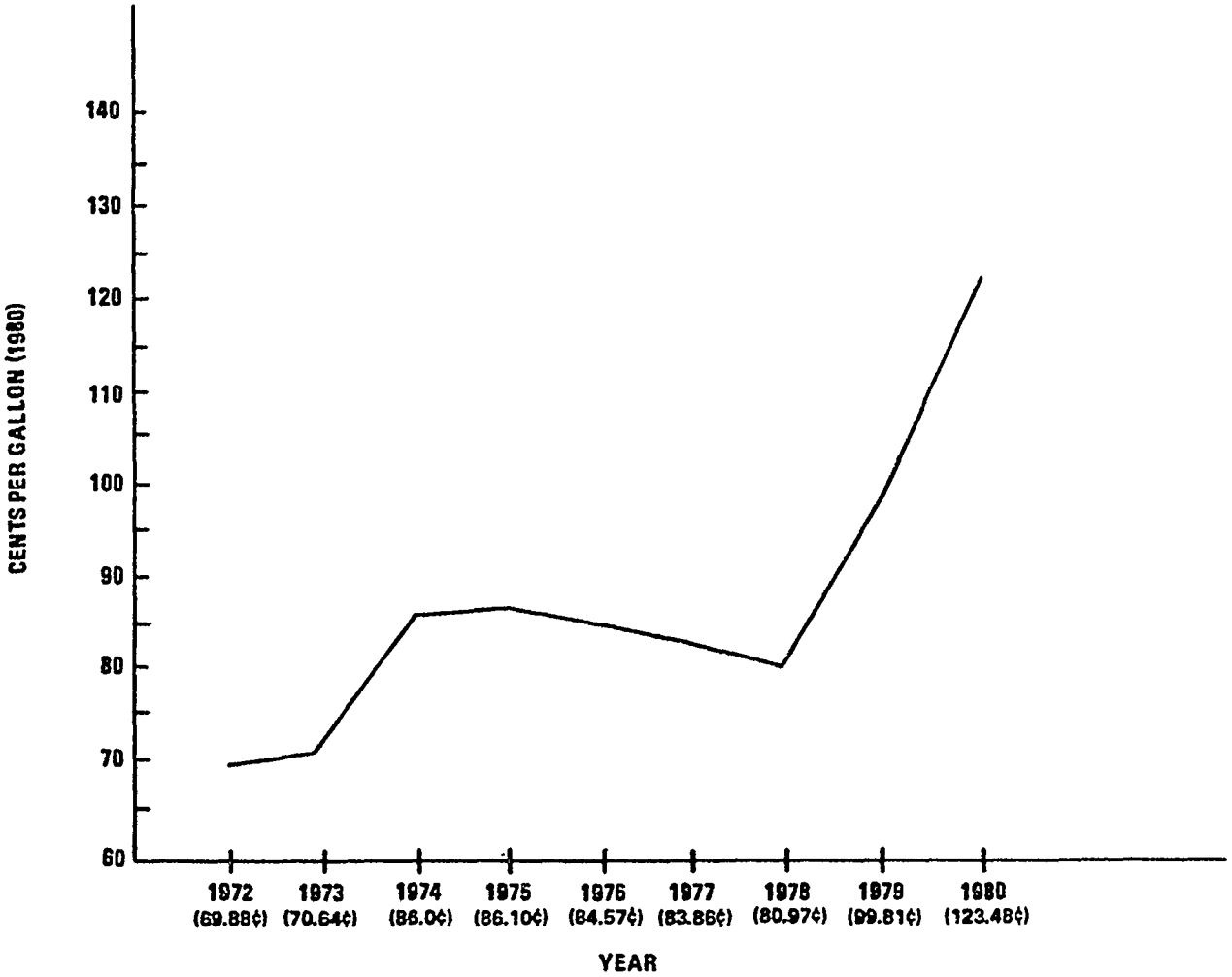
[8] See Appendix I for Related Balance of Payments Figures.

[9] Lundberg Letter, June 5, 1980, P. 6.

FIGURE I-4

ANNUAL AVERAGE U.S. RETAIL GASOLINE PRICES IN CONSTANT 1980 DOLLARS*



SOURCE: Adapted from the "Lundberg Letter" (Feb. 11, 1980) P.1; (June 6, 1980) P.6.

*The projected 1980 C.P.I. was used as the deflator.

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Rising prices of foreign and domestic crude oil and increasing costs of refinery operations continue to exert pressure on the price of gasoline and other petroleum products. Periodically, crude oil and gasoline surpluses develop as a result of abrupt rises in energy prices. However, given the power of OPEC to make adjustments in the supply of crude oil, such "gluts" are likely to be transitory, and hence should not obscure a fundamental energy problem.

In response to changes in world energy supply and price, several pieces of legislation were enacted to enhance domestic energy supplies and availability. These packages of legislation were designed to reduce U.S. dependence on imported oil, to promote the development of petroleum substitutes, to improve energy efficiency, to increase domestic crude oil production and to reduce fuel consumption. The extent to which the United States reduces its dependence upon foreign sources of oil is a function of the relative success achieved in each of these categories. The U.S. is already realizing major benefits in the form of reduced fuel consumption due to increased efficiency of motor vehicles. Such benefits can be expected to increase further as subsequent chapters will demonstrate.

B. The Motor Vehicle Market in the 1970s

Throughout the 1960s, the retail sales distribution of vehicle sizes remained relatively stable. However, since the early 1970s there has been an overall increase in consumer demand for small fuel efficient cars and light trucks which in turn has led to dramatic changes in vehicle market shares and industry production mix. The principal reasons for this appear to be concern over future petroleum supplies, rising gasoline prices and governmental policies designed to enhance fuel economy. Appendix 2 illustrates the market segment share for various classifications of passenger cars and light trucks from 1971 through May 1980. This section describes the decade-long changes in vehicle market shares portrayed in Appendix 2 and Figure I-5.

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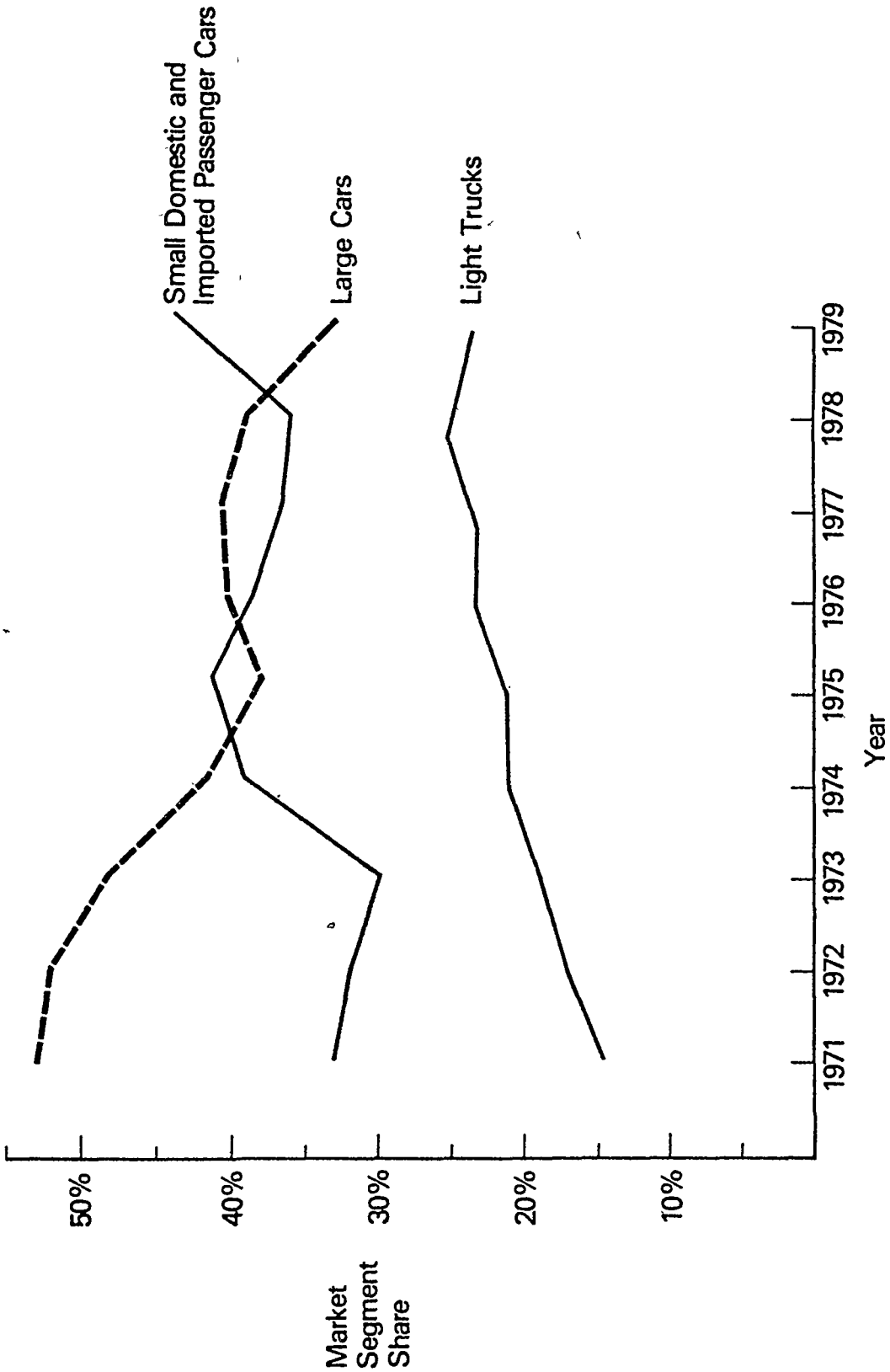
FIGURE I 5

Sales Trends



'SMALL" CARS INCLUDE ALL IMPORTS, DOMESTIC SUBCOMPACTS AND COMPACTS
"LARGE" CARS INCLUDE DOMESTIC INTERMEDIATE FULL SIZE AND LUXURY
SOURCE: DATA FOR 1971 THROUGH 1978 DERIVED FROM, "MARKET ANALYSIS AND CONSUMER IMPORTS SOURCE DOCUMENT: PART II, REVIEW OF MOTOR VEHICLE MARKET AND CONSUMER EXPENDITURES ON MOTOR VEHICLE TRANSPORTATION" TSC (JAN 1980) DATA FOR 1979 DERIVED FROM "MOTOR VEHICLE SALES AND PRICES" TSC (FEB 1980)

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In 1971, large cars [10] accounted for over half (52.7%) of new passenger car and light truck sales. However, by 1974, this proportion had diminished to 40.5%, principally as a result of a decline in retail sales of full-size passenger cars. Over the same period, sales of light trucks (many of which are used for personal transportation) surged, capturing about half the large car market share reduction. Small cars [11] also increased their share of the passenger car and light truck market by 5.5 percentage points, primarily due to an increase in domestically produced compact and subcompact car sales. By 1974, light trucks and small cars held 21.2 percent and 38.3 percent of the combined passenger car, and light truck market respectively.

The four year period extending from 1975 through 1978 was a brief reversal of shift toward smaller vehicles. This appears to have been, in large part, a consequence of the decline in real gasoline prices characteristic of this period (Figure I-4). Over this time interval, large cars claimed, on average, just under 40% of the domestic market for passenger cars and light trucks, reflecting reduced demand for these vehicles when compared to sales exhibited earlier in the decade. Through the same period, small cars averaged 38% of of the market with imports taking an average of 13.5% of total retail sales. Over the past decade, the pattern of small car sales bears a striking resemblance to real gasoline price (Figure I-4). The slight decline in small car sales from 1975 through 1978 matches the decline in real gasoline prices and the two sharp increases in sales match the 1973-74 and 1979-80 price rises. As with the gasoline price, small car sales in 1978 retained much of the gains from the Arab embargo. The most consistent gain in market share was made by light trucks which increased their proportion of retail sales by 4.3 percentage points. The growth in these sales during this period was probably due to increased personal use of light trucks and a desire on the part of consumers to purchase vehicles that could continue to use lower cost leaded gasoline rather than the unleaded gasoline required by cars equipped with catalytic converters. Trucks and vans offered high performance options no longer available from most automobiles.

With the Iranian revolution and resultant gasoline shortages came further dramatic shifts in demand for automobiles. Small car sales increased at the expense of large fuel-inefficient vehicles as real gasoline prices escalated. By October of 1980, large cars were only 28% of the market. Small cars accounted for more than half (51.5%) of all passenger car and light truck retail sales. Imported passenger cars averaged about 16 percent of retail car sales between 1970 and 1978. In 1979, their share rose to 22 percent and in 1980 it is estimated to be about 26 percent.

Autombile producers have acknowledged the change in consumer preferences and are rapidly putting into production more vehicles with improved fuel economy. These new vehicles are lighter, have improved engines and transmissions and other new technologies and materials to enhance efficiency. Many new cars have front wheel drive. These fundamental changes require huge increases in capital spending relative to historical levels. Raising the necessary resources to restructure existing facilities and develop new technology geared towards greater fuel economy has recently become a primary concern for auto manufacturers.

The abrupt shift in vehicle preferences by consumers caught domestic producers by surprise. Historically, they directed engineering efforts at the production of large conventionally structured automobiles partially because these were their most profitable products. The public's desire for small vehicles has had major impacts on the domestic automotive industry. The Chrysler Corporation was especially vulnerable to the changes in the market during the 1970s. Chrysler, which had introduced the first domestic front wheel drive car in 1978, was unable to finance its commitments and meet its daily operating expenses and found it necessary to turn to the Federal Government for aid. This resulted in the "Chrysler Corporation Loan Guarantee Act of 1979" which authorized the Government to guarantee up to $1.5 billion in loans to Chrysler under stringent conditions. The Act set up the Chrysler Corporation Loan Guarantee Board, of which the Secretary of Transportation is an ex-officio, nonvoting member, to oversee the loans and insure fulfillment of these conditions.

The shift toward the manufacture of small fuel efficient vehicles has had profound effects on auto related firms. For example, greater demand for lightweight material, the overall reduction in vehicle weights, and reduced production volumes in the last two years have contributed to numerous plant closings and layoffs in the steel and tire industries as well as other areas of automotive supply. As the changeover to smaller lightweight vehicles continues and further material substitution and changes in parts sourcing take place, major economic adjustments will be necessary.

C. Fuel Economy Programs/Studies Before 1976

The Federal Government had a program directed toward the improvement of automotive fuel economy prior to passage of the Energy Policy and Conservation Act of 1975. These activities prepared the Department of Transportation (DOT) for its role in highway transportation energy conservation under the Act.

In 1972, the Office of Science and Technology began to search for sectors of the economy in which significant amounts of petroleum could be saved and established an Energy R&D Goals Study. An interagency group led by DOT conducted a study entitled "Research and Development Opportunities for Improved Transportation Energy Usage." The automotive transportation sector was identified as one of the obvious candidates for energy conservation. Highway transportation consumed approximately 80% of the energy used for transportation. At that time automobile manufacturers had little incentive to use technological improvements in vehicles to conserve energy because of the low price of gasoline.

In 1973, the DOT initiated an R&D program on automotive fuel economy, based upon the results of the study. The primary purpose was to understand the technology of motor vehicles and the economics of vehicle manufacture, and to investigate the technologies for improving fuel economy. Since enactment of the Act, NHTSA has enlarged this activity until it has become a versatile analytical capability and is the major source of the Government's data related to the automotive manufacturing industry. The research activities have been conducted by NHTSA primarily through contracts at DOT's Transportation Systems Center (TSC) in Cambridge, Massachusetts to support its fuel economy rulemaking functions. The research has also produced information about the state of the automotive industry for the Secretary.

In 1974, the Congress passed the Energy Supply and Environmental Coordination Act which directed the Administrator of the Environmental Protection Agency (EPA) and the Secretary of Transportation to conduct

[10] Luxury, Full Size, and Intermediates.

[11] Compacts, Subcompacts, and Imports.

jointly a study and report on the practicability of a fuel economy improvement standard of 20% for new motor vehicles by 1980. The study drew upon results of both DOT and EPA research and solicited public comment. A major finding of the study was that by a variety of means it was practicable to achieve twice as great a fuel economy improvement, 40%, in the MY 1980 automobile fleet compared to the 1974 fleet with little further increase in the price of new cars. The full range of potential improvements, 40 to 60 percent, is shown in Figure I-6, including a 24.0 mpg estimate for MY 1985.

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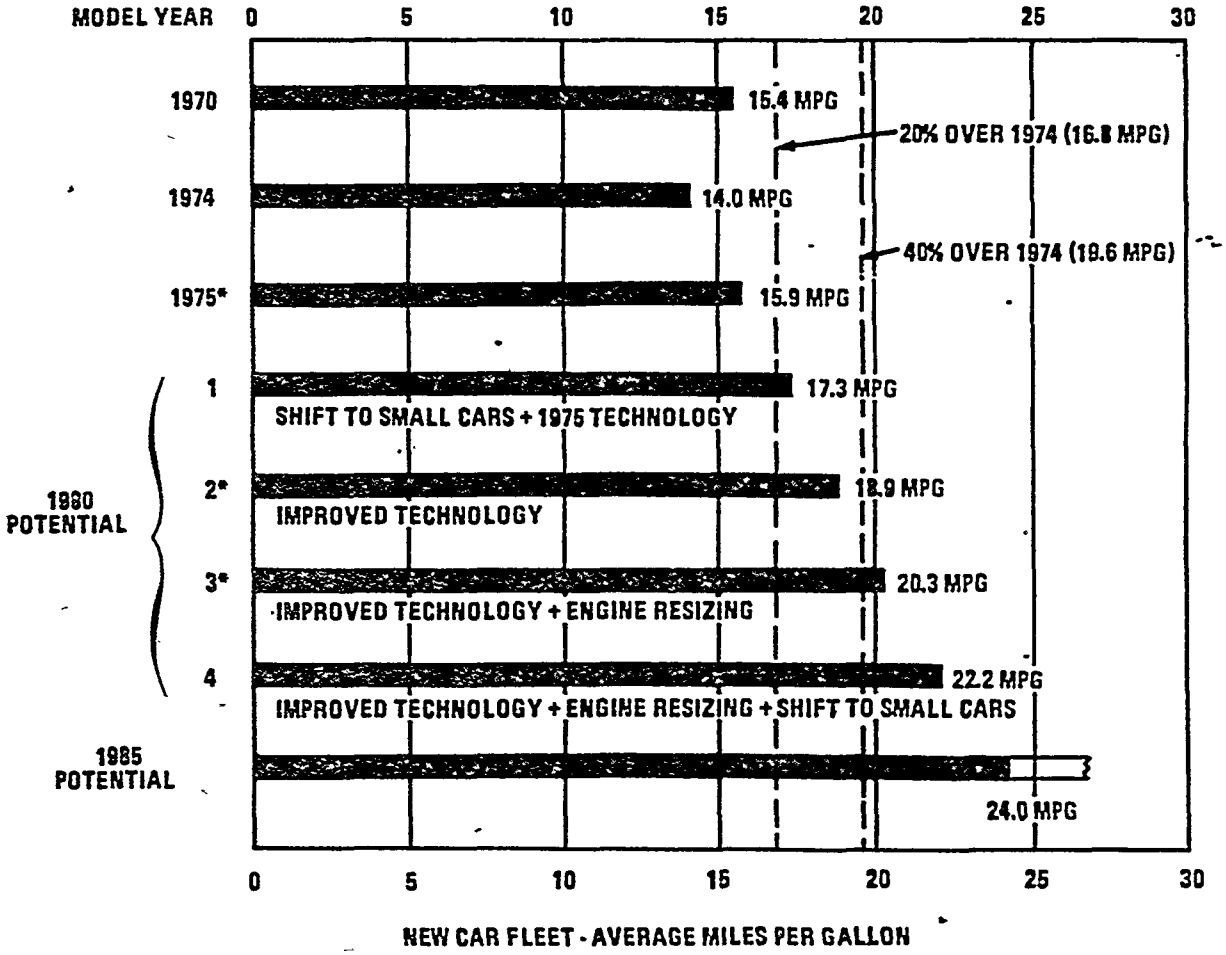
FIGURE I-6

Potential for Automobile Fuel Economy Improvement†



*1974 NEW MODEL PRODUCTION MIX ASSUMED.

†REPORT TO THE CONGRESS, "POTENTIAL FOR MOTOR VEHICLE FUEL ECONOMY IMPROVEMENT", OCTOBER 1974.

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In October of 1974, the President announced the goal of 40 percent improvement in automobile fuel economy to be achieved in the MY 1980 new car fleet. A voluntary approach was pursued and industry cooperation was required at a White House meeting on October 28, 1974. By January 1975, the automobile industry had endorsed the voluntary approach and had publicly pledged cooperation toward reaching the President's automotive fuel economy goal. The Secretary of Transportation was given the lead in developing the program in conjunction with the EPA and the Federal Energy Administration (which was later incorporated into the Department of Energy).

In early 1975, the cabinet-level Energy Resources Council established a Federal Task Force to study motor vehicle fuel economy goals beyond 1980. The goals were to be compatible with environmental, safety and economic objectives. The DOT was the Task Force Manager. Some major conclusions of the Task Force Report published in September 1976 included the following:

—A 40–50% reduction in passenger automobile fuel consumption compared with a continuation of the 1975 new car fuel economy level was feasible by 1995.

—An 80% to 100% improvement in new-car fleet fuel economy with the then current automobile size mix of 50% 6-passenger cars, 25% 5-passenger cars and 25% 4-passenger cars was feasible by the later 1980s.

—Substantial reductions in auto deaths and injuries could be achieved.

—Many fatalities and serious injuries could be prevented at a low cost with no fuel penalty.

—Continuing improvement in ambient air quality could be achieved through scrappage of older polluting cars and their replacement with newer cars with lower emissions.

As a result of its participation in these programs, the Department of Transportation was well prepared to carry out the Energy Policy Conservation Act which Congress passed in December 1975 in order to make certain that manufacturers actually would make significant improvements in the fuel economy of their vehicles. This statute amended the Motor Vehicle Information and Cost Savings Act by adding a new Title V (the Act) which authorized a program for regulating the fuel economy of passenger automobiles and light trucks. The fuel economy standards set by the Act were essentially those which were emerging from the DOT led study and were slightly higher than those agreed to by the auto manufacturers in the Voluntary Fuel Economy Program.

CHAPTER II

Accomplishments and Issues

Since the passage of the Act in 1975, the Department has established a program that has and will continue to have a major impact on petroleum use. This chapter summarizes its accomplishments and discusses some of the issues associated with further increases in fuel economy in the post-1985 period.

A. Accomplishments

1. *Fuel Economy Standards for Passenger Automobiles.* The Federal regulatory role in automotive fuel economy began with the enactment of the Energy Policy and Conservation Act in 1975. It empowered the Secretary of Transportation to set specific requirements to increase fleet wide the average fuel economy of new passenger automobiles and light trucks. The Secretary later delegated day to day responsibility to NHTSA. The responsibilities of testing vehicles for fuel economy was given to the EPA by Congress because of the potential cost saving from its experience with vehicle emissions testing. One of the major provisions of the Act was to establish average fuel economy standards for passenger automobiles in model years 1978, 1979, and 1980 at 18.0, 19.0 and 20.0 mpg, respectively. It also set the standard for model year 1985 and thereafter at 27.5 mpg. The Secretary of Transportation was to determine the average fuel economy standards for passenger automobiles for model years 1981–1984 and for light trucks for all model years. The Act also gave the Secretary authority to amend the passenger automobile fuel economy standards for model year 1985 and later, subject to a one House Congressional veto.

Standards were defined by the Act as being the production-weighted harmonic average of the separate fuel economies of the various sizes and models. Calculation of the corporate average fuel economy (CAFE) for any manufacturer requires knowledge of the complete model production mix, which is available only at the end of the model year.

Establishing the 1981–1984 Standards

One of the first requirements of the Act was for the Department to establish fleet average fuel economy standards for model years 1981–1984 passenger automobiles. Several schedules of fuel economy levels were considered, including one proposed by the industry. The standards that were set were based upon the 1976 size mix of vehicles: 14% subcompact, 28% compact, 32% intermediate and 26% large cars, and assumed that manufacturers would not use diesel engines.[12]

In performing its analyses, the Department assumed that there would be a rapid but not unreasonable rate of introduction of new technology, a 10% reduction in vehicle acceleration capability, and the use of a wide range of optional technologies leading to increase fuel economy. The technologies included weight reduction, improved transmissions and lubricants, reduced aerodynamic drag, reduced accessory loads, and reduced tire rolling resistance. The analysis did not purport to predict exactly what each manufacturer would do to achieve the required fuel economy schedule. Rather the projected product plans assumed implementation rates of fuel economy improvements considered feasible.

The analysis included an estimate of the fuel savings; the capital requirements; the effects on prices, sales, and employment; the economic impacts on consumers, manufacturers, and the nation; and the effects on auto industry competition. Based on the results of the analyses, the Secretary established the required "maximum feasible" fuel economy standards considering the statutory criteria of technological feasibility, economic practicability, the effects of other Federal standards, and the need of the nation to conserve energy. The standards were set at 22.0, 24.0, 26.0, and 27.0 mpg for model years 1981–1984, respectively. Initial industry reaction to the standards indicated that while the estimated mix of vehicles was conservative, the larger fuel economy improvements in earlier years provided a difficult challenge.

Comprehensive Analysis

Another provision of the Act required that a comprehensive analysis of the program be published in the January 1979 Report to the Congress. The Report included an analysis of the ability of the manufacturers to meet the 1985 standard, an evaluation of the program's impact on fuel conservation, dependence on imported oil, the consumer, the automotive industry, the national and regional economies, and recommendations for changes in the original provisions of the Act.

By late 1978, the estimates of the average fuel economy capabilities of the

[12] The Department also considered a case in which the size mix of new cars would be 40% subcompacts, 25% compacts, 25% intermediates and 10% full size cars in 1985, and in which 25% of the 1985 cars would have diesel engines.

manufacturers did not change significantly from the initial analysis performed in developing the 1981–1984 standards. The analysis confirmed that the fuel economy levels of the standard could be achieved by the domestic manufacturers. As a result, the fuel conservation expected in developing the 1981–1984 standards still appeared valid. The recommendations presented in the January 1979 report included increasing the period of carry-over credits and penalties from one year to three years, exempting low volume manufacturers from the standards, and allowing foreign manufacturers who begin producing automobiles after the enactment of the original legislation to count their import and domestic fleets together as one. Other than exemption of low volume automobile manufacturers, these recommendations have been largely adopted by the Congress in recent legislation and are discussed elsewhere in this report.

Another important issue raised by the 1979 Report was the importance of considering further conservation efforts. The standard, of 27.5 mpg, if unchanged after 1985, would not continue to reduce fuel consumption indefinitely because the number of vehicles in use is likely to continue to increase. An increase in new car average fuel economy to about 45 mpg in the mid 1990's would save roughly 850,000 barrels per day in 2005, compared to 1990 consumption levels. This further improvement in fuel economy could save over 4 billion barrels of petroleum between 1985 and 2005.

Reconsideration of 1981–1984 Passenger Automobile Average Fuel Economy Standards

Between January and May 1979, both Ford and General Motors proposed that passenger car fuel economy standards be reduced for MY 1981–1984. The main issue raised by General Motors and Ford was not whether the overall costs of the standards outweighed the benefits, but whether the standards were cost-effective at the margin compared to a linear increase in fuel economy (21.5, 23, 24.5, and 26 mpg for 1981–84, respectively). The manufacturers' contention was that the consumer would have lower retail price increases under fuel economy standards that increased linearly from 1981–1985. They argued that benefits of applying certain technologies had been overestimated and the effects of changes in automotive emissions standards and tests procedures had not properly been taken into account in the establishment of the standards. Following a full analysis of the manufacturers' arguments and data, it was concluded that no reductions in the 1981–1984 standards were warranted as a matter of law or policy. By July 1979, shortly after this decision was made there were gasoline lines throughout the Nation and GM announced it was taking major steps to exceed the existing fuel economy standards.

Some of the more significant results of the NHTSA analysis of the manufacturers request were as follows:

—The standards would save an additional 7.7 billion gallons of gasoline compared to the linear alternative proposed by the manufacturers.

—The standards would provide a greater consumer net benefit than the manufacturers' proposed linear standards.

–The NHTSA estimates of fuel economy improvements due to applying various technologies were reasonable.

Looking back on the five year period since the passage of the Act, it is apparent that the fuel economy regulations accomplished their intended purpose of conserving petroleum by pushing the domestic manufacturers on the path to more fuel efficient product offerings at a time when the market forces failed to do so. Another lesson learned from a review of the past five years is that the government's estimates of the fuel economy improvements that the auto industry could make, particularly in mix shift, have generally been conservative.

The Impact of a Changing Automobile Market

Recent changes in the market have had a significant impact on the manufacturers' projections of their anticipated 1985 fleet average fuel economy. In June and July of 1980, General Motors, Chrysler, and American Motors announced that their 1985 average fuel economy values would be about 31 mpg, 3.5 mpg higher than the 27.5 mpg standard required by the Act. It appears that one of the valuable contributions of the imposition of average fuel economy standards was to encourage a more rapid change in the manufacturers plans to emphasize more fuel efficient cars, allowing them to more rapidly respond to the changing market conditions, and to preclude an even greater increase in import market share.

2. *Fuel Economy Standards for Light Trucks.* The Act also requires the Secretary of Transportation to prescribe fuel economy standards for light trucks. Model year 1979 was the first model year for which the Department set standards for light trucks of up to 6,000 pounds Gross Vehicle Weight Rating (GVWR). At a minimum, the Act requires that a fuel economy standard for light trucks or automobiles be issued not later than 18 months before the beginning of the model year.

The NHTSA published a fuel economy standard for model year 1979 light trucks (including pickups, vans and utility vehicles) on March 14, 1977. The standard prescribed an average fuel economy of 15.8 mpg for four-wheel drive general utility vehicle light trucks and 17.2 mpg for all other light trucks. Manufacturers of four-wheel drive vehicles were also given the option of combining all these vehicles and complying with the 17.2 mpg standard. The standard covered light trucks with GVWR less than or equal to 6,000 pounds. Although the standards applied to all manufacturers of light trucks, the development of the standards concentrated on domestic vehicles, because their fuel economies were considerably below those of imported light trucks (15.9 mpg for domestic light trucks compared with 22.1 mpg for imports in model year 1976).

In March 1978, the Department set light truck fuel economy standards for model years 1980–1981 at the levels shown in Table II–1. Light truck fuel economy standards were extended to vehicles with GVWR's between 6,000 and 8,500 pounds (excluding trucks with a frontal area over 45 square feet or a curb weight exceeding 6,000 pounds). Also, beginning with model year 1980 captive imports could not be included in domestic manufacturers' compliance fleets.

Table II–1.—*Light Truck Fuel Economy Standards*

Model year	2-wheel drive (miles per gallon)	4-wheel drive (miles per gallon)	Limited product line [1] (miles per gallon)	Composite (miles per gallon)
1980	16.0	14.0	14.0	
1981	16.7	15.0	14.5	
1982	18.0	16.0		
1983	19.5	17.5		19.0
1984	20.3	18.5		20.0
1985	21.6	19.0		21.0

[1] Light trucks manufactured by a manufacturer whose fleet is powered exclusively by basic engines which are not also used in passenger automobiles.

In June, 1979, the National Highway Traffic Safety Administration (NHTSA) revised the average fuel economy standard for two-wheel drive light trucks manufactured in model year 1981 from 18.0 mpg to 17.2 mpg. This action was taken in response to a petition from Chrysler Corporation which provided NHTSA with new information, indicating that its capability of

improving the fuel economy of its trucks was less than had been determined in earlier rulemaking. At that same time, Chrysler's request to reduce fuel economy standards applicable to four-wheel drive light trucks was denied.

The final rule establishing the light truck standards assumed that EPA would approve the use of improved lubricants in its fuel economy testing procedure for the model year 1981 vehicles, and provided that if approval were not given by January 1, 1980, the standards would be lowered by 0.5 mpg. Since EPA was not able to give that approval, the standards were lowered to 16.7 mpg for two-wheel drive vehicles, 15.0 mpg for four-wheel drive vehicles, and 14.5 mpg for limited product line vehicles.

In December 1979, the Agency issued proposed fuel economy standards for the 1982–1985 model year light trucks. The 1982 light truck standards were issued in March 1980 and were based primarily on the projected use of certain "add-on" technololgies such as radial tires, improved accessories, automotive transmissions with lock-up torque convertors, and overdrive manual transmissions to improve fuel economy. After balancing the factors required by law, the NHTSA established final fuel economy standards at the levels of 18 mpg for two-wheel drive trucks and 16 mpg for four-wheel drive trucks.

In response to comments by the Regulatory Analysis Reivew Group (an organization in the Executive Office of the President) by the Department of Energy and by light truck manufacturers, the NHTSA has established separate two-wheel drive and four-wheel drive final standards and, also, "composite" final standards combining two-wheel drive and four-wheel drive vehicles for model years 1983–1985. Manufacturers are given the option of meeting either the single composite standard in each year for their total fleet (excluding captive imports) or the separate two-wheel drive and four-wheel drive standards. This option is intended to provide manufacturers with increased flexibility in complying with fuel economy standards, especially when the future demand for light trucks is uncertain. The final standards for MY 1983 through MY 1985 are based on the gradual phasing in of the new smaller light trucks by all the domestic manufacturers. The NHTSA also concluded that the more stringent emission standards, now scheduled to become effective in model year 1984, can be met without significant fuel economy penalty; and that fuel economy improvement from smaller displacement engines is more likely to be achieved through increased sales of compact light trucks with smaller engines rather than from further reducing engine sizes in larger light trucks after model year 1982.

As another aspect of setting fuel economy standards for light trucks, Section 5 of the recently enacted Automobile Fuel Efficiency Act of 1980 granted the Secretary authority to adjust the calculation of fuel economy standards for four-wheel drive light trucks. This authority may be exercised for model years 1982–1985 in response to a petition by a manufacturer. The manufacturer must demonstrate that it would not otherwise be able to comply with a given 4-wheel drive standard, in any one of those model years, withtout causing severe economic impacts such as plant closures or reduction in U.S. motor vehicle manufacturing employment.

3. Low Volume Manufacturers (LVM). The Act in Section 502(c) authorizes the Secretary to establish separate average fuel economy standards for manufacturers of fewer than 10,000 passenger automobiles per year. Such standards may be set if the generally applicable average fuel economy standard is more stringent than the maximum feasible average fuel economy level which the manufacturer can attain. In such a case, the Secretary must establish an alternative average fuel economy standard for the manufacturer.

In 1977, six LVM's submitted petitions to NHTSA for exemption from the fuel economy standards: Avanti Motor Corporation, Rolls Royce Motors, Checker Motors Corporation, Aston Martin Lagonda, Excalibur Automobile Corporation, and Maserati. A summary of NHTSA's recommended alternative fuel economy levels for MY's 1978, 1979, and 1980 is shown in Table II-2 for the various LVMs.

Table II-2.—*Summary of NHTSA's Recommended Alternate Fuel Economy Standards for Low Volume Manufacturers*

Manufacturer	Total sales			NHTSA recommended alternate fuel economy level (miles per gallon)		
	1978	1979	1980	1978	1979	1980
Avanti	165	200	200	16.1	16.4	16.8
Rolls Royce	998	1,307	1,253	10.7	10.8	11.6
Checker	5,415	4,745	4,596	17.6	16.5	16.5
Aston Martin, Lagonda	0	170	85	.....	11.4	12.4
Excalibur	271	250	250	11.5	12.0	16.2
Maserati	38	120	675	12.5	12.6	11.5
Federal Fuel Economy Spandard (mpg)				18.0	19.0	20.0

Because the estimated additional fuel consumed by granting exemptions to all LVM's combined is 300 barrels per day, assuming the would meet the generally applicable standard if relief were denied. By comparison, the petroleum consumed daily in the United States is 17 million barrels per day, of which about 5 million is attributable to passenger automobiles.

Based on NHTSA's experience with administering this part of the Automotive Fuel Economy Program, the time and resources consumed by both the manufacturer and NHTSA, the process of setting alternative standards does not justify the negligibly small amount of fuel conserved. In addition, small manufacturers are unable to actually predict future fuel economy improvements that they will be able to achieve. Most of the LVM's do not have the engineers, facilities and financial resources to improve the fuel economy of their vehicles substantially. Some of these manufacturers purchase their engines and drivetrains from large manufacturers who are unwilling to disclose future product plans very far in advance of the model year in which they are introduced. Thus, the LVM has little time in which to accurately predict its fleet average fuel economy. Often the large manufacturer will not make new equipment, such as lockup clutch torque converters in automatic transmissions, available outside its own company during the first few years after its introduction.

Because of the burdens involved in processing petitions of LVM's for fuel economy exemptions, the Department of Transportation recommended in its Third Annual Report to the Congress that LVM's be exempted from the fuel economy standards and the reporting requirements of the Act. They would still be subject to the labeling requirements. The LVM's would also be subject to the gas guzzler tax initiated by the Energy Tax Act of 1978 which is administered by the Department of Treasury.

The Automobile Fuel Efficiency Act of 1980 provided only some relief from the administrative burden previously affecting the LVMs but did not exempt

them from the requirement for fuel economy improvement. The new Act permits LVMs to apply for exemption from the established fuel economy standards for two or more model years after model year 1980 and before model year 1986. It also eliminated the reporting requirement for LVMs that have received an exemption and alternate standard for a specific model year. It also directs the NHTSA to simplify the procedures for handling the exemptions.

If a LVM desires, it could apply for a exemption from established fuel economy standards for model years 1981–1985 and receive alternate standards for the full five years. Modifications to current rules are being made by the NHTSA to implement this provision.

4. *Other Procedural Rules and Provisions.* In addition to the foregoing, there are a number of other requirements set forth in the Act:

(1) The Act authorizes the Secretary to prescribe rules defining and classifying "automobiles", "passenger automobiles" and "light trucks," (Sections 501 (1) and (2)). It also provides the Secretary authorization to prescribe rules pertaining to "automobiles capable of off-highway operation" (Section 501(3)). In December 1976, the final rule was published in the Federal Register to classifying vehicles for the purposes of Title V of the Motor Vehicle Information and Cost Savings Act. This classification is slightly different from those made under the Clean Air Act, the National Traffic and Motor Vehicle Safety Act, or for automotive industry purposes.

(2) Section 501(8) directs the Secretary to prescribe rules for determining which manufacturer is responsible for compliance with the Act, in cases where there is more than one manufacturer of an automobile (Section 501(8)).

On July 28, 1977, the Agency published a final rule for determining, in cases where more than one company is the manufacturer of an automobile, which company is to be treated as the manufacturer. The rule contains definitions classifying vehicles according to manufacturing stages of the vehicle and prescribes rules for purposes of compliance with the Act. The prinicipal requirements are those for complying with average fuel economy standards, submitting reports and placing fuel economy labels on new automobiles.

This rule applies to (a) incomplete automobile manufacturers, (b) intermediate manufacturers and (c) final-stage manufacturers of automobiles that are manufactured in two or more stages as defined in the rule. Basically an "incomplete automobile", at the minimum, consists of a frame or chassis structure, powertrain, steering, braking, and suspension systems which require further manufacturing operations to become a completed vehicle.

In most instances the rule makes the incomplete automobile manufacturer responsible for meeting the requirements including those relating to automobile fuel economy standards, fuel economy labeling and reporting.

(3) Section 502(d)(1) of the Act requires the Secretary to issue a regulation covering applications for reduction of passenger automobile fuel economy standards to account for more stringent emission, safety, noise, and damageability standards for FY 1978, 1979, and 1980. The final rule was published in November 1977 and prescribed the contents and procedures for processing petitions. The action was taken in order to compensate for any adverse fuel economy impact of more stringent Federal motor vehicle emission, safety, noise, or damageability standards in those years. There were no applications for reduction submitted under this rule.

(4) Section 505(a)(1) authorizes the Secretary to establish the format and content requirements for semiannual reports on fuel economy to be submitted by automobile manufacturers. The purpose of the reports is to inform NHTSA on whether and how the automobile manufacturers are complying with applicable average fuel economy standards.

On December 12, 1977, a final rule was published defining the general requirements and contents of the semiannual reports. Each automobile manufacturer is required to submit a pre-model report, a mid-model year report, and certain supplementary reports. These reports must contain information such as projected average fuel economy, model type and technical information, sales, projections, market measures, etc.

(5) Section 508 covers civil penalties to be assessed by the Secretary for violations of fuel economy requirements, and the deduction from these penalties of credits given a manfacturer for achieving average fuel economy in excess of that required under the applicable standard.

If a manufacturer's CAFE falls below the average fuel economy standard for a given model year, he is subject to a civil penalty amounting to $5 for each 0.1 mpg of shortfall multiplied by the number of vehicles subject to the standard. (The $5 figure can be increased to $10 by the Secretary provided two findings can be made; one concerning the energy savings that would result and the other concerning the resulting employment effects.) The Act originally said that civil penalties can be offset by credits from exceeding the standard in the model year immediately preceding or following the model year in question. The Automobile Fuel Efficiency Act of 1980 has extended that one model year period to three model years. It also has changed the definition of "unlawful conduct" so that as long as the credits are available to offset the civil penalty there is no unlawful conduct.

5. *Recent Legislation—The Automotive Fuel Efficiency Act of 1980.* In 1979, the Department of Transportation (DOT) proposed amendments to the fuel economy provisions of the Act to the Congress. In 1980, the President signed into law the "Automobile Fuel Efficiency Act of 1980." It contains modified versions of the amendments proposed earlier as well as some additional amendments. Its purpose is to improve automobile fuel efficiency, thereby facilitating fuel conservation and reducing oil imports. In addition, it is intended to encourage full employment in the domestic automobile industry. Some of its provisions have already been discussed. This section discusses the remaining ones.

Section 4—Modification of Local Content Rules To Encourage Domestic Production of Fuel Efficient Automobiles

This section permits foreign automobile manufacturers in certain circumstances to combine their U.S. production with their imported vehicles for purposes of meeting the mandatory CAFE standards for five years or more. It responds to the recommendation DOT made in the Third Annual Report to the Congress, January 1979. Under this section, the manufacturer must have completed one model year of production in the U.S. after December 22, 1975, and before the end of 1985. Furthermore, the petition for exemption cannot be granted if NHTSA determines that the granting of the petition would result in reduced employment in the U.S. automobile industry. This amendment, in a slightly different form, was requested by Volkswagen of America (VW).

In addition to imposing certain time restrictions on the processing of petitions under this section, the Act denies automobile manufacturers who are granted exemptions the use of

carryback/carryforward credits during the exemption period.

NHTSA, in conjunction with the Labor Department, must prepare an Annual Report to Congress on whether this change in the law promotes employment or has caused undue harm to the automobile industry. The report must also state whether manufacturers granted exemptions made use of them.

Under another provision of this section, a domestic manufacturer that meets certain conditions may include up to 150,000 imported passenger automobiles in its domestic CAFE, provided such automobile model type or types are domestically manufactured before the close of the fourth model year after enactment in determining its CAFE for any model year after 1980. The conditions are that the vehicles initially must have at least 50 percent domestic content, must not have been previously manufactured in the U.S. and by the fourth year the 150,000 vehicles must contain at least 75 percent domestic content. This amendment was requested by American Motors Corporation (AM).

Section 7—Exemption for Emergency Vehicles

This section permits a manufacturer the option to exclude emergency vehicles such as ambulances, police cars, etc. from inclusion in its fleet for CAFE calculating purposes.

B. Post 1985 Fuel Economy Issues

Between now and 1985, the motor vehicle manufacturers are planning to offer automobiles and light trucks with substantially increased average fuel economy in response to anticipated market place demand. Each of the domestic manufacturers has publicly stated that it will exceed the 27.5 mpg standard for passenger automobiles in model year 1985, and will attain a fleet average of over 30 mpg by that year. It also appears likely that the demand for more fuel efficient automobiles will continue to grow in the post-1985 time frame as the real price of gasoline continues to increase.

New passenger car fleets with average fuel economy in the 45–55 mpg range and new light truck fleets with average fuel economy in the range of 25–35 mpg are likely to be technologically feasible by the mid-1990s; however, there is great uncertainty about the capability of domestic motor vehicle manufacturers to finance the investments needed to attain average fuel economy levels in those ranges. There is also uncertainty about the consumer acceptance of the products that would increase the average fuel economy values beyond those ranges. Major factors adding to the financial uncertainty are the current sharp decline in motor vehicle sales (and industry revenues), the shift in the market toward more fuel efficient vehicles and reduced profit per vehicle sold, the greater completion between domestic and import manufacturers coupled with recent events in the middle East and the questionable political stability of that area.

While fuel economy levels like those noted above may be technically achievable for domestic and foreign producers offering a wide range of passenger cars and light trucks, firms offering limited lines or a single line of vehicles may well face greater technical and financial difficulties in matching the mpg levels of full line manufacturers. Single or limited line producers direct their output to a narrow segment of the total market. Satisfying the particular demands of such buyers places significant constraints on the ability of the producer to modify vehicles for greater fuel economy while maintaining overall market appeal. Thus fleet-wide average fuel economy level attainable by a full range manufacturer who can satisfy a spectrum of vehicle preferences by selling a number of different vehicles, may become economically unattainable for a single or limited line producer who can modify only one or two vehicle types for greater mpg while maintaining market place acceptance.

There are a number of important issues that must be resolved and policy choices that must be made in determining post-1985 fuel economy actions. These policies need to be coordinated with national energy and economic policies. These issues and policy choices concerning fuel economy are being addressed, by the Department of Transportation, by other agencies of the Federal Government, by the Congress, and by private sector organizations.

One vital question is whether the market place will continue to encourage the industry to increase motor vehicle fuel economy consistent with its technological capability and U.S. national interests or whether further incentives will be required. Another consideration is whether other Federal policies supplementing possible regulations are necessary or desirable. Among the possible nonregulatory actions for which legislation could be sought are subsidies and tax incentives and disincentives applicable to producers, consumers, or both.

There is likely to be continued demand for fuel economy. Fuel economy has obviously become a major factor in consumer purchase decisions. However, the issue is not whether consumer demand will produce some level of increased fuel economy after 1985. The question is will the market be stable and strong enough to continue to demand fuel efficient vehicles and will industry response be sufficiently timely and adequate to assure that the fuel economy of new vehicle fleets increases in a way that meets the national objectives for energy conservation while maintaining a viable, competitive industry.

A critical factor in determining the need for Federal involvement is the lead-time requirements of the industry in commercializing the technology of greater fuel efficiency. Looking to the post-1985 period, although the technology is available to increase fuel economy levels substantially, there is always the chance that other factors will divert market demand and manufacturer's plans from this goal. The lead time requirements (upwards of 3 to 5 years for substantial changes) for introducing fuel saving technology are much longer than the predictability of changes in the market that typically occur in a few months.

The capability of the domestic manufacturers to finance investments after 1985, when some have already strained their capability to make the investments required to meet the standards through MY 1985, and, indeed, to exceed them, is a major question. The financial losses of the domestic manufacturers in the 1980 recession underscore this point. Presumably, the manufacturers' financial condition will improve as the economy improves and motor vehicle sales increase.

The domestic industry must make substantial capital expenditures in the 1980's regardless of whether new fuel economy standards are imposed. This capital would be needed to meet the increasing demands of the marketplace for more fuel efficient vehicles, to respond to the increasing competition from foreign manufacturers, and to rebuild and revitalize manufacturing facilities, many of which have become obsolete and inefficient.

A larger National issue involves the proportion of capital that should be invested in improving automotive fuel economy versus investment in developing new energy resources. This question deserves careful scrutiny in considering appropriate fuel economy objectives for the post 1985 period. Among other issues to be considered is the more labor intensive activities resulting from conservation compared to new production of energy.

Further investment in improving automotive fuel economy beyond the levels presently planned by the automobile manufacturers may be less efficient (in terms of fuel saved per dollar invested) in conserving petroleum than investments were during the 1970s and early 1980s. Nevertheless, improving fuel economy to 45 to 55 mpg for passenger cars, and 25 to 35 mpg for light trucks may still be cost-effective both for individual vehicle owners and for the nation.

The actual fuel economy levels that can be achieved depend somewhat on the technologies that are used. In particular, the use of diesel engines would substantially increase automotive fuel economy, but there are unanswered questions about the long term health effects of diesel emissions. The Health Effects Panel of the National Academy of Science is studying this question, and has made a preliminary determination based on already completed research that while diesels may pose some risk to human health, this risk is not likely to be substantially larger than other risks related to automotive use. The EPA has underway a major study to measure the health effects of diesel emissions.

Future safety standards for passenger automobiles and light trucks could result in some changes in vehicle cost and weight. An assessment of these projected effects must be taken into account in setting future fuel economy standards. It is clear, from the recent crash tests of new model cars and related research on DOT-experimental and modified production vehicles, that light weight fuel efficient vehicles can be produced with high levels of crashworthiness.

To provide the necessary background and analyses for post-1985 decision making, a number of studies are underway. The DOT is required by the Chrysler Corporation Loan Guarantee Act of 1979 to prepare a separate report for the Congress dealing with the future health and viability of the auto industry (published January 13, 1981).[13]

CHAPTER III

Benefits of Improved Fuel Economy

This section gives the results of improvements in average fuel economy in terms of the principal effect (reduced fuel consumption) and other effects, including the dollar value of the fuel savings, at the national level and for the consumer. It also discusses some of the other benefits of reduced petroleum consumption, including improvements in the balance of payments and reduction in inflationary pressures.

The principal effect of the Federal program of automotive fuel economy standards has been to require manufacturers of passenger automobiles and light trucks to plan, develop, and produce fuel efficient vehicles when the market demand for fuel economy was not strong. As this report discusses in Chapter I, the market for fuel economical vehicles has changed dramatically since 1978 to one of strong demand so that the manufacturers now plan to exceed the passenger automobile fuel economy standards by a substantial margin in MY 1985. Average fuel economy of about 31 mpg should result, compared with a standard of 27.5 mpg.

Since the market forces are supplementing the fuel economy standards, the benefits discussed below cannot be attributed solely to regulation. It is not possible to estimate what the year by year fuel economy would have been in the past or would be in the future without the pressure of fuel economy standards. For that reason, benefits are measured relative to a baseline which assumes a continuation of the 1976 automobile and truck fuel economy levels, the fuel economy levels when the regulatory program was enacted.

The value of fuel savings to purchasers of passengers cars and light trucks resulting from increases in fuel economy is substantial. By calendar year 2000 the value of accumulated fuel savings from current fuel economy standards (relative to fuel economy levels prevailing in 1976), expressed in terms of the 1980 purchasing power of the dollar, will approximate $888 billion.

The methodology for projecting aggregated fuel consumption used to obtain the results reported here is simple in concept. It is based on the number of vehicles added to the total fleet annually, a fixed schedule of miles traveled by age of vehicle, a schedule for scrappage by age of vehicle, the average fuel economy for vehicles in each model years as determined by the EPA test procedure, and a factor to correct for the discrepancy between fuel economy achieved on the road and the EPA-based fuel economy. The various quantities used for the projections are different for passenger autos and for light trucks. The scrappage schedule for passenger autos reflects their average life of about 10 years while the light truck schedule reflects an average life of about 14 years. For passenger automobiles, the combination of the scrappage schedule with the annual miles traveled schedule reflects about 118,000 miles traveled over the lifetime of a typical vehicle. For light trucks, the combination of the two types of schedules reflects lifetime mileage of about 128,000 miles. The correction factor for the EPA vs on road fuel economy discrepancy is 1.1. The appendices include the details of the various schedules.

A. Aggregated Fuel Consumption and Savings: Passenger Automobiles

Three projections of fuel consumption by passenger automobiles are of interest. They are shown in Figure III-1. The first is a projection based on a continuation of fuel economy levels for domestic and imported cars as they were in MY 1976, the MY in which the Act was passed. This MY is chosen to better portray the full effects of the improvements in fuel economy. [Note that in previous reports MY 1977, the year before the standards went into effect, was used as the basis for the reference projection.] The second projection assumes that average fuel economy of imported or domestic cars increases only enough to meet the existing schedule of fuel economy standards reflecting 27.5 mpg after 1985. It is labeled "with current standards." The third projection is based on actual or projected actual average fuel economy values reflecting the current intention of U.S. manufacturers and assuming 35.0 mpg average for imported cars. It is labeled "31 mpg after 1985" and assumes no improvement in new car fuel economy after 1985 just as the other projections.

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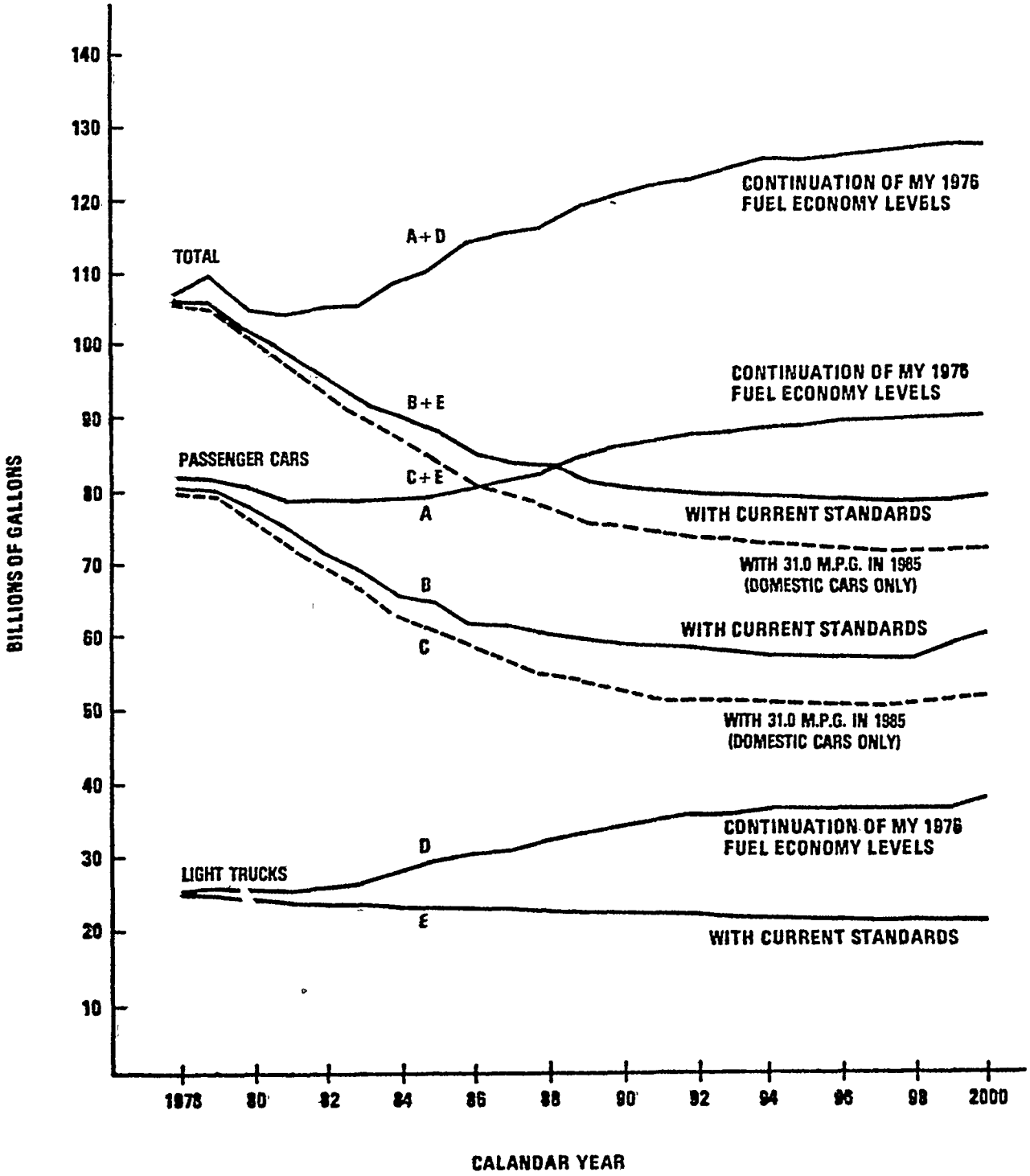
[13] *The U.S. Automobile Industry, 1980;* Report to the President from the Secretary of Transportation, January 1981.

FIGURE III-1

Projected Annual Fuel Consumption



SOURCE: DERIVED FROM NHTSA DATA BASE

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What fuel economy would have been without the Fuel Economy Program is a matter only for speculation. Certainly, based on the manufacturers' plans under the 1974 Voluntary Fuel Economy Program, the industry would have begun action to raise the fuel economy from the MY 1976 level. But it is also possible that such manufacturer programs would have been dropped or delayed in 1977 and 1978 as the real fuel price declined. It is doubtful that, without the pressure of CAFE standards, the manufacturers would have continued the developments that allowed them to respond as well as they have to the 1979–80 shift in demand patterns. The domestic manufacturers were taken by surprise by the sudden shift in demand from large cars to small cars in the spring of 1979. The production changes they were able to make in the 1980 and 1981 model years were nearly all based on designs developed and scheduled for introduction under the Fuel Economy Program. Thus it seems likely that fuel consumption, both past and future, would have been substantially higher without the Fuel Economy Program.

The projection based on a continuation of MY 1976 fuel economy levels shows steadily increasing fuel consumption after 1980 as a result of the increasing size of the passenger car fleet, which is common to all three projections, and the fixed schedules for annual miles traveled and scrappage by age. Between 1980 and 1995 it shows fuel consumption declining slightly to 77.8 billion gallons (in 1982) and then growing to 87.8 billion gallons, an increase of 13 percent.

By contrast, the "with current standards" curve shows fuel consumption declining steadily from 81.3 billion gallons per year in 1978 to 57.7 billion gallons per year in 1995, a difference of 13.6 billion gallons over that 17 year period. Subsequently, of course, comsumption increases again as the fleet size continues to increase while average fuel economy is held at 27.5 mpg. In the 10 years between 1980 and 1990, fuel consumption declines at an average rate of about 1.8 billion gallons per year or about 2.3 percent a year.

The "31 mpg after 1985" projection shows a greater average decline between 1980 and 1990 of 2.4 billion gallons per year or 3.1 percent annually. It reaches a minimum of 50.1 billion gallons in 1995 compared with a peak of 80.9 billion gallons in 1978, a difference of 30.8 billion gallons.

One measure of the fuel savings associated with achievement of the fuel economy standards is the difference between the MY 1976 fuel economy level projection and the "with current standards" projection. Figure III–2 shows the annual savings at five year intervals from 1980 through 2000 for passenger cars in millions of barrels (1 barrel equals 42 gallons). The projections and results for light trucks are discussed in the next subsection. The figure shows the rapid increase in fuel savings that occurs through the 1980s and the slower increase in savings that occurs in the 1990s. It shows a fuel savings of 70 million barrels (3 billion gallons) even in 1980 and the 1990 savings is 621 million barrels (26 billion gallons). The big benefits of fuel economy improvement are about to be obtained as the new fuel efficient cars replace the older inefficient ones in the fleet.

Another way to look at fuel savings is to add up the savings from year to year. Figure III–3 shows the cumulative savings by 1990 is 3.9 billion barrels and it grows to 11 billion barrels by 2000. For comparison, the Alaskan northslope oil field (Prudhoe Bay) is estimated to have about 10 billion barrels.

B. Aggregate Fuel Consumption and Savings: Light Trucks

For light trucks, in addition to reference projection at the level of MY 1976 fuel economy and a projection for fuel economy standards through MY 1985, Figures III–1 and III–4 display the fuel consumption by year for these two projections. Figure III–1 also shows the totals for passenger automobiles and light trucks in two cases: the MY 1976 reference projection and the MY 1985 standards projection.

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Figure III-2

Annual Petroleum Savings for Selected Years

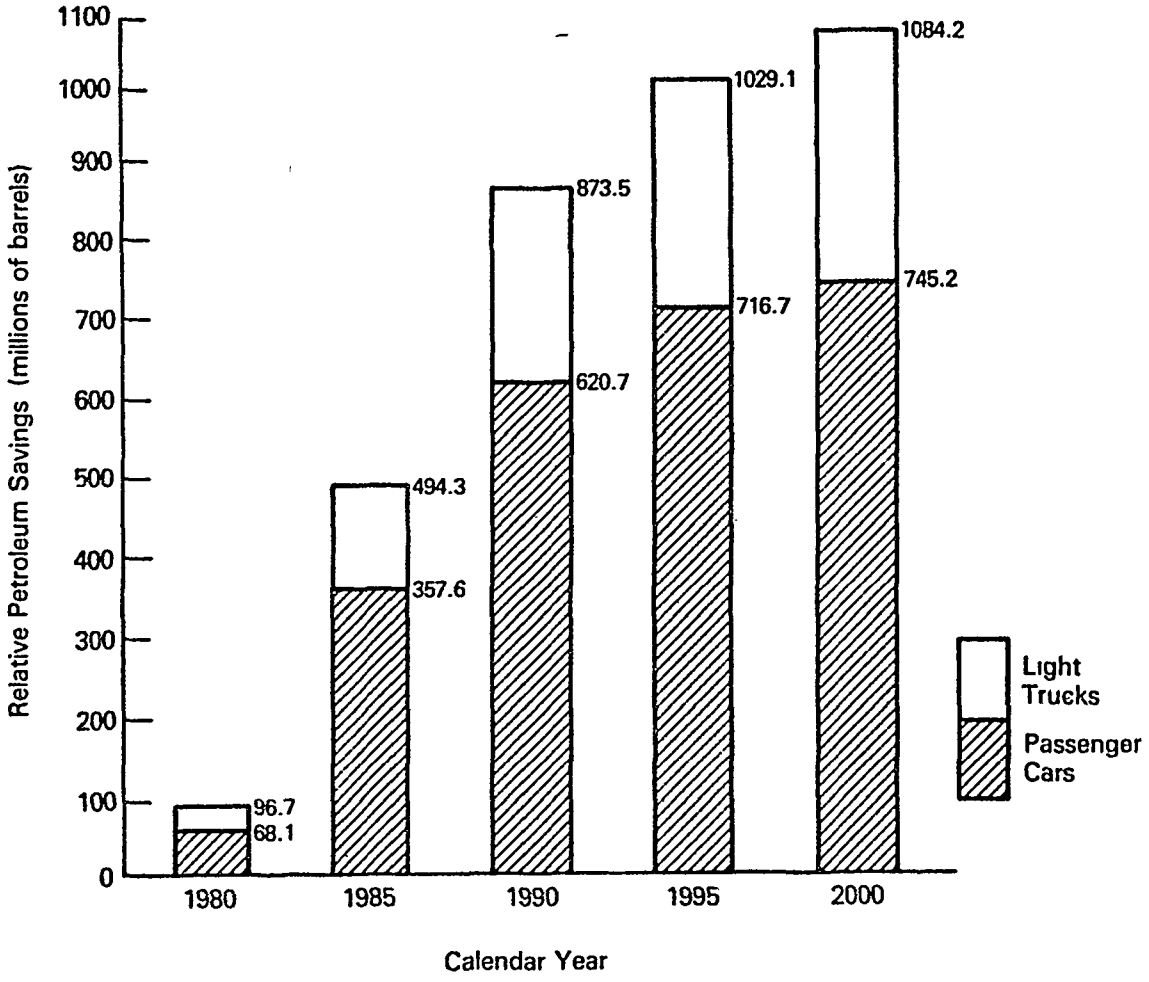


FIGURE III-3

Cumulative Fuel Savings

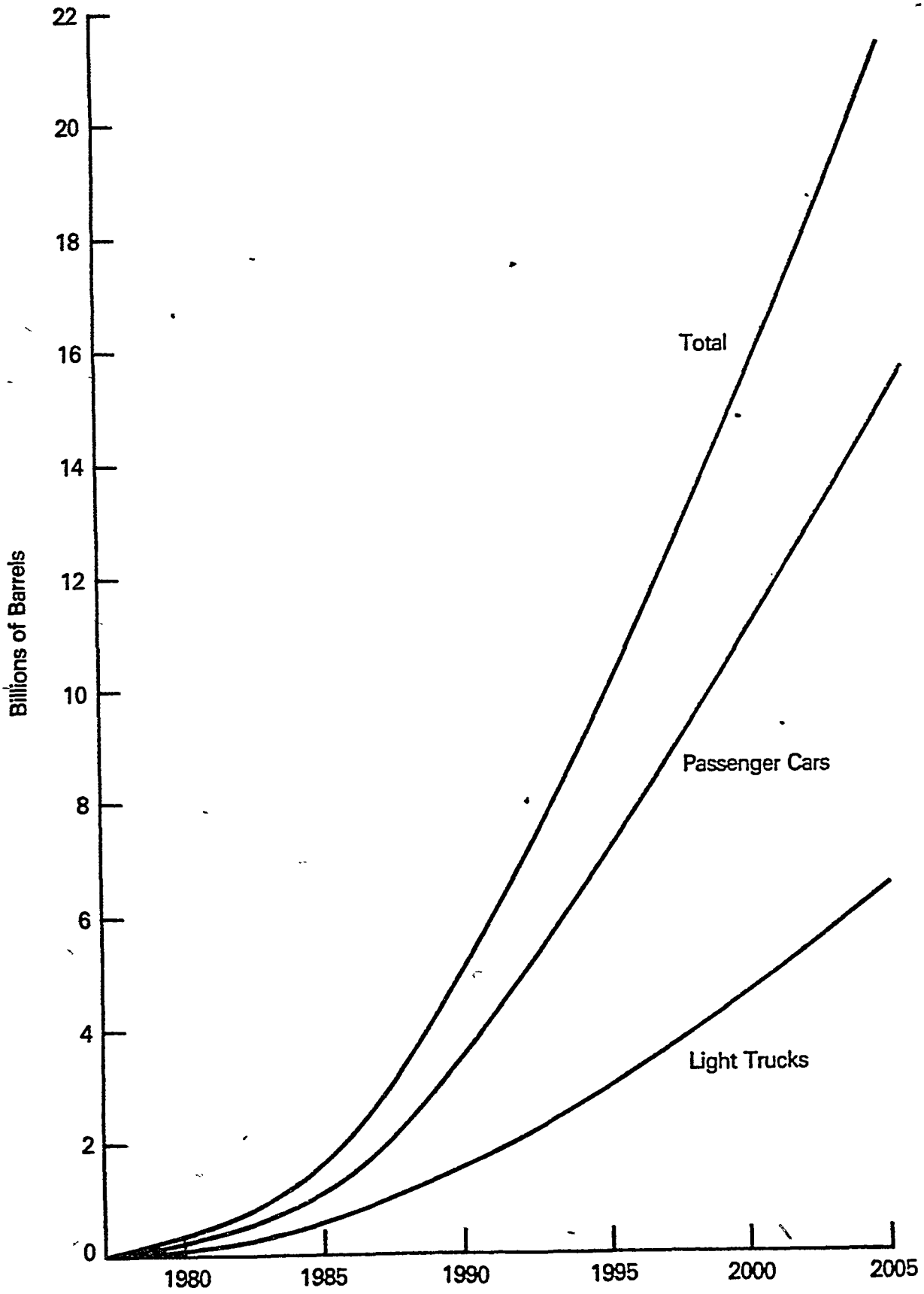
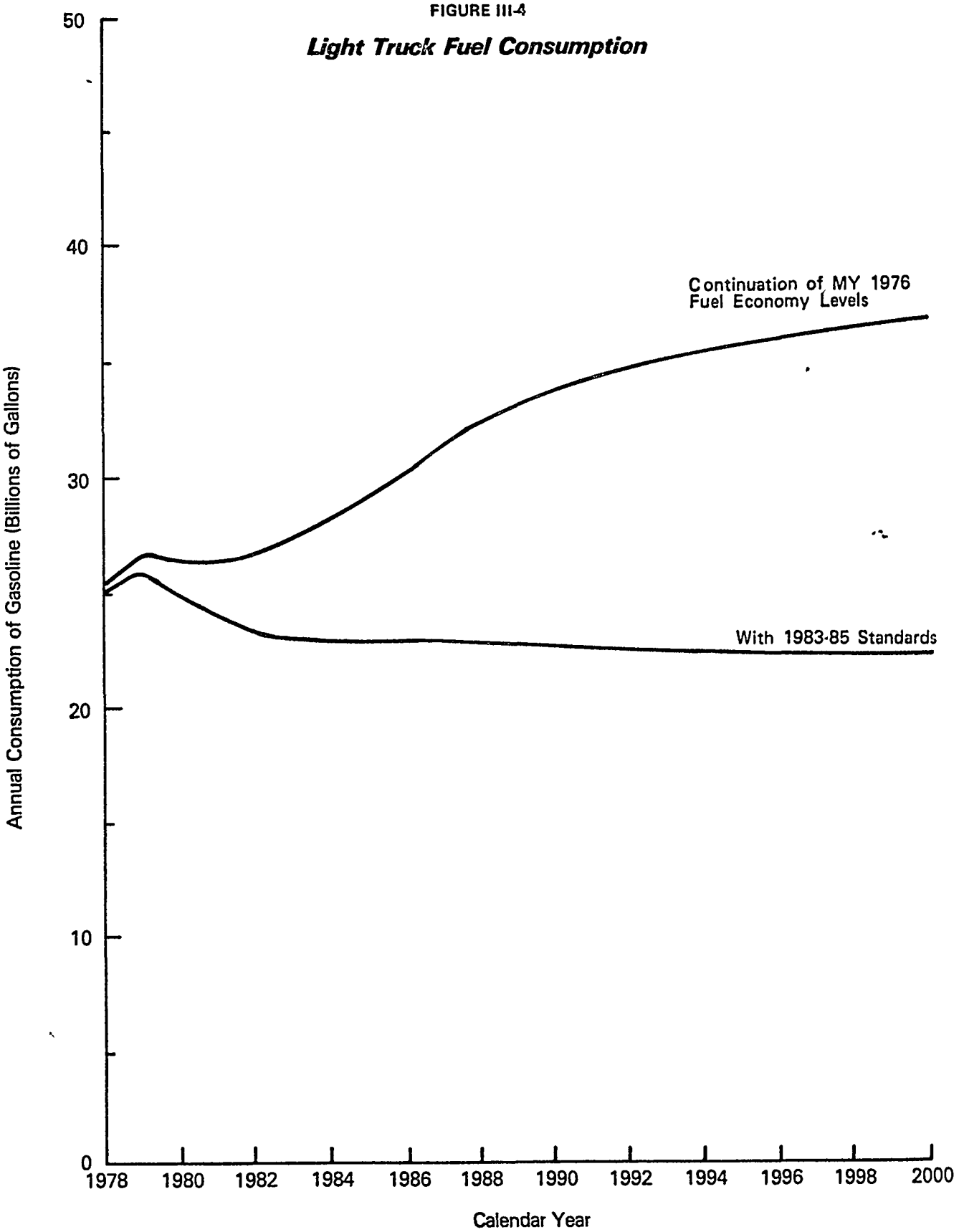


FIGURE III-4



Source: Derived from NHTSA Data Base

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The MY 1976 fuel economy level curve shows a slight dip in consumption to 26.6 billion gallons in the early 1980s (because there was an abrupt increase in fuel economy in MY 1976 compared with earlier model years) then a steady increase due to the increasing size of the light truck fleet (from 26 million in 1978 to 43.4 million in 1995). By 1995 the annual fuel consumption reaches 35.7 billion gallons, an increase of 9.1 billion gallons.

The projection for the MY 1983–85 standards shows a decrease from a peak of 26.1 billion gallons in 1979 to a minimum of 22.5 billion gallons in 1997, a drop of 3.6 billion gallons. Fully 60 percent of the drop is achieved by 1985 when the projected fuel consumption is 23.9 billion gallons. In the six year period from 1979–1985, fuel consumption drops at an average annual rate of 600 million gallons, nearly one-third of the similar rate of decline for passenger autos at the levels of the fuel economy standards.

Using the same measure of fuel savings for light trucks as for passenger automobiles, the difference between the MY 1976 reference projection and the MY 1985 standards projection, one finds the same rapid increase in fuel savings in the 1980s and the slow increase in savings in the 1990s. Figure III–2 shows the savings for light trucks on top of the savings for passenger autos at five-year intervals starting in 1980. By 1990 the annual savings for light trucks alone is about 200 million barrels (8.4 billion gallons) and is about 820 million barrels (34.4 billion gallons) for cars and light trucks together.

In addition to showing the cumulative fuel savings for passenger autos, Figure III–3 shows the savings for light trucks alone and for the two types of vehicles combined. By 1990, the cumulative savings for light trucks is 1.5 billion barrels and by 2000 it is 4.7 billion barrels, almost half the savings due to passenger cars.

C. Balance of Trade Effects

Fuel savings due to the improved fuel economy of motor vehicles can be directly translated into reductions in petroleum imports. Taking the estimates of fuel savings with projections of the future price per barrel of imported oil, it is easy to make an estimate of the annual reduction in the dollar value of imported oil in constant 1980 dollars. Figure III–5 displays the results of those estimates.

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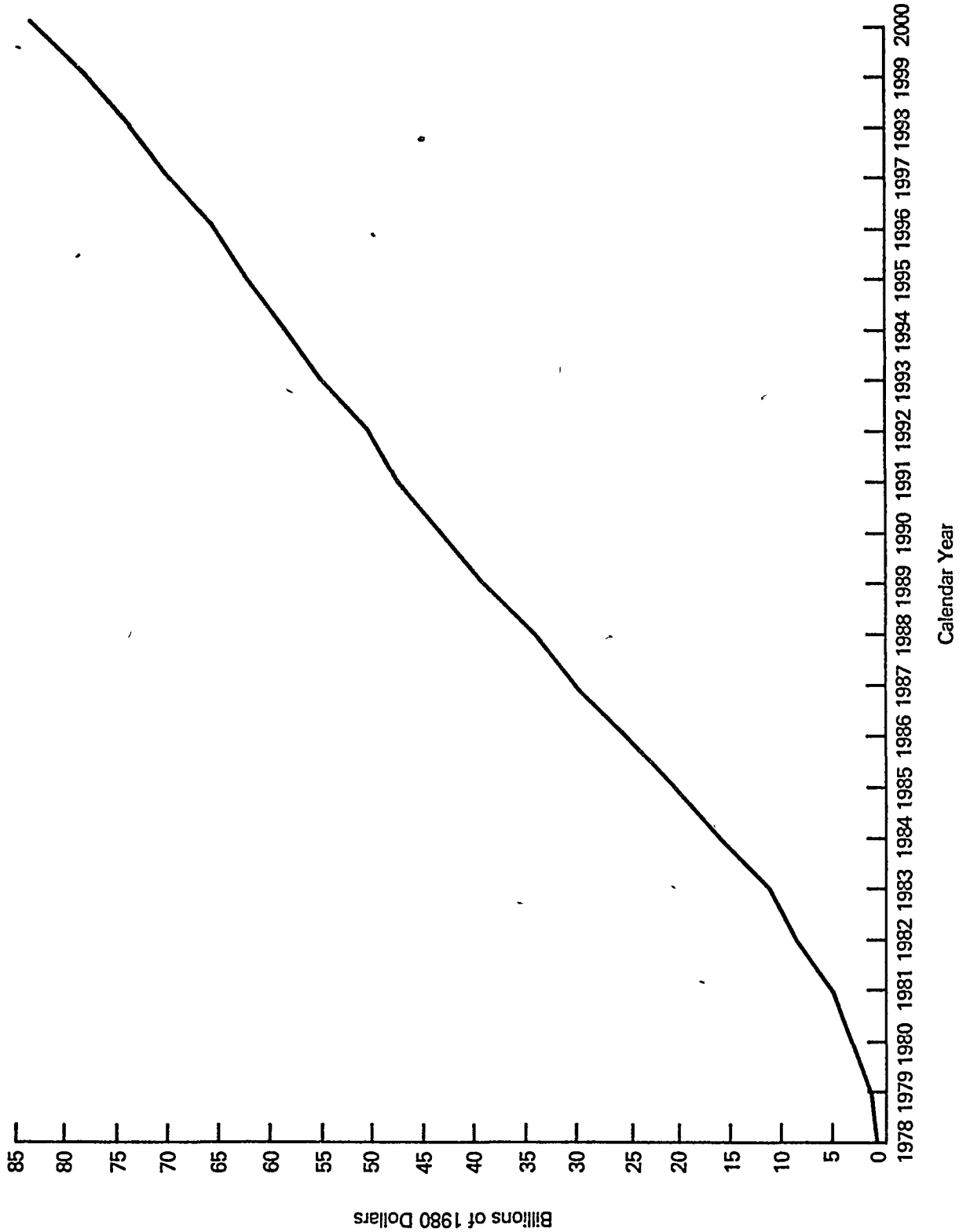
FIGURE III 5

Projected Annual Value of Reduced Petroleum Imports — Equal to Savings



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Note that the increase in dollar value of reduced oil imports rises much more rapidly than the fuel savings themselves (see Figure III-3) because the projected real price of oil is also rising rapidly during the 1980-2000 period. The cumulative value of fuel import savings through 2000 is almost 900 billion dollars.

D. Inflation Effects

The fuel savings due to automotive fuel economy improvements work to reduce the rate of inflation in several ways. First, the reduction in fuel consumption appears as a direct reduction of the cost of automotive transportation to consumers. Next, the cost of automotive transportation is a factor in the costs of other goods and services purchased by consumers, so when that cost factor is reduced it reduces the upward pressure on prices of those goods and services. Third, the reduction in oil imports due to fuel savings favors the U.S. balance of trade; thereby helping to stabilize the value of the dollar on the international money market, which reduces the need for the Federal Reserve Board to maintain high interest rates. As a fourth point, OPEC has attempted to relate the price of oil to inflation so progress in reducing the inflation rate domestically, conceivably could help to stabilize the price of imported petroleum. Finally, the reduction in demand helps to reduce the upward pressure on the price per barrel of imported petroleum.

E. Consumer Benefits

Increasing fuel economy most directly benefits the people who own and drive the more efficient vehicles. To illustrate this point, over its average lifetime, a car with the 16.5 mpg average EPA-related fuel economy of the MY 1976 cars will use 7900 gallons of gasoline. The increase to 21.8 mpg for the average car in 1980 would decrease consumption to 6000 gallons, a savings of more than 1900 gallons with a discounted present value of $1680 to the owner. Similarly, a car with the average MY 1985 fuel economy of 31.0 mpg (EPA rating) would consume about 4200 gallons over its lifetime and save its owner $3240 compared with the car rated at 16.5 mpg. These dollar savings assume steadily increasing gasoline price and a 10% discount rate. Appendix 3 contains details of these estimates.

CHAPTER IV

Research and Analysis

As explained in Chapter I, the purpose of DOT's automotive fuel economy research and analysis activity is to support the fuel economy program and for the rulemaking proceedings.

To satisfy this purpose the Automotive Fuel Economy Research (AFER) program develops and maintains data bases on technology and economics of the automotive industry, develops and improves methodologies for making assessments of various kinds, performs specific analyses and technical evaluations. This chapter is a highlight summary of the various activities of the AFER program.

The determination of technological feasibility requires a comprehensive assessment of the alternative technologies available to automotive manufacturers to improve fuel economy. Determination of economic practicability requires assessments of manufacturability, cost, leadtime, and consumer demand for motor vehicles which deliver various levels of fuel economy. Further, if requires assessments of the effects of producing more efficient vehicles on material supply, energy usage, and regional, national and international economics. It is in these areas that NHTSA's assessement activities support the rulemaking function. The annual budgets for this effort have approximated 7 million dollars, about half of which is spent on "outside" research contracts (other Federal Agencies and private companies).

The period of 1976-1980 was one of rapid changes for the automotive industry. During this period a substantial body of information was collected and organized. Analytical methodologies were developed to assess automobile manufacturers' capabilities to improve fuel economy of passenger cars and light trucks. It is necessary to continue to update data bases and to improve analytical techniques to track the dynamic changes in the automotive industry resulting from the evolution of technology, the market shifts toward more fuel efficient vehicles and to support analyses of Government policy alternatives for further improvements in fuel economy beyond 1985.

A. Technology Assessment

An extensive automotive technology data base is established at DOT's Transportation Systems Center (TSC), Cambridge, Massachusetts. These data bases include information on: (1) performance and efficiency comparisons of current production engines and advanced homogeneous, stratified-charge, and diesel engines (direct and indirect injection); (2) advanced transmissions, such as transmissions with additional gears, with torque converter lock-up and continuously variable gear ratios; (3) weight reduction potential of material substitution and redesign of components and vehicles; (4) aerodynamic drag and rolling resistance; (5) improved lubricants, and (6) improved accessory systems.

Through tests at the dynamometer laboratory at TSC, experimental data on engines, drivetrains and vehicles are being produced to verify fuel economy performance of current engines and vehicles to determine the potential for improvement. Figure IV-1 illustrates an engine being tested in the laboratory.

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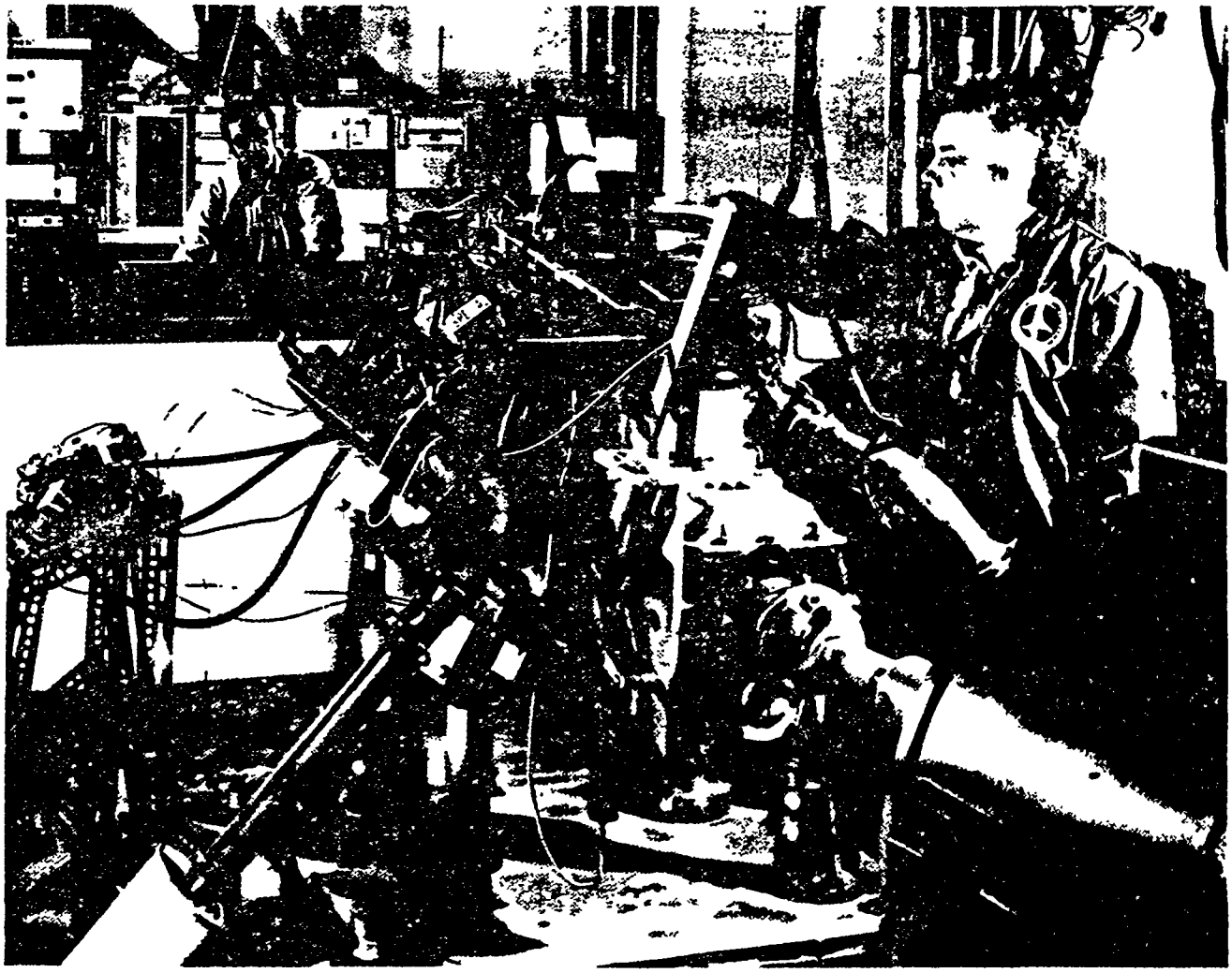

Engine Testing

FIGURE IV-1

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Analyses and reports on technological options were prepared and included in a public docket as reference material for all passenger car and light truck fuel economy standards, as well as for reports to the Congress.

Comprehensive studies concerning the future potential of spark ignition engines, diesel engines, and motor vehicle weight reduction options were produced in FY 1979 and updated in FY 1980. Research results produced data on the gain in the efficiency of the spark ignition that is likely to be achieved by 1985, compared with the efficiency of typical 1978 spark ignition engines. The data show typical gains ranging from 1 to 3% for engine control optimization, and up to 20% for improvements in engine quality. Moreover, the data show that there need be no fuel economy penalty in meeting emission levels down to 0.4, 3.4, and 1.0 grams per mile of hydrocarbons, carbon monoxide and nitrogen oxides, respectively.

To evaluate the future fuel economy improvement potential of both current and new engines, various engines were tested over a wide range of engine operating parameters. Fuel economy at given emission constraints was measured under conditions expected to reflect typical usage. To date, performance data on 35 production engines have been collected and reported. Simulations of vehicles using these engines have been carried out to determine the effect of reductions in horsepower, gear ratios and weight on performance and fuel economy. Analyses were then carried out to estimate fuel economy performance of each vehicle configuration.

Volkswagen, under contract to DOT, demonstrated that 33 mpg can be achieved by a 3000 pound vehicle while meeting 1981 emissions standards. The NHTSA's diesel engine assessment program conducted with Volkswagen, produced the prototype turbo-diesel Rabbit which achieved more than 60 mpg on the EPA test. The modified Rabbit in which the turbo-diesel was installed also achieved 40 mph crashworthiness. Particulate emission samples from this work and from diesel work at Fiat were collected and analyzed by EPA for potential health effects. Particulate samples from the VW diesel engine-powered vehicle were used as a partial basis for the proposed standard for diesel particulate emissions issued by EPA in 1979. The NHTSA, together with EPA and DOE, initiated a study with the National Academy of Sciences (NAS) to evaluate the biomedical, environmental, technological, energy, and economic issues associated with the prospective widespread use of diesel-powered light duty vehicles. Partial results of the study were published in September 1980 by NAS in the report *Health Effects of Exposure to Diesel Exhaust* which covers mutagenesis, carcinogenesis, pulmonary and systemic effects and epidemiology of exposure to diesel engine emissions. The remaining four parts of the study will be completed in January 1981 and will contain the principal conclusions and recommendations regarding the health effects of diesel exhaust particulates.

Detailed evaluations of diesel engines are being made under contract by Fiat, Ricardo Engineering and Chrysler to determine the impact of projected levels of emission standards (especially oxides of nitrogen and particulates) on fuel economy. The effects of aftertreatment devices, various engine controls, fuels, variation in engine parameters and engine size have been and are being evaluated in order to determine optimum fuel economy performance. Final conclusions and recommendations have not been made.

Vehicle teardown studies and analyses were conducted to determine possible opportunities for materials substitution for various passenger automobiles and light trucks. This work demonstrated that average weight for automobile fleets may be less than 3000 lbs by 1985 and as low as 2300 pounds by 1995 and suggests that weight of light trucks may be reduced by hundreds of pounds while maintaining utility and load carrying capacity. Based on an extensive data base of weight and materials of vehicle components a methodology for estimation of secondary weight propagation effects of weight reduction has been developed. This methodology is being used to estimate weights of future passenger automobiles utilizing innovative structures and light weight materials and also for estimation of weight effects of the addition of safety systems on fuel economy.

Methods of reducing engine friction were surveyed, particularly the use of improved lubricants. The survey indicated that a significant fuel economy benefit can be obtained. Since these results were obtained from nonstandardized procedures, additional work is required to substantiate the potential benefits. The Agency is providing partial funding to the American Society for Testing Materials for a program to establish a standardized procedure for testing engine oils which may improve the fuel economy of motor vehicles.

B. Economic Assessment

The economic assessment data base is continuously expanded and updated to support the regulatory actions. Data bases include manufacturing costs; capital, labor, and material requirements and automotive maintenance costs for various vehicle component designs. These data provide the basis for estimating capital requirements for each manufacturer to implement its product plan and to estimate the cost of product changes to the consumer. Figure IV-2 illustrates the possible impacts on a manufacturers' facilities to implement a product plan. Specific research tasks in this area included: (1) assessment of manufacturability characteristics (materials, labor, capital requirements, costs, and processes) for manufacturing projected components and vehicles, e.g., material substitution, innovative structures, downsizing of engines and gasoline to diesel engine conversion; (2) development of a data base (including plant size, capacity, employment, and conversion costs) on each domestic automotive manufacturer's and supplier's plants, facilities and equipment for assembly, engine and transmission production, foundries, stamping plants, and component plants; (3) evaluation of cost data for vehicles and components generated by manufacturer and supplier interviews, consultant estimates and costing based on tear downs of actual components and vehicles in order to verify and calibrate the manufacturing cost data bases.

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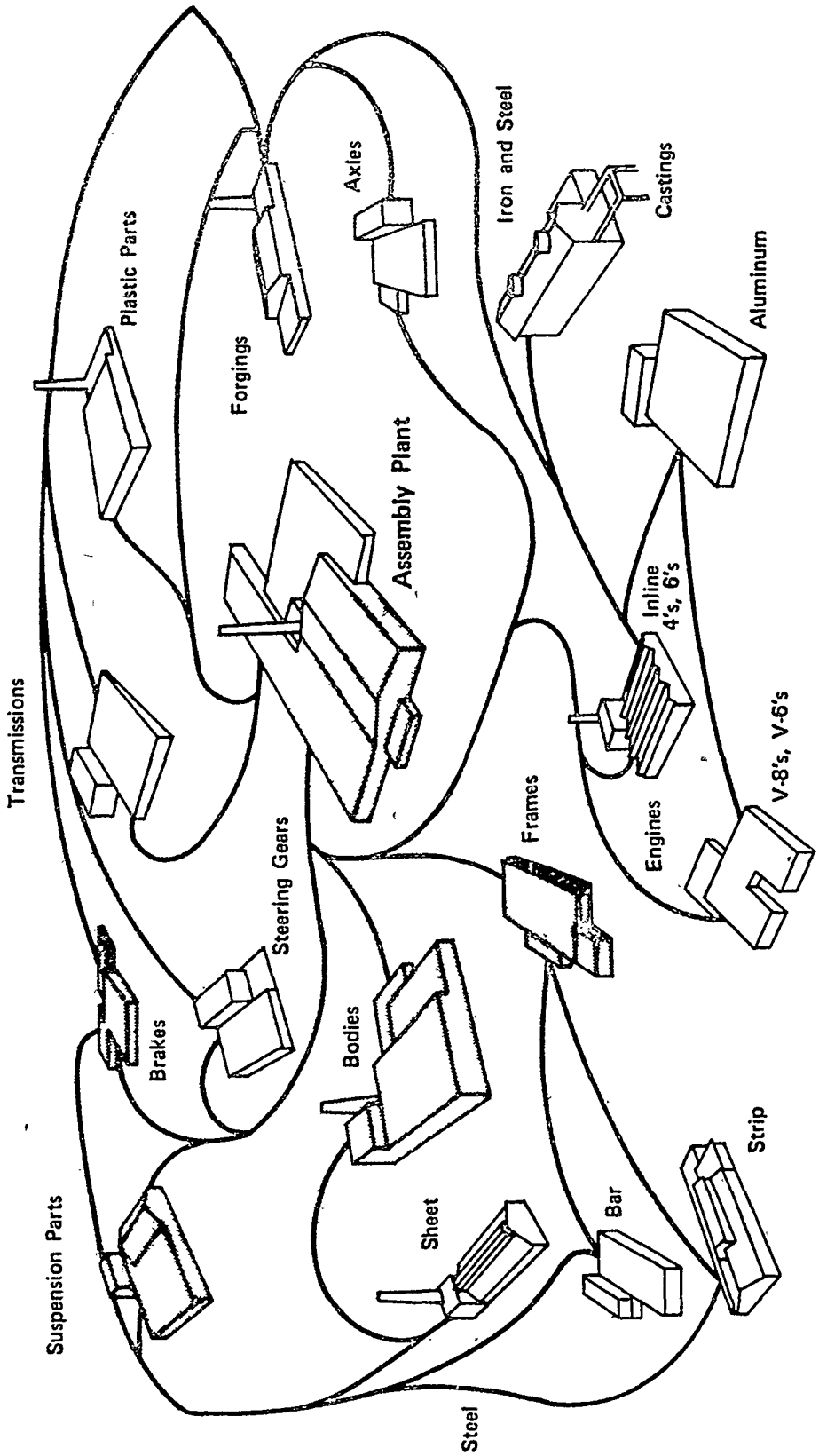
FIGURE IV-2

Impact On Facilities...



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Recent economic activities include the revision of an automotive demand forecasting model to include both light trucks and passenger automobiles and to improve other data inputs; the acquisition and analysis of sales data for demand projections and the assessment of the impact of automotive fuel economy standards on competition.

The DOT uses focus groups to test consumer awareness of energy issues attitudes and willingness to adapt to vehicle changes being implemented or proposed for increasing fuel economy. These activities are directed towards supporting rulemaking for the 1981–1984 passenger automobile and to support the development of the 1980–1985 light truck fuel economy standards.

The following activities support the analysis of economic practicability of the fuel economy standards:

—A methodology for determining the fuel consumption of new car fleets and for fleets of vehicles in use for future years was developed and includes a data base addressing the average materials content by material type for various motor vehicles. The result is that projections can be made on the demand for various materials by the automotive industry and how these demands may change with changes in technology.

—The capability was developed to assess the effect of changes in vehicle technology for improving fuel economy on safety and air quality and on the economy of the Nation.

—Business data was collected and analyzed for each manufacturer to assess his ability to underwrite technological changes to improve fuel economy and the financial risks involved in making these changes.

—Research is continuing to determine possible product, pricing, and market strategies of manufacturers to meet fuel economy standards and to assess the effect of standards and market forces on competition.

Studies of broader scope have been initiated on the effects of government R&D policy on the automotive industry, analyses of other automotive issues, and the effects of government regulatory policies on the automotive industry. A workshop on technological change in the U.S. automotive industry was held at Harvard University in 1978 to examine factors affecting implementation of innovative technology by auto manufacturers.

Some of the data bases and analytical tools which have been developed, concerning economic and employment effects, were used in support of the studies required by the Chrysler Corporation Loan Guarantee Act. Vehicle demand analyses and producibility studies of the Research Safety Vehicle (RSV) were developed to support the Secretary of Transportation's Report to the Congress on the long term viability of Chrysler Corporation's involvement in the automotive industry.

In the Spring and Fall of 1978, and in 1980 Contractors' Coordination Meetings were held to report the results of contract work and to receive the comments and criticisms from the technical and business community. Participants included representatives of domestic and foreign auto manufacturers, universities, industry and government. These meetings were open to the public.

The First International Automotive Fuel Economy Research Conference was held in 1979 to share research results and ideas concerning technical approaches to fuel economy improvement. Participants included representatives of the worldwide automotive industry, academia, and government.

During the 1976–1980 time period a substantial body of useful information was collected and organized. Analytical methods were developed to assess the capability of the automotive manufacturers to achieve improvements in the fuel efficiency of their products.

C. Relationship of the Automotive Fuel Economy Research Program to Programs of Other Agencies

Research and analyses activities coordinated with automotive programs of the Office of the Secretary of Transportation (OST), DOE, EPA and others. Coordination is accomplished through participation in interagency meetings and presentations of plans and results of each agency's programs and through participation in established working groups and committees. Specifically, coordination is maintained with the Cooperative Automotive Research Program (CARP) of the OST, the Heat Engine Propulsion Research and Development Program of DOE, and the Automotive Emissions Research Program of EPA.

The CARP is a basic research program to improve automotive technology which may have application 15–30 years in the future whereas the focus of NHTSA's technology assessment activities is on the period 7–15 years in the future. CARP is funded jointly by industry and the government.

CHAPTER V

Fuel Economy Improvement by Automotive Manufacturers

In this chapter, the record of accomplishments by the automotive industry in improving fuel economy is examined, with particular attention directed toward the degree to which advanced technologies have been embodied into new vehicles.

A. Passenger Automobiles

As shown in Figure V-1, the domestic manufacturers have achieved substantial improvement in the average fuel economy of their cars since the Act was passed in 1975. Using preliminary projections for My 1981, GM's fuel economy has increased 52 percent, Ford's has increased 63 percent and Chrysler's has increased 69 percent. In MY 1975, there was a 4.3 mpg dispersion between the domestic manufacturers with the highest and lowest average fuel economy levels (AM and Ford, respectively). In 1981, the difference between the highest and lowest is projected to be only 2.6 mpg (Projections from AM are not yet available). All major domestic and foreign manufacturers were well above the standard for the 1980 model year. Table V-1 summarizes the actual fuel economy performance of each manufacturer for the period 1978–80.

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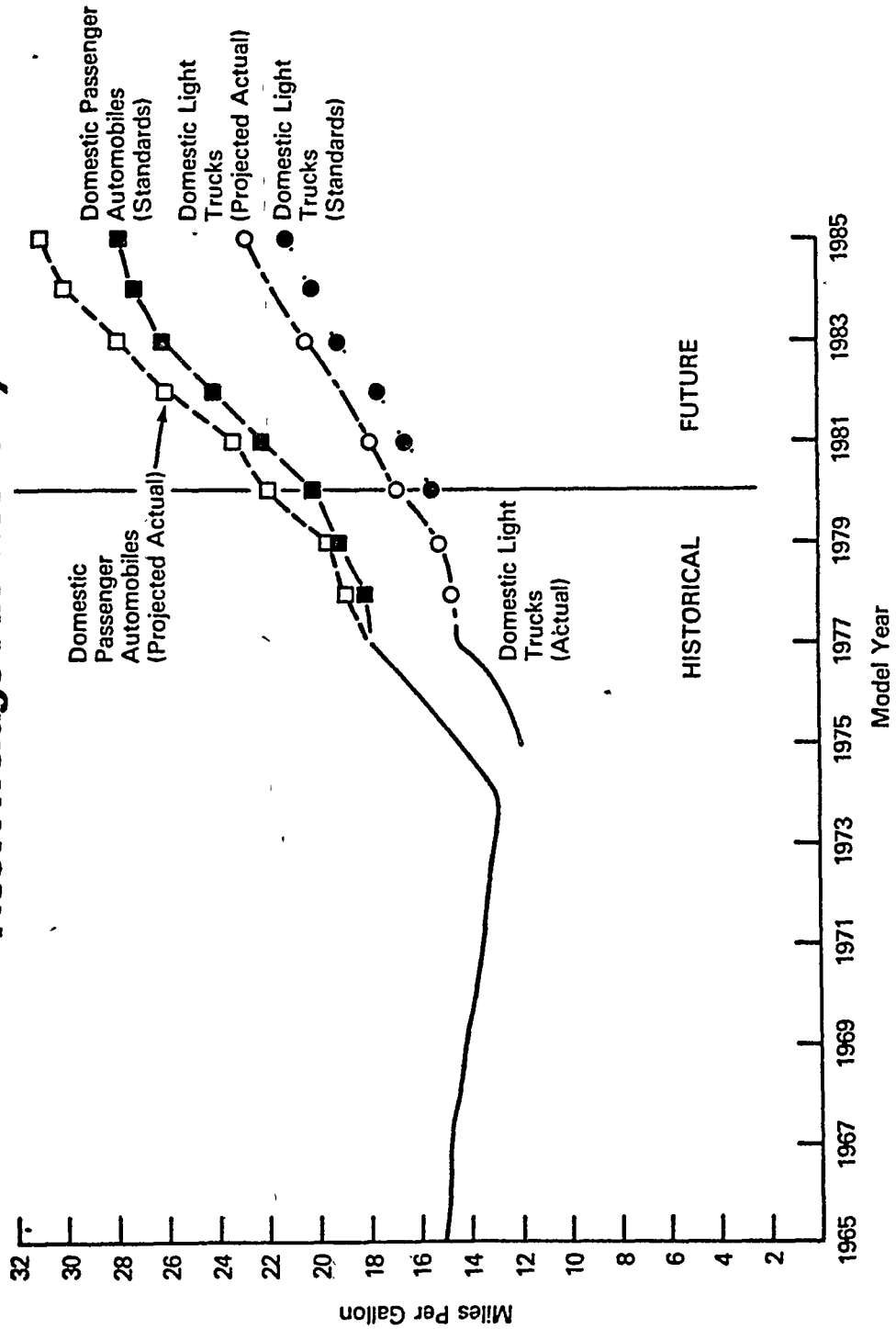
Figure V-1

Fleet Average Fuel Economy



Source: Derived From NHTSA Data Base

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Table V-1.—*Passenger Car Fuel Economy Performance by Manufacturer and Model Year*

Manufacturer	Model year—(MPG)		
	1978	1979	1980
Domestic:			
AMC	18.6	19.9	21.5
Avanti [1]	16.1	14.5	15.8
Checker [1]	17.7	16.7	18.5
Chrysler	18.4	20.4	21.3
Excalibur [1]	11.5	11.5	
Ford	18.4	19.1	22.0
GM	19.0	19.1	21.8
Sales weighted avg.	18.7	19.3	21.8
Imported:			
Alfa Romeo	21.4	20.7	22.3
Aston-Martin [1]		11.5	12.1
BMW	19.7	20.1	25.9
Chrysler	30.6	30.1	30.7
Datsun	26.8	26.7	31.5
Fiat	21.7	25.9	27.4
Ford	37.3	32.2	29.9
Honda	33.7	29.8	30.0
JRT	21.1	21.0	20.8
Lamborghini [1]		11.5	
Lotus	18.6	18.8	20.0
Maserati [1]	12.5	12.5	9.5
Mazda	35.5	25.6	26.3
Mercedes-Benz	19.2	20.5	23.9
Peugeot	24.8	23.8	27.2
Renault	30.4	30.3	33.3
Rolls-Royce [1]	10.8	10.8	11.1
Saab	22.7	21.7	23.3
Subaru	29.4	28.9	27.8
Toyota	26.8	24.4	27.4
TVR	20.7	20.7	
Volvo	21.2	20.7	21.6
VW	27.2	28.5	30.8
Sales Weighted Avg.	27.3	26.1	28.6
Total fleet average	19.9	20.3	23.4

[1] Low Volume Manufacturer.

Current plans of the major manufacturers for the early 1980's show that they should easily meet or exceed the 1985 standard of 27.5 mpg. In mid-1980, GM announced that its 1985 CAFE would be 31.0 mpg.[14] Shortly thereafter, AM stated it would reach 31 mpg in 1983.[15] Chrysler's chairman, Lee Iacocca, said his company would exceed 30 mpg in 1985.[16] Ford indicated its 1985 CAFE would exceed 30 mpg.[17] Competitive pressures for increased fuel efficiency are ensuring that the standards will be more than met each year.

B. Light Trucks

As noted in Chapter III, the average fuel economy standards for model year 1980 light trucks differ substantially from those in effect for model year 1979. First, domestic manufacturers in MY 1979 were permitted to include in their fleets vehicles produced in other countries but imported into the U.S. for sale by domestic manufacturers (captive imports). Beginning in MY 1980, captive imports were no longer permitted to be included in domestic manufacturer's fleets for compliance purposes. Second, the MY 1979 standards covered vehicles rated at 6,000 pounds GVW or less, while the MY 1980 standards were extended to include light trucks at or below 8,500 pounds GVWR. Adding heavier vehicles with larger engines and low fuel economy (6,000-8,500 pounds GVWR light trucks) more than doubled the number of light trucks subject to standards and resulted in MY 1980 standards being numerically lower but no less stringent than the MY 1979 standards. The 1979 and 1980 standards and the fleet average fuel economy levels achieved by each of the domestic and import manufacturers are listed in Table V-2. Since nearly all of the light trucks manufactured abroad for sale in the U.S., are smaller and lighter than domestic vehicles, their corporate average fuel economy easily exceeded the standards.

Table V-2.—*Light Truck Fuel Economy Performance by Manufacturer and Model Year*

[Model Year—(MPG)]

Manufacturer	2-wheel drive		4-wheel drive		Limited product line	
	1979	1980	1979	1980	1979	1980
Domestic:						
AM	20.8	NA	16.5	16.9	NA	NA
Chrysler	18.5	17.0	NA	14.1	NA	NA
Ford	17.9	17.7	NA	14.2	NA	NA
GM	17.7	17.5	NA	14.9	NA	NA
I-H	NA	NA	NA	NA	NA	17.4
Sales weighted avg.	17.9	17.5	16.5	15.2	NA	17.4
Imported:						
Chrysler import	NA	24.8	NA	NA	NA	NA
Datsun	23.1	25.3	NA	22.7	NA	NA
Ford import	NA	25.7	NA	NA	NA	NA
GM import	NA	27.5	NA	24.7	NA	NA
Mazda	30.2	30.2	NA	NA	NA	NA
Suzuki	NA	NA	25.6	25.2	NA	NA
Toyota	19.7	22.3	NA	19.8	NA	NA
VW	18.7	26.5	NA	NA	NA	NA
Sales weighted avg.	20.9	25.0	25.6	21.8	NA	NA
Total fleet avg.	18.4	193.	16.6	16.1	NA	17.4

Each of the domestic manufacturers used many of the same techniques to improve the fuel economy of their light trucks including: reduction in acceleration capability, lock-up clutches on automatic transmissions, aerodynamic drag reduction, etc. These improvements were strongly reinforced by changes in the mix of vehicles with higher fuel efficiency in response to sharply higher gasoline prices and uncertainty about availability in calendar year 1979–1980.

Manufacturers did not significantly reduce the overall fleet average weight of their light trucks in MY 1979–1980. But this is expected to occur during the next three years. For example, by MY 1983, Chrysler, Ford and General Motors are each expected to introduce compact pickups that will be directly competitive with imported Japanese pickups and Volkswagens' pickup. American Motors is also expected to significantly improve the fuel economy of its Jeep lines. Ford did introduce a new standard pickup in model year 1980, as did Chrysler and General Motors in model year 1981. Although some minor weight reduction was achieved in these vehicles together with improvements in such areas as transmissions, aerodynamics, and the sharply reduced availability of large engines the fuel economy gain has not been nearly enough yet to offset a major part of the increased vehicle operating cost resulting from sharply rising gasoline prices.

C. Application of Advanced Technology

This section focuses on the application of technology utilized by the automotive industry over the past five years in order to improve the fleet average fuel economy of their vehicles. In addition, advanced technologies already implemented and others currently under development for application in the near and long-term are also discussed in response to the statutory requirement of the Department of Energy Act of 1978 (Public Law 95–238). Title III, Section 305 of the Energy Act directs the Secretary of Transportation to submit a report to Congress each year on the extent to which the automotive industry utilizes advanced technology.

Most of the available or "shelf" technologies have been partially implemented and the automotive industry has, thereby, progressively increased the fuel economy of their fleet. Full implementation of existing technologies as well as the introduction of advanced technologies in the post-1980 period will, according to reports from the manufacturers, allow them to substantially exceed the fuel economy standard of 27.5 mpg in model year 1985 and thereafter.

1. *Weight Reduction.* Since 1975, the domestic manufacturers have reduced the fleet average weight of their passenger cars by approximately 750 pounds. The main contributing factors leading to this weight reduction were vehicle downsizing, the use of newly designed and smaller powertrains and material substitution. Downsizing, the reduction of the vehicle's external dimensions while maintaining the key internal dimensions, has occurred through the redesign of approximately 80% of the models offered by GM, Ford, and Chrysler between 1975 and 1980. An

[14] *Washington Post*, July 10, 1980.
[15] *Washington Post*, July 30, 1980.
[16] *Wall Street Journal*, July 31, 1980.
[17] *Wall Street Journal*, September 3, 1980.

example of a downsized six passenger car is shown in Figure V–2 which compares the main exterior dimensions of a 1976 Chevrolet Impala/Caprice with its 1977 downsized version. Overall length, width and wheelbase were reduced by about 5%. Curb weight was lowered from 4,000 to 3,400 pounds, a reduction of about 15%. The passenger space remained essentially unchanged. Other examples of more drastically redesigned passenger cars include GM's "X-car," Ford's Escort/Lynx and Chrysler's "K-car." These cars all have new front wheel drive powertrains which allows more extensive downsizing and vehicle weight reduction along with a correspondingly increased fuel economy. Figure V–3 shows Chrysler's K-body and the model it replaced in MY 1981. In this case, the overall length of the vehicle was reduced by about 12% and weight was lowered by about 27%.

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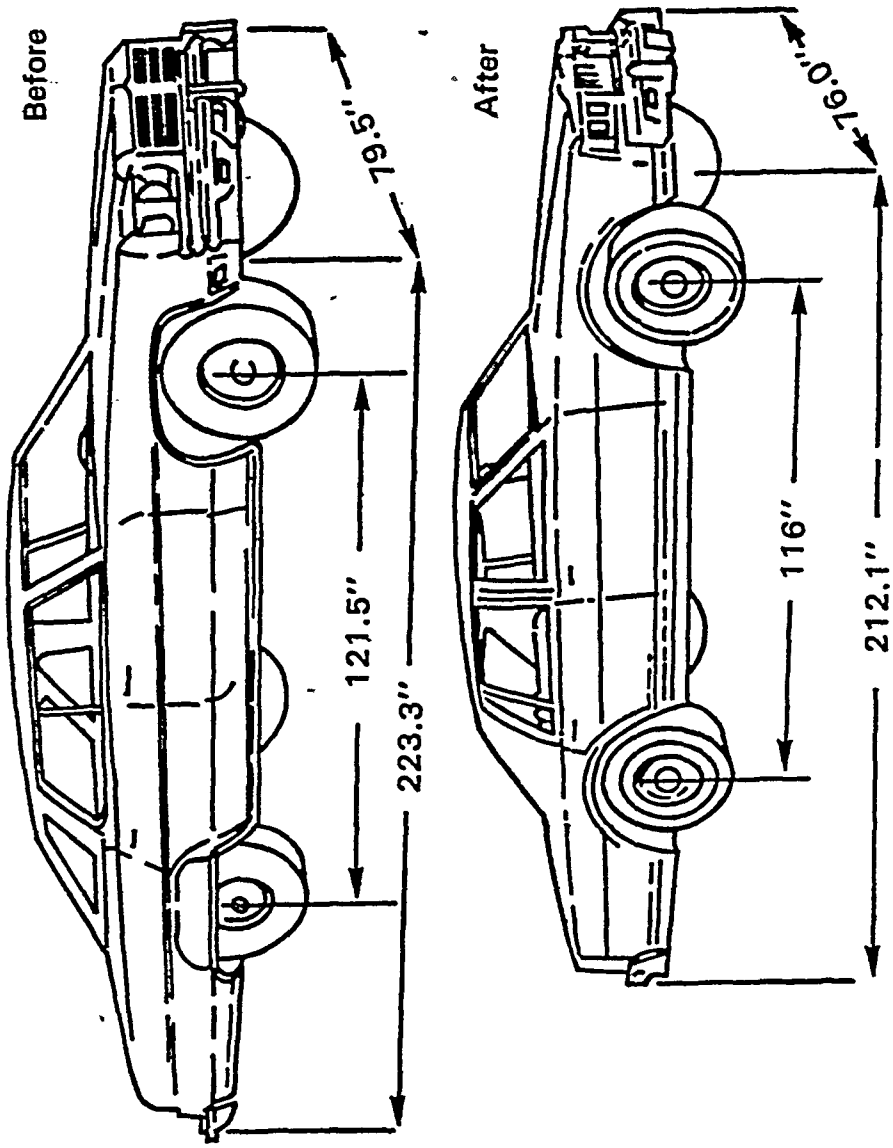
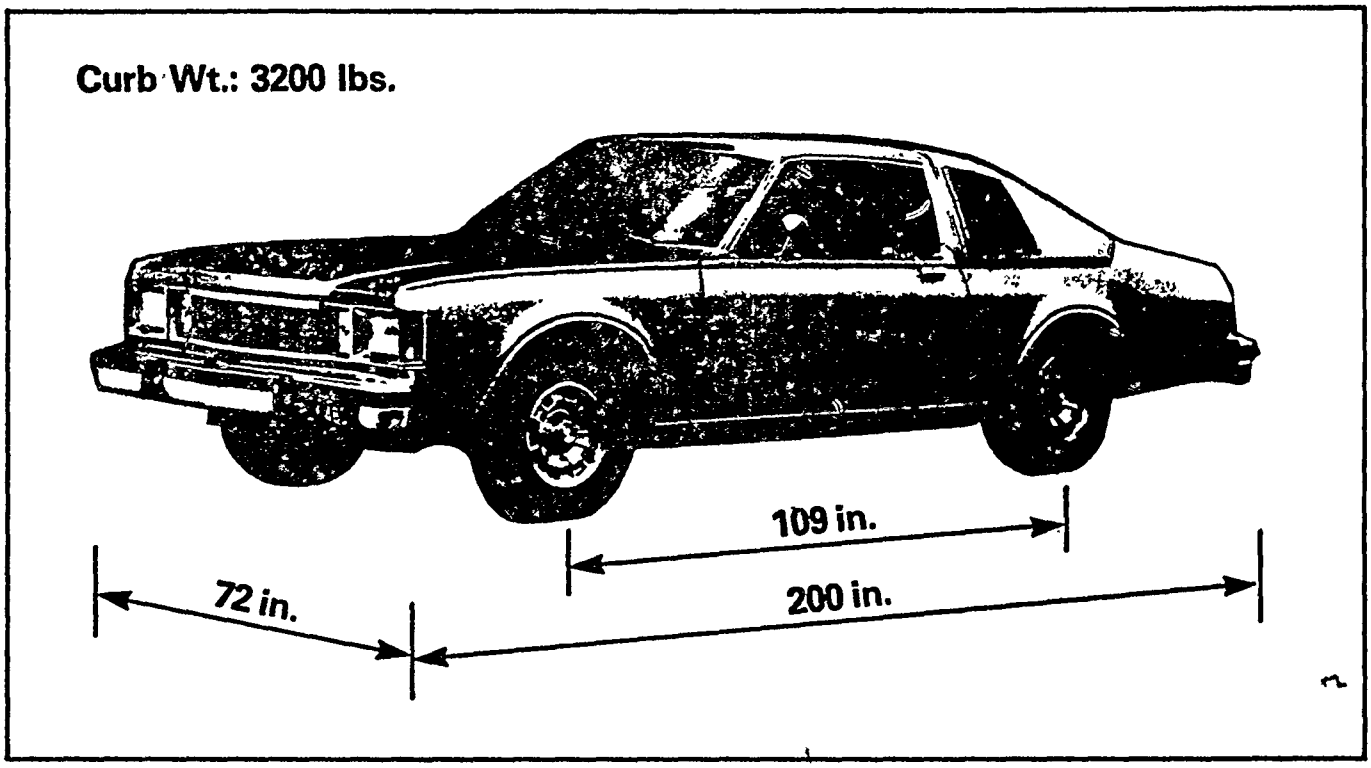
FIGURE V-2

Downsizing

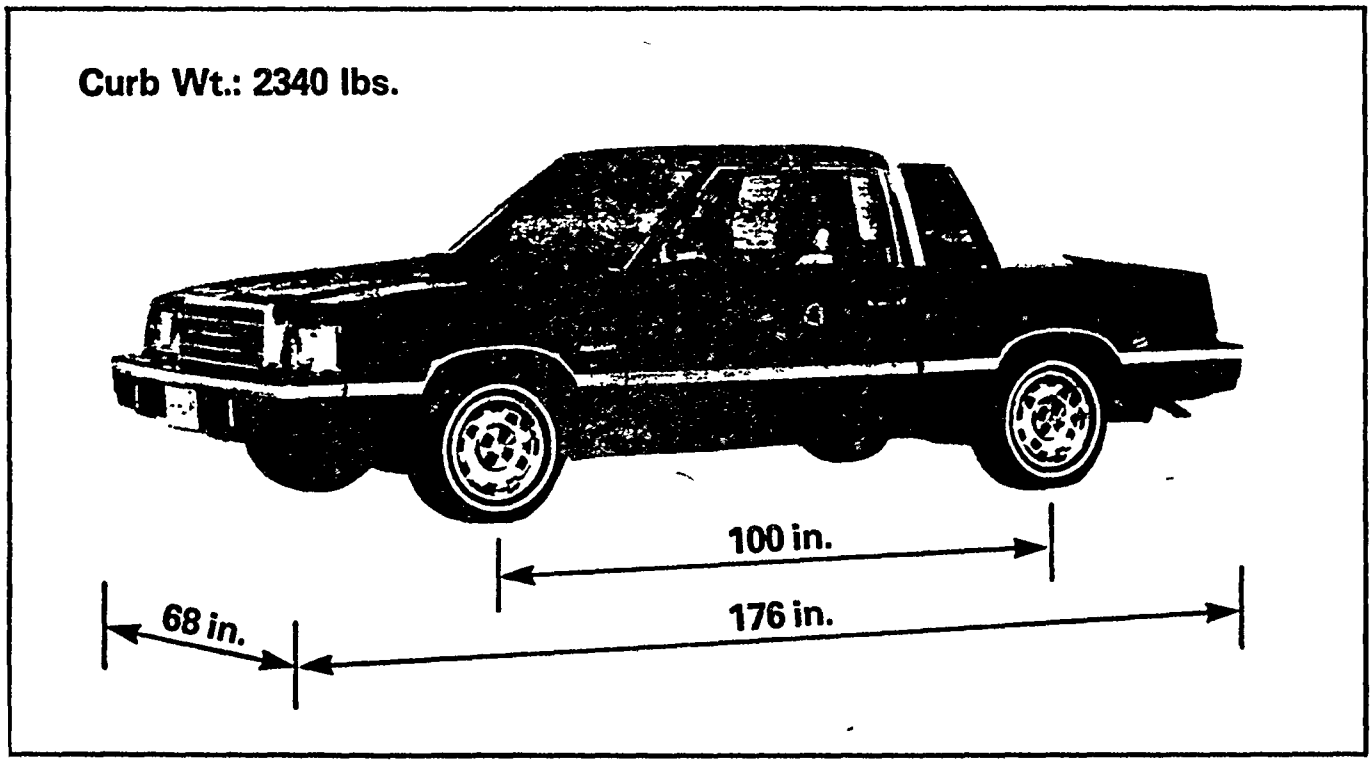


Note: This figure shows the impact of downsizing on a typical large car.

Downsizing



1980 Plymouth Volare



1981 Plymouth Reliant Custom

FIGURE V-3

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By 1984 the first round of downsizing will have been completed, i.e., virtually all domestic vehicle manufacturers will have redesigned all models of their passenger cars resulting in increased fuel economy. The next round of downsizing, already underway, will include:

—Further vehicle weight reduction of all models by reduced external dimensions.

—Almost exclusive use of front wheel drive powertrains.

—Substitution of lighter materials.

In addition, new car concepts such as two passenger commuter vehicles with very high fuel economy are likely to be introduced on the market. Such cars are expected to obtain fuel economies of 50 mpg and above.

Chrysler was among the first U.S. manufacturers to produce a Front Wheel Drive (FWD) automobile for the U.S. market with the introduction of its Omni/Horizon models in 1978. FWD improves the vehicles' packaging efficiency. Increased passenger space is provided with the FWD arrangement by reducing the height of the floor hump required to accommodate the drive shaft of rear wheel drive cars. Drivetrain efficiency is also improved with FWD when the engine is mounted transversely, thereby eliminating the need for less efficient gearing (the hypoid gear). Increased assembly line efficiency also results when FWD powertrains are cradle mounted to partial frames and the entire package is installed from beneath the car. Figure V-4 compares the major components of rear and front drive systems. FWD vehicles currently account for about 21% of all domestic production and this is expected to increase to 85% by 1985.

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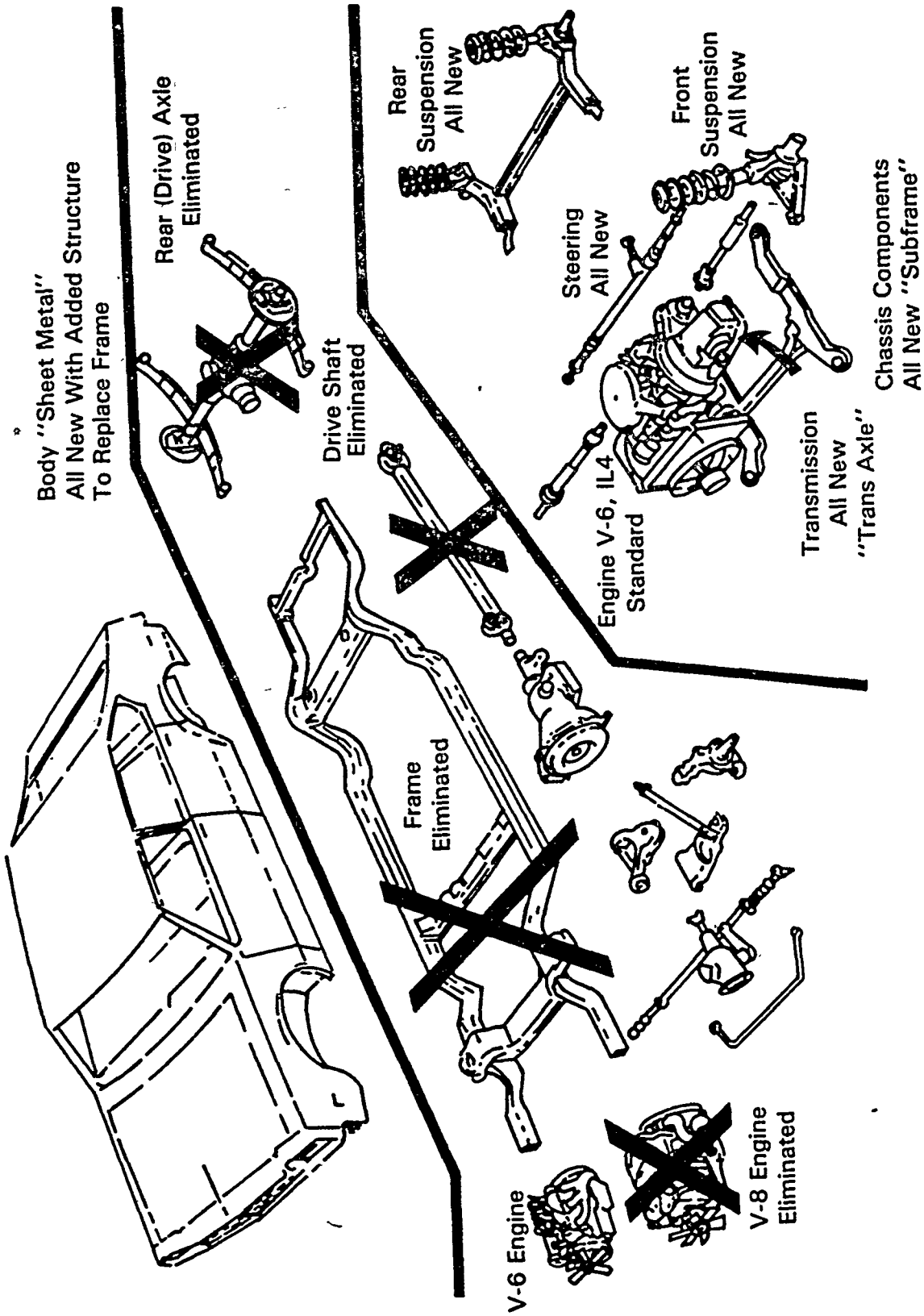
FIGURE V-4

Comparisons Between Rear Wheel Drive and Front Wheel Drive Automobiles.



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Since 1975, U.S. auto makers have increasingly expanded the use of high strength steels, aluminum and plastic. Many non-load carrying components have already been designed with lighter materials. With the average weight of the 1985 U.S. passenger car expected to decrease 600 pounds from its 1980 counterpart, substitution of lighter materials in load carrying structural members will increase. Furthermore, with diminishing weight losses resulting from further downsizing, the need to convert to lighter materials will also intensify.

Table V-3 contains the percentage composition of various materials used in a typical domestic passenger car produced in 1975, 1980 and that projected for 1985. The percentage of high strength steel, aluminum and plastic progressively increases from 1975 while iron and carbon steel decreases.

Table V-3.—*Material Composition for Typical Domestic Passenger Vehicle*

Material	1975[1]	1980[2]	1985[3]
High Strength Steel (percent)	3	5	11
Aluminum (percent)	3	4	7
Plastic (percent)	4	6	9
Glass (percent)	2	3	3
Rubber (percent)	4	4	3
Iron (percent)	15	14	11
Plain Carbon Coated Steel (percent)	56	52	47
Fluids, Lubricants (percent)	5	5	5
Others (percent)	9	7	4
Curb weight (lbs)[3]	3,900	3,200	2,600

[1] Wards Automotive Yearbook 1978, 1980.
[2] Wards Auto World—January 1980.
[3] NHTSA—Data and Projection.

Sophisticated materials such as graphite composites and plastic/metal laminates which have had limited use in the aerospace industry are still considered prohibitively costly for application to passenger cars and, therefore, are unlikely to be used before 1990. The weight savings potential, however, is sufficiently attractive to warrant further research and development.

A direct benefit of vehicle weight reduction is the resulting decreased power requirements allowing the use of smaller and lighter weight engines. For example, when GM replaced the Chevrolet Nova with its redesigned Citation, the standard 250 CID in-line 6-cylinder engine was replaced with a 151 CID in-line 4-cylinder engine. Engines redesigned to shorten their length for installation in FWD vehicles can also result in substantial weight reduction. For example, a V-6 engine can weigh up to one-third less than an in-line 6-cylinder engine. When Pontiac's 151 CID 4-cylinder engine was modified for installation in GM's FWD X-cars, 35 pounds were removed in the design revision process. Due to the increased popularity of the 4-cylinder engine, as witnessed by the increased market share of the 151 CID engine in GM's X-cars and their expanded production of this engine, the public's acceptance of reduced performance cars in the interest of increased fuel economy may have been established. Further reductions in engine power and size could occur.

Future engine configurations with cylinders designed in a "V" arrangement and using aluminum alloys are expected to yield significant weight savings over engines with cylinders arranged "in line" or "I" designs. The "V" engines can provide manufacturing benefits by using shared parts when a family of engines with a range of power levels can be achieved by varying the number of cylinders.

2. *Spark Ignition Engine Improvements.* Over the past five years, U.S. automobile manufacturers have introduced a number of new piston engines with innovative technology as a means of improving the fuel economy of their fleets. Electronic ignition systems and catalytic converter exhaust systems applied to the gasoline engine provided significant improvements in thermal efficiency.

Since 1975, a total of 17 new engine lines representing 56 percent of their 1980 production have been introduced by U.S. manufacturers. These new engines weigh less than the pre-1975 designs; the weight reductions having been achieved through improved manufacturing techniques and limited material substitution. Table V-4 identifies the new engine lines introduced by U.S. manufacturers since 1975. All of these lines represent engines of smaller displacement designed for the downsized vehicles. The application of smaller engines than necessary to maintain high vehicle performance reduces the vehicle's acceleration capability and also increases the engine's thermal loading. The vehicle's fuel economy is, thereby, improved due to the higher engine loading and its associated increase in thermal efficiency. In the interest of increased fuel economy, the public's demand for reduced performance vehicles has escalated. Responding to this increased demand, Chevrolet, for example, recently doubled its production of 4 and 6-cylinder engines from that of a year ago.[18]

Table V-4.—*New Engine Lines Produced Between Model Years 1976 and 1981, Identified by Cubic Inch Displacement*

GM		Chrysler	Ford	AMC
98	[1]307	[2]105	98	[2]121
151	[1]368	135	[1]255	[3]151
173	[4]350			
[5]196				
[5]200				
229				
252	[5]403			
[1]265				
267	[5]425			
301	[4 5]260			
305				

[1] Modification of existing engine.
[2] Blocks manufactured by VW/AUDI, final assembly in U.S.
[3] Purchased from GM.
[4] Diesel.
[5] Discontinued.

Figure V-5 illustrates a comparison of displacements of, and types of, engines produced as a percent of total production in 1975 and 1980. Also included is NHTSA's projection for 1985. As can be seen, 8-cylinder engines dominated the market in 1975. However, by 1985, the 4-cylinder engine is expected to exceed all other engine types by a wide margin with 8-cylinder engines capturing only 2% of the market. Figure V-6 illustrates the difference between physical size of a pre-1975 designed V-8 and an advanced design lightweight V-4 engine.

The expanded use of electronic equipment such as electronic distributors and electronically controlled carburetors has contributed to improved engine efficiency. The adoption of the 3-way catalyst with its closed loop electronically controlled sensors that monitor oxygen content in the exhaust gases has allowed more optimum engine tuning. The engine's operating efficiency, which could otherwise deteriorate with tighter exhaust gas emission standards, has thereby been preserved and in some cases slightly improved. Driveability has also been improved. By model year 1980,

[18] Ward's Automotive Reports, Vol. 55, No. 27, July 7, 1980, P. 209.

20% of all U.S. automobiles were produced with electronic equipment to control engine functions such as EGR, spark timing, engine knock, fuel-air ratio, and idle speed. Further application of microprocessor controlled systems to optimize transmission shift points has been under development for the past few years and are expected to be introduced in the near future. When fully implemented, optimized engine and transmission controls employing electronics is estimated to yield up to a 3% improvement. Figure V-7 shows the features of an electronically controlled engine.

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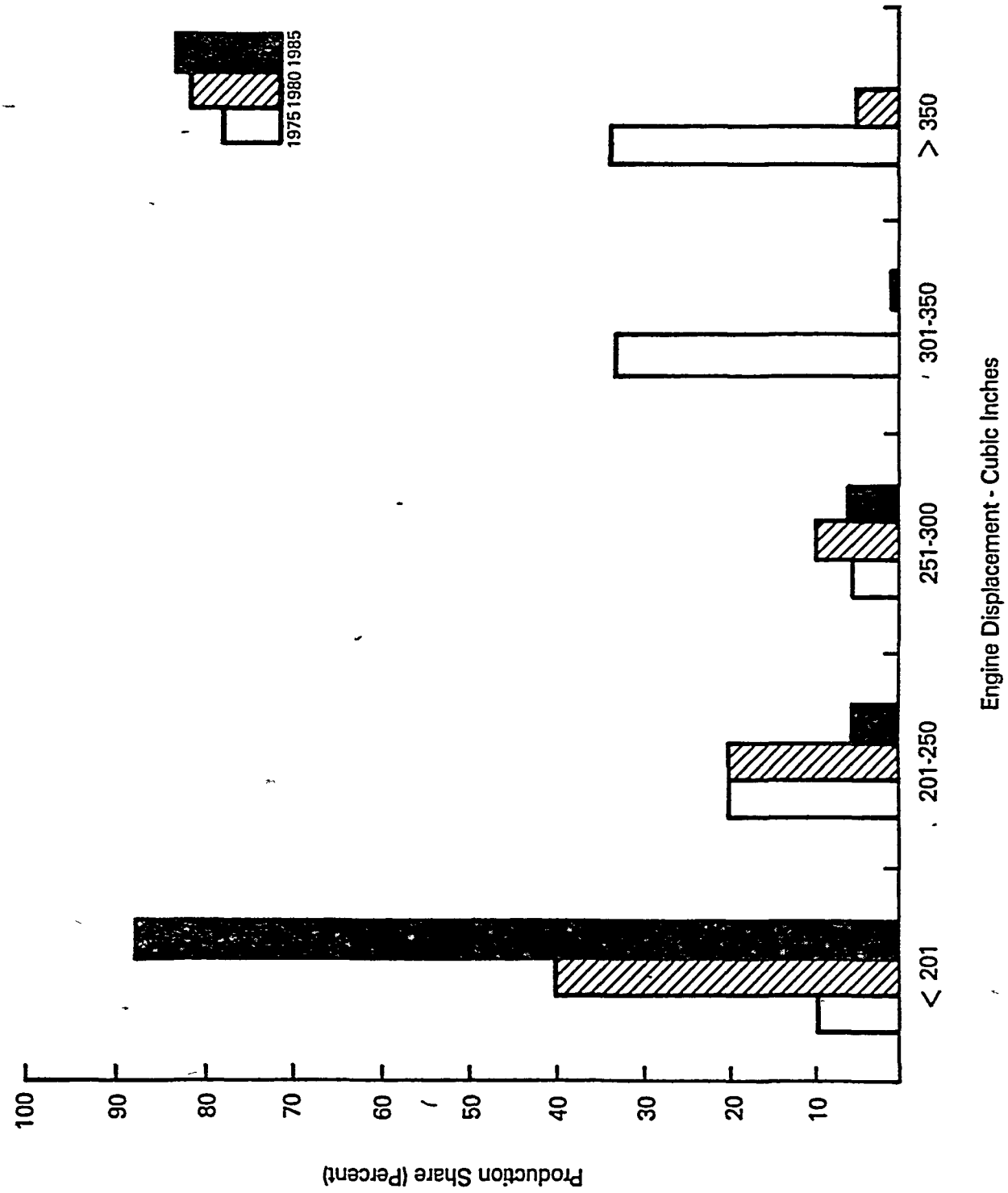
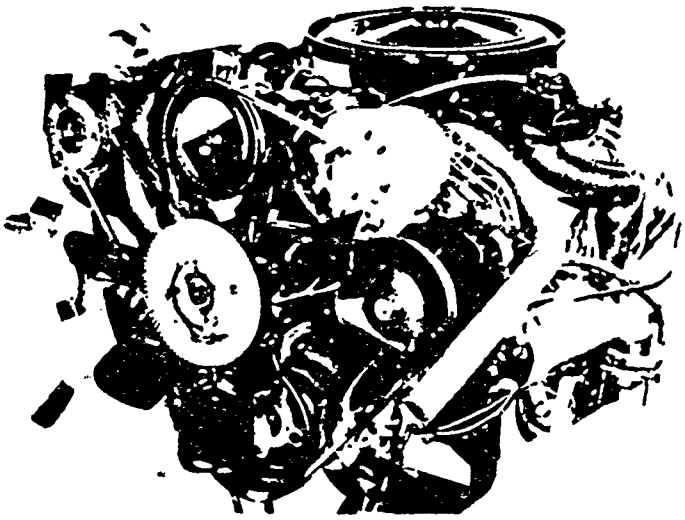
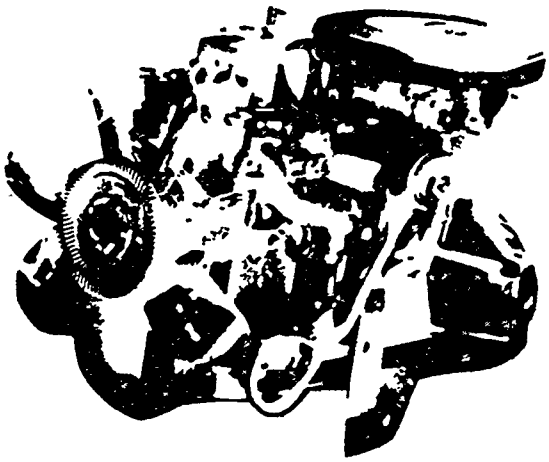
FIGURE V 5

Percent Production, Share of Domestic Automobile Engines by Size





Pre-1975 V-8 Cylinder Gasoline Engine
(General Motors Service Manual)



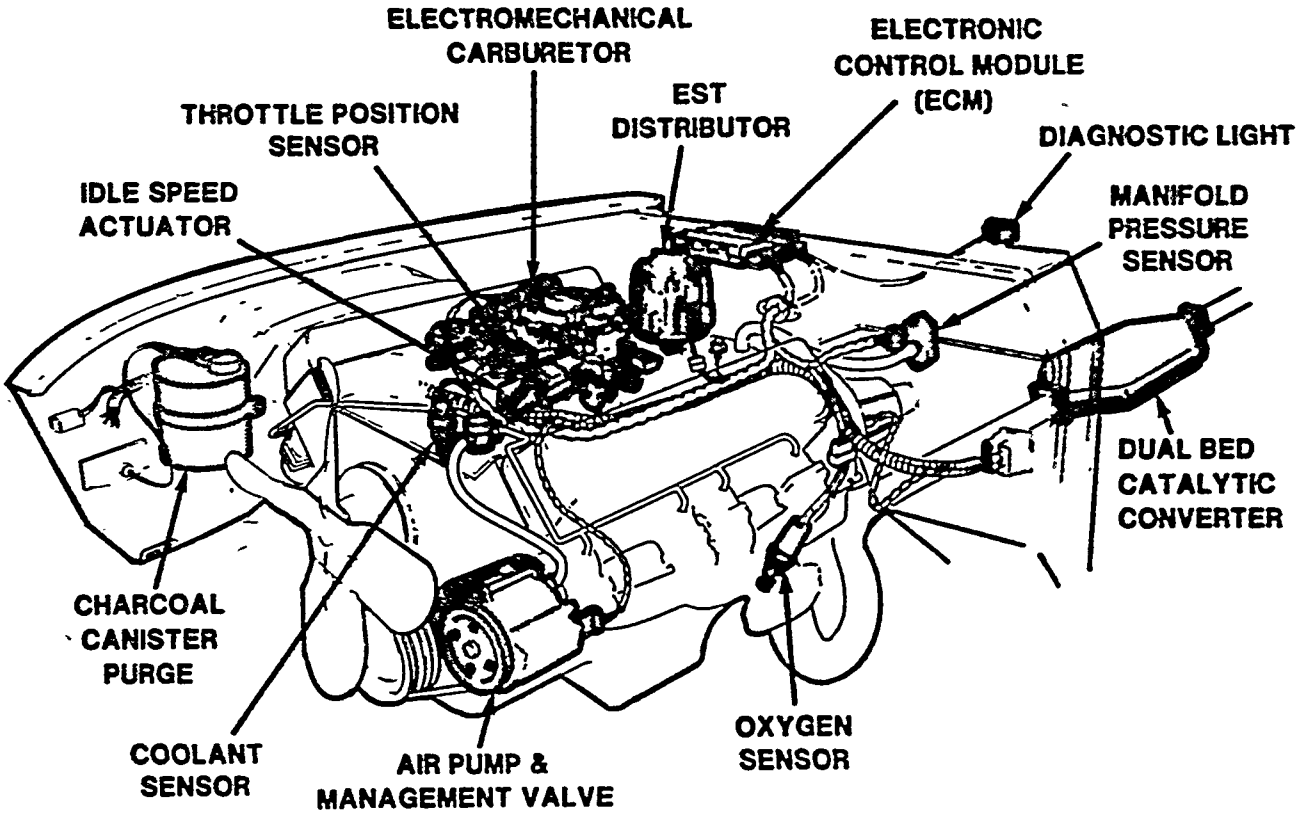
1980 I-4 Cylinder Gasoline Engine
(General Motors Service Manual)

Comparison of Typical Spark Ignition Engines

FIGURE V-6

FIGURE V-7

Computer Command Control System



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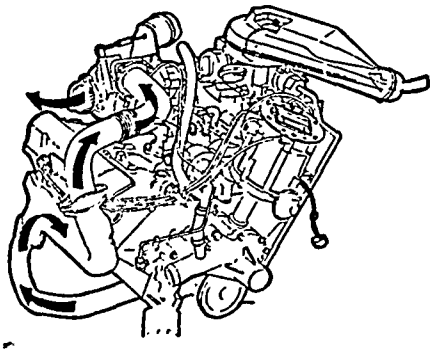
Moreover, increased compression ratios presently limited by octane levels of available fuels and emission requirements can be increased with the application of knock sensor controls such as those developed by GM.[19] Raising the compression ratio from 8.25:1, typical to current engines, to 9.5:1 improves the thermal efficiency of the engine by about 4%.

Since 1978 GM and Ford have introduced a limited number of turbocharged gasoline engines on selected models of Buick, Firebird, and Mustang. Figure V-8 shows a turbocharged 6-cylinder spark ignition engine. In these vehicles, overall acceleration performance was increased to levels comparable to automobiles with larger displacement naturally aspirated engines. Fuel economy in most of these vehicles, however, was disappointingly lower than prototype research vehicles have demonstrated. Further development of turbochargers is continuing in order to improve their aerodynamic efficiency and to reduce the "turbocharger lag." The application of a ceramic turbine rotor, which can minimize the rotary inertia and cost, would improve the rotor response and boost the engine's manifold pressure at low engine speeds.

FIGURE V-8

Turbo Charged 6 Cylinder Spark Ignition Engine



In view of Ford's revised downward sales forecast followed by its announced dropping of the turbocharger option, the extent of future application of the turbocharger in the domestic fleet is somewhat clouded. Based on plans of other manufacturers, NHTSA projects a 3% market penetration of the turbocharger over the next five years. This market will probably be limited to specialty and sport models.

In 1981 GM introduced a variable displacement 368 CID V-8 engine as standard equipment in its Cadillac models. Variable displacement is achieved by deactivation of cylinders through a valve selector system, whereby the engine can operate on 4, 6 or 8 active cylinders depending on the power requirements. This engine concept is claimed to increase fuel economy of up to about 12%.[20] Expansion of this concept is uncertain in view of the trend to smaller engines with fewer cylinders. It also may be limited in its application to pushrod engines since the valve deactivating mechanism increases valve train inertia which high specific power engines with overhead cams cannot tolerate. The engine concept may appear in vans and light trucks.

3. *Diesel Engines.* The introduction of a light duty diesel by GM beginning in model year 1978 was perhaps the most single significant break through toward increasing the fuel economy of its full sized cars. By model year 1985, NHTSA estimates that about 16 percent of domestic new car production will be diesel powered. In the first ten months of 1980, GM sold 171,750 passenger cars equipped with diesel engines as compared to 118,577 cars sold over the same period in 1979, representing an increase of 45 percent. Corresponding sales of VW diesel powered passenger cars amount to 97,247 (30 percent of total car sales) in 1980 and 67,163 cars in 1979, which is also a 45 percent increase.[21] General Motors plans to introduce an Izusu-built 4-cylinder diesel as an optional power plant in its 1982 Chevette and J-cars (the replacement for the present Chevrolet Monza and Pontiac Sunbird subcompacts).[22] Pontiac and Oldsmobile are reportedly developing a 4 and 6-cylinder diesel engine, respectively.[23] Other manufacturers including Chrysler and Ford are actively developing or planning the purchase of diesel engines for installation in passenger cars and light trucks. It appears the market for these engines will continue to increase in the future and most likely will include some American Motors models designed by their new business partner Renault of France.[24]

The use of diesel engines is a very cost effective way of increasing fuel economy, particularly from tooling considerations. The U.S. diesel powered cars introduced so far have been conversions of gasoline engines which avoid major retooling expenses. The diesel engine has allowed manufacturers to substitute diesel engines in certain larger vehicles which might have otherwise required more extensive downsizing in order to increase the fuel economy of their fleet.

Volkswagen, under contract to NHTSA, developed and tested a prototype turbocharged indirect injection diesel which boosted the fuel of the non-turbocharged diesel from 42 mpg to 60 mpg. At this time, it does not appear that U.S. manufacturers are likely to turbocharge their passenger car diesels, at least in the near term.

During the 1984–1985 period, one or more manufacturers may introduce a direct injection diesel which can provide an additional 10 to 15 percent improvement in fuel economy improvement over the indirect injection version. Figure V-9 compares the cross-sections of direct and indirect injection diesel engine combustion chambers. Noise, nitrogen oxide emission, and particulate emission problems will have to be overcome before the direct injected diesel powered passenger car can be successfully introduced.

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[19] Ward's Automotive Reports, Vol. 55, No. 29, July 21, 1980, P. 229.

[20] Ward's Engine Update, Vol. 6, No. 5, March 1, 1980, P. 1.

[21] Ward's Automotive Reports, Nov. 17, 1980, P. 364.

[22] Ward's Engine Update, Vol. 6, No. 9, May 1, 1980, P. 4.

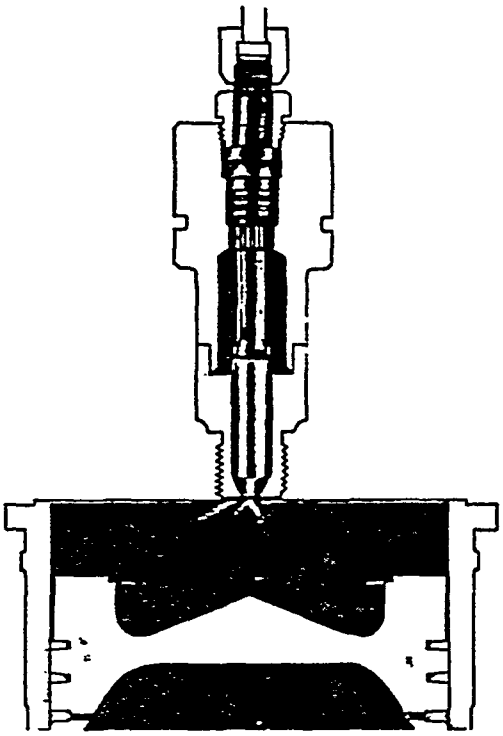
[23] Ward's Engine Update, Vol. 5, No. 26, Dec. 21, 1979, P.1.

[24] *Automotive News*, October 20, 1980, P. 6.

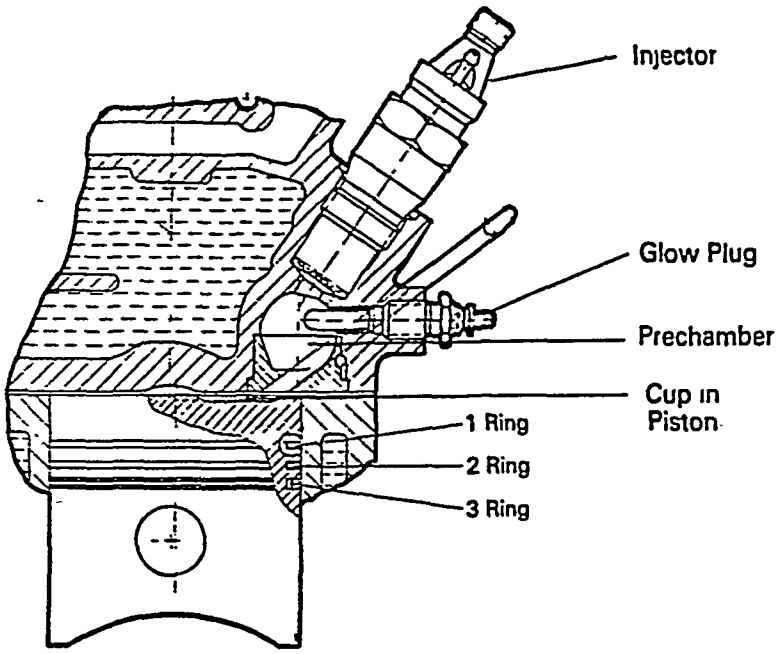
[25] Wards Engine Update, June 15, 1980, P. 4.

FIGURE V-9

Cross Section of Direct and Indirect Injection Diesel Combustion Chambers



Direct Injection System



Indirect Injection System

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Although the diesel engine has a clear cut fuel economy advantage of about 25 percent above the gasoline engine, its high unresolved problem. Concern over the potential health risk associated with the possible carcinogenicity of relatively large quantities of particulate matter exhausted by the diesel engine continues to be investigated.

4. *Stratified Charge Engines.* Development of a direct injected stratified charge spark ignition engine with electronically controlled programmed combustion, referred to as the PROCO engine, appears to be persisting at Ford despite changes in plans now calling for a smaller engine size. The PROCO concept employs a high compression ratio combined with very lean air-fuel ratios and is claimed to provide a 15 to 20 percent improvement in fuel economy over current conventional engines while maintaining acceptable emission levels. Ford initially field tested a fleet of about 200 automobiles equipped with a PROCO adapted 5.7 liter V-8 engine. Over the past years, Ford announced plans to produce a smaller version of the engine, first a 5.0 liter V-8 engine and then a 4-cylinder engine, in response to the drastic shift to small cars. The present status of this engine is now uncertain in view of Ford's wavering plans and recent reports on United Technology's concern about supplying fuel injectors and pumps for this engine. Noise, vibration and high manufacturing cost of the fuel injector, which requires finer tolerances than the diesel's injector and may be subject to increased wear, are considered major problems. Stratified charge engines achieve improved fuel economy by burning a lean fuel/air mixture using low octane fuel. Honda currently produces a prechamber indirect injection stratified charge engine for sale in its Civic and Accord models. However, as emission standards have become more severe, the potential fuel economy advantage of this particular engine has decreased.

5. *Rotary Engine.* In 1973, Mazda introduced the first significant rotary engine powered car. The early version of this automobile exhibited very poor fuel economy. However, over the years Mazda has made significant technical improvements to the engine to improve the fuel economy. Figure V-10 shows a cross section of the rotary engine. As emission standards for automobiles become more severe, the rotary engine, in its current form, will increasingly have problems in meeting the standards and at the same time obtaining good fuel economy. Research on a stratified charge version of the engine is ongoing and appears to offer solutions to the emission/fuel economy problems encountered in the homogeneous version. However, further research and development will be needed before introduction of this engine concept.

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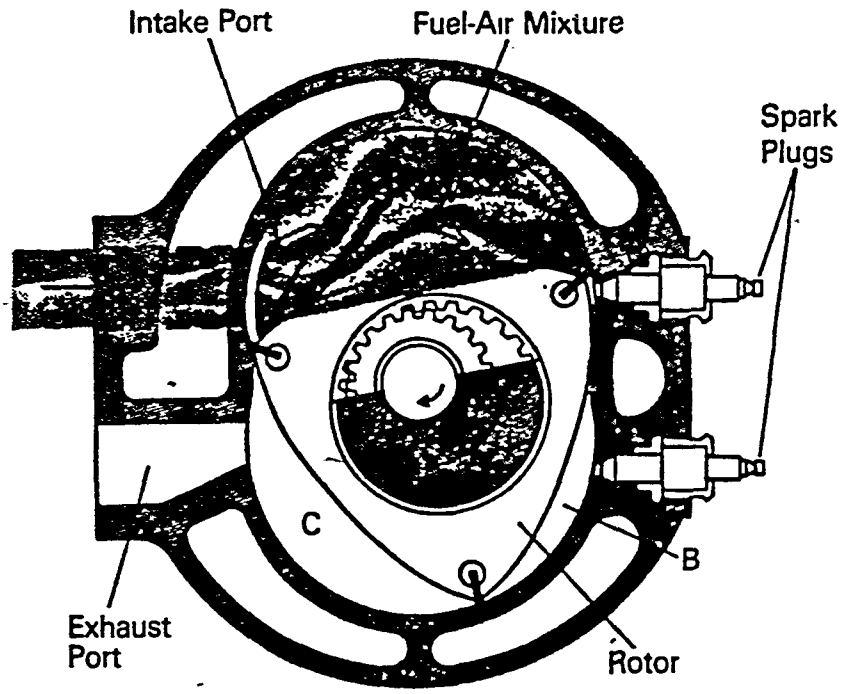
FIGURE V-10

Cross Section of Rotary Combustion Chamber



Intake

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6. *Improved Transmissions.* Both GM and Chrysler have introduced lockup clutches in the torque converters of their automatic transmissions over the past two years. These transmissions improve the vehicles' fuel economy by about 3 to 6% on models equipped with three speed gear boxes. In 1981, GM introduced a four speed automatic transmission incorporating a lockup clutch and overdrive fourth gear which improves fuel economy about 10%.

Ford introduced its more efficient automatic transmission in 1980. This transmission, referred to as the Ford Automatic Overdrive (AOD) is a split torque path automatic transmission employing four speeds. The overdrive fourth gear combined with the split power path provides about a 10% improvement in fuel economy. Ford will use the AOD in passenger cars equipped with V-8 engines and rear wheel drive until 1985 and will continue using the AOD in trucks beyond 1985.

Ford is using a new front wheel drive transversely mounted automatic transmission on the new Escort/Lynx.[25] This transmission is a split power design like the AOD but instead of four speeds it uses three speeds with wide ratio gearing. Ford has also targeted for introduction in 1985 a new front-wheel-drive four speed automatic transmission.[26] This transmission is planned to be used in cars larger than compacts.

The trend by the domestic manufacturers to implement improved transmissions will accelerate in the next five years. Approximately 75% of all transmissions produced in 1985 are projected to incorporate advanced technical features such as torque converter lockup and/or shift control via an on-board engine computer. A novel Continously Variable Transmission (CVT), employing a "flexible" metal belt is being seriously considered by a number of automobile manufacturers. This CVT was developed by a Dutch firm called Van Doorne. An agreement for a joint development effort with Borg-Warner providing marketing support. This transmission is expected to be used in compact automobiles by 1983. It will be used on small front wheel drive cars that have engine displacements under 1.6 liters. The first candidate vehicles in which the transmission is expected to appear are the Fiat Ritmo/Strada, Ford Fiesta and Renault 14. The fuel savings on the road is claimed to be 14% to 20% above the conventional three speed automatics. Large and mid-size cars are not expected to use such CVT's because of the limited power levels of current metal belt design.

7 *Other Technology Improvements.* Other technology improvements which have contributed to more fuel efficient automobiles include advanced design and improved vehicle aerodynamics. The domestic manufacturers have accelerated the installation of radial tires on new automobiles from 10% in 1975 to 81% in 1980. Radial tires reduce rolling resistance and improve fuel economy by 2 to 3% as compared to bias belted tires. In 1980, advanced radial tires allowing higher inflation pressures were introduced resulting in fuel economy improvements of 2 to 3% greater than the standard radial tire.

As manufacturers have redesigned their post-1975 models, they have attempted to improve the aerodynamic characteristics of the new models. A 10% decrease in vehicle drag corresponds to a 2 to 3% improvement in fuel economy. As a typical example, careful redesign of the 1980 Chevrolet Citation resulted in a 15% decrease in the drag coefficient for a fuel economy gain of 4%. Figure V-11 shows a pre-1975 automobile where aerodynamic design was not a principal consideration and a modern automobile which has been designed with aerodynamics in mind. To point out the importance of aerodynamics in vehicle design, GM will open a new full scale wind tunnel test facility in which the drag of future designed automobiles can be measured. As the manufacturers begin the second round of vehicle redesign, fuel economy improvements betwen 4-7% above 1975 models may be expected due to improved aerodynamic design.

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[26] Metalworking News, July 7, 1980, P. 15.

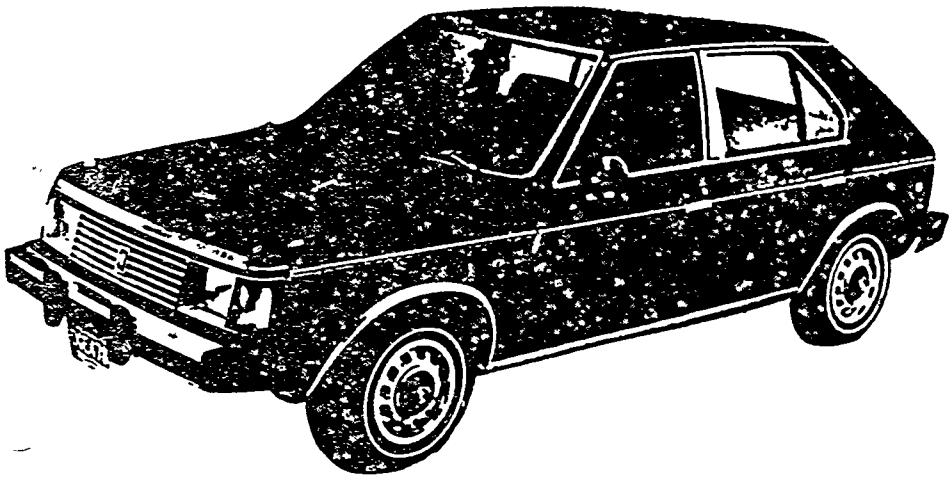
[27] "Road Shortfall" refers to the difference between EPA measured fuel economy and on-road experience.

FIGURE V-11

Comparison of Aerodynamic Features of 1975 and 1980 Automobiles

Dodge Dart Sport 2-door Coupe

1975 Automobile



Dodge Omni 4-door Hatchback

1980 Automibile

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CHAPTER VI

Other Related Activities

This chapter describes the fuel conservation contributions and accomplishments of other agencies of the Federal Government, including activities of the Environmental Protection Agency in the area of test procedures and dissemination of consumer information. It summarizes activities related to the evaluation of descrepancies between fuel economy achieved on the road and fuel economy measured by the EPA procedures. It also summaries the accomplishments of the General Services Administration in improving the average fuel economy of the Federal vehicle fleets.

A. Test Procedures

The Act requires that EPA shall establish procedures for measuring and for calculating the average fuel economy of each manufacturer's new vehicle fleet. The section further states that procedures so established with respect to passenger automobiles shall be the procedures utilized by EPA for model year 1975 or procedures which yield comparable results.

Since the inception of the automotive fuel economy program, EPA has made several modifications to the procedures in an attempt to improve the accuracy of emissions/fuel economy and to prevent manufacturers from realizing unearned CAFE credit by using loopholes in the 1975 procedures. These modifications are reported in detail in a March 1979 EPA report entitled "An Analysis of Test Procedure Changes Made During Model Years 1975 to 1979 with Respect to Measured Fuel Economy Effects." Several of EPA's changes were made after it found that fuel economy measurements made by the 1975 test procedures were becoming increasing overstated when compared to the fuel economy being recorded in typical driving. A later report by DOE, based on DOE's analyses of in-use fuel economy data EPA's confirmed conclusion. The EPA report provides the background, history and, in some instances, quantitative information on the changes to the test procedures which may have affected measured fuel economy. When the report was issued, EPA and NHTSA jointly sent the automobile manufacturers a list of questions regarding the changes in the test procedures to assist in identifying and quantifying effects the changes may have had on measured fuel economies.

In July 1979, Ford and General Motors petitioned EPA for the establishment of adjustment factors to be applied to the CAFE values for the 1980 to 1985 model years on the basis that the changes made in EPA's test procedures no longer yield fuel economies comparable to those which would have been achieved under the MY 1975 test procedures. Both Ford and General Motors submitted supporting test data indicating a difference of 0.6 mpg or 3.2 percent between the CAFE values of a 1979 model test fleet tested under the 1975 versus 1980 test procedures. The petitions further claimed that EPA was prohibited from modifying the 1975 Federal Test Procedure under Section 503(d) of the Act, unless appropriate adjustments are made to the measured CAFE values.

In February 1980, EPA denied Ford's and General Motors' petition for adjustment factors on the basis that their loss in measured CAFE did not reflect an increase in CAFE stringency but the measured windfall they could have realized had EPA not closed loopholes in the 1975 procedures. EPA interpreted the language of Section 503(d) and its legislative history as authorizing it to make changes to the test procedure which are necessary to retain the stringency of the CAFE standards. Although Congress and the EPA recognized that vehicles on the road would not necessarily exhibit a fuel economy level measured by the EPA test, the underlying purpose of Congress' adoption of the CAFE program and the approximate doubling of the 1974 EPA measured CAFE by 1985, was to bring about corresponding percentage improvements in actual automotive fuel efficiency. To the extent that the manufacturers were achieving measured CAFE benefits which were not reflected on the road, EPA's test procedure changes were operating to retain the stringency of the original CAFE requirements.

In April 1980, General Motors filed a petition for reconsideration of EPA's denial. General Motors argued that EPA must adjust General Motors' 1978 and later model year CAFE's to account for test weight and other changes to the 1975 test procedure because the stringency level of the CAFE standards included EPA-measured fuel economy gains which it alleged EPA now labeled as loopholes. General Motors claimed that changing the "yardstick" for CAFE measurement results in a distortion of the CAFE program, because EPA is making the CAFE standards more stringent even though the Congress and DOT are responsible for determining the stringency level of the CAFE standards.

In April 1980, both GM and Ford filed petitions for review of EPA's February 1979 denial in the U.S. Court of Appeals for the Sixth Circuit. That case is now pending.

In August 1980, EPA denied General Motors' petition to establish a CAFE adjustment factor on EPA's unaltered belief of Congress' intent that the 50 percent and 100 percent improvements in fleet average fuel economies mandated for 1980 and 1985, repectively, should occur on the road as well as in EPA's measurements. The EPA further stated that it is authorized to make changes in its test procedures necessary to prevent an artificial understatement or overstatement of measured CAFE values which would not reflect the real value of in-use fuel economy improvements.

B. Consumer Information on Fuel Economy—The Labeling and Guide Program

In addition to its statutory role in emissions certification testing and in developing data for the determination of Corporate Average Fuel Economy (CAFE), the EPA also measures the fuel economy on new automobiles. Section 506(a)(1) provides the requirements of labeling and booklets containing information on fuel economy of automobiles manufactured after model year 1976. The manufacturers are required to affix a label to each automobile indicating the fuel economy rating of the vehicle as established by the EPA tests. Automobile dealers are required to display, in a prominent place, a "Gas Mileage Guide" which is a booklet containing the fuel economy rating, the estimated annual fuel cost associated with the operation of the automobile and the range of fuel economy ratings of different makes of new automobiles as compiled by the EPA.

The "Guide" is a source of comparison data on fuel economy of the various models which a prospective purchaser may be considering. While EPA is responsible for developing the data used in the "Mileage Guide," the DOE is responsible for its printing and dissemination. The DOT is responsible for enforcing the requirement that new car dealers display and make available to customers the gas mileage guide.

C. Discrepancy Between "Real World" and EPA Measured Fuel Economy

In recent years, a growing awareness has developed concerning the degree to which the mileage guide and fuel economy labels data represent the real-world fuel economy experience of the nation's driving public. The activities of EPA, DOE, and DOT pertaining to this issue are described below.

1. *EPA.* In response to the requirements of Title IV, Part I of the National Energy Conservation Policy Act of 1978 (Public Law 95-619), EPA in consultation with DOE and DOT submitted a report to the Congress evaluating the degree to which EPA's fuel economy ratings provide a realistic estimate of average on-road fuel economy likely to be achieved by the driving public. The Conference Report on that Act stated: "The report should be sufficiently detailed so that consumers will be able to better evaluate the fuel efficiency of the automobile they intend to purchase and should include the comments of the Secretaries of Energy and Transportation."

The report was submitted to Congress on September 29, 1980, and included comments from the Secretary of Energy, Transportation and the public. The EPA's conclusions are summarized as follows:

—On the average, fuel economy labels and mileage guide values have been higher than in-use fuel economy since 1976.

—Road shortfalls [27] for the higher mpg cars have recently improved from the 1974-75 levels following an initial worsening in 1976-77 Road shortfalls for the lower mpg cars worsened through 1978 and have stabilized or perhaps improved slightly in MY 1979.

—As of model year 1979, the fuel economy standards as defined by Congress implied a cumulative improvement in road mpg of 33 percent over that of 1974 whereas the actual improvement has been 28 percent.

—Three broad categories of factors are responsible for the difference in the EPA fuel economy ratings and the average in-use mpg. They are:

1. Travel environment (weather and road conditions).
2. Representatives of EPA test vehicles and test procedures.
3. Owner travel and driving habits and vehicle maintenance.

In January 1980, the House Subcommittee on Environment, Energy, and Natural Resources held hearings on the EPA fuel economy testing program as it relates to consumer information on fuel economy and the establishment of CAFE. The Subcommittee concluded that a gap existed between EPA tests and on-road economy and that the gap was growing. To alleviate the situation, the Subcommittee recommended that EPA revise its fuel economy labeling and Mileage Guide information to consumers, and to implement this revised program by model year 1982.

Following the Subcommittee hearings and also drawing upon the material in the 404 Report, the EPA on September 29, 1980, issued an Advanced Notice of Proposed Rulemaking in the Federal Register, defining actions being considered by EPA to improve the usefulness of the vehicle fuel economy labels and the accuracy and completeness of the data used for determining the CAFE levels for new passenger automobiles and light trucks. EPA intends the initial changes to become effective with the 1982 model year but may postpone that date depending on lead time constraints.

2. *DOE.* The Department of Energy (DOE) is responsible for projecting national energy demand and consumption as well as for distributing the EPA Mileage Guide on fuel economy. For the last two to three years, the DOE has been engaged in a series of analyses comparing fuel economy, as obtained by the EPA laboratory tests, with in-use fuel economy based primarily on acquired fleet data. It is primarily through these DOE studies that attention has been focused, and estimates quantified, on the difference between EPA test and in-use data.

The data being used in the DOE analyses, is based largely on fleet experience, rather than typical consumer driving. The DOE is continuing its analyses in this area.

3. *NHTSA.* The National Highway Traffic Safety Administration (NHTSA) has initiated a comprehensive program to evaluate the effectiveness of the Federal Fuel Economy Standards. The program will compare benefits, in terms of fuel savings, with the costs to the industry and public. The benefits will be evaluated via a national survey of on-the-road fuel economy of consumer owned vehicles while the costs will involve separate studies of the changes in technology and design of vehicles necessary to comply with the standards. The cost studies are now underway, with the survey expected to follow shortly.

The NHTSA's requirements for this evaluation program are defined in Executive Order 12044 requiring review and analysis of major Federal regulations and the Energy Policy and Conservation Act which assigned responsibility for the fuel economy standards to DOT (NHTSA). This program is being coordinated with both EPA and DOE and will support EPA's efforts to revise its Fuel Economy Labeling Program and DOE's efforts in analysis and projection of national energy demand and consumption.

D. Federal Fleet Procurement Program: General Services Administration

The acquisition of fuel efficient passenger vehicles by the Federal Government was mandated by Congress with the passage of the Act.

Section 510 of the Act requires that all passenger vehicles acquired by each executive agency achieve a fleet average fuel economy of at least the average fuel economy standard applicable to automobile manufacturers. This section defines acquisition as those vehicles purchased or leased for a period of 60 continuous days or more, but exempts passenger automobiles designed to be used in law enforcement work, emergency rescue work, or designed to perform combat related missions for the Armed Forces.

In July 1977, Executive Order 12003 extended the requirement to include light trucks, beginning in Fiscal Year 1979 and increased the fleet average fuel economy for all Federally acquired passenger automobiles above the statutory fuel economy standard by 2 miles per gallon (mpg) in Fiscal Year 1978, 3 mpg in Fiscal Year 1979, and 4 mpg in Fiscal Years 1980-1985. The Executive Order further requires that no passenger automobiles may be acquired if the mpg rating is below the fuel economy standard for that particular year, without prior written approval by the Administrator of General Services and the Secretary of Energy.

During Fiscal Year 1977, agencies acquired 18,670 passenger automobiles, attaining a fleet average fuel economy of 19.3 mpg, 1.3 higher than the applicable standard for the year (MY 1978 vehicles). This fleet average fuel economy will result in a gasoline savings of approximately 11 million gallons over the assumed useful life of 60,000 miles for vehicles in the Federal fleet. For Fiscal Year 1978, agencies acquired 15,294 fuel efficient passenger vehicles, attaining a fleet average fuel economy of 21.0 mpg, 3 mpg higher than the average fuel economy standard and 1.0 mpg above the requirement of Executive Order 12003. The fleet average fuel economy of 21.0 mpg will result in a total savings of approximately 16 million gallons of gasoline over the expected life of the vehicles. In Fiscal Year 1979, agencies acquired 17,072 passenger vehicles, attaining a fleet average of 22.1 mpg (.1 mpg above the requirement of Executive Order 12003). This average fuel economy will result in a total gasoline savings of 20.9 million gallons of gasoline over the

[27] "Road Shortfall" refers to the difference between EPA measured fuel economy and on-road experience.

expected life of these vehicles. During Fiscal Year 1979, Federal agencies also acquired 595 four-wheel drive light trucks with an average fuel economy of 17.9 mpg, and 3,002 two-wheel drive light trucks, with an average fuel economy of 19.6 mpg.

By the summer of 1979, GSA had replaced virtually all large passenger motor vehicles in its fleet with fuel efficient compacts and subcompacts. This resulted in the replacement of vehicles which averaged 12–14 mpg with vehicles which averaged 20–25 mpg, based upon the Environmental Protection Agency's combined average fuel economy ratings. At some Interagency Motor Pool locations, vehicles with manual transmissions are being ordered because of their increased fuel efficiency.

Between 1977 and 1979, the General Services Administration's fleet of passenger vehicles increased by 13,827 (29.6 percent) vehicles to meet the increasing demands of the various Government agencies. These vehicles traveled an additional 82,000,000 miles in Fiscal Year 1979; however, the actual fuel consumption increased only 963,588 gallons or 2.5 percent.

In fiscal year 1980, the General Services Administration acquired 13,001 passenger automobiles with a fleet average fuel economy of 25.2 mpg, twice the fuel economy level of the vehicles they replaced. The resultant fuel savings over the vehicle life of ths fleet are estimated at 29 million gallons.

Appendix 1.—*Balance of Payments*

[In millions of dollars]

Account	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969
Merchandise trade balance [1]	$4,892	$5,571	$4,521	$5,224	$6,801	$4,951	$3,817	$3,800	$635	$607
Exports	19,650	20,108	20,781	22,272	25,501	26,461	29,310	30,666	33,626	38,414
Imports	−14,758	−14,537	−16,260	−17,048	−18,700	−21,510	−25,493	−26,866	−32,991	−35,807
Petroleum imports	1,543	1,674	1,810	1,824	1,904	2,095	2,124	2,083	2,339	2,556
Δ Imports		−221	1,723	788	1,652	2,810	3,983	1,373	6,125	2,816
Δ Petroleum imports		131	136	14	80	191	29	−41	256	217
Percent of total import increase accounted for by petroleum		[2]	7.9	1.8	4.8	6.8	0.7	−3.0	4.2	7.9
Balance on goods and services	5,132	6,345	6,026	7,167	9,603	8,284	5,961	5,709	3,563	3,393
Balance on current account	2,824	3,821	3,388	4,414	6,822	5,431	3,029	2,584	611	399
B.O.P deficit or surplus	−3,403	−1,348	−2,653	−1,936	−1,533	−1,294	215	−3,421	1,629	2,731

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
Merchandise trade balance [1]	$2,603	−$2,260	−$6,416	$911	−$5,343	$9,047	−$9,306	−$30,873	−$33,759	−$29,450
Exports	42,469	43,319	49,381	71,410	98,306	107,088	114,745	120,816	142,054	182,074
Imports	−39,866	−45,579	−55,767	−70,499	−103,649	−98,041	−124,051	−151,689	−175,813	−211,524
Petroleum imports	2,927	3,650	4,650	8,415	26,609	27,017	34,573	44,983	42,312	60,011
Δ Imports	4,059	5,713	10,218	14,702	33,150	−5,608	26,010	27,638	24,124	35,711
Δ Petroleum imports	371	723	1,000	3,768	18,194	408	7,556	10,410	−2,671	17,699
Percent of total import increase accounted for by petroleum	9.1	12.6	9.8	25.6	54.9	[2]	29.0	37.3	−11.1	49.6
Balance on goods and services	5,634	2,282	−1,889	11,022	9,298	22,952	9,603	−9,423	−8,381	5,332
Balance on current account	2,340	−1,419	−5,744	7,141	2,113	18,339	4,605	−14,092	−13,467	317
B.O.P Deficit or surplus	−9,845	−29,738	−10,289	−5,248	−8,777	−4,410	−10,498	−35,041	−31,736	15,551

[1] Excludes Exports under U.S. Military Sales Contracts and Imports of U.S. Military Sales Agencies.
[2] Imports was negative for these years.

NOTE.—Figures for 1960–1969 Petroleum Imports derived from, Survey of Current Business, (June 1973); 1970–1977, Survey of Current Business, (June 1979); 1978–1979, Survey of Current Business (March 1980). All other figures for 1960–1977 derived from, Survey of Current Business, (June 1979); 1978–1979, Survey of Current Business, (March 1980).

Appendix 2.—*Market Segment Shares, by Year*

[In percent]

Account	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980 [1]
Import cars	13.1	12.4	12.4	12.6	14.6	11.6	14.3	13.4	16.9	21.9
Domestic cars:										
Subcompact	6.4	6.9	7.6	9.7	10.1	7.7	6.6	8.1	13.0	14.7
Compact	13.3	12.3	14.1	16.0	17.1	17.9	15.4	14.8	14.1	14.9
Intermediate	20.0	20.9	20.2	19.5	19.0	20.9	20.4	20.1	16.9	15.5
Full-sized	29.6	27.2	24.1	17.8	14.3	15.4	15.7	14.3	12.4	9.7
Luxury	3.1	3.2	3.2	3.2	3.8	3.6	3.9	3.9	3.5	2.7
Domestic total	72.4	69.9	69.2	66.2	64.3	65.4	61.0	61.2	59.9	57.6
Total passenger cars (domestic and imports)	85.5	83.3	81.6	78.8	78.9	77.0	76.3	74.5	76.8	79.5
Light Trucks (0 to 10,000 lb):										
Mini pickup	.8	1.1	1.6	1.6	2.1	1.8	2.2	2.2	3.4	4.8
Conventional pickup	9.6	10.4	11.6	12.9	11.9	13.7	13.9	14.4	12.7	10.4
Van	2.6	3.4	3.3	4.0	4.7	5.3	5.1	5.8	4.3	2.5
Utility	1.1	1.2	1.3	1.4	1.5	1.6	1.7	2.4	2.0	1.9
Other	.5	.5	.7	1.3	1.0	.6	.6	.7	.8	.9
Total light trucks	14.6	16.6	18.5	21.2	21.2	23.0	23.5	25.5	23.2	20.5

[1] Data for 1980 January–August.
Source: Data for 1971 through 1978 derived from, "Market Analysis and Consumer Impacts Source Document: Part II. Review of Motor Vehicle Market and Consumer Expenditures on Motor Vehicle Transportation" TSC. (January 1980.) Data for 1979 derived from, "Motor Vehicle Sales and Prices." TSC. (February 1980.) Data for 1980 derived from "Motor Vehicle Sales and Prices." TSC. (October 1980.)

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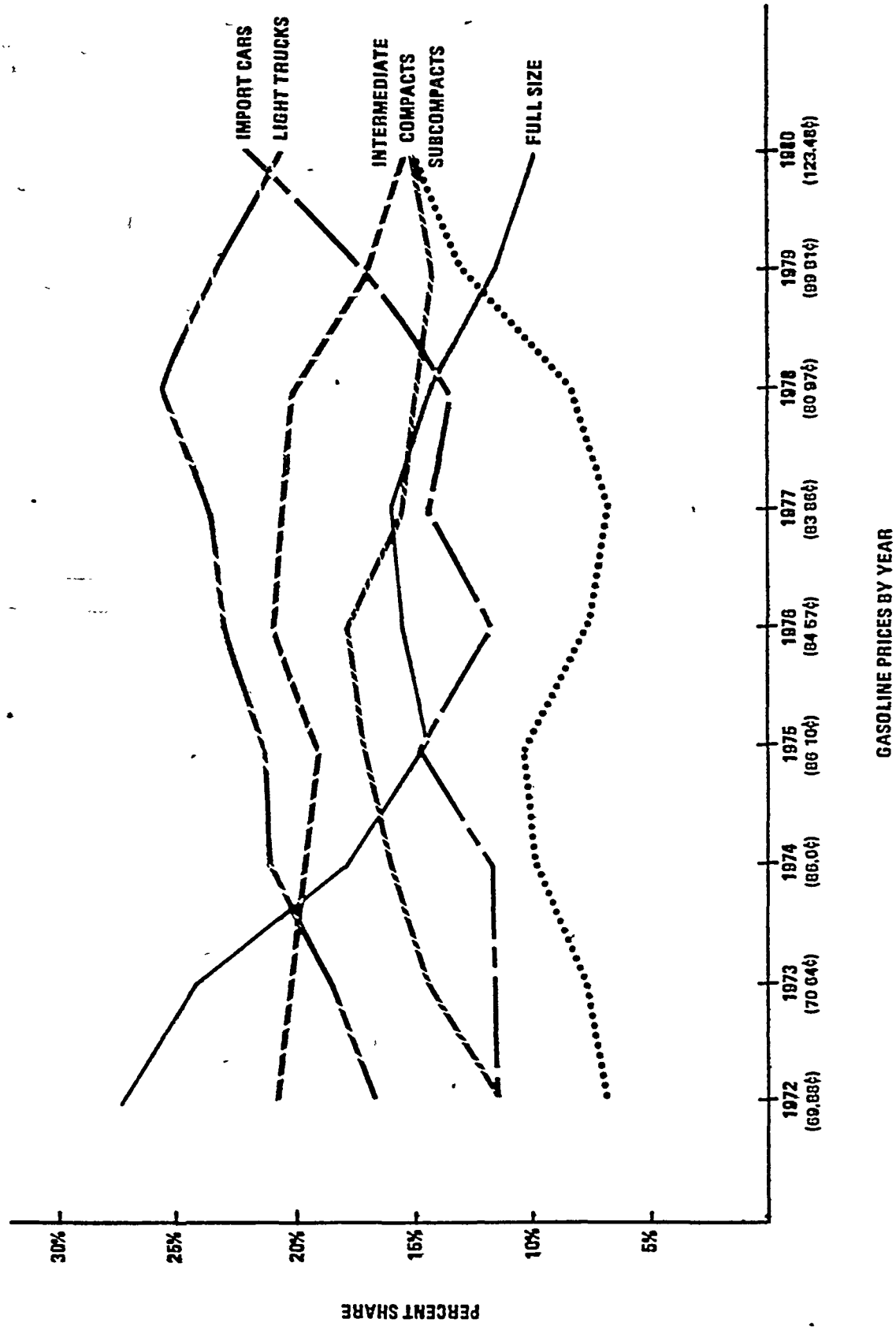
APPENDIX 2 A

MARKET SEGMENT SHARES AND REAL GASOLINE PRICES, BY YEAR



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Appendix 3—Estimates of Consumer Benefits

Consumer Benefits

The principal consumer benefit is reduced fuel consumption over the life of a vehicle. To illustrate this point, assume we have three vehicles with three different fuel economy ratings, purchased in 1980. The first vehicle has a fuel economy rating of 16.5 mpg (15.0 on-road), representing the average domestic vehicle fuel economy for MY 1976. Representing the average domestic for MY 1980, the second vehicle is rated at 21.8 mpg (19.8 on-road). The third vehicle has a projected MY 1985 rating of 31.0 mpg (28.2 on-road). The following table presents the significant lifetime operating cost savings for an individual consumer that is expected to result from purchasing a more fuel efficient vehicle:

Benefits of Improved Fuel Economy

	MY1976	MY1980	MY1985
EPA rating (miles per gallon)	16.5	21.8	31.0
On-road mileage, EPA divided by 1.1 (miles per gallon)	15.0	19.8	28.2
Lifetime gallons of gas consumed (118,710 lifetime miles per vehicle)	7,915	5,995	4,210
Lifetime gallons saved (as compared to MY 1976)		1,920	3,705
Lifetime fuel costs (present discounted value, $1980 with 10 percent discount rate)	$6,915	$5,235	$3,675
Lifetime fuel cost savings compared to MY 1976		$1,680	$3,240

Compared to the average MY 1976 domestic passenger car, the increase to 21.8 mpg for the average car in MY 1980 would decrease gasoline consumption by 1,920 gallon over the lifetime of the vehicle, saving the owner $1,680 ($1980). The gallon and dollar savings are even more dramatic for the projected average domestic MY 1985 car. Again, compared to MY 1976, the MY 1985 car would save 3,705 gallons of gas over its lifetime, cutting the owner's gasoline costs $3,240.

Passenger Cars

Annual miles traveled	Survival	Weighted annual miles traveled	Discount factor	Gasoline prices, 1980 and beyond (1980 dollars)	Discounted fuel cost at 1.0 mpg
14,436	1.000	14,436	.909=13,122	1.30	$17,059
13,903	.992	13,792	.826=11,392	1.32	15,037
13,371	.968	12,943	.751= 9,720	1.38	13,414
12,838	.951	12,209	.683= 8,339	1.40	11,675
12,306	.925	11,383	.621= 7,069	1.46	10,321
11,773	.884	10,407	.564= 5,870	1.52	8,922
11,240	.824	9,262	.513= 4,751	1.53	7,269
10,708	.750	8,031	.467= 3,750	1.54	5,775
10,176	.656	6,675	.424= 2,830	1.55	4,387
9,643	.550	5,304	.386= 2,047	1.56	3,193
9,110	.447	4,072	.350= 1,425	1.56	2,223
8,577	.356	3,053	.319= 974	1.58	1,539
8,045	.279	2,245	.290= 651	1.60	1,042
7,513	.219	1,645	.263= 433	1.62	701
6,980	.170	1,187	.239= 284	1.64	466
6,447	.119	767	.218= 167	1.67	279
5,927	.083	492	.198= 97	1.70	165
5,382	.058	312	.180= 56	1.73	97
4,850	.041	199	.169= 33	1.76	58
4,317	.029	125	.149= 19	1.79	34
3,784	.020	76	.135= 10	1.82	18
3,251	.014	46	.123= 6	1.85	11
2,719	.010	27	.112= 3	1.88	6
2,186	.007	15	.102= 2	1.91	4
1,654	.004	7	.092= 1	1.94	2
		Total 118,710			Total 103,697

Estimated Average Price of Unleaded Gasoline

[$/gallon in 1980 dollars]

1980	1.30
1981	1.32
1982	1.38
1983	1.40
1984	1.46
1985	1.52
1986	1.53
1987	1.54
1988	1.55
1989	1.56
1990	1.56
1991	1.58
1992	1.60
1993	1.62
1994	1.64
1995	1.67
1996	1.70
1997	1.73
1998	1.76
1999	1.79
2000	1.82
2001	1.85
2002	1.88
2003	1.91
2004	1.94
2005	1.98
2006	2.03
2007	2.08
2008	2.13
2009	2.18
2010	2.23

Source: Compiled from official Department of Energy projections, "Energy Balances—Medium Case," dated May 22, 1980; and Data Resources, Inc., Trend Long Projection, Summer 1980

Weighted Vehicle Miles Traveled for Light Trucks

Vehicle age (years)	Vehicle miles traveled	Survival probability	Weighted yearly travel (miles)
1	14,200	1.000	14,200
2	14,800	.999	14,785
3	13,900	.988	13,735
4	12,200	.966	11,785
5	11,100	.946	10,500
6	9,900	.925	9,155
7	9,300	.897	8,340
8	8,800	.862	7,585
9	8,000	.825	6,600
10	7,600	.771	5,860
11	7,300	.710	5,185
12	6,900	.645	4,450
13	6,000	.573	3,440
14	6,000	.502	3,010
15	5,300	.441	2,335
16	5,000	.38	1,900
17	5,700	.32	1,825
18	5,100	.26	1,325
19	4,600	.20	920
20	4,200	.14	590
21	4,000	.08	320
22	3,700	.05	185
23	3,200	.03	95
24	2,500	.02	50
25	2,000	.01	20
Total			120,195

Appendix 4—Total Fuel Savings From Fuel Economy Standards, GNP Implicit Price Deflator and Projected Current Price of Petroleum

Appendix 4

Total Fuel Savings From Fuel Economy Standards

Year	Millions of barrels of oil	Projected current price of petroleum	Gross national product implicit price deflator
1978	24.5	12.70	84
1979	63.1	17.59	91
1980	96.7	28.70	100
1981	145.5	37.49	109
1982	215.7	45.49	120
1983	301.0	50.93	130
1984	398.0	56.08	140
1985	494.3	62.30	150
1986	588.8	69.92	162
1987	674.1	78.19	175
1988	749.3	87.44	189
1989	820.9	97.72	203
1990	873.5	109.17	219
1991	921.4	121.48	235
1992	959.8	134.60	251
1993	986.0	149.52	267
1994	1010.7	165.80	284
1995	1029.1	183.77	302
1996	1043.3	203.61	320
1997	1055.2	225.49	339
1998	1070.7	249.65	359
1999	1076.6	276.28	381
2000	1084.2	305.65	403

Projected current price of oil and GNP implicit deflator for 1978–79 derived from, "The Data Resources U.S. Long Term Review," Winter 1979; 1980–2000 derived from, "The Data Resources U.S. Long Term Review," Fall 1980.

Appendix 5—Fuel Economy Tables Used in Calculations

Passenger Car Fleet Fuel Economy

[MY 1985 27.5 MPG Federal standard and 31 MPG industry projection compared with continuation of MY 1976 base fuel economy]

Model year	1976 base fuel economy (mpg)	New fuel economy		Fleet fuel economy	
		27.5 mpg	31 mpg	27.5 mpg	31 mpg
1978	17.4	18.8	19.6	15.95	16.0
1979	17.4	19.8	20.1	16.5	16.6
1980	17.5	20.7	22.7	17.0	17.2
1981	17.6	22.5	24.1	17.7	18.0
1982	17.7	24.2	26.7	18.5	19.1
1983	17.7	26	28.5	19.5	20.3
1984	17.8	27	30.5	20.6	21.6
1985	17.8	27.5	31.8	21.7	23.1
1986	17.8	27.5	31.8	22.7	24.5
1987	17.9	27.5	31.8	23.6	25.8
1988	17.9	27.5	31.8	24.5	27.0
1989	17.9	27.5	31.8	25.2	28.1
1990	17.9	27.5	31.8	25.8	29.0

Passenger Car Fleet Fuel Economy—Continued

[MY 1985 27.5 MPG Federal standard and 31 MPG industry projection compared with continuation of MY 1976 base fuel economy]

Model year	1976 base fuel economy (mpg)	New fuel economy		Fleet fuel economy	
		27.5 mpg	31 mpg	27.5 mpg	31 mpg
1991	17.9	27.5	31.8	26.2	29.7
1992	17.9	27.5	31.8	26.6	30.3
1993	17.9	27.5	31.8	27.1	30.7
1994	17.9	27.5	31.8	27.2	31.1
1995	17.9	27.5	31.8	27.3	31.3
1996	17.9	27.5	31.8	27.4	31.5
1997	17.9	27.5	31.8	27.4	31.6
1998	17.9	27.5	31.8	27.5	31.7
1999	17.9	27.5	31.8	27.5	31.7
2000	17.9	27.5	31.8	27.5	31.7
2001	17.9	27.5	31.8	27.5	31.8
2002	17.9	27.5	31.8	27.5	31.8
2003	17.9	27.5	31.8	27.5	31.8
2004	17.9	27.5	31.8	27.5	31.8
2005	17.9	27.5	31.8	27.5	31.8

Light Truck Fleet Fuel Economy

Model year	Base fuel economy (mpg)	New fuel economy (mpg)				
		1979	1980	1981	1982	1983-85
1978	12.99	14	14	14	14	14
1979	13.1	15.5	15.5	15.5	15.5	15.5
1980	13.1	15.5	17.1	17.7	17.1	17.1
1981	13.2	15.5	17.1	17.7	18.4	17.7
1982	13.3	15.5	17.1	17.7	18.4	18.4
1983	13.3	15.5	17.1	17.7	18.4	19.8
1984	13.3	15.5	17.1	17.7	18.4	20.6
1985	13.3	15.5	17.1	17.7	18.4	21.5
1986	13.3	15.5	17.1	17.7	18.4	21.5
1987	13.3	15.5	17.1	17.7	18.4	21.5
1988	13.3	15.5	17.1	17.7	18.4	21.5
1989	13.3	15.5	17.1	17.7	18.4	21.5
1990	13.3	15.5	17.1	17.7	18.4	21.5
1991	13.3	15.5	17.1	17.7	18.4	21.5
1992	13.2	15.5	17.1	17.7	18.4	21.5
1993	13.2	15.5	17.1	17.7	18.4	21.5
1994	13.2	15.5	17.1	17.7	18.4	21.5
1995	13.2	15.5	17.1	17.7	18.4	21.5
1996	13.2	15.5	17.1	17.7	18.4	21.5
1997	13.2	15.5	17.1	17.7	18.4	21.5
1998	13.2	15.5	17.1	17.7	18.4	21.5
1999	13.2	15.5	17.1	17.7	18.4	21.5
2000	13.2	15.5	17.1	17.7	18.4	21.5
2001	13.2	15.5	17.1	17.7	18.4	21.5
2002	13.1	15.5	17.1	17.7	18.4	21.5
2003	13.1	15.5	17.1	17.7	18.4	21.5
2004	13.1	15.5	17.1	17.7	18.4	21.5
2005	13.1	15.5	17.1	17.7	18.4	21.5

Light Truck Fleet Fuel Economy

Model year	Base fuel economy (mpg)	Fleet fuel economy (mpg)				
		1979	1980	1981	1982	1983-85
1978	12.9	12.6	12.6	12.6	12.6	12.6
1979	13.1	12.9	13	13	13	13
1980	13.1	13.2	13.3	13.3	13.3	13.3
1981	13.2	13.4	13.6	13.6	13.6	13.6
1982	13.3	13.6	14.0	14.1	14.2	14.2
1983	13.3	13.9	14.3	14.5	14.6	14.7
1984	13.3	14.1	14.7	14.9	15	15.3
1985	13.3	14.3	15	15.2	15.5	16
1986	13.3	14.5	15.3	15.6	15.9	16.7
1987	13.3	14.7	15.6	15.9	16.2	17.3

Light Truck Fleet Fuel Economy—Continued

Model year	Base fuel economy (mpg)	Fleet fuel economy (mpg)				
		1979	1980	1981	1982	1983-85
1988	13.3	14.8	15.8	16.2	16.6	17.8
1989	13.3	14.9	16	16.4	16.9	18.4
1990	13.3	15	16.2	16.7	17.1	18.7
1991	13.3	15.1	16.4	16.9	17.4	19.3
1992	13.2	15.2	16.6	17.1	17.6	19.7
1993	13.2	15.3	16.7	17.2	17.8	20.1
1994	13.2	15.4	16.8	17.4	18	20.4
1995	13.7	15.4	16.9	17.4	18.1	20.7
1996	13.2	15.4	17	17.5	18.2	20.9
1997	13.2	15.5	17	17.6	18.3	21.1
1998	13.2	15.5	17.1	17.6	18.3	21.2
1999	13.2	15.5	17.1	17.7	18.4	21.3
2000	13.2	15.5	17.1	17.7	18.4	21.4
2001	13.2	15.5	17.1	17.7	18.4	21.4
2002	13.1	15.5	17.1	17.7	18.4	21.5
2003	13.1	15.5	17.1	17.7	18.4	21.5
2004	13.1	15.5	17.1	17.7	18.4	21.5
2005	13.1	15.5	17.1	17.7	18.4	21.5

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of Granting of Relief from Disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Noel A. Haera, Firearms Enforcement Branch, Investigations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026 (202-566-7457).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Alessio, Dominic John, 1455 Rolling Hills Drive, El Cajon, California, convicted on July 9, 1973, in the United States District Court, Los Angeles, California.

Amos, Thomas Elroy, 6723 Dibble Avenue, N.W., Seattle, Washington, convicted on June 8, 1945, in the Superior Court of Kitsad County, Washington; and on August 30, 1950, in the Superior Court of Alameda County, California.

Anderson, John T., 721 East 8½ Street, Houston, Texas, convicted on June 28, 1977, in the District Court of Harris County, Texas.

Annis, Robert Mitchell, Box 39, Bloxom, Virginia, convicted on May 8, 1972, in the Circuit Court of Worchester County, Maryland; and on December 11, 1975, in the Circuit Court of Accomack County, Virginia.

Bachman, Robert B. III, Route 3, Box 47-C, Edenton, North Carolina, convicted on January 20, 1978, in the United States District Court, Newport News, Virginia.

Bakken, Gary Dean, P.O. Box 16, Amenia, North Dakota, convicted on December 19, 1974, by the General Court Martial Board, Ft. Leonard Wood, Missouri.

Baldwin, Paul A., 3718 Rhea Avenue, Memphis, Tennessee, convicted on March 9, 1979, in the United States District Court, Eastern District of Arkansas.

Barron, William Wallace, 301 North Ocean Boulevard, Apt. 1110, Pompano Beach, Florida, convicted on March 29, 1971, in the United States District Court, Southern District of West Virginia, Charleston, West Virginia.

Bauman, Maurice S., 204 Jersey, Normal, Illinois, convicted on May 2, 1955, in the United States District Court, Danville, Illinois.

Beach, Rex, Route 1, Box 167 K, Forest Grove, Oregon, convicted on April 18, 1969, in the Benton County Court, Oregon.

Bennett, Charles R., 2518 N.E., 15th Street, Oklahoma City, Oklahoma, convicted on October 12, 1967, in the District Court of Choctaw County, Hugo, Oklahoma.

Bertrand, Billy H., Jr., 738 Bienville Street, Lake Charles, Louisiana, convicted on October 12, 1970, in the Ninth Judicial District Court, Rapids Parish, Louisiana.

Biddle, Herbert D., Jr., 253 Millington Lane, Apt. 4, Hartland, Wisconsin, convicted on April 14, 1977, in the United States District Court, Indianapolis, Indiana.

Blackburn, Wade O., Route 1, Roaring River, North Carolina, convicted on November 10, 1965, in the Federal District Court of Wilkesboro, North Carolina.

Boller, Richard Francis, 52702 Highway 97, Lapine, Oregon, convicted on September 4, 1962, in the Superior Court of Ventura County, California.

Bootwright, Russell P., Route 3, Box 47 D, Edenton, North Carolina, convicted on January 20, 1978, in the United States District Court, Newport News, Virginia.

Bowers, Gordon S., Jr., 2238 Worley Drive, Alexandria, Louisiana, convicted on April 21, 1977, in the United States District Court, Western District of Louisiana.

Brands, Robert Ferrell, 6804 Montour Drive, Falls Church, Virginia, convicted on November 9, 1973, in the Circuit Court of Arlington County, Virginia; and on November 12, 1973, in the Circuit Court of Fairfax County, Virginia.

Brann, Charles H., Jr., 4301 Aldabaran Way, Mobile, Alabama, convicted on June 9, 1978, in the United States District Court, Colorado.

Briggs, James H., General Delivery, Winona, West Virginia, convicted on September 10, 1974, in the United States District Court, Charleston, West Virginia.

Brink, James D., Rural Route 2, Box 275, Elkhorn, Wisconsin, convicted on June 9, 1975, in the Sheboygan County Court, Wisconsin.

Burdine, Lonnie Gilbert, Route 3, Box 213 BC, Somerset, Kentucky, convicted on May 18, 1977, in the United States District Court, Northern District of Ohio, Eastern Division, Akron, Ohio.

Burke, Jack M., 712 West 27th Street, Vancouver, Washington, convicted on June 3, 1954, in the Clark County Superior Court, Western District of Washington.

Burkett, Bernie Russell, 106 North Forest Avenue, Luverne, Alabama, convicted on March 7, 1977, in the Circuit Court of Covington County, Andalusia, Alabama.

Burkhart, David N., 819 Mallard Street, Oshkosh, Wisconsin, convicted on October 16, 1972, and on February 18, 1974, in the County Court, Branch II, Lacrosse County, Wisconsin.

Burnett, Eugene H., 1324 North Marston Street, Philadelphia, Pennsylvania, convicted on December 29, 1965, in the Philadelphia Municipal Court, Pennsylvania; and on September 28, 1951, in Federal Court, in the Eastern Judicial District of Pennsylvania.

Cataldie, Louis, 2552 Lancelot, Baton Rouge, Louisiana, convicted on October 5, Baton Rouge, Louisiana.

Chapman, Kenneth Michael, 7893 Pavilion Drive, Severn, Maryland, convicted on December 19, 1969, in the United States District Court for the District of New Jersey.

Cheesbro, Gordon Preston, 1820 North Nova Road, Ormond Beach, Florida, convicted on January 12, 1971, in Felony Court, Volusia County, Florida; and on September 28, 1972, in the Criminal Court, Duval County, Florida.

Connor, Clyde M., Route 1, Box 102, Copper Hill, Virginia, convicted on December 23, 1974, in the Circuit Court for Floyd County, Virginia.

Conover, Richard, 16551 S.E. 82nd Drive, Apt. 4, Clackamas, Oregon, convicted on September 27, 1977, in the Superior Court of Thurston County, Oregon.

Cooper, Rudolph Gordon, 844 Fuller Avenue, St. Paul, Minnesota, convicted on September 5, 1963, in the District Court for Ramsey County, Minnesota.

Dailey, Michael A., Route 1 Box 198, Lewiston, Minnesota, convicted on May 12, 1978, in the Winona County District Court, Winona, Wisconsin.

Daniels, Norman M., 609 Harrison, Caldwell, Idaho, convicted on August 27, 1971, in the United District Court, Third Judicial District of Idaho.

Dewitt, Jerry Lynn, RFD Number 1, Box 176, Poland Spring, Maine, convicted on February 4, 1972, in the Aroustook County Superior Court, Haulton, Maine.

DiBrienza, John, 302 18th Street, Brooklyn, New York, convicted on November 29, 1973, in the Supreme Court, Kings County, New York.

Dickson, James H., Route 4, Box 424 A, Rusk, Texas convicted on June 24, 1975, in the Harris County District Court of Texas.

Downs, Silas Wendell, 114 East Chestnut, Junction City, Kansas, convicted on June 3, 1957, in the Jasper County Circuit Court, Missouri.

Duncan, Marion J., 733 Butte Street, Redding, California, convicted on March 24, 1961, April 8, 1964, and May 28, 1968, in the Superior Court of California.

Eagle, Robert Adrian, 4701 West Superior Street, Duluth, Minnesota, convicted on March 9, 1979, in the District Court for St. Louis County, Minnesota.

Eargle, David A., 325 Rogers Avenue, Sumter, South Carolina, convicted on March 22, 1977, in the General Sessions Court, Sumter, South Carolina.

Ehlers, Isaiah T., 795 Eden Street, Idaho Falls, Idaho, convicted on February 14, 1977, in the United States District Court, Second Judicial District of Wyoming, Sweetwater County, Wyoming.

Evans, Floyd H., 7403 Waverly Drive, Boise, Idaho, convicted on February 3, 1978, in the United States District Court, Boise, Idaho.

Ewonishon, Andrew, 65 Ontario Street, Simpson Pennsylvania, convicted on February 3, 1978, in the United States District Court, Middle District of Pennsylvania.

Farrow, Stephen Henry, Jr., 304 Loudon Street, Lynchburg, Virginia, convicted on May 7, 1958, in the Lynchburg Corporation Court, Lynchburg, Virginia.

Fite, James Arthur, 804 Cleaves, Old Hickory, Tennessee, convicted on December 3, 1970, in the Criminal Court, Davidson County, Tennessee.

Foster, Cecil Scott, Box 114, Easton, Illinois, convicted on July 20, 1966, in the Circuit Court, Eighth Judicial District of Illinois, Havanna, Illinois.

Frandsen, George A., 455 Paloma Drive, Chaparral, New Mexico, convicted on February 2, 1968, in the Detroit Recorders Court, Detroit, Michigan.

Fuller, Thomas E., Jr., 210 East 14th, Kennewick, Washington, convicted on November 30, 1977, in the Cowlitz County Superior Court, Washington.

Gallihugh, Robert Bruce, 7496 Prince Charles Court, Manassas, Virginia, convicted on December 13, 1976, in the Circuit Court for Prince William County, Virigina.

Gold, James S., 605 North Third Street, Denison, Ohio, convicted on October 29, 1973, in the Court of Common Pleas, Tuscarawas County, New Philadelphia, Ohio.

Green, Lewis W., Route 1, Box 76, Cromwell, Minnesota, convicted in January 1968, in the District Court of Washington County, Minnesota.

Griffith, Jackie W., 200 26th Street, NW, Apt K-106, Atlanta, Georgia, convicted on November 5, 1971, in the 42nd District Court, Taylor County, Texas.

Grimsley, Millard A., Route 1, Box 190, Shenandoah, Virginia, convicted on October 17, 1966, and on May 15, 1978, in the Western Judicial District of Virginia, Harrisonburg, Virginia.

Hammond, Ben R., Jr., 222 Cardinal, San Antonio, Texas, convicted on January 31, 1980, in the United States District Court, Northern District of California, San Francisco, California.

Hart, Donald B., 828 Burch Avenue, Durham, North Carolina, convicted on September 3, 1968, in the Durham County Superior Court, Durham, North Carolina.

Heinbuch, David A., 555 Derrick Drive, New Richmond, Wisconsin, convicted on June 13, 1975, in the Dunn County Circuit Court, Menomonie, Wisconsin.

Heinz, Danny Louis, 5700 Sagebrush Trail, Greensboro, North Carolina, convicted on June 11, 1976, in the United States District Court, Greensboro, North Carolina.

Hendershot, David Lee, 2240 Tacoma Road, Puyallup, Washington, convicted on September 13, 1977, in the Superior Court for the State of Washington, Pierce County, Washington.

Hicks, Jackie Noel, Route 7, Porter Pike, Bowling Green, Kentucky, convicted on February 25, 1975, in the Circuit Court for Warren County, Kentucky.

Hindman, James Henry, Box 291, Bridger, Montana, convicted on April 15, 1971, in the District Court, Fifth Judicial District, County of Hot Springs, Wyoming.

Hooten, Roger D., 2205 Royal Crest Drive, Garland, Texas, convicted on March 24, 1978, in the United States District Court, Dallas, Texas.

Ingle, Donald Lee, 8920 Keller, Detroit, Michigan, convicted on April 5, 1975, in the United States District Court, Eastern District of Michigan.

Jones, Rayburn Gordon, 2004 White Avenue, Nashville, Tennessee, convicted on February 11, 1968, in the Circuit Court for Maury County, Tennessee.

Jordan, Marlon, Ogle, Kentucky, convicted on January 19, 1972, in the Circuit Court for Clay County, Kentucky.

Kochendorfer, Michael, Box 465, Eagle River, Alaska, convicted on June 26, 1968, in the Second Judicial District for Ramsey County, Minnesota.

Lamattina, Nicholas J., 49 Ismay Street, Staten Island, New York, convicted on February 19, 1974, in the Federal Court, Southern District of New York.

Langford, Rudy, 204 Walnut Lane, Bossier City, Louisiana, convicted on June 13, 1977, in the Western Judicial District of Louisiana, Shreveport, Louisiana.

Laughery, Ted, P.O. Box 219, Dallesport, Washington, convicted on May 19, 1964, in the Superior Court for Kuckitat County, Washington.

LeBlanc, Lloyd P., 1505 Woodcrest, Houston, Texas, convicted on December 3, 1974, in the District Court for Harris County, Texas.

Lemond, Ned Barrett, 7132 Ruth Street, Ft. Worth, Texas, convicted on June 10, 1977, in the District Court for Dallas County, Texas.

Leonard, Floyd A., 930 Cimarron, Houston, Texas, convicted in 1929, in Jefferson County, Texas; in 1935 in Liberty County, Texas; and in 1939 in Chambers County, Texas.

Lippoldt, Richard A., Rural Route 1, Box 1G, Towanda, Kansas, convicted on June 30, 1977, in the Sedgwick County Court, Sedgwick, Kansas; and on August 1, 1977, in the United States District Court, Wichita, Kansas.

McCardy, Donald L., 29495 Seaway Court, Mt. Clemens, Michigan, convicted on November 4, 1970, in the Recorders Court, Detroit, Michigan.

McClean, John David, 206 Mercer Avenue, Wilmington, North Carolina, convicted in May of 1941, in the New Hanover Superior Court, Wilmington, North Carolina.

McClure, Edward Emery, 10615 Airline, Baton Rouge, Louisiana, convicted on July 30, 1969, in the Twenty-third Judicial District Court, Ascension Parish, Louisiana.

McGraw, Richard Maurice, 2747 Oak Street, Tuscaloosa, Alabama, convicted on October 26, 1976, in the Sixth Judicial Circuit Court, Tuscaloosa, Alabama.

McVicker, William R., Route 1, Box 418, Laurel, Maryland, convicted on February 18, 1977, in the United States District Court, District of Maryland, Baltimore, Maryland.

Merrix, Tyler E., P.O. Box 88, Pearisburg, Virginia, convicted on October 20, 1966, in the Giles County Circuit Court, Pearisburg, Virginia.

Messer, Bobby Jack, 35 Lark Harbor, Granbury, Texas, convicted on August 23, 1968, in the District Court for Dallas County, Texas.

Moore, Ronald R., 2317 Tradewind Drive, Mesquite, Texas, convicted on February 1, 1963, in Criminal District Court Number Two, Dallas County, Texas.

Morris, Gerald R., 2308 Village North Drive, Richardson, Texas, convicted on March 30, 1978, in the 194th Judicial District Court, Dallas, Texas.

Morrison, Joseph G., 2153 East Shumacher Avenue, Burton, Michigan, convicted on November 24, 1975, in the Circuit Court for Oscoda County, Michigan.

Moss, James C., Jr., 1394 South 50th Street, San Diego, California, convicted on April 12,

1971, in the Superior Court of San Diego, California.

Muersch, George W., 12305 West 159th Street, Lockport, Illinois, convicted on June 10, 1969, in the Circuit Court for Cook County, Illinois.

Munday, Harold A., Jr., Route 1 Box 468, Statesville, North Carolina, convicted on December 13, 1968, in the Rowan County Superior Court, Salisbury, North Carolina.

Myers, Wesley A., Route 2, Clovis, New Mexico, convicted on August 28, 1961, in the 72nd District Court of Lubbock County, Texas.

O'Keefe, Dennis P., 518 West Walnut, River Falls, Wisconsin, convicted on March 19, 1976, in the Pierce County Court, Ellsworth, Wisconsin.

Palmer, Jimmy A., 706 East 18th Street, Apt. 114, Plano, Texas, convicted on February 4, 1975, in the Criminal Court Number Three, Dallas County, Texas.

Parton, Richard Allen, 3199 Ilene Lane, Levittown, New York, convicted on October 1, 1971, in the Supreme Court for Queens County, New York.

Peoples, Kenneth E., 1014½ 42nd Street, Columbus, Georgia, convicted on April 16, 1976, in the Muscogee County Superior Court, Georgia.

Price, Dewey G., Jr., 6000 Ivanhoe, Bartlett, Tennessee, convicted on October 6, 1978, in the United States District Court, Western District of Tennessee.

Raper, Charles, 901 Fairbanks, Iron Mountain, Michigan, convicted on April 16, 1962, in the Oneida County Court, Wisconsin.

Reeves, Cecil E., Jr., 507 West 4th Street, Anderson, Indiana, convicted on December 3, 1976, in the Madison County Circuit Court, Anderson, Indiana.

Reilly, James F., 1724 Queens Lane, Apt. 173, Arlington, Virginia, convicted on March 6, 1978, in the District Court, Arlington County, Virginia.

Richey Robert J., 2171 South Minnesota, Wichita, Kansas, convicted on April 18, 1969, in the District Court, Sedgwick County, Kansas.

Riti, Leo D., 436 Calphness, Riverview, Missouri, convicted on April 5, 1977, in the United States District Court, Eastern District of Missouri.

Rittgarn, Phillip E., East 11303 12th Avenue, Spokane, Washington, convicted in September 1965, in the Cowlitz County Superior Court, Kelso, Washington.

Rizzacasa, Arthur T., 1316 East Hacienda, Apt. A, Las Vegas, Nevada, convicted on July 25, 1966, in the United States District Court, Las Vegas, Nevada.

Ruffini, Robert S., 3551 Crooks Road, Royal Oak, Michigan, convicted on August 17, 1978, in the United States District Court, southern district of Michigan.

Scheets, Melvin L., 22 West "B" Street, Hutchinson, Kansas, convicted on December 18, 1967, in the District Court, Sedgwick County, Kansas.

Scott, Emory C., 1015 West Cherry Street, Walla Walla, Washington, convicted on April 17, 1967, in the Walla Walla County Superior Court, Washington.

Sellick, Reginald L., 4635 Lyndale Avenue North, Minneapolis, Minnesota, convicted on April 3, 1974, in the Ninth Judicial District, Koochiching, Minnesota.

Sheffield, Glen T., 714 Hess, Port Neches, Texas, convicted on January 21, 1976, in the United States District Court, Eastern District of Texas; and on March 15, 1976, in the District Court, Chambers County, Texas.

Shepherd, Steve O., 13829 Rolling Hills Lane, Dallas, Texas, convicted on March 10, 1967, and on July 13, 1970, in the Dallas Criminal District Court, Dallas County, Texas.

Shew, Pete, Route 2, Box 397-A, Wilkesboro, North Carolina, convicted on June 21, 1958, in the United States District Court, Greensboro, North Carolina.

Shipley, Frank E., 1st Signal Training Brigade, Fort Gordon, Georgia, convicted on March 4, 1977, in the District Court, Seward County, Kansas.

Silvia, Joseph M., Jr., 217 Flittner Circle, Thousand Oaks, California, convicted on December 17, 1971, in the Superior Court, Los Angeles County, California.

Sims, Harry R., 3227 Missouri, St. Louis, Missouri, convicted on December 6, 1974, in the United States District Court, Eastern Division of Missouri.

Slater, Herbert A., 120 Pound Hollow Road, Old Brookville, New York, convicted on February 3, 1978, in the United States District Court of Connecticut.

Span, David T., 4483 Brooke Street, Orlando, Florida, convicted on August 24, 1954, in the Circuit Court, Sarasota County, Florida.

Stabak, Robert, 94 Martha Court, North Babylon, New York, convicted on August 6, 1974, in the Supreme Court, Kings County, New York.

Stephens, Kenneth R., 1508 S. Fallinare, Hominy, Oklahoma, convicted on January 20, 1972, in the Oklahoma District Court, Noble County, Oklahoma.

Strifler, Jackie W., 5930 Harrison Lane, Merrillville, Indiana, convicted on September 14, 1967, in the District Court, Riley County, Kansas.

Summers, Henry D., 106 W. Braemere Road, Boise, Idaho, convicted on September 7, 1977, in the United States District Court, Boise, Idaho.

Summitt, Robert D., 3017 Dixon Road, Kokomo, INdiana, convicted on January 31, 1977, in the Superior Court, Howard County, Indiana.

Sweet, Raymond, 1614 17th Street, Yakima, Washington, convicted on September 29, 1938, in Houghton, Michigan.

Thomas, Theodore, A., 5040 South Central Avenue, Phoenix, Arizona, convicted on April 24, 1978, in the United States District Court of Arizona.

Thompson, John O., 510 South Holland Street, Edinburgh, Indiana, convicted on July 14, 1967, in the Bartholomew Circuit Court, Columbus, Ohio.

Thompson, Stephen E., 401-B East Prune Street, Lompoc, California, convicted on March 28, 1967, in the Superior Court, County of San Diego, California; and on November 7, 1972, in the United States District Court, Eastern District of California.

Tinquist, Richard P., 508 16th Avenue West, Grand Rapids, Minnesota, convicted on September 29, 1975, in the United States District Court of Minnesota.

Tucker, Bradley R., 1214 South Newland Court, Lakewood, Colorado, convicted on March 1, 1974, in the United States District Court of Colorado.

VanWey, Archie E., III, Route 2 Box 199-A, Buffalo, Texas, convicted on September 7, 1975, in the District Court, Travis County Texas.

Vaughn, Thomas R., 3813 Stratford Park, Apt. 2, Roanoke, Virginia, convicted on June 28, 1955, in Roanoke, Virginia; and in 1957, in the Hustings Court, Roanoke City, Virginia.

Walden, Robert, 1682-A Lloyd Lane, Anderson, California, convicted on August 29, 1960, in the District Court, Pueblo, Colorado.

Ward, Delbert R., 826 Voss Road, Houston, Texas, convicted on February 16, 1979, in the United States District Court, Eastern District of Louisiana.

Weaver, James E., 1808 Popular, Amarillo, Texas, convicted on February 10, 1977, in the 47th District Court, Potter County, Texas.

Wilkerson, Joseph A., 1717 South East Street, Jacksonville, Illinois, convicted on June 23, 1972, in the United States District Court, Eastern Judicial District of St. Louis, Missouri.

Williams, Joseph T., P.O. Box 138, Taylorsville, Kentucky, convicted on May 10, 1976, in the Shelby County Circuit Court of Kentucky.

York, David W., 4110 East Sharon Drive, Phoenix, Arizona, convicted on September 6, 1963, in the Preble County Superior Court of Ohio.

Compliance With Executive Order 12044

This notice of granting of relief does not meet the Department's criteria for significant regulations as set forth in the Federal Register of November 8, 1978.

Signed: April 21, 1981.

G. R. Dickerson,

Director.

[FR Doc. 81-12471 Filed 4-24-81; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 80
Monday, April 27, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Election Commission	1
Federal Energy Regulatory Commission	2
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Postal Rate Commission	4
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1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, April 30, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjone W. Emmons,
Secretary of the Commission.

[S-658-81 Filed 4-23-81; 2:41 pm]
BILLING CODE 6715-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

Notice of meeting

April 22, 1981.

TIME AND DATE: 10 a.m., April 29, 1981.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—488th Meeting, April 29, 1981, Regular Meeting (10 a.m.)

CAP-1. Project No. 4064, Baker Valley Irrigation District; Project No. 3459, Cascade Waterpower Development Corp.
CAP-2. Project No. 2809, Maine Hydro-Electric Development Corp.
CAP-3. Project No. 4111-000, North Kern Water Storage District
CAP-4. Project No. 1984, Wisconsin River Power Co.
CAP-5. Docket No. ER81-320, Union Electric Co., Interstate Power Co., Iowa Electric Light and Power Co., Iowa-Illinois Gas & Electric Co., Iowa Public Service Co., Iowa Southern Utilities Co. and Northern States Power Co.
CAP-6. Docket ER81-314-000, American Electric Power Service Corp., Consumers Power Co., and Detroit Edison Co.
CAP-7. Docket No. ER81-179-000, Arizona Public Service Co.
CAP-8. Docket No. ER81-199-000, Central Telephone & Utilities Corp., Western Power Division
CAP-9. Docket No. ER81-187-000, Public Service Co. of New Mexico
CAP-10. Docket Nos. E-9469, ER76-377 and ER78-355, Lockhart Power Co.
CAP-11. Docket No. ER76-819, Central Illinois Light Co.
CAP-12. Docket No. E-8851, Alabama Power Co.
CAP-13. Docket No. ER78-194, the Cleveland Electric Illuminating Co.
CAP-14. Docket No. ER80-493, Iowa Public Service Co.
CAP-15. Docket No. ER80-508, Boston Edison Co.

Miscellaneous Agenda—488th Meeting, April 29, 1981, Regular Meeting

CAM-1. Docket No. RM81- , clarification of regulations regarding new onshore production wells
CAM-2. Docket No. SA80-91, Mesa Petroleum Co.
CAM-3. Docket No. GP81- , USGS Casper, Wyoming Section 102, determination, Davis Oil Co., Hay Reservoir No. 10 Well, FERC No. JD80-24269

Gas Agenda—488th meeting, April 29, 1981, Regular Meeting

CAG-1. Docket No. RP81-48-000, Mississippi River Transmission Corp.
CAG-2. Docket No. RP81-49-000, Natural Gas Pipeline Co. of America
CAG-3. Docket No. RP81-50-000, Kansas-Nebraska Natural Gas Co., Inc.
CAG-4. Docket No. RP81-35-001, Michigan Wisconsin Pipe Line Co.
CAG-5. Docket No. CP80-93, et al., and RP81-51-000, Border Gas Co.
CAG-6. Docket No. TA81-2-49-000 (PGA81-2), Montana-Dakota Utilities Co.
CAG-7. Docket No. RP78-77, Mississippi River Transmission Corp.
CAG-8. Docket Nos. CI78-758, CI78-882, CI78-981, CI78-816, CI78-119, CI79-552 and CI79-553, Exxon Corp.
CAG-9. Docket No. CI81-121-000, Diamond Shamrock Corp.; Docket No. CI81-128-000, Pioneer Production Corp.; Docket No. CI81-178-000, Exxon Corp.
CAG-10. Docket No. TC81-21-004, Arkansas Louisiana Gas Co.
CAG-11. Docket No. CP77-428, Transcontinental Gas Pipe Line Corp.
CAG-12. Docket No. CP81-16-000, Southern Natural Gas Co.
CAG-13. Docket No. CP80-451, United Gas Pipe Line Co.
CAG-14. Docket No. CP81-138-000, Mississippi River Transmission Corp.
CAG-15. Docket No. CP80-354, United Gas Pipe Line Co.; Docket No. CP80-363, Alabama-Tennessee Natural Gas Co.
CAG-16. Docket No. CP81-116-000, ANR Storage Co.; Docket No. CP81-225-000, Great Lakes Gas Transmission Co.
CAG-17. Docket No. CP80-331, Southern Union Co.
CAG-18. Docket No. CP80-486, Consolidated Gas Supply Corp.; Docket No. CP80-539, East Tennessee Natural Gas Co.; Docket No. CP81-17-000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-19. Docket No. CP66-110-019, Great Lakes Gas Transmission Co.

Power Agenda—488th Meeting, April 29, 1981, Regular Meeting

I. Licensed Project Matters

P-1. Project No. 2913, Alabama Electric Cooperative, Inc.; Project No. 2918, Municipal Electric Authority of Georgia; Project No. 3016, City of Dothan, Alabama
P-2. Project No. 2402, Upper Peninsula Power Co.
P-3. Docket No. EL78-36, United States Department of the Interior; Project No. 553, City of Seattle, Washington

II. Electric Rate Matters

ER-1. Docket No. EF79-4011, Southwestern Power Administration (system rates)

Miscellaneous Agenda—488th Meeting, April 29, 1981, Regular Meeting

M-1. Reserved
M-2. Reserved
M-3. Docket No. RM81-20, delegation of the Commission's authority to the Directors of Office of Electric Power Regulation, Office of the Chief Accountant, and Office of Pipeline and Producer Regulation
M-4. Docket No. GP80-16, Mid-Louisiana Gas Co.
M-5. Docket No. RA80-1, Ron's Shell Service, Inc.; Docket No. RA80-20, Boland Oil Co.; Docket No. RA80-33, Phillips & Munzell Shell; Docket No. RA80-40, Commodities Exchange Center; Docket No.

RA80–51, Alameda Texaco; Docket No. RA80–61, Westlake Union Service, Inc.; Docket No. RA80–78, Westwood Car Wash; Docket No. RA80–88, Bill's Pershing Mobil; Docket No. RA80–89, Ron's Arco Station; Docket No. RA80–102, Pennant Petroleum Co., Docket No. RA80–114, Tom Harney Oil Co.; Docket No. RA80–125, Super America of Flathead County; Docket No. RA81–13–000, Les Francis Auto Rental, Leasing and Investment; Docket No. RA81–15–000, Raymond A. Lally; Docket No. RA81–21–000, Robert Gregory Enterprises d.b.a. Bubble Machine; Docket No. RA81–31–000, Henry's Gulf; Docket No. RA81–36–000, Diamond Gas & Fuel Co.

Gas Agenda—488th Meeting, April 29, 1981, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. TA81–1–21–001 (PGA81–1, IPR81–1, LFUT81–1, TT81–1 and AP81–1), Columbia Gas Transmission Corp.
RP–2. Docket No. TA81–1–29–002 (PGA61–1, IPR81–1, DCA81–1 and LFUT81–1), Transcontinental Gas Pipeline Corp.
RP–3. Docket No. TA81–1–30–001, Trunkline Gas Co.
RP–4. Docket No. RP81–47, Northwest Pipeline Corp.
RP–5. Docket No. RP78–78, Natural Gas Pipeline Co. of America

II. Producer Matters

CI–1. (a) Docket No. SA80–3, M. H. Marr
CI–1. (b) Docket No. G–3636, Gas Rate Schedule No. 63 Union Texas Petroleum, a division of Allied Chemical Corp. Gas Rate Schedule No. 222, et al, Conoco, Inc.

III. Pipeline Certificate Matters

CP–1. Docket Nos. CP78–340, et al., Trunkline Gas Co., et al.
CP–2. Docket No. CP80–78, Mountain Fuel Supply Co.
CP–3. Docket Nos. TC81–23, et al., Alabama-Tennessee Natural Gas Co., et al.
CP–4. Docket Nos. CP75–227, CP75–154 and CP80–587, Montana-Dakota Utilities Co.; Docket No. CP75–57, Kansas-Nebraska Natural Gas Co., Inc.; Docket No. CP80–348, Northern Utilities, Inc.

Kenneth F. Plumb,

Secretary.

[S–656–81 Filed 4–23–81; 10:39 am]

BILLING CODE 6450–85–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

April 22, 1981.

TIME AND DATE: 2 p.m., Wednesday, April 29, 1981.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following:

2. Consolidation Coal Company Petition for Discretionary Review (Issues include interpretation and application of § 303(b) of the 1977 Mine Act.)
3. Evansville Materials Petition for Discretionary Review (Issues include interpretation and application of 30 CFR § 56.9–2.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–657–81 Filed 4–23–81; 2:09 pm]

BILLING CODE 6820–12–M

4

POSTAL RATE COMMISSION.

[BAC 7715–01–M]

TIME AND DATE: 3:30 p.m., Tuesday, April 28, 1981.

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel matters. [Closed pursuant to 5 U.S.C. § 552b(c)(2)(6)].

CONTACT PERSON FOR MORE INFORMATION: D. Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–660–81 Filed 4–23–81; 3:59 pm]

BILLING CODE 7715–01–M

5

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., April 30, 1981.

PLACE: Board Room, Room 2–500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

This is an amendment to the Federal Register notice of April 22, 1981 changing the order of the matters to be considered by the Board and adding an item to consider financial and proprietary data of the Delaware & Hudson Railway Co..

Portions closed to the public (9 a.m.):

1. Consideration of internal personnel matters.
2. Litigation report.
3. Review of Delaware and Hudson proprietary and financial information.
4. Review of Conrail proprietary and financial information.

Portions open to the public (10 a.m.):

5. Approval of minutes of March 21 Board of Directors meeting.
6. Consideration of Delaware and Hudson drawdown request.
7 Consideration of Conrail drawdown request.
8. Conrail monitoring.
9. Contract actions.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow (202) 426–4250.

[S–659–81 Filed 4–23–81; 2:59 pm]

BILLING CODE 8240–01–M

federal register

Monday
April 27, 1981

Part II

Department of the Interior

Bureau of Land Management

Outer Continental Shelf, Central and Northern California; Leasing System and Oil and Gas Lease Sale No. 53 (Partial Offering)

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf

Central and Northern California

Oil and Gas Lease Sale No 53
(Partial Offering)

1 Authority This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U S C 1331-1343), as amended, (92 Stat 629), and the regulations issued thereunder (43 CFR Part 3300)

2 Filing of Bids Sealed bids will be received by the Manager, Pacific Outer Continental Shelf (OCS) Office, Bureau of Land Management, 1340 West 6th Street, Room 200, Los Angeles, California 90017 Bids may be delivered, either by mail or in person, to the above address until 4:00 p m , p s t , May 27, 1981; or by personal delivery to the Anaheim Convention Center, Santa Ana Room, 800 West Katella Avenue, Anaheim, California 92802 between the hours of 8:30 a m , p s t and 9:30 a m , p s t., May 28, 1981 Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a m , p s t , May 28, 1981. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300 The list of restricted joint bidders which applies to this sale was published in 46 FR 22270; April 16, 1981.

3. Method of Bidding A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a m , p s t , May 28, 1981," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management No bid for less than a full tract as described in paragraph 12 will be considered Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316 The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300 Appendix B Other documents may be required of bidders under 43 CFR 3316 4 Bidders are warned against violation of 18 U S C. 1860, prohibiting unlawful combination or intimidation of bidders

4 Bidding Systems All leases awarded for this sale will provide for a yearly rental or a minimum annual royalty payment of $8 per hectare or fraction thereof The following systems will be utilized

(a) Bonus Bidding with 33-1/3 percent Royalty Bids on tracts 53-138, 53-142, 53-145, 53-146, 53-149, 53-150, 53-151, 53-153, 53-154, 53-155, 53-159, 53-160, 53-161, 53-235, 53-236 and 53-239 must be on a cash bonus basis with a fixed royalty of 33-1/3 percent

(b) Bonus Bidding with a Fixed Sliding Scale Royalty Bids on tracts 53-185, 53-186, 53-192, 53-193, 53-197, 53-198, 53-199, 53-202, 53-203, 53-204, 53-205, 53-208, 53-209, 53-211, 53-212, 53-213, 53-214, 53-215, 53-216, 53-217, 53-218, 53-219, 53-220, 53-221, 53-222, 53-223, 53-224, 53-225, 53-226, 53-227, 53-228, 53-229, 53-231, 53-232, 53-233 and 53-234 must be submitted on a cash bonus basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter For purposes of

determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250 64

The fixed sliding scale formula operates in the following way; when the quarterly value of production, adjusted for inflation, is less than or equal to $14.787863 million, a royalty of 16 66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $14 787864 million, but less than or equal to $1197 206141 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 11 0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3 25

When the adjusted quarterly value of production is equal to or greater than $1197.206142 million, a royalty of 65 00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production Thus, in no instance will the quarterly royalty due exceed 65 00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 17 10773 percent) This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i e , the nearest dollar (for example, 15 392847 millions of dollars)

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U S Department of Commerce The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index

Figure 1
Form of the Sliding Royalty Schedule

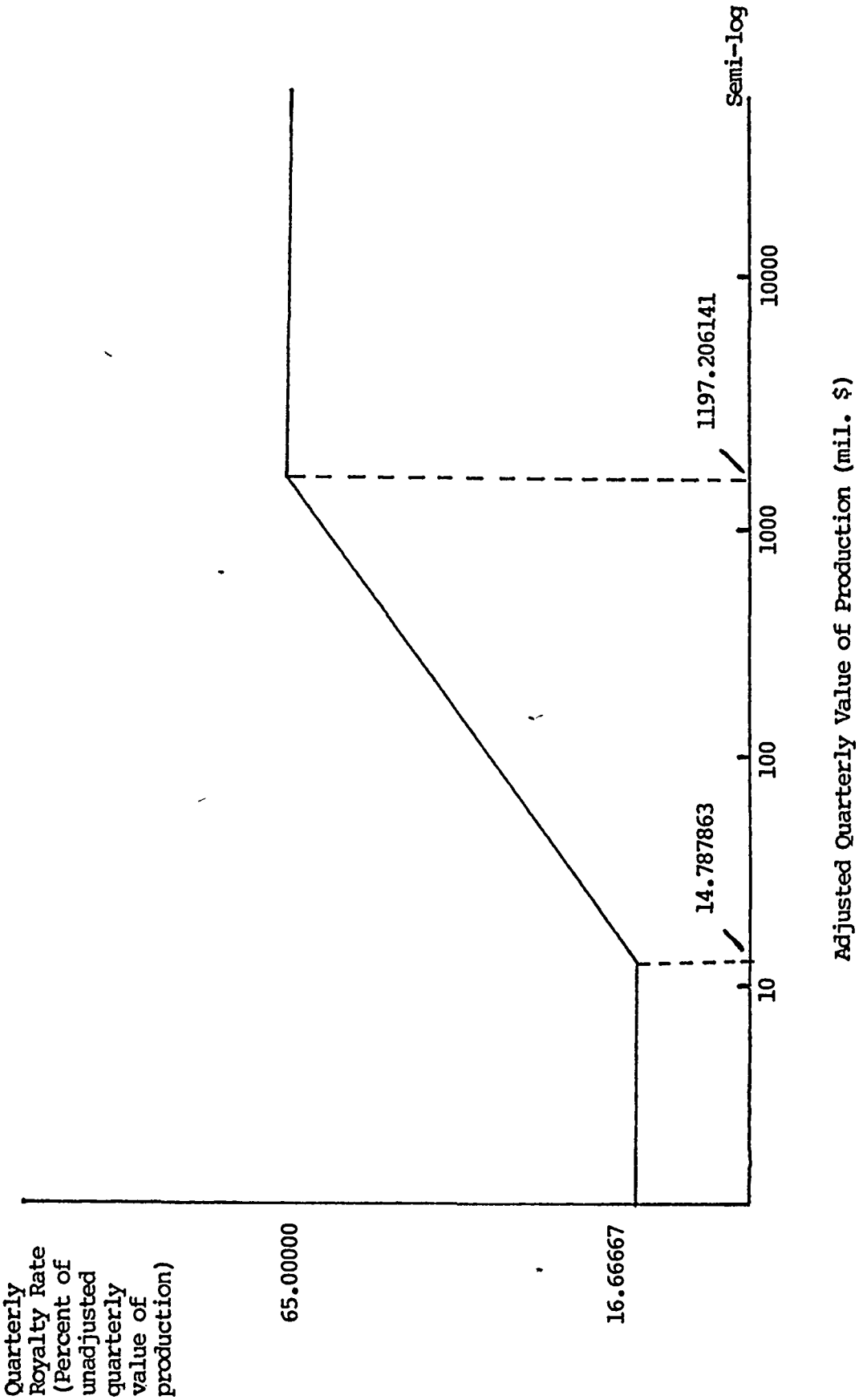

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10 000000	200 0	4/3	7 500000	16 66667	1 666667
30 000000	200 0	4/3	22 500000	21 28346	6.385039
90 000000	200 0	4/3	67.500000	33 36819	30 031378
270 000000	200 0	4/3	202.500000	45 45293	122.722921
810 000000	200 0	4/3	607.500000	57.53767	466.055118
10 000000	250 0	5/3	6.000000	16 66667	1.666667
30.000000	250.0	5/3	18.000000	18 82888	5 648665
90.000000	250.0	5/3	54.000000	30 91362	27 822257
270.000000	250.0	5/3	162 000000	42 99835	116.095557
810.000000	250 0	5/3	486.000000	55.08308	446.173028

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent

5 Equal Opportunity Each bidder must have submitted by 9:30 a m , p s t , May 28, 1981, the certification required by 41 CFR 60-1 7(b) and Executive Order No 11246 of September 24, 1965, as amended by Executive Order No 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971) See Item 14, "Information to Lessees "

6 Bid Opening Bids will be opened on May 28, 1981, beginning at 10:00 a m , p s t , at the address stated in paragraph 2 The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time If the Department is prohibited for any reason from opening any bid before midnight, May 28, 1981, that bid will be returned unopened to the bidder, as soon thereafter as possible

7 Deposit of Payment Any cash, cashier's checks, certified checks or bank drafts submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States

8 Withdrawal of Tracts The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids The United States reserves the right to reject any and all bids for any tract In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316 5

11 Official Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Manager, Pacific Outer Continental Shelf Office at the address stated in paragraph 2, at a cost of $2 00 each:

NI 10-3	San Luis Obispo
NI 10-6	Santa Maria

12 Tract Descriptions The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed Four of the blocks identified in the Proposed Notice of Sale have been combined with adjacent blocks in order to establish more efficient leasing units Some of the blocks identified in the final environmental statement may not be included in this notice for various reasons, including the reason that this is only a partial offering of OCS Sale 53 tracts proposed for leasing Some or all of the remainder of the OCS Sale 53 tracts proposed for leasing may be offered for leasing at a later time, to complete the OCS Sale 53 lease-sale process

OCS Official Protraction Diagram, San Luis Obispo, NI 10-3

(Approved March 26, 1976)

Tract	Block	Description	Hectares
53-129	589	All	2304 00
53-130	590	All	2304 00
53-131	591	All	2304 00
53-132	633	All	2304 00
53-133	634	All	2304.00
53-134	635	All	2304 00
53-135	677	All	2304 00
53-136	678	All	2304 00
53-137	679	All	2304 00
53-138	680	1/	1524 97
53-139	721	All	2304 00
53-140	722	All	2304 00
53-141	723	All	2304 00
53-142	724, 725	1/	1864 61
53-144	767	All	2304 00
53-145	768	All	2304 00
53-146	769, 770	1/	1206 60
53-148	811	All	2304 00
53-149	812	All	2304 00
53-150	813	All	2304 00
53-151	814	1/	1663 03
53-152	855	All	2304 00
53-153	856	All	2304 00
53-154	857	All	2304 00
53-155	858	All	2304 00
53-156	897	All	2304 00
53-157	898	All	2304 00
53-158	899	All	2304 00
53-159	900	All	2304 00
53-160	901	All	2304 00
53-161	902	All	2304 00
53-162	941	All	2304 00
53-163	942	All	2304 00

1/ That portion seaward of the three geographical mile line

Official Protraction Diagram, San Luis Obispo, NI 10-3 continued

(Approved March 26, 1976)

Tract	Block	Description	Hectares
53-164	943	All	2304 00
53-165	944	All	2304 00
53-166	945	All	2304 00
53-167	946	All	2304 00
53-168	947	All	2304 00
53-169	985	All	2304 00
53-170	986	All	2304 00
53-171	987	All	2304 00
53-172	988	All	2304 00
53-173	989	All	2304 00
53-174	990	All	2304 00
53-175	991	All	2304 00

OCS Official Protraction Diagram, Santa Maria, NI 10-6

(Approved March 26, 1976)

Tract	Block	Description	Hectares
53-176	16	All	2304 00
53-177	17	All	2304 00
53-178	18	All	2304 00
53-179	19	All	2304 00
53-180	20	All	2304 00
53-181	21	All	2304 00
53-182	22	All	2304 00
53-183	61	All	2304 00
53-184	62	All	2304 00
53-185	63	All	2304 00
53-186	64	All	2304 00
53-187	65	All	2304 00
53-188	66	All	2304 00
53-189	67	All	2304 00
53-190	105	All	2304 00
53-191	106	All	2304 00

OCS Official Protraction Diagram, Santa Maria, NI 10-6 continued

(Approved March 26, 1976)

Tract	Block	Description	Hectares
53-192	107	All	2304 00
53-193	108	All	2304 00
53-194	109	All	2304 00
53-195	110	All	2304 00
53-196	111	All	2304 00
53-197	150	All	2304 00
53-198	151	All	2304 00
53-199	152	All	2304 00
53-200	153	All	2304 00
53-201	154	All	2304 00
53-202	155	All	2304 00
53-203	156	1/	2245 37
53-204	195	All	2304 00
53-205	196	All	2304 00
53-206	197	All	2304 00
53-207	198	All	2304 00
53-208	199	All	2304 00
53-209	200, 201	1/	2062 55
53-211	239	All	2304 00
53-212	240	All	2304 00
53-213	241	All	2304 00
53-214	242	All	2304.00
53-215	243	All	2304.00
53-216	244	All	2304 00
53-217	245	1/	917 10
53-218	283	All	2304.00
53-219	284	All	2304 00
53-220	285	All	2304 00
53-221	286	All	2304 00
53-222	287	All	2304 00
53-223	288	All	2304 00
53-224	289	1/	719 12
53-225	328	All	2304.00
53-226	329	All	2304.00
53-227	330	All	2304 00
53-228	331	All	2304 00
53-229	332, 333	1/	1984 93
53-231	373	All	2304 00
53-232	374	All	2304 00
53-233	375	All	2304 00
53-234	376	1/	1761 43
53-235	418	All	2304 00

1/That portion seaward of the three geographical mile line

OCS Official Protraction Diagram, Santa Maria, NI 10-6 continued

(Approved March 26, 1976)

Tract	Block	Description	Hectares
53-236	419	All	2304 00
53-237	420	1/	2277 34
53-238	421	1/	738 55
53-239	463	1/	2190 91
53-240	464	1/	2076 54
53-241	465	1/	1960 64
53-242	466	1/	1625 27
53-243	467	1/	883 85

1/ That portion seaward of the three geographical mile line.

13 Lease Terms and Stipulations All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, Pacific Outer Continental Shelf Office, at the address stated in paragraph 2

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec 6 Royalty on Production (a) The lessee agrees to pay the lessor royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows When the quarterly value of production, adjusted for inflation, is less than or equal to $14 787863 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $14 787864 million, but less than or equal to $1197 206141 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 11.0$

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

$S = 3.25$

When the adjusted quarterly value of production is equal to or greater than $1197.206142 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 17 10773 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i e., to the nearest dollar (for example, 15 392847 millions of dollars) Gas of all kinds (except helium) is subject to royalty The lessor shall determine whether production royalty shall be paid in amount or value

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale In the following stipulations the term DCMOFO refers to the Pacific Area Deputy Conservation Manager, Offshore Field Operation of the Geological Survey and the term Manager refers to the Manager of the Pacific OCS Office of the Bureau of Land Management

Stipulation No. 1

(a) If the DCMOFO has reason to believe that biological populations or habitats exist and require protection, he shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements Prior to any drilling activity or the construction or placement of any structure for exploration or development on lease areas including, but not limited to, well drilling and pipeline and platform placement hereinafter referred to as "operation," the lessee shall conduct site specific surveys as approved by the DCMOFO and in accordance with prescribed biological survey requirements to determine the existence of any special biological resource including, but not limited to:

(1) Very unusual, rare, or uncommon ecosystems or ecotones

(2) A species of limited regional distribution that may be adversely affected by any lease operations

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DCMOFO, on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist The DCMOFO will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operations. The lessee may take no action until the DCMOFO has given the lessee written directions on how to proceed

(b) The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCMOFO, and make every reasonable effort to preserve and protect the biological resource from damage until the DCMOFO has given the lessee directions with respect to its protection

Stipulation No. 2

If the DCMOFO, having reason to believe that a site, structure or object of historical or archaeological significance, hereinafter referred to as a "cultural resource," may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements.

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCMOFO and the Manager for review

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCMOFO and the Manager for their review Should the DCMOFO determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCMOFO has given directions as to its preservation

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DCMOFO has given directions as to its preservation

Stipulation No. 3

(a) To be included in any lease resulting from this sale for tracts:

53-156, 53-157, 53-158, 53-159, 53-162, 53-163, 53-164, and 53-165.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portion of this lease block unless or until the lessee has demonstrated to the DCMOFO's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all such unstable areas must be mapped. The DCMOFO may also require soil testing before exploration and production operations are allowed.

(b) To be included in any lease resulting from this sale for tracts:

53-226, 53-227, 53-228, 53-231, 53-232, 53-233, 53-235, 53-236, 53-237, and 53-239.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas or emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DCMOFO's satisfaction that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of submarine canyons or channels, either within or outside of this lease block.

If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all such unstable areas must be mapped. The DCMOFO may also require soil testing before exploration and production operations are allowed

(c) To be included in any lease resulting from this sale for tracts:

53-131, 53-138, 53-142, 53-146, 53-150, 53-151, 53-155, 53-161, 53-168, 53-175, 53-182, 53-189, 53-196, 53-203, 53-209, and 53-217

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas and the emplacement of pipelines will not be allowed in the vicinity of a fault until the lessee has demonstrated to the DCMOFO's satisfaction that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case fault movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of potential fault movement, either within or outside of this lease block.

If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for active faulting. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all fault zones must be mapped The DCMOFO may also require soil testing before exploration and production operations are allowed

Stipulation No. 4

(a) The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with instructions from the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency. Such coordination and instruction will provide for positive control of boats and aircraft operating in the warning areas at all times

(b) The lessee, recognizing that mineral exploration and exploitation and recovery operations of the leased areas of submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lessee under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel, and appropriate sheltering of personnel not evacuated (an appropriate shelter shall mean the protection of all lessee personnel for the entire duration of any Department of Defense activity from flying or falling objects or substances), will come into effect upon the order of the DCMOFO, after consultation with the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency, or higher authority, when national security interests necessitate such action It is understood that any temporary suspension of operations for national security may not exceed seventy-two hours; however, any such suspension may be extended by order of the DCMOFO. During such periods equipment may remain in place.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), or other appropriate military agency, to the degree necessary to prevent damage to, or unacceptable

interference with Department of Defense flight, testing or operations activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities

Stipulation No. 5

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U S Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Western Space and Missile Center (WSMC), the Pacific Missile Test Center (PMTC), or other appropriate military agency.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise

Stipulation No. 6.

a) Pipelines will be required: 1) if pipeline rights-of-way can be determined and obtained; 2) if laying of such pipelines is technologically feasible and environmentally preferable; and 3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local governments and the industry.

b) Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DCMOFO

c) Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Port and Tanker Safety Act of 1978 (PL 95-474).

Stipulation No. 7

(a) Wells Subsea well heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible, in such a manner as to allow commercial trawling gear to pass over the structure without snagging or otherwise damaging the structure or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DCMOFO The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ±50 feet (15 25 meters) at 200 miles (322 kilometers).

(b) Pipelines All pipelines, unless buried, including gathering lines, shall have a smooth surface design In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other structures, those irregular surfaces shall be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear

Stipulation No. 8

The lessee shall include in his exploration and development plans, submitted under 30 CFR 250 34, a proposed fisheries training program for review and approval by the DCMOFO. The training program shall be for the personnel involved in vessel operations (related to offshore exploration and development and production operations), and platform and shorebased supervisors The purpose of the training program shall be to familiarize persons working on the project of the value of the commercial fishing industry, the methods of offshore fishing operations, the potential conflicts between fishing operations and offshore oil and gas activities, the locations of marine mammal and bird rookery sites in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment and injury The program shall be formulated and implemented by qualified instructors

Stipulation No. 9

To be included only in the leases resulting from this sale for the 33-1/3 percent royalty tracts and the fixed sliding scale royalty tracts identified in paragraph 4(a) and 4(b) of this notice

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250 21). The Director, U S Geological Survey, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16-2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

Stipulation No. 10

This stipulation shall be effective for each tract to which it applies only if the Secretary of the Interior and the Governor of the State of California, prior to the approval of a development and production plan for that tract by the Department of the Interior, enter into an agreement pursuant to section 8(g) of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. section 1337(g). If such agreement has been entered into, this stipulation is to be applied to leases resulting from this sale for the following tracts: 53-130, 53-131, 53-134, 53-137, 53-138, 53-141, 53-142, 53-144, 53-145, 53-146, 53-149, 53-150, 53-151, 53-154, 53-155, 53-189, 53-196, 53-202, 53-203, 53-208, 52-209, 53-215, 53-216, 53-217, 53-222, 53-223, 53-224, 53-228, 53-229, 53-233, 53-234, 53-236, 53-237, 53-238, 53-240, 53-241, 53-242, and 53-243

(1) No producing well may be drilled where the well bore in the producing intervals is closer to the seaward boundary of the State of California than the distance agreed to between the State and the Department based on analysis of pertinent site-specific data, except that in no event shall the agreed distance be further than 750 feet from the seaward boundary of the State In the absence of an agreed distance, no well shall be drilled closer than 500 feet to the seaward boundary of the State

(2) The constraint in paragraph (1) shall not apply:

(a) If oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of California are included in a production unit entered into by the relevant lessees and approved by the lessors, or in a production unit entered into by the Federal lessee and the State of California when it is a carried, non-operating owner.

(b) If, in the absence of a production unit as described in (a) above, the State of California permits production from State lands from a point closer than 750 feet from the Federal-State boundary. In the event that such production from State lands does occur, the Federal lessee shall be allowed to produce from offset wells equally close to the boundary in the area of Federal jurisdiction.

14 Information to Lessees The Department of the Interior will seek the advice of the State of California and other Federal agencies to identify areas of special biological or cultural resources

Bidders are advised that the Department of Energy is authorized, under Section 302(b) & (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U S C. 1221 et seq). Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines Bidders should consult both Departments for regulations applicable to offshore pipelines

Bidders are also advised that in accordance with Sec 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with a different royalty rate

To reduce the impacts of aircraft disturbances at seabird colonies and marine mammal rookeries along the coast, a distance of at least one mile from the coastline and an altitude of 1,000 feet should be maintained, consistent with aircraft safety, from specific areas to be identified by the DCMOFO The lessee is advised that all violations may be reported to the U S Fish and Wildlife Service, National Marine Fisheries Service, or the California Department of Fish and Game, as appropriate, for disposition

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been assigned a deferred effective date of April 29, 1981, pending review of those regulations (see Federal Register of January 28, 1981, at 46 F.R. 9084) Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale In addition, existing stocks of the Affirmative Action Forms described in section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1 5(a)(1) and 60-1 7(a)(1) regarding the aggregate value of contracts over a 12-month period (see the Federal Register of December 30, 1980, at 45 F.R. 86231-86232)

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms

Notice is hereby given that portions of tracts, 53-131, 53-134, 53-137, 53-138, 53-141, 53-142, 53-145, 53-146, 53-150, 53-151, 53-154, 53-155, 53-175, 53-181, 53-182, 53-185, 53-186, 53-187, 53-188, 53-189, 53-192, 53-193, 53-194, 53-195, 53-196, 53-199, 53-200, 53-201, 53-205, 53-206, 53-207, 53-208, 53-209, 53-212, 53-213, 53-214, 53-215, 53-216, 54-219, 53-221, 53-222, 53-223, 53-224, 53-227, 53-228, 53-229, 53-232, 53-233, 53-234, 53-235, 53-236, 53-237, 53-238, 53-239, 53-240, 53-241, and 53-242 may contain a shallow "bright spot" seismic amplitude anomaly which may be indicative of a shallow gas deposit Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless or until the lessee has demonstrated to the Deputy Conservation Manager's (DCMOFO) satisfaction that a potentially hazardous accumulation of shallow gas does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed or drilling plans designed to assure safe operations in the area above the anomaly. This may necessitate that all exploration for and development of oil and gas be performed from locations outside the area of concern, either within or outside this lease block

In implementing stipulation 8, the DCMOFO will require that training programs include the locations of marine mammal and bird rookery sites in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment and injury.

15 OCS Orders Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Pacific Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Ed Hunter
Director, Bureau of Land Management
ACTING

Approved: APR 21 1981

Donald Paul Hodel
Under Secretary of the Interior

[FR Doc. 81-12454 Filed 4-24-81; 8:45 am]
BILLING CODE 4310-84-C

4310-84

United States
Department of the Interior
Bureau of Land Management

Outer Continental Shelf, Central and Northern California

Notice of Leasing Systems, Sale No 53
(Partial Offering)

Sec 8(a)(8) (43 U S C 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation

This notice is published pursuant to these requirements

A. Bidding systems to be used In OCS Sale No 53, tracts will be offered under the following three bidding systems as authorized by Sec 8(a)(1) (43 U S C 1337 (a)(1)): (1) bonus bidding with fixed 33 1/3 percent royalty on 16 tracts, (2) bonus bidding with a sliding scale royalty on 36 tracts, and (3) bonus bidding with a fixed 16 2/3 percent royalty on 59 tracts

(1) Bonus Bidding with 33 1/3 Percent Royalty. This system is authorized by Sec 8(a)(1)(A) of the OCS Lands Act, as amended This higher royalty system was first tested in OCS Sale 35 held December 11, 1975, and used again in Sale 40 held August 17, 1976, Sale A62 held September 30, 1980, and Sale 62 held November 10, 1980 This system is designed to reduce the bonus bids as a result of the high royalty rates and thereby may increase competition for these leases Our simulation analysis for the tracts selected indicates that the assignment of the high royalty rates has a small effect on production decisions and therefore on the amount of oil and gas extracted The testing of this system will permit an analysis of the effect on competition which must be balanced with the slight risks of making production less economic

(2) Bonus Bidding with Sliding Scale Royalty This system is authorized by Sec (8)(a)(1)(c) of the OCS Lands Act, as amended The use of the sliding scale royalty system was introduced in OCS Sale 43 (March 28, 1978) and used again in the last 12 OCS lease sales

The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates As such, the expected bonus is reduced compared to a fixed one-sixth royalty system This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production The sliding scale formula provided for Sale 53 is based on the current assumed range of costs and wellhead prices for this area

The sliding scale used in Sales #43 and #45 was linear in form. Although this form is easy to describe it has three disavantages which may affect the socially optimal level of production At certain levels of production, a linear schedule causes erratic fluctuations in the royalty charged on increments in output which may lead producers to make socially non-optimal production decisions in order to minimize these royalty impacts on net revenues Marginal royalty rates also can reach very high levels even though the average rates are low In addition, because production costs are non-linear it can be shown that the royalty rate schedule should conform more closely to the functional form of these costs in order to minimize production losses from non-development of otherwise profitable tracts

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $14 787863 million, a royalty of 16 66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production When the adjusted quarterly value of production is equal to or greater than $14 787864 million, but less than or equal to $1197 206141 million, the royalty percent due on the unadjusted value is given by the formula

$$Rj = b(Ln\ (Vj/S))$$

Where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 11 0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3 25

When the adjusted quarterly value of production is equal to or greater than $1197 206142 million, a royalty of 65 00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production Thus, in no instance will the quarterly royalty due exceed 65 00000 percent in amount or value of quarterly production saved, removed or sold

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be modified to account for the effects of inflation by dividing the actual value of production by an inflation correction factor The inflation correction factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease The GNP fixed weighted price index is published monthly in the "Survey of Current Business," by the Bureau of Economic Analysis, U S Department of Commerce The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold

(3) Bonus Bidding with a 16 2/3 Percent Royalty. This system is authorized by Sec 8(a)(1)(A) of the OCS Lands Act, as amended This relatively low royalty rate system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee, but may yield more rewards (i e , lower contingency payments to the government) if a commercial field is discovered The relatively high front-end payments required may encourage rapid exploration The use of this system will provide data to compare the performance of the alternative systems

B. Designation of Tracts. The selection of tracts to be offered under the three systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field

(2) A sufficient number of tracts was needed to permit valid statistical analysis while limiting the risks of losses caused by unforeseen problems which could arise in the use of any new bidding system The number of tracts must also be consistent with the requirements of Sec 8(a)(5)(B) of the OCS Lands Act, as amended

(3) The range and distribution of the characteristics of tracts were to be comparable for statistical purposes Such characteristics include estimated resources, water depth, structure depth, favorable vs unfavorable location of tracts on structures, and the location of tracts across trends

The specific tracts to be offered under each system are as follows:

(a) Bonus Bidding with 33 1/3 Royalty--Tracts 53-138, 53-142, 53-145, 53-146, 53-149, 53-150, 53-151, 53-153, 53-154, 53-155, 53-159, 53-160, 53-161, 53-235, 53-236, and 53-239

(b) Bonus Bidding with Sliding Scale Royalty--Tracts 53-185, 53-186, 53-192, 53-193, 53-197, 53-198, 53-199, 53-202, 53-203, 53-204, 53-205, 53-208, 53-209, 53-211, 53-212, 53-213, 53-214, 53-215, 53-216, 53-217, 53-218, 53-219, 53-220, 53-221, 53-222, 53-223, 53-224, 53-225, 53-226, 53-227, 53-228, 53-229, 53-231, 53-232, 53-233, and 53-234

(c) Bonus Bidding with 16 2/3 Percent Royalty--All remaining tracts

Ed Hastey
Director, Bureau of Land Management
ACTING

Approved: APR 21 1981

Donald Paul Hodel
Under Secretary of the Interior

[FR Doc. 81-12455 Filed 4-24-81; 8:45 am]
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federal register

Monday
April 27, 1981

Part III

Environmental Protection Agency

Agenda of Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. 1

[AS FRL #1809-8]

Agenda of Regulations

AGENCY: Environmental Protection Agency.

ACTION: Agenda of regulations.

SUMMARY: The Agency periodically published an Agenda of Regulations which summarizes important regulations under development. The purpose is to keep interested parties informed of the progress of these regulations. The Agenda includes new regulations and existing regulations which the Agency is reviewing or revising. It also includes an appendix with additional information on EPA regulations.

FOR FURTHER INFORMATION CONTACT: For information on a regulation in the Agenda, please contact the person whose name is listed next to the regulation.

If you have suggestions for improving this publication, or need general information about the Agenda, please call or write to David Sahr, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C., 20460, (202) 287-0776.

If you want to be on the mailing list for the Agenda of Regulations, please call or write to Penelope Parker, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C. 20460, (202) 287-0783.

SUPPLEMENTARY INFORMATION:

Background

On February 17, President Reagan issued Executive Order 12291 on "Federal Regulation," which appeared in the Federal Register on February 19, 1981, 46 FR 13193. This Order revoked Executive Order 12044 on "Improving Government Regulations" and established new procedures that executive agencies must follow in developing their regulations. The Order requires that EPA issue a semi-annual Agenda of Regulations identifying regulations under development or review. Under the Regulatory Flexibility Act of 1980, the Agenda must identify regulations that are likely to have a significant impact on a substantial number of small entities. Both Executive Order 12291 and the Act require that EPA publish its Agenda in October and April every year. EPA published its most recent Agenda of Regulations on January 14, 1981, 46 FR 3408.

Executive Order 12291 on Federal Regulation

Section 5 of Executive Order 12291 requires that EPA publish a semi-annual Agenda of Regulations covering both proposed rules under development and existing rules under review. The Agenda must contain at the minimum:

(1) A summary of the nature of each major rule being considered, the objectives of and legal basis for issuing the rule, and an approximate schedule for completing action on any major rule for which the agency has issued a notice of proposed rulemaking;

(2) The name and telephone number of a knowledgeable agency official for each item on the Agenda; and

(3) A list of existing regulations to be reviewed under the terms of the Order, and a brief discussion of each of these regulations.

The Order also gives the Director of the Office of Management and Budget (OMB) the authority to require additional information on regulations in the Agenda and to change the format information on regulations in the Agenda and to change the format of the Agenda. OMB has not yet given EPA guidance on any changes be be made in the Agenda.

Existing regulations to be revised under Executive Order 12291 are identified below in the section entitled "Vice President's Task Force on Regulatory Relief."

Classification of Regulations Under Executive Order 12291

Executive Order 12291 adopts a broader definition of "rule" than the one that EPA has previously used to determine what items should be included in the Agenda. Section 1 defines "rule" or "regulation" as an agency statement of general applicability and future effect designed either (a) to implement, interpret, or prescribe law or policy or (b) to describe the procedure or practice requirements of an agency. Under the new definition, "rule" does not include either:

1. Administrative actions governed by sections 556 and 557 of Title 5 of the U.S. Code; or

2. Regulations relating to agency organization, management, or personnel.

This definition of rule thus includes EPA actions such as some guidance documents and policy statements. The Pollution Control Guidance Documents (PCGD) for the synthetic fuel industry that appear in the appendix to this Agenda are examples of EPA actions that will be covered by the Order and will appear in the Agenda from now on.

Executive Order 12291 adopts a new and substantially different classification system from that previously used by the Agency in past Agendas. Under 12291, "major" means any rule likely to result in:

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

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

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

Section 3 of the Order requires that agencies prepare and consider a Regulatory Impact Analysis in connection with all major rules.

The Agency has classified the regulations in the Agenda to reflect the Order's definition of "major," based on our best current estimates of the likely impact of the regulations. Regulations that do not meet the criteria for "major" are labeled "other." Since all regulations classified as major must have a Regulatory Impact Analysis, this Agenda does not include the separate designation of "Regulatory Analysis" used in past Agendas.

Vice President's Task Force on Regulatory Relief

The Vice-President's Task Force on Regulatory Relief is reviewing major Federal regulations to determine whether some of them should be revised. The Task Force has asked EPA to reassess several existing regulations under the review procedures outlined in Executive Order 12291. EPA has begun to review each of the regulations listed below.

Best Conventional Pollutant Control Technology. CWA 301, 304. 40 CFR Parts 405-409, 411, 412, 418, 422, 424, 426, 427, 432. These rules set limits beyond Best Practicable Technology for discharge of conventional pollutants into navigable waters.

Hazardous Waste Disposal Program. RCRA 3001, 3002. 3003, 3004. 40 CFR Parts 122-124, 260-267 These rules regulate the generation, handling, transportation, treatment, storage and disposal of hazardous wastes.

General Pretreatment Regulations. CWA 301, 304, 307. 40 CFR Part 403. These rules control the discharge from industrial sources into publicly owned treatment works (POTW). This review also entails some consideration of the related *Electroplating Pretreatment Regulations.* CWA 307 40 CFR Part 413.

These rules limit the discharge of toxic metals from electroplating operations into publicly owned treatment works (POTW).

EPA is also revising several regulations in order to reduce the regulatory burden on the United States automobile industry. These actions appear in the appendix to this Agenda.

Freeze on Regulations

On January 29, 1981, President Reagan declared a sixty day freeze on final regulations. The freeze applied both to new regulations and to the effective date of regulations promulgated before the freeze but which had not yet become effective as of January 29. The freeze applied to all EPA regulations except for certain actions such as pesticide tolerances. These actions were exempted from the freeze after consultation with OMB.

Some regulations that appeared in EPA's Agenda were delayed by the freeze. The following regulations became effective on March 30, 1981, when the freeze ended:

Guidelines for Specification of Disposal Sites for Dredged or Fill Material. SAN 1455. 40 CFR Part 230. Final Rule: 45 FR 85336 (12/24/80).

Assessing the Environmental Effects of EPA Actions Abroad. SAN 1565. 40 CFR Part 6 Subpart J. Final Rule: 46 FR 3364 (1/14/81).

Regional Consistency. SAN 1331. 40 CFR Part 56. Final Rule: 45 FR 85400 (12/24/80).

In addtion, the Task Force on Regulatory Relief has asked EPA to postpone further the effective date of two recently-promulgated regulations that were held up in the freeze. They are:

Amendments to General Pretreatment Regulations. SAN 1502. CWA 307 40 CFR Part 403. Final Rule: 46 FR 9404 (1/28/81).

Effluent Guideline for Timber Products. SAN 1407 CWA 301, 304, 306, 307, 501. 40 CFR Part 429. Final Rule: 46 FR 8260 (1/26/81). EPA is reviewing the BCT controls for the wetprocess hardboard and insulation board subcategories. BPT and other parts of this regulation became effective on or before March 30, 1981.

Withdrawal of Inactive Proposals

On March 19, 1981, 46 FR 17567, EPA withdrew several inactive proposals for regulations that had been issued before January 1, 1979. Two of those regulations were listed in previous Agendas and are now being deleted from this Agenda: (1) Environmental Criteria for Radioactive Waste and (2) Control of Organic Contaminants in Drinking Water by Granular Activated Carbon System. The other regulations consisted of proposed pretreatment and other standards that were issued in 1974–1976 under the Clean Water Act for 18 different industries. Because of their inactive status, they were not listed in recent EPA Agendas. The complete list of withdrawn proposals appears in the appendix to this Agenda.

Regulatory Flexibility Act

On September 19, 1980, the Regulatory Flexibility Act (Pub. L. No. 96–354) became law. This law requires that Federal agencies take into account the impact of their regulations on "small entities," including small businesses, small governmental jurisdictions and other small organizations. Section 602 of the Act (5 U.S.C. 602) requires that, in April and October of every year, Federal agencies publish an agenda of regulations under development that are likely to have a significant impact on a substantial number of small entities. The purpose of this requirement is to give small entities advance warning of regulations on which they may wish to comment.

EPA has combined the agenda requirements of the Regulatory Flexibility Act and Executive Order 12291. This Agenda identifies regulations which the Agency at this time believes are likely to have a significant impact on a substantial number of small entities by indicating "Likely," "Unlikely" or "Not yet determined" under the category labeled "Small Entity."

The Act requires that EPA prepare a Regulatory Flexibility Analysis for regulations proposed after January 1, 1981, unless the Agency head certifies in the preamble to the proposed rule that it will not have a significant impact on a substantial number of small entities. Regulations identified in the Agenda as "Likely" may not need the analysis if at the time of proposal the Agency determines that, contrary to the present forecast, there is in fact no significant impact. Regulations that EPA believes will probably need a Regulatory Flexibility Analysis are designated "RFA" in the "Analysis" category. Regulations proposed before January 1, 1981, are exempt from the requirement to prepare a Regulatory Flexibility Analysis, but the Agenda still identifies whether the significant impact on small entities is likely or unlikely.

Regulations Covered in the Agenda

Regulations enter the development process and are listed in this Agenda when a lead program office, e.g., the Office of Air, Noise, and Radiation, sends a Start Action Notice (SAN) to the Administrator, Deputy Administrator, and other senior managers. This notice informs the rest of the Agency that work is starting on a new regulation.

The Agenda generally includes regulations which are scheduled for publication as a proposed or final rule within the coming calendar year. Occasionally, it also includes regulations with scheduled actions that are more than a year away.

Regulations appearing in the last Agenda that are no longer under consideration are presented in a separate section at the end of this Agenda. EPA will delete them from future Agendas.

Of the 180 regulation entries that appear in this Agenda, 25 are classified as major, 155 as other. An additional 35 entries appear in the section of regulations to be deleted from the Agenda.

Appendix to the Agenda of Regulations

An appendix to this Agenda includes additional information that may be of use to interested readers. We have added these features to the appendix:

- A schedule for development of Pollution Control Guidance Documents (PCGD) for the synthetic fuels industry;
- A list of regulations to be reviewed or modified in order to reduce the regulatory burden on the United States automobile industry;
- A list of proposals issued before 1979 which EPA withdrew in a Federal Register Notice on March 19, 1981; and
- A list of all RCRA-related final and interim final actions since May 1980.

Because of the change in publication schedule (from June to April), this Agenda does not include copies of EPA's entries in the Calendar of Federal Regulations. The Calendar will appear in the Federal Register in May.

Explanation of Information in the Regulatory Agenda

There are four columns of information for each entry in the Agenda.

The first column contains the title, the Start Action Notice (SAN) number, and the docket number of the regulation. The Agency assigns the SAN number of a new regulation when the program office begins work on it. The SAN number prevents confusion if the title of a regulation changes or if there are other similarly-titled regulations. For those regulations which have them, the docket number is useful for identifying the official files on the regulation that are open to the public.

The second column contains most of the descriptive information on the

regulation. It includes information under the following categories:

Description: This category describes the problem addressed by the regulation and explains the need for the regulation.

Classification: This category identifies regulations as "major" or "other" based on information available to EPA at this time. These classifications may change as EPA gets more information or makes decisions about the regulations under development. Regulations ultimately classified as major require a Regulatory Impact Analysis under Executive Order 12291.

Statutory Authority: This category lists the sections of the statutes that authorize the regulation. It also lists the sections from the United States Code where the statutes are codified. (See the section below entitled "Summary of Contents" for abbreviations of the titles of the statutes.)

CFR Changes: This category identifies the part or subpart where the final regulation will appear, in Title 40 of the Code of Federal Regulations (CFR). In some cases, it also specified how the regulation will change an already existing subpart (revising the subpart, adding to it, or deleting from it).

Analysis: EPA prepares an economic analysis for all regulations with significant impacts. This category indicates whether the Agency plans to perform any additional special analyses, i.e., a Regulatory Flexibility Analysis (RFA), an Urban and Community Impact Analysis (UCIA), an Environmental Impact Statement (EIS), a Reporting Impact Analysis (Report), or an Operations/Resource Impact Analysis (ORA). All regulations ultimately classified as major will have a Regulatory Impact Analysis, so we have not listed this analysis separately under this category. We have not included this category for regulations not involving any of these special analyses.

Small Entity: This category indicates whether or not a regulation is likely to have a significant impact on a substantial number of small businesses, small governmental jurisdictions, or small organizations. Identification as "likely" is only tentative and does not mean that EPA will prepare a Regulatory Flexibility Analysis. For regulations that are still a long way from proposal, we have indicated that the likelihood of significant impacts is "not yet determined."

The third column lists the person to contact for additional information on the regulation.

The fourth column lists documents published in the Federal Register in connection with the regulation, and provides the timetable for future actions. Published documents include: (i) The Advance Notice of Proposed Rulemaking, which describes the purpose of the proposed action and the issues and alternatives which the Agency will consider; (ii) the Notice of Proposed Rulemaking, which is the regulation as the agency proposes it for public comment; and (iii) the Final Rule. In most cases, the timetable for future actions is tentative. Readers should call the contact person for the latest scheduling information.

The Agenda uses the following abbreviations:

Advance Notice of Proposed Rulemaking	ANPRM.
Notice of Proposed Rulemaking	NPRM.
Notice of Reproposed Rulemaking	RPRM.
Interim Final Rule	IFR.
Final Rule	FR.

Organization of the Agenda

The Agenda lists regulations by the titles of the major legislation authorizing our pollution control programs. In a few cases, it combines different statutory authorities that have closely-related subject matter. For example, the Fuel Economy Data regulation authorized by the Energy Policy and Conservation Act appears at the end of the section on the Clean Air Act along with other mobile source regulations. Within each statutory area, the regulations are ordered numerically by section number of the authorizing legislation. For example, all air regulations under Section 109 of the Clean Air Act will appear before those under Section 111. Within each statutory section the Agenda orders regulatons by CFR part number. The organization of the legislative acts appears in the "Summary of Contents" below.

New Source Performance Standards for Phosphate Rocks and for Perchloroethylene Dry Cleaning under Section 111 of the Clean Air Act are listed at the end of the Agenda instead of with the other Clean Air Act regulations.

Summary of Contents

The Atomic Energy Act (AEA) and the Uranium Mill Tailings Radiation Control Act (UMTRCA)
The Clean Air Act (CAA) and the Energy Policy and Conservation Act (EPCA)
The Clean Air Act (CAA) and the Marine Protection, Research and Sanctuaries Act (MPRSA)
The Comprehensive Environmental Response, Compensation, and Liability Act—"Superfund" (CERCLA)
The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetics Act (FFDCA)
The Noise Control Act (NCA)
The Resource Conservation and Recovery Act (RCRA)
The Safe Drinking Water Act (SDWA)
The Toxic Substances and Control Act (TSCA)
General—The National Historic Preservation Act (NHPA)

Regulations Deleted From the Previous Agenda

After listing all regulations currently under consideration, the Agenda lists all the regulations that appeared in the last Agenda but that are now no longer under consideration. These regulations will not appear in the next Agenda.

The information given on these regulations is less detailed than for those still under consideration. Generally, it includes the date and Federal Register citation, if any, of the last action on the regulation, and explains why the Agency is deleting the regulation from the Agenda. If EPA has completed work on the regulation, the effective date of the regulation appears after the designation "completed."

Improving the Agenda of Regulations

In response to comments received on two previous Agendas (published in the Federal Register on March 14 and June 30, 1980), EPA has considered some changes in the content and format of the Agenda. In the last Agenda, dated January 14, 1981, we requested comment on the following suggestions:

- Instead of organizing the regulations by program area (e.g., water quality, toxic substances), the Agenda should list regulations by authorizing act (e.g., Clean Water Act, Toxic Substances Control Act).
- In addition to listing regulations according to their statutory authority, the Agenda should include an appendix that lists regulations chronologically by next expected action (i.e., according to the projected dates for NPRMs, etc., that appear in the timetable section). It could include advance notices, proposals and final rules in the same list, or it could have separate lists for proposals and for final rules.
- The Agenda should indicate the effective date for final regulations.
- For those regulations that require compliance action by affected parties before the effective date, the Agenda should identify what those steps for compliance are.

We received several comments endorsing these suggestions. As a result, we have decided to experiment with the following changes in this Agenda:

• The Agenda lists regulations by authorizing act (e.g., the Clean Water Act) rather than by program area (e.g., water quality, solid waste) based on EPA's internal organization.

• The Agenda indicates the effective date for completed regulations that appear in the section "Regulations Deleted from the Previous Agenda."

The suggestion to include an appendix that lists regulations chronologically by next expected action is still under consideration. We may include such a list in our next Agenda.

We would appreciate any comments that Agenda readers may have on these changes. Comments should be directed to David Sahr, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C. 20460.

Dated: April 17, 1981.

Roy N. Gamse,

Acting Assistant Administrator for Planning and Management.

BILLING CODE 6560-38-M

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION

Title	Summary	Contact	Timetable
ATOMIC ENERGY ACT AND URANIUM MILL TAILINGS RADIATION CONTROL ACT			
Reorganization Plan No. 3 of 1970 transferred to EPA the authorities of the Federal Radiation Council. This included authority to develop guidance for other federal agencies to follow in limiting radiation exposures. This guidance is issued by the President. Additionally, EPA was given authority, under the Atomic Energy Act, to establish generally applicable environmental standards to protect public health from exposure to radiation. The NRC, the Department of Energy, and other federal agencies are responsible for implementing and enforcing these standards. EPA is also developing regulations for clean up and disposal of uranium mill tailing⊖;⊖;piles under the Uranium Mill Tailings Radiation Control Act of 1978.			
Radiofrequency Radiation Guidance SAN No. 1525	Description: This guidance will serve to limit exposure of the general public to radiofrequency radiation which poses a potential health risk. Classification: Other Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR Analysis: EIS Small Entity: Not yet determined	David Janes EPA (ANR-461) Washington DC 20460 FTS:8-427-7604 COMM:301-427-7604	NPRM: 12/00/81 FR: 12/00/82
Transuranic Elements SAN No. 1162	Description: This guidance to Federal Agencies establishes dose rate limits for people exposed to transuranic elements in the general environment. The guidance considers both human inhalation and ingestion of transuranium elements, and establishes a maximum dose rate to lungs and bones for members of the general population. This dose rate limit can be associated with an estimated maximum risk of one additional death per million persons continuously exposed at this rate per year. EPA has approved this guidance and has sent it to the President for signature. Classification: Other Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR – New Small Entity: Unlikely	Gordon Burley EPA (ANR 460) Washington, DC 20460 FTS:8-557-0740 COMM:703-557-0740	NPRM: 42FR60956 (11/30/77) FR: Pending
Environmental Protection Standards for High-level Radioactive Waste SAN No. 1163	Description: EPA is developing environmental standards which state the public health and environmental requirements to be met for disposal of high-level radioactive waste. These consist of general design and site selection principles as well as numeric performance requirements for high level waste repositories. DOE and NRC will use EPA's regulation to set their standards to govern the licensing, design and operation of permanent high-level radioactive waste disposal facilities. Classification: Major Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: 40 CFR 191 – New Analysis: EIS Small Entity: Unlikely	Dan Egan EPA (ANR-460) Washington, DC 20460 FTS:8-557-8610 COMM:703-557-8610	ANPRM: 41FR53363 (12/06/76) NPRM: 06/00/81 FR: 06/00/82
Guidance for Occupational Radiation Exposure SAN No. 1161 Docket No. A-79-46	Description: This guidance updates existing (1960) radiation occupational exposure limits for all workers except radiation exposure to uranium miners. It will lower allowable exposure per year and cumulative lifetime exposure. It also provides a greded (tier) system of radiation. protection for each of three ranges of exposure. Classification: Other Statutory Authority: AEA 274(h); Reorganization Plan No. 3 of 1970 / 42 USC 2021(h) CFR Change: This action will not be codified in CFR – Revision Small Entity: Unlikely	Luis Garcia EPA (ANR 460) Washington, DC 20460 FTS:8-557-8224 COMM:703-557-8224	ANPRM: 44FR53785 (09/17/79) NPRM: 46FR7836 (01/23/81) FR: 01/00/82
Remedial Action Standards for Inactive Uranium Processing Sites SAN No. 1166 Docket No. A-79-25	Description: This regulation defines standards for the clean-up and disposal of uranium mill tailings from inactive sites. Based on the EPA standards, the Department of Energy will take remedial action. In order to expedite clean-up, the Agency is separating the timetables for the clean-up, and disposal sections of the regulation. The schedule for the disposal section is proposal in September 1980 and promulgation in December 1980. Classification: Other Statutory Authority: UMTRCA 206, AEA 275 / 42 USC 2022 CFR Change: 40 CFR 192 – New Analysis: EIS Small Entity: Unlikely	Stan Lichtman EPA (ANR-460) Washington, DC 20460 FTS:8-557-8927 COMM:703-557-8927	NPRM: 45FR27370 (04/22/80) NPRM: 46FR2556 (01/19/81) IFR: 45FR27366 (04/22/80) FR: 09/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
ATOMIC ENERGY ACT AND URANIUM MILL TAILINGS RADIATION CONTROL ACT—Continued			
Environmental Standards for Active Uranium Mill Processing Sites SAN No. 1166A	Description: The Administrator is required to issue generally applicable standards for protecting the public health and safety, and the environment, from certain radiological and nonradiological hazards of uranium. These are the hazards associated with processing, keeping, transferring and disposing of uranium byproduct material at sites which either (a) process the uranium ore primarily for its source material content or (b) dispose of the uranium byproduct material. Classification: Other Statutory Authority: UMTRCA 208, AEA 275(b) / 42 USC 2022(b) CFR Change: 40 CFR 192—New Small Entity: Unlikely	John Russell EPA (ANR-460) Washington DC 20460 FTS:8-557-8927 COMM:703-557-8927	NPRM: 03/00/82 FR: 03/00/83
CLEAN AIR ACT			

The goal of The Clean Air Act is to protect the public health and welfare from the harmful effects of air pollution. To achieve the goal, EPA develops National Ambient Air Quality Standards (NAAQS) and the States adopt State Implementation Plans (SIP) to meet these standards. States are also required, pursuant to EPA regulations, to develop plans to prevent significant deterioration of air quality in areas where the ambient standards have been attained and to enhance visibility.

EPA also develops New Source Performance Standards (NSPS) under CAA 111, National Emission Standards for Hazardous Air Pollutants (NESHAPS) under CAA 112 to control emissions from stationary sources of air pollution and regulations to control pollutants from mobile sources under CAA 202.

To write a NAAQS for a pollutant, we first prepare a criteria document, which contains the latest scientific knowledge on the kind and extent of public health and welfare problems caused by the pollutants in the air. If we revise the criteria document, we may find it necessary to change the NAAQS.

A National Primary Ambient Air Quality Standard defines the maximum amount of an air pollutant which in the judgment of the Administrator provides an adequate margin of safety to protect the public health. A National Secondary Ambient Air Quality Standard defines levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

The establishment of a NAAQS does not, by itself, impose costs. States determine as part of their SIPs which sources will be regulated and the degree of control needed to attain the NAAQS.

NAAQS for Nitrogen Dioxide SAN No. 1004 Docket No. OAQPS 78-9	Description: Nitrogen dioxide is a major source of air pollution, damaging the lungs and respiratory system, as well as contributing to acid rain. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for nitrogen dioxide. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108 / 42 USC 7408 CFR Change: 40 CFR 50.11—Revision Analysis: EIS, UCIA Small Entity: Unlikely	Bruce Jordan EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5655 COMM:919-541-5655	NPRM: Undetermined
NAAQS for Particulate Matter (TSP) SAN No. 1003 Docket No. A-79-29	Description: Particulate matter is one of the major pollutants in the ambient air. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for particulate matter. The Agency will revise the criteria document and the standards themselves when appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108 / 42 USC 7408 CFR Change: 40 CFR 50.6—Revision Analysis: EIS, UCIA Small Entity: Unlikely	Bruce Jordan EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5655 COMM:919-541-5655	ANPRM: 44FR56730 (10/02/79) NPRM: Undetermined
NAAQS for Sulfur Oxides SAN No. 1002 Docket No. OAQPS-79-7	Description: Sulfur oxides are a major source of ambient air pollution, aggravating respiratory diseases, irritating eyes, and helping to form acid rain. EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for sulfur dioxide. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108 / 42 USC 7408 CFR Change: 40 CFR 50.4—Revision Analysis: EIS, UCIA Small Entity: Unlikely	Bruce Jordan EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5655 COMM:919-541-5655	ANPRM: 44FR56730 (10/02/79) NPRM: Undetermined

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
NAAQS for Carbon Monoxide SAN No. 1001 Docket No. OAQPS-79-7	Description: Carbon monoxide is a major source of air pollution, which endangers people with heart and central nervous system diseases, pregnant women and other people (5–12% of U.S. population in all). EPA is reviewing the scientific criteria used as a basis for establishing ambient air quality standards for CO. The Agency will revise the criteria document and the standards where appropriate to protect public health and welfare. Classification: Major Statutory Authority: CAA 108, 109 / 42 USC 7408, 7409 CFR Change: 40 CFR 50.8 – Revision Analysis: EIS, UCIA Small Entity: Unlikely	Bruce Jordan EPA (MD-12) Research Triangle Park, NC 27711 FTS:8-629-5655 COMM:919-541-5655	ANPRM: 43FR56250 (12/01/78) NPRM: 45FR55066 (08/18/80) FR: Undetermined
Incorporation of Lead into Part 58 Air Monitoring Regulations SAN No. 1500 Docket No. A-80-3	Description: This rule will set forth requirements and network designs for state and local stations to monitor lead in the ambient air. It applies to large urban areas as well as those areas violating prescribed levels since 1974. Classification: Other Statutory Authority: CAA 108, 110 / 42 USC 7408, 7410 CFR Change: 40 CFR 58 – Revision Analysis: EIS Small Entity: Unlikely	Stanley Sleva EPA (MD-14) Research Triangle Park NC 27711 FTS:8-629-5651 COMM:919-541-5651	NPRM: 45FR67654 (10/10/80) FR: 06/00/81
Revocation of the National Ambient Air Quality Standards for Hydrocarbons SAN No. 1683 Docket No. A-80-60	Description: This action is a result of the review of the criteria upon which the Agency based the existing primary and secondary hydrocarbon standards. EPA found that the present HC standard does not ensure the goal-attainment of the original NAAQS for oxidants. Classification: Other Statutory Authority: CAA 108, 109 / 42 USC-7408, 7409 CFR Change: 40 CFR 50.10 – Deletion Small Entity: Unlikely	Michael H. Jones EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5531 COMM:919-541-5531	NPRM: 04/00/81 FR: 11/00/81
Restructure CFR Parts 51, 52 SAN No. 1503 Docket No. A-80-11	Description: This rule will update Part 51 in two phases. First, EPA will streamline the rules and improve the language and organization for greater clarity. An addition to Part 52 will show the pertinent reference number changes for that section. Phase 2 of the rule will add to Part 51 the new requirements established by the 1977 Clean Air Act amendments. Classification: Other Statutory Authority: CAA 110 / 42 USC 7410 CFR Change: 40 CFR 51, 52 – Revision Small Entity: Unlikely	Darryl Tyler EPA (MD-15) Research Triangle Park NC 27711 FTS:8-629-5551 COMM:919-541-5551	NPRM: 06/00/81 FR: 02/00/82
Continuous Monitoring SAN No. 1613 Docket No. OAQPS-79-4	Description: This regulation revises performance specifications for continuous monitors applied to air pollution sources, including monitors for opacity, sulfur dioxide, nitrogen oxide, carbon monoxide, and ozone. Most New Source Performance Standards do not require small businesses to use continuous monitoring. Classification: Other Statutory Authority: CAA 110(a) / 42 USC 7410(a) CFR Change: 40 CFR 60 – New Small Entity: Likely	Roger Shigehara EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-2237 COMM:919-541-2237	NPRM: 44FR58602 (10/10/79) FR: 12/00/81
Development of Regulations to Implement Continuous Monitoring (Compliance) of Air Pollution Sources SAN No. 1707	Description: This action seeks to develop regulations to insure continuous source compliance through some form of continuos emission monitoring (CEM). Phase I will update current CEM reporting requirements. Phase II expand CEM requirements for Major SO2 sources. Phases III, IV, and V will develop, as practical, new CEM requirements for sources of TSP, NOx, and VOC. Classification: Other Statutory Authority: CAA 110, 1154, 301 CFR Change: 40_CFR_51, 60 – New Small Entity: Unlikely	Darryl D. Tyler EPA (MD-15) Research Triangle park NC 27711 FTS:8-629-5551 COMM:919-541-5551	ANPRM: 44FR46481 (08/08/79) NPRM: 09/00/81 NPRM: 12/00/81

EPA is developing performance standards to control emissions from the following industries under Section 111(b) of the CAA. This section requires that the Administrator develop and periodically update New Source Performance Standards (NSPS) for stationary sources which significantly contribute to air pollution. The NSPS are based on the best systems demonstrated to reduce emissions continually, taking into account costs and energy requirements. The standards will apply to both new sources and existing sources which are modified after approval of the regulation.

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
Revision of Priority List of New Source Performance Standards SAN No. 1678 Docket No. A-80-23	Description: This action would revise the priority list of major source categories for which EPA is developing new source performance standards (NSPS), by deleting 14 categories and changing the title of one. Classification: Other Statutory Authority: CAA 111(f)/42 USC 7411(f) CFR Change: 40 CFR 60.16—Revision Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	FR: 44FR49222 (08/21/79) NPRM: 04/00/81 FR: 10/00/81
NSPS: Basic Oxygen Furnace SAN No. 1671 Docket No. A-79-06	Description: This regulation will be a revision of the existing NSPS which controls particulate emissions during air blowing in basic oxygen furnaces. The revision will extend coverage to charging and topping cycles. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.140—Revision Analysis: EIS Small Entity: Unlikely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 10/00/81 FR: 10/00/82
NSPS: Industrial Surface Coating: Metal Furniture SAN No. 1115 Docket No. A-79-47	Description: This regulation will establish emission standards for volatile organic compounds from surface coating of metal furniture. The "affected facility" includes applications, flash-off, and oven areas of coating line. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.310—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-514-5624	NPRM: 45FR79390 (11/28/80) FR: 11/00/81
NSPS: Stationary Internal Combustion Engines SAN No. 1008 Docket No. OAQPS-79-5	Description: These regulations will require the application of best available demonstrated technology to control nitrogen oxide emissions from stationary diesal and dual-fuel internal combustion engines. EPA will issue separate standards for gas and gasoline-fueled stationary I.C. engines later. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.320—New Analysis: EIS Small Entity: Likely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 44FR43173 (07/23/79) FR: 07/00/81
NSPS: Organic Solvent Cleaners SAN No. 1010 Docket No. OAQPS 78-12	Description: This rule will control evaporative emissions from metal cleaning and degreasing operations. A related rule (SAN 1695) will also require States to act under section 111(d) to control some specific solvent emissions from existing sources. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.360—New Analysis: EIS Small Entity: Likely	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 45FR39766 (06/11/80) FR: 11/00/81
NSPS: Solvent Degreasing SAN No. 1695	Description: This action will require States to control organic solvent cleaners to reduce emissions of specific organic solvents designated under a separate NSPS action (SAN 1010). Classification: Other Statutory Authority: CAA 111(d)/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Likely	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 03/00/82 FR: 06/00/83
NSPS: Lead-Acid Battery Manufacture SAN No. 1116 Docket No. OAQPS-79-1	Description: This regulation will establish standards for lead emissions from new, modified, or reconstructured lead-acid battery manufacturing facilities that have a production capacity of at least 500 batteries per day. The affected facilities are several different processes in the production line: lead oxide production, grid casting, paste mixing, 3-process operation, lead reclamation and other lead emitting operations. Control technology is fabric filters or high energy scrubbers. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.370—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 45FR2790 (01/14/80) FR: 07/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
NSPS: Publication Rotogravure Printing SAN No. 1120 Docket No. A-79-50	Description: This regulation will control emissions of volatile organic compounds from large-scale publication rotogravure printing presses. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.430—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 45FR71538 (10/28/80) FR: 11/00/81
NSPS: Industrial Surface Coating: Pressure Sensitive Tapes and Labels SAN No. 1114 Docket No. A-79-38	Description: This regulation will establish emission standards for volatile organic compound emissions from pressure sensitive tapes and labels coating operations. It will apply to new, modified or reconstructed coating lines. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.440—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 45FR86278 (12/30/80) FR: 11/00/81
NSPS: Industrial Surface Coating: Large Appliances SAN No. 1599 Docket No. A-80-6	Description: This regulation will control volatile organic compound emissions from industrial surface coating operations for large appliances. It applies to each prime coat or top coat operation. The "affected facility" is application station(s), flashoff area and curing oven. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.450—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 45FR85085 (12/24/80) FR: 01/00/82
NSPS: Industrial Surface Coating: Metal Coils SAN No. 1598 Docket No. A-80-5	Description: This rule will control emissions of volatile organic compounds from metal coils industrial surface coating operations. It will affect each prime coating and each finish coating operation. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.460—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 46FR1102 (1/5/81) FR: 12/00/81
NSPS: Asphalt Roofing Manufacture SAN No. 1591 Docket No. A-79-39	Description: This rule will control particulate emissions from the manufacture of asphalt roofing. The standard applies to emissions from asphalt blowing stills and asphalt saturators, by mass and opacity. Storage and handling operations are also under opacity limits. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.470—New Analysis: EIS Small Entity: Likely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 45FR76427 (11/18/80) FR: 11/00/81
NSPS: Synthetic Organic Chemical Manufacturing-Fugitive Emissions SAN No. 1112 Docket No. A-79-32	Description: This rule will control fugitive emissions from the manufacture of volatile organic chemicals from new process units within the synthetic organic chemical manufacture industry. It requires a leak detection and repair program and the use of certain equipment to reduce emissions. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.480—New Analysis: EIS Small Entity: Unlikely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 46 FR 1136 (01/05/81) FR: 01/00/82
NSPS: Industrial Surface Coating: Cans SAN No. 1113 Docket No. A-80-4	Description: These standards will limit VOC emissions from new, modified, and reconstructed two and three piece beverage can and beverage can end surface coating facilities. The standards will cover base coat, varnish, inside coat, and end-seal operations. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.490—New Analysis: EIS Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 45FR78980 (11/26/80) FR: 12/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
NSPS: Bulk Gasoline Terminals SAN No. 1589 Docket No. OAQPS-78-2	Description: This rule will control volatile organic compound (VOC) emissions from new, modified, and reconstructed gasoline tank truck loading racks at bulk gasoline terminals. It will require installation of VOC vapor collection equipment, set VOC emission limits, and restrict loadings only to gasoline tank trucks that pass an annual vapor-tight test. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.500—New Analysis: EIS Small Entity: Likely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 45FR68616 (12/17/80) FR: 02/00/82
NSPS: Industrial Boilers SAN No. 1586 Docket No. A-79-02	Description: Industrial boilers are a major stationary source of sulfur dioxide particulates and nitrogen oxide emissions. EPA is developing performance standards for industrial boilers to achieve continuous emission reduction. The Agency will base emission limits upon the best available system of control, taking costs, environmental impacts and energy requirements into account. Classification: Major Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.520—New Analysis: EIS Small Entity: Likely	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5421 COMM:919-541-5421	ANPRM: 44FR37632 (06/28/79) NPRM: 11/00/81 FR: 12/00/82
NSPS: Volatile Organic Liquids Storage SAN No. 1612 Docket No. A-80-51	Description: This standard will control volatile organic compound emissions from the storage of organic liquids. It will affect new, modified or reconstructed VOL storage vessels with capacities of 40,000 gallon or more. vessels with capacities of 40,000 gal. or more Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.530—New Analysis: EIS Small Entity: Not yet determined	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 05/00/81 FR: 06/00/82
NSPS: Rubber Products Industry-Tire Manufacturing SAN No. 1615 Docket No. A-80-9	Description: This standard will control VOC (volatile organic compound) emissions from solvent application during undertread/sidewall cementing, tread and cementing, bead cementing and green tire coating in rubber tire manufacturing plants. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.540—New Analysis: EIS Small Entity: Not yet determined	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 08/00/81 FR: 11/00/82
NSPS: Non-Fossil Fuel Fired Boilers SAN No. 1614 Docket No. A-79-22	Description: This rule will control particulate emissions from combustion of wood, municipal solid waste, refuse derived fuels, and bagasse. It will also control particulate emissions of the above when combined with fossil fuels. The rule will set an individual control level for each non-fossil fuel addressed. EPA is considering the highest volume fuels first, but will consider others later. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.550—New Analysis: EIS Small Entity: Likely	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 05/00/81 FR: 05/00/82
NSPS: Gypsum SAN No. 1673 Docket No. A-80-15	Description: This regulation will control particulate emissions from gypsum manufacturing facilities. It will require improved operation and maintenance of particulate control equipment already used by the industry. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Not yet determined	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 12/00/81 FR: 01/00/83
NSPS: Industrial Surface Coating: Vinyl Coating and Printing SAN No. 1672 Docket No. A-80-8	Description: This regulation will control volatile organic compound emissions from the manufacture of polyvinylchloride films. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Not yet determined	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 12/00/81 FR: 01/00/83

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
NSPS: Synthetic Organic Chemical Industry: Air Oxidation Process SAN No. 1618	Description: This regulation will control emissions of volatile organic compounds from the manufacture of synthetic organic chemicals via air oxidation processes. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Not yet determined	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 01/00/82 FR: 02/00/83
NSPS: Coke Ovens Quenching SAN No. 1687	Description: This regulation will control emissions of particulate matter generated by new facilities for the quenching of coke with water at coke production facilities. Two possible systems of control are: (1) quenching water that is low in total solids content, and/or (2) impingement baffles installed in the quenching tower. Classification: Other Statutory Authority: CAA 111(b)/42 USC 7411(b) CFR Change: 40 CFR 60—New Analysis: EIS, Report Small Entity: Unlikely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 09/00/81 FR: 10/00/82
NSPS: Coke Ovens Bat Stacks SAN No. 1688	Description: This regulation will control emissions of particulate matter from the flue systems of new coke production batteries. Inspection, maintenance, and operating procedures, or flue gas cleaning with high efficiency collectors will be required. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Unlikely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 01/00/82 FR: 11/00/82
NSPS: Metallic Minerals SAN No. 1700	Description: This regulation will control particulate emissions generated by the processing of minerals prior to metal reduction. It will require particulate collector equipment and good maintenance and operating protection. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Not yet determined	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 10/00/81 FR: 11/00/82
NSPS: Petroleum Solvent Dry Cleaning SAN No. 1690	Description: This regulation will control emissions of volatile organic compounds from dry cleaning equipment in which petroleum solvent is used. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Not yet determined	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS-8-629-5624 COMM:919-541-5624	NPRM: 04/00/82 FR: 05/00/83
NSPS: Refinery Fugitive Emissions SAN No. 1696;	Description: This regulation will control fugitive emissions of volatile organic compounds from new processing units in petorleum refineries. It will require a leak detection and repair program and the use of certain equipment to reduce emissions. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60—New Analysis: EIS Small Entity: Not yet determined	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 02/00/82 FR: 02/00/83

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
	EPA is developing emission standards for hazardous air pollutants under section 112 of the CAA. This section requires that the Administrator develop National Emission Standards for Hazardous Air Pollutants (NESHAPS) for emissions that cause or contribute to air pollution which results in an increase in mortality or in serious or incapacitating illness. The standards will apply to both new sources and existing sources. The 1977 amendments extended the definition of air pollution to include radioactive substances. The Agency has listed radionuclides as a hazardous air pollutant and is developing regulations for radionuclides under section 112.		
NESHAPS: Listing of Coke Oven Emissions as Hazardous Air Pollutant SAN No. 1594 Docket No. A-79-15; A-79-16	Description: EPA is conducting a health risk assessment of coke oven emissions. If we determine that these emissons are hazardous, we will list them as hazardous air pollutants under Section 112 and will propose emission standards. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61—New Small Entity: Unlikely	Kent Berry EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5504 COMM:919-541-5504	Listing: 07/00/81
NESHAPS: Listing of Acrylonitrile SAN No. 1677	Description: EPA is conducting a health risk assessment of acrylonitrile emissions. If the Agency determines that these emissions are hazardous, it will list them under Section 112 and will propose emission standards. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61—New Small Entity: Unlikely	David Patrick EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5645 COMM:919-541-5645	Listing: 10/00/81
Amendments to NESHAPS General Provisions SAN No. 1681 Docket No. A-130	Description: This action proposes amendments to the General Provisions of the National Emission Standards for Hazardous Air Pollutants. It will eliminate repetition in the subparts, and add procedures and criteria for determining if proposed source changes constitute modification or reconstruction; also whether equipment and/or a procedure meets the relevant standard. These amendments relate to emission testing, monitoring and recordkeeping. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61—Revision Small Entity: Likely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 06/00/81 FR: 06/00/82
NESHAPS: Ethylbenzene/Styrene Manufacture SAN No. 1128 Docket No. A-79-49	Description: This regulation will control the emission of benzene from process vents in the manufacture of ethylbenzene and styrene at new and existing plants, through the use of boilers or process heaters. Process vents account for almost 90 percent of total uncontrolled plant emissions. Excess emissions during startup/shutdown or malfunction must be controlled by smokeless flares. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61—New Analysis: EIS Small Entity: Unlikely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 45FR83448 (12/18/80) FR: 12/00/81
NESHAPS: Maleic Anhydride Manufacture SAN No. 1127 Docket No. OAQPS 79-3	Description: This regulation will control the emission of benzene from process vents in the manufacture of maleic anhydride. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61—New Analysis: EIS Small Entity: Unlikely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 42FR26660 (04/18/80) FR: 09/00/81
NESHAPS: Benzene Fugitive Emissions SAN No. 1126 Docket No. A-79-27	Description: This regulation would limit benzene emissions from fugitive emission sources in new and existing petroleum refineries and organic chemical manufacturing plants. The standards would allow no detectable emissions due to leaks from safety/relief valves and product accumulator vessels. The standards would also require a leak detection and repair program for pipeline valves, and would require certain equipment for pumps, compressors, sampling connections, and open-ended valves. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61—New Analysis: EIS Small Entity: Likely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 46FR1165 (01/05/81) FR: 01/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
NESHAPS: Benzene Storage SAN No. 1593 Docket No. A-80-14	Description: This regulation will limit benzene emissions resulting from the storage of pure benzene. EPA will require new and existing storage tanks to meet certain structural standards (a combination of roofs and seals) and require industry to inspect the equipment periodically to ensure that it functions properly. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS Small Entity: Likely	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 45FR83952 (12/19/80) FR: 01/00/82
NESHAPS: Benzene in Coke Ovens/By Products Plants SAN No. 1685	Description: This regulation will control benzene emissions generated by the storage of benzene and the processing of gaseous and liquid streams at by-product plants Inspection and maintenance procedures, operating practices, floating roof tanks, and exhaust gas treatment may be required. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS Small Entity: Not yet determined	Susan Wyatt EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5578 COMM:919-541-5578	NPRM: 04/00/82 FR: 05/00/83
NESHAPS: Asbestos SAN No. 1714	Description: This rulemaking will reinstate the asbestos design, equipment, work practice, and operational standards which EPA promulgated on April 6, 1973 at 38FR8826 and subsequently amended. Section 112(e)(1) of the 1977 amendments to the Clean Air Act grants EPA the authority to develop design or equipment standards. This regulation will apply to asbestos emissions from asbestos mills, sufacing of roadways with asbestos tailings, manufacturing operations, demolition and renovation operations, spraying operations, fabricating operations, the use of molded insulating materials, waste disposal operations, and waste disposal sites. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61 Subpart B – New Analysis: RFA Small Entity: Likely	Gene Smith EPA (MD-13) Research Triangle park NC 27711 FTS:8-629-5624 COMM:919-541-5624	RPRM: 02/00/82
NESHAPS: Arsenic from Smelters SAN No. 1684	Description: This regulation will control inorganic arsenic emissions from certain non-ferrous metal smelters. High efficiency particulate controls operated at optimum temperature for arsenic condensation will be required for process gas streams. Effective capture systems and high efficiency particulate controls will be required for several sources of fugitive emissions. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS Small Entity: Unlikely	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 08/00/81 FR: 07/00/82
NESHAPS: Coke Ovens Charging and Topside SAN No. 1686	Description: This regulation will control emissions of organic pollutants designated hazardous under section 112. It will require improved maintenance and operation. Classification: Other Statutory Authority: CAA 112/42 USC 7412 CFR Change: 40 CFR 61 – New Analysis: EIS Small Entity: Not yet determined	Gene Smith EPA (MD-13) Research Triangle Park NC 27711 FTS:8-629-5624 COMM:919-541-5624	NPRM: 07/00/81 FR: 07/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
Policy and Procedures for Airborne Carcinogens SAN No. 1596 Docket No. OAQPS-79-14	Description: This is a policy statement to establish the procedures the Agency uses in identifying, assessing, and regulating substances in the air which increase the risk of cancer to the general population. The policy is to: (1) identify and assess potential airborne carcinogens; (2) evaluate the need for regulation under CAA 112 or other appropriate authorities; and where regulation under 112 is indicated; (3) assign regulatory priorities to emitting categories of sources; (4) determine best available technology (BAT) for new and existing sources; and (5) evaluate residual risks to determine if further control is warranted. Classification: Other Statutory Authority: CAA 112 / 42 USC 7412 CFR Change: 40 CFR 61 – New Small Entity: Unlikely	David Patrick EPA (MD-12) Research Triangle Park NC 27711 FTS:8-629-5645 COMM:919-541-5645	NPRM: 44FR58642 (10/10/79) FR: 07/00/81
Stack Height Regulations SAN No. 1303 Docket No. A-79-01	Description: This regulation will determine the conditions under which State Implementation Plans can use stack height in determining emission requirements for individual firms. The agency will use the standard of "Good Engineering Practices" (GEP) to determine the maximum acceptable stack height. Classification: Major Statutory Authority: CAA 123 / 42 USC 7423 CFR Change: 40 CFR 51 – New Analysis: EIS Small Entity: Unlikely	Darryl Tyler EPA (MD-15) Research Triangle Park NC 27711 FTS:8-629-5551 COMM:919-541-5551	NPRM: 44FR2608 (01/12/79) FR: 09/00/81
Proposed Production Restriction for Chlorofluorocarbons SAN No. 1644 Docket No. OPTS-62009	Description: Chlorofluorocarbons (CFCs) are a family of chemicals suspected of depleting stratospheric ozone and posing several health and environmental threats. EPA is considering restrictions to limit growth in production and use either through an economic incentive approach or through traditional regulation, such as performance standards or selective product and use bans. The Agency is also encouraging international action on the problem. Classification: Major Statutory Authority: CAA 157 / 42 USC 7450-7459 CFR Change: EPA will assign a CFR number to this regulation Small Entity: Likely	Gordon Olson EPA (TS-794) Washington, DC 20460 FTS:8-755-1150 COMM:202-755-1150	ANPRM: 45FR66726 (10/07/80) NPRM: 12/00/81 FR: 03/00/83
Prevention of Significant Deterioration: Set II Pollutants SAN No. 1306 Docket No. A-79-34	Description: This rule will protect air quality in areas which meet National Ambient Air Quality Standards from significant degradation from "Set II" pollutants. These pollutants include carbon monoxide, hydrocarbons, nitrogen oxides, ozone, and lead. Similar rules exist for control of sulfur dioxide and particulate matter (Set I pollutants). EPA will develop guidance for State plans. Classification: Major Statutory Authority: CAA 165, 166 / 42 USC 7475, 7476 Analysis: EIS Small Entity: Not yet determined	Darryl Tyler EPA (MD-15) Research Triangle Park NC 27711 FTS:8-629-5551 COMM:919-541-5551	ANPRM: 45FR3088 (05/07/80) NPRM: 08/00/81 FR: 04/00/82
Controlled Trading Policy Guidance SAN No. 1605	Description: EPA is developing consolidated controlled trading policy guidance governing the use of the bubble, emission offsets, and emission reduction banking. This policy guidance will provide states with a framework for incorporating controlled trading activities into their state implementation plans. Under controlled trading programs industry can substitute more controls where costs are low for less control where costs are high. This policy statement contains scruplified administrative procedures and reduced constraints on the use of controlled trading. It takes the place of the previously announced banking regulation and incorporates EPA's recently proposed changes to its Bubble Policy. Classification: Other Statutory Authority: CAA 110, 173 / 42 USC 7503 CFR Change: This will not be codified in the CFR. Small Entity: Unlikely	Stephen L. Seidel EPA (PM-223) Washington, DC 20460 FTS:8-287-0731 COMM:202-287-0731	Policy: 04/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
Conformity of Federal Actions to State Implementation Plans SAN No. 1543	Description: These regulations will ensure the conformity of all relevant federal activities to state air quality implementation plans (SIPs). Two types of regulations are being considered: (1) establishing guidelines that federal departments are required to use for making determinations of the conformity of their activities with the SIPs; and (2) requiring states to revise their SIPs to establish a continuing intergovernmental consultation process for reviewing and certifying the conformity of federal activities with their SIP Classification: Other Statutory Authority: CAA 176(c) / 42 USC 7506(c) CFR Change: 40 CFR 51, 52, 59 – New Small Entity: Unlikely	Cary B. Hinton EPA (ANR-445) Washington, DC 20460 FTS:8-755-0570 COMM:202-755-0570	ANPRM: 45FR21590 (04/01/80) NPRM: 05/00/81 FR: 12/00/81

The purpose of Title II of the Clean Air Act is to control emissions from moving sources of air pollution. Mobile sources (cars, trucks, motorcycles and buses) are major sources of carbon monoxide, hydrocarbons, nitrogen oxides and particulate matter. Title II also authorizes EPA to regulate fuels and fuel additives.

Heavy-Duty Evaporative Emissions SAN No. 1312 Docket No. OMSAPC-79-1	Description: EPA Air Quality Analysis shows that many Air Quality Control Regions will not meet the Ozone National Ambient Air Quality Standards even if current and planned regulations for nonmetinane Hydrocarbon (NMHC) control are implemented. This regulation would reduce NMHC emissions from all mobile sources by 3.5 to 3.6 percent in the year 1995. Implementing this regulation would reduce the number of Ambient Ozone Violations by 2.4 to 14.0 percent. Effective for the 1983 model year heavy duty vehicles would have to meet a 3 grams/test standard. Classification: Other Statutory Authority: CAA 202(a) / 42 USC 7521(a) CFR Change: 40 CFR 86 – New Analysis: EIS Small Entity: Unlikely	Tim Mott EPA Ann Arbor MI 48105 FTS:8-374-8462 COMM:313-668-4462	NPRM: 45FR28022 (04/30/80) FR: 12/00/81
Heavy-Duty Diesel Particulate Standards SAN No. 1310 Docket No. A-80-18 OMSAPC-78-3	Description: Diesel engines emit 40–100 times the particulate matter emitted by catalyst-equipped vehicles operated on unleaded gasoline. Diesel particulate contains polycyclic organic matter, which is probably carcinogenic, and carbon, which can synergistically increase the effects of other pollutants. EPA has proposed an emission limit of .25 grams per brake horsepower-hour and intends to promulgate a standard for the 1986 model year. Classification: Major Statutory Authority: CAA 202(a)(3) / 42 USC 7521(a)(3) CFR Change: 40 CFR 86 – New Analysis: EIS Small Entity: Unlikely	Richard Rykowski EPA Ann Arbor MI 48105 FTS:8-374-8339 COMM:313-668-4339	NPRM: 46FR1910 (01/07/81) FR: 06/00/82
NOx regulations for Light-Duty Trucks and Heavy-Duty Engines SAN No. 1315 Docket No. A-80-31	Description: EPA has identified several Air Quality Control Regions which currently are exceeding acceptable Nitrogen Dioxide levels. Heavy duty vehicles and light duty trucks produce 15 percent of total NOx emissions. The Clean Air Act requires EPA to establish emission standards for heavy-duty vehicles incorporating a 75% reduction in nitrogen dioxide beginning with model year 1985. EPA has developed a new test procedure for measuring exhaust emissions which will be used to measure baseline emissions. Classification: Major Statutory Authority: CAA 202, 206, 207, 301 / 42 USC 7521, 7525, 7526, 7541 CFR Change: 40 CFR 86 – New Analysis: EIS Small Entity: Unlikely	Chet France EPA Ann Arbor MI 48105 FTS:8-374-8447 COMM:313-668-4497	ANPRM: 46FR5836 (01/19/81) NPRM: 06/00/82 FR: 07/00/83

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
Investigation of Averaging for Heavy-Duty and Light-Duty NOx Truck Emissions SAN No. 1646 Docket No. A-80-49	Description: The Agency is developing emissions averaging of NOx applicable to heavy-duty and light-duty trucks. This regulation will allow manufacturers flexibility in setting emissions levels for individual engine families at the same time that it retains the benefits of current, non-averaging emission regulations Classification: Other Statutory Authority: CAA 202(a) / 42 USC 7521(a) CFR Change: 40 CFR 86 - New Analysis: EIS, Report Small Entity: Unlikely	Glenn Passavant EPA Ann Arbor MI 48105 FTS:8-374-8408 COMM:313-668-4408	ANPRM: 45FR79382 (11/28/80) NPRM: 12/00/82
Importation of Motor Vehicles and Motor Vehicle Engines SAN No. 1317 Docket No. EN-79-9	Description: These revised regulations allow only certified vehicles and engines to be imported except that an individual may import an uncertified version for one time only. The purpose is to improve the effectiveness and administration of EPA's present regulation. Classification: Other Statutory Authority: CAA 203 / 42 USC 7522 CFR Change: 40 CFR 85 - Revision Small Entity: Likely	Gerard C. Kraus EPA (EN-340) Washington, D.C. 20460 FTS:8-472-9413 COMM:202-472-9413	NPRM: 45FR48812 (07/21/80) FR: 08/00/81
Tampering Enforcement Regulations SAN No. 1601 Docket No. EN-80-2	Description: These regulations will clarify EPA's enforcement policy against tampering with the emission control systems of motor vehicles. They will identify what kinds of "modifications" or "repairs" are tampering and will clarify the liability of manufacturers, suppliers, and repairers for tampering. Classification: Other Statutory Authority: CAA 203(a)(3), 301 / 42 USC 7522(a)(3), 7601 CFR Change: 40 CFR 85 - New Small Entity: Likely	Barbara C. Giliberti EPA (EN-397) Washington, DC 20460 FTS:8-472-9350 COMM:202-472-9350	ANPRM: 46FR8982 (01/27/81) NPRM: 12/00/81 FR: 06/00/82
Vehicle Maintenance and Use Regulations SAN No. 1517 Docket No. EN-79-11	Description: These regulations in conjunction with existing use and maintenance regulations, will help ensure that manufacturers require only appropriate maintenance of emission-related components and that owners are fully informed of their maintenance burden and resulting liabilities. Classification: Other Statutory Authority: CAA 203(a)(4), 204, 205, 206, 207(c)(3), 301(a)(1) / 42 USC 7522(a)(4), 7523, 7524, 7525, 7541(c)(3), 7601(a)(1) CFR Change: 40 CFR 85 Subpart V - New Small Entity: Not yet determined	Richard Friedman EPA (EN-397) Washington, DC 20460 FTS:8-472-9350 COMM:202-472-9350	NPRM: 07/00/81 FR: 01/00/82
Amendments to Selective Enforcement Auditing Procedures for Light-Duty Vehicles (LDVs), Light-Duty Trucks (LDTs), and Heavy Duty Engines (HDEs) SAN No. 1570	Description: These amendments will make several revisions to the Selective Enforcement Auditing procedures for LDVs, LDTs, and HDEs for the purpose of making the programs more efficient (with cost savings to EPA and the affected industries), clarifying various provisions of the regulations, and amending the existing entry and access inspection provisions. Classification: Other Statutory Authority: CAA 206(b), 208(b), 301(a) / 42 USC 7525(b), 7542(b), 7601(a) CFR change: 40 CFR 86 - Revisions Analysis: Report Small Entity: Unlikely	Timothy Fields, Jr. EPA (EN-340) Washington DC 20460 FTS:8-472-9417 COMM:202-472-9417	NPRM: 09/00/81 FR: 02/00/82
1984 High Altitude Standards SAN No. 1322 Docket No. A-80-01	Description: These regulations require all vehicles to meet standards at all altitudes beginning with 1984 models. Classification: Other Statutory Authority: CAA 206(f)(1) / 42 USC 7525(f)(1) CFR Change: 40 CFR 86 - New Analysis: EIS Small Entity: Not yet determined	Richard Wilcox EPA Ann Arbor, MI 48105 FTS:8-374-8390 COMM:313-668-4390	ANPRM: 01/00/82 NPRM: 07/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN AIR ACT—Continued		
Nonconformance Penalties for 1984 Model Year Heavy-Duty Engines (HDEs) SAN No. 1571	Description: This regulation will allow manufacturers of 1984 HDEs to sell their engines even though they fail to meet 1984 regulatory requirements for specific pollutants, provided that emissions do not exceed a specified maximum level and that the maanufacturer pays a nonconformance penalty for each HDE sold. The penalty will remove any competitive advantage of noncompliance. Classification: Other Statutory Authority: CAA 206(g), 301(a) / 42 USC 7525(g), 7601(a) CFR Change: 40 CFR 86 – New Analysis: EIS, Report Small Entity: Unlikely	Timothy Fields EPA (EN-340) Washington, D.C. 20460 FTS: 8-472-9417 COMM: 202-472-9417	NPRM: 44FR9485 (02/13/79) NPRM: 05/00/81 FR: 12/00/81
Nonconformance Penalties for Light-Duty Trucks SAN No. 1632	Description: This regulation will allow manufacturers of 1984 light duty trucks over 6,000 pounds gross vehicle weight to sell their vehicles even though they fail to meet 1984 regulatory requirements for specific pollutants, provided that emissions do not exceed a specified maximum level and that the manufacturer pays a nonconformance penalty for each truck sold. The penalty will remove any competitive advantage of noncompliance. Classification: Other Statutory Authority: CAA 206(g), 301(a) / 42 USC 7525(g), 301(a) CFR Change: 40 CFR 86 – New Analysis: Report, EIS Small Entity: Unlikely	Timothy Fields EPA (EN-340) Washington DC 20460 FTS: 8-472-9417 COMM: 202-472-9417	NPRM: 44FR40791 (07/12/79) NPRM: 05/00/81 FR: 12/00/81
Emissions Design and Defect Warranty SAN No. 1324 Docket No. MSED-78-1	Description: This regulation will insure that owners are able to take advantage of the 207(a) warranty and that dealers and manufacturers understand their liability. It will also establish uniform procedures for administering the warranty and require owners to be informed of its coverage. Classification: Other Statutory Authority: CAA 207(a)(1), 301(a)(1), 203(a)(4) / 42 USC 7541(a)(1), 7601(a)(1), 7522(a)(4) CFR Change: 40 CFR 85 – New Small Entity: Not yet determined	Richard Friedman EPA (EN-397) Washington, DC 20460 FTS: 8-472-9350 COMM: 202-472-9350	ANPRM: 41FR50566 (11/16/76) NPRM: 08/00/81 FR: 01/00/82
Fuels and Fuel Additive Protocols SAN No. 1328	Description: These protocols will help determine effects of fuel and fuel additives on public health and emission control devices. Classification: Major Statutory Authority: CAA 211 / 42 USC 7545 CFR Change: 40 CFR 79.6 – New Analysis: EIS, Report Small Entity: Not yet determined	Richard A. Rykowski EPA Ann Arbor MI 48105 FTS: 8-374-8339 COMM: 313-668-4339	ANPRM: 06/00/82 NPRM: 06/00/83
Turbine Aircraft Gaseous Emissions Retrofit and Modification of 1973 Standards SAN No. 1330 Docket No. OMSAPC-78-1	Description: This regulation proposes revisions in emission standards for commercial aircraft to reduce hydrocarbons, carbon monoxide and nitrogen oxide. Classification: Other Statutory Authority: CAA 231 / 42 USC 7571 CFR Change: 40 CFR 87 – New Small Entity: Unlikely	Chet France EPA Ann Arbor MI 48105 FTS: 8-374-8338 COMM: 313-668-8338	NPRM: 43FR12615 (03/24/78) FR: 10/00/81
Fuel Economy Data – 1982 Model Year SAN No. 1629 Docket No. A-80-32	Description: This action will revise Part 600 to incorporate several provisions intended to ensure the representativeness of data used to calculate fuel economy values. These revisions will 1) decrease the maximum allowable test vehicle system mileage accumulation, 2) redefine transmission class to differentiate between front- and rear-wheel drive, 3) require additional test data when base level fuel economy would otherwise be from a zero sales vehicle configuration, and 4) allow for more accurate and thorough reflection of the fuel economy effect of running changes. Classification: Other Statutory Authority: EPCA 1901 CFR Change: 40 CFR 600 – Revision Small Entity: Unlikely	Phillip Leung EPA Ann Arbor MI 48105 FTS: 8-374-8248 COMM: 313-668-4248	ANPRM: 45FR64540 (09/29/80) NPRM: 04/00/81 FR: 10/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT		
	The goal of the Clean Water Act is to achieve fishable and swimmable water quality in the Nation's waters by 1983. The Act defines two major strategies for reaching this goal: 1) limitations on effluent discharges from industrial and municipal sources and 2) adoption by the States of water quality standards for specific bodies of water. EPA is presently working on regulations which involve both strategies. Under Sections 301, 304, 306, and 307 of the Act, the Agency is developing regulations to control the discharge of toxic and other substances from different industries. Under Sections 303 and 304, the Agency is revising the program under which States adopt water quality standards. In addition, the Act requires that EPA address spills of oil and hazardous substances under Section 311, that it develop guidelines for permissable dumping of dredged and fill material under Section 404, and that it develop guidelines for land disposal of sewage sludge under Section 405. Section 402 requires dischargers to apply for permits from the State or EPA before they can discharge pollutants. EPA has set up the National Pollutant Discharge Elimination System (NPDES) in order to fulfill this requirement. NPDES permits are the main enforcement mechanism provided for in the Act. The basic structure of the Act was created by the Federal Water Pollution Control Act of 1972. The 1977 amendments changed the name to the Clean Water Act and supplied the impetus for most of the regulations now under development.		
Requirements for Application for 301(c) Variances SAN No. 1404	Description: Section 301(c) of the Clean Water Act provides for waivers on economic grounds of the strict requirements of BAT controls for non-toxic, non-conventional pollutants. This regulation will establish application ground rules and national criteria for granting variances from BAT requirements. It will allow variances for firms that cannot afford BAT controls for non-conventional pollutants. Classification: Other Statutory Authority: CWA 301(c)/33 USC 1311(c) CFR Change: 40 CFR 125—Addition Small Entity: Unlikely	Tom Laverty EPA (EN-336) Washington, DC 20460 FTS:8-426-7010 COMM:202-426-7010	NPRM: 05/00/81 FR: 10/00/81
Waivers from BAT for Non-conventional Pollutants under 301(g) SAN No. 1634	Description: Section 301(g) allows NPDES permit applicants to request a waiver from BAT effluent limitations for nonconventional pollutants whenever the application can show that a less stringent permit limit will not interfere with the attainment or maintenance of water quality and will not endanger human health or the environment. This regulation will establish guidelines for evaluating waiver applications Classification: Other Statutory Authority: CWA 301(g)/33 USC 1311(g) CFR Change: 40 CFR 125 Subpart F—New Small Entity: Unlikely	Robert Cantilli EPA (EN-336) Washington, DC 20460 FTS:8-426-7010 COMM:202-426-7010	NPRM: 06/00/81 FR: 12/00/81
Criteria and Standards for Imposing Best Management Practices in NPDES Permits SAN No. 1710	Description: EPA is revising the Best Managment Practices (BMP) regulations promulgated on June 7, 1979. This revision will incorporate public comments on the BMP Guidance Document that was made available for comment in March 1980. Classification: Other Statutory Authority: CWA 304(e), 402(a)(1) CFR Change: 40 CFR 125 Subpart K—Revision Small Entity: Unlikely	Harry Thron EPA (EN-336) Washington DC 20460 FTS:8-426-7010 COMM:202-426-7010	RPRM: 05/00/81 FR: 08/00/81
Innovative Technology for Industrial Discharge SAN No. 1608	Description: Section 301(k) allows NPDES permit applicants to request an extension of the compliance date for BAT until July 1, 1987 if they will install an innovative technology. This technology must be either (1) superior to BAT or (2) equivalent to BAT and allow significant cost savings. Classification: Other Statutory Authority: CWA 301(k)/33 USC 1311(k) CFR Change: 40 CFR 125—New Small Entity: Unlikely	Tom Laverty EPA (EN-336) Washington, DC 20460 FTS:8-426-7010 COMM:202-426-7010	ANPRM: 45FR62509 (09/19/80) NPRM: 04/00/81 FR: 10/00/81

The Clean Water Act and a modified consent decree in *NRDC v. Costle*, 12 ERC 1833(D.D.C. 1979), require that EPA develop guidelines to control toxic substances in industrial effluents. Section 307(a) of the Act identifies 65 toxic pollutants; they are listed in Table 1 of the Committee Print 95-30 of Committee on Public Works and Transportation, House of Representatives.

Section 304 requires that EPA determine the best available technology (BAT) to control toxic pollutants from existing point sources. BAT will consist of the most effective technology which can still be economically achieved by the affected industries. EPA will also determine best conventional technology (BCT) which industries can use on conventional pollutants which do not require BAT.

Under Section 306 of the Act, EPA is establishing new source performance standards (NSPS) for new plants. Under Section 307(b) and 307(c), EPA will set pretreatment standards for both existing and new sources which discharge into municipal waste treatment systems. These sets of standards will in most cases require technologies equivalent to BAT.

Major issues raised in setting effluent guidelines are:

(1) How to identify the major pollutants discharged to and from treatment systems;
(2) How to determine the major technology options to control pollutants;
(3) How to determine the capital and annual costs of the technology options; and
(4) How to determine the resulting economic impacts.

EPA is developing guidelines for each of the industries listed below.

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Effluent Guidelines for Seafood Processing SAN No. 1625	Description: The Agency is developing BCT regulations for processors involved in the canning or preserving of sea food. Included is a re-evaluation of industry subcategorization. Pollutants under consideration for this regulation include TSS, oil and grease, and pH. Classification: Other Statutory Authority: CWA 301, 304, 306, 307 / 33 USC 1311, 1314, 1316, 1317 CFR Change: 40 CFR 408 – Revision Small Entity: Not yet determined	Daniel Lent EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 07/00/81 FR: 02/00/82
Effluent Guidelines for Textile Mills SAN No. 1417	Description: The Agency is developing BAT, BCT, NSPS and pretreatment standards for nine subcategories of the industry. Major toxic pollutants include total phenols, chromium, copper, and zinc. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317 1361 CFR Change: 40 CFR 410 – Revision Analysis: RFA Small Entity: Likely	James Berlow EPA (WH-552) Washington DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 44FR62204 (10/29/79) FR: 08/00/82
Effluent Guidelines for Metal Finishing SAN No. 1428	Description: Metal finishing concerns 45 different industrial processes, including electroplating, machining, anodizing and painting. The Agency is developing BPT, BAT, NSPS, and pretreatment standards to regulate the discharge of copper, nickel, zinc, chromium, lead cadmium, silver, cyanide, total toxic organics, oil and grease, and TSS. Many job shop electroplaters (SIC 3479) are small businesses. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 413 – New Analysis: RFA Small Entity: Likely	Dwight Hlustick EPA (WH-552) Washington DC 20460 FTS:8-426-2582 COMM:202-426-2582	FR: 46FR9462 (01/28/81) (Pretreatment) NPRM: 07/00/81 FR: 04/00/82
Effluent Guidelines for Organic Chemicals SAN No. 1415	Description: The Agency is developing BPT, BCT, BAT, NSPS, and pretreatment standards for the organic chemicals industry. Major pollutants include arolein, acrylonitrile, benzene, toluene, ethybenzene, phenol, copper, chromium, mercury, aromatics, other phenol compounds, pthalates, and other metals. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317 1361 CFR Change: 40 CFR 414 – Revision Analysis: UCIA Small Entity: Not yet determined	Maria Irizarry EPA (WH-552) Washington, DC 20460 FTS:8-426-2497 COMM:202-426-2497	NPRM: 11/00/81 FR: 07/00/82
Effluent Guidelines for Inorganic Chemicals SAN No. 1416	Description: The Agency is developing BPT for seven industrial subcategories, BCT for two subcategories, and BAT for eleven subcategories. In addition, the Agency is developing NSPS and pretreatment standards. Major toxic pollutants include cyanide, lead, mercury, chromium, zinc, nickel, and cadmium. Phase II will regulate other subcategories of the industry Classification: Other Statutory Authority: CWA 301, 304, 305, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 415 – Revision Analysis: RFA Small Entity: Likely	Elwood Martin EPA (WH-552) Washington DC 20460 FTS:8-426-2582 COMM:202-426-2582	NPRM: 45FR49450 (07/24/80) FR: 10/00/81
Effluent Guidelines for Plastics and Synthetics SAN No. 1418	Description: The Agency is developing BPT, BCT, BAT, NSPS, and pretreatment standards for the plastics industry (SIC 2821, 2823, 2824). Major pollutants include phenol, benzene, acrolein, acrylonitrile, ethylbenzene, toluene, and vinyl chloride. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 416 – Revision Small Entity: Not yet determined.	H.E. Wise EPA (WH-552) Washington DC 20460 FTS:8-426-2497 COMM:202-426-2497	NPRM: 11/00/81 FR: 07/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Effluent Guidelines for Petroleum Refining SAN No. 1406	Description: The Agency is developing BAT and BCT for 182 direct discharges and pretreatment standards for 48 indirect discharges. Major pollutants are chromium, zinc, phenol, and polynuclear aromatic hydrocarbons. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 419 – Revision Analysis: RFA Small Entity: Unlikely	John Lum EPA (WH-552) Washington DC 20460 FTS:8-426-4617 COMM:202-426-4617	NPRM: 44FR75926 (12/21/79) FR: 01/00/82
Effluent Guideline for Iron and Steel Manufacturing SAN No. 1405	Description: The Agency is developing BPT, BCT BAT, NSPS and pretreatment standards for the iron and steel industry. The steel industry's approximately 650 plants process more than 6 billion gallons of water per day. Major toxic discharges include zinc, chromium, lead, napthalene, m benzene, phenols, and cyanide. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 420 – Revision Analysis: RFA Small Entity: Likely	Edward Dulaney EPA (WH-552) Washington DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 46FR1858 (01/07/81) FR: 12/00/81
Effluent Guidelines for Nonferrous Metal Manufacturing SAN No. 1410	Description: EPA is developing BAT and other standards for the nonferrous metals industry in two phases. Phase I includes the larger subcategories such as aluminum, copper, lead, and zinc. Toxic pollutants of concern are lead, copper, arsenic, and cadmium and copper. Classification: Other Statutory Authority: CWA 301, 304, 308, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 421 – Revision Small Entity: Not yet determined	Patricia E. Williams EPA (WH-552) Washington DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 10/00/81 FR: 07/00/82
Effluent Guidelines for Steam Electric Power Plants SAN No. 1408	Description: The steam electric power industry consists of 1000 plants which produce about 80% of the United States energy supply. The average plant discharges 315 million gallons of wastewater per day. The Agency is proposing BAT limitations for total residual chlorine, chromium, copper and zinc. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 423 – Revision Small Entity: Unlikely	John Lum EPA (WH-522) Washington, DC 20460 FTS:8-426-4617 COMM:202-426-4617	NPRM: 45FR68328 (10/14/80) FR: 01/00/82
Effluent Guidelines for Leather Tanning and Finishing SAN No. 1409	Description: The leather tanning industry consists of 170 indirect and 18 direct discharges. The Agency has proposed BPT, BAT, NSPS, and pretreatment standards for seven subcategories. Major pollutants of concern are chormium, and phenol. The Agency has proposed a less stringent standard for firms which process less than 3.1 million pounds per year of raw materials. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 425 – Revision Analysis: RFA Small Entity: Likely	Donald F. Anderson EPA (WH-552) Washington, DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 44FR38746 (07/02/79) FR: 01/00/82
Effluent Guidelines for Rubber Processing SAN No. 1420	Description: EPA has proposed to withdraw BAT and substitute limits for COD and metals equivalent to BPT for nine subcategories. BOD, oil and grease and, TSS limits have been proposed at levels equivalent to BPT for the same nine subcategories. Lead limits for three subcategories are being restudied. Rubber reclaimers covered by subparts H and I are being re-exaimed for BCT, BAT, and NSPS regulations. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 428 – Revision Analysis: RFA Small Entity: Likely	J.S. Vitalis EPA (WH-552) Washington DC 20460 FTS:8-426-2497 COMM:202-426-2497	NPRM: 44FR75016 (12/18/79) NPRM: 10/00/81 FR: 04/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Effluent Guidelines for Pulp, Paper, and Paperboard SAN No. 1419	Description: The Agency is establishing BAT, BCT, NSPS and pretreatment standards for this industry. Pulp, paper and paperboard mills discharge approximately 4.2 billion gallons per day of wastewater. Pollutants of concern are BOD, TSS, chloroform, zinc, and chlorinated phenols. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 430, 431 – Revision Analysis: RFA Small Entity: Unlikely	Robert Dellinger EPA (WH-552) Washington, DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 46FR1430 (01/06/81) FR: 05/00/82
Effluent Guidelines for Meat Packing SAN No. 1574	Description: EPA is developing BCT effluent limitations for 80 plants in four subcategories of the red meat slaughtering and packing industry. Pollutants under consideration for this regulation include BOD, TSS, oil and grease, and pH. BPT, TSS effluent limitations are also being reformulated for the complex slaughterhouse subcategory in response to a court remand of previous limitations. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 316 / 33 USC 1311, 1314, 1316, 1317, 1326 CFR Change: 40 CFR 432 – Revision Small Entity: Not yet determined	Daniel Lent EPA (WH-552) Washington DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 01/00/82 FR: 09/00/82
Effluent Guidelines for Coal Mining SAN No. 1414	Description: – The Agency is revising BPT and NSPS and proposing BAT and BCT for runoff and wastewater discharge from coal mines. Toxic pollutants of concern are manganese and iron. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33-USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 434 – Revision Small Entity: Unlikely	Dennis Ruddy EPA (WH-552) Washington, DC 20460 FTS:8-426-2707 COMM:202-426-2707	NPRM: 46FR3136 (01/13/81) RPRM: 06/00/81 FR: 02/00/82
Effluent Guidelines for Ore Mining and Dressing Point Source Category SAN No. 1413	Description: – The Agency is developing BAT, BCT, and NSPS effluent limitations for the mining of iron, copper, lead, zinc, gold, silver, molybdenum, aluminum, tungsten, nickel, vanadium, uranium, antimony, and titanium ore. Toxic pollutants of concern are copper, lead, zinc, and nickel. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 434 – Revision Analysis: RFA Small Entity: Unlikely	B. Matthew Jarrett EPA (WH-552) Washington, DC 20460 FTS:8-426-4617 COMM:202-426-4617	NPRM: 09/00/81 FR: 06/00/82
Effluent Guidelines for Offshore Oil and Gas Industry SAN No. 1649	Description: In 1975 the Agency proposed regulations for the offshore oil and gas industry. EPA published a final rule for BPT in 1979 but took no action on the NSPS and BAT standards. Under a settlement agreement with NRDC, the Agency withdrew the 1975 NSPS and is developing a new proposal for NSPS. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 435 – New Small Entity: Not yet determined	Teresa Wright EPA (WH-552) Washington, DC 20460 FTS:8-426-4617 COMM:202-426-4617	NPRM: 11/00/81 FR: 06/00/82
Effluent Guideline for the Crushed Stone, Sand, and Gravel Industries SAN No. 1712	Description: EPA is reconsidering BPT limitations for the crushed stone, sand, and gravel industries. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 436 – Revision Analysis: RFA Small Entity: Likely	William A. Telliard EPA (WH-552) Washington DC 20460 FTS:8-423-4617 COMM:202-426-4617	NPRM: 04/00/82 FR: 01/00/83

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Effluent Guidelines for Pharmaceuticals SAN No. 1427	Description: EPA will propose BCT limits, BAT limits, and NSPS standards for four subcategories — fermentation products; biological, natural, and extraction products, chemical synthetic products and fomulation products. Major toxic pollutants discharged by the pharmaceuticals industryindustry include benzene, carbon tetrachloride, chloroform, ethylbenzene, toluene, phenol, cyanide, and heavy metals. BAT limits would be proposed to control these pollutants. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 439 – Revision Analysis: RFA Small Entity:Unlikely	J.S. Vitalis EPA (WH-552) Washington, DC 20460 FTS:8-426-2497 COMM:202-426-2497	NPRM: 12/00/81 FR: 02/00/83
Effluent Guidelines for Paint Formulation SAN No. 1411	Description: The Agency is developing BAT, NSPS, and pretreatment standards for the caustic water wash subcategory and pretreatment standards for the solvent wash subcategory of the paint formulating industry. Toxic pollutants of concern are chromium, copper, nickel, lead, zinc, and mercury. EPA is considering a provision to exempt facilities discharging 100 gallons per day or less of wastewater. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 446 – Revision Analysis: RFA Small Entity:Likely	Ben Honaker EPA (WH-552) Washington, DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 45FR912 (01/03/80) FR: 06/00/82
Effluent Guidelines for Ink Formulation SAN No. 1411A	Description: EPA is developing BAT, NSPS, and pretreatment standards for the caustic-water wash subcategory and pretreatment standards for the solvent wash subcategory. Toxic pollutants of concern include lead, zinc, copper, and chromium. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 447 – Revision Analysis: RFA Small Entity:Unlikely	Ben Honaker EPA (WH 552) Washington, DC 20460 FTS:8-426-2554 COMM:202-426-2554	NPRM: 45FR928 (01/03/80) FR: 01/00/82
Effluent Guidelines for Pesticides SAN No. 1426	Description: EPA is developing BAT controls for manufacturers of pesticide and related products. Technological options under consideration are activated carbon and resin adsorption, hydrolysis, steam stripping, chemical oxidation, metals separation, and biological oxidation. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 455 – New Analysis: RFA Small Entity:Unlikely	George Jett EPA (WH-552) Washington DC 20460 FTS:8-426-2497 COMM:202-426-2497	NPRM: 09/00/81 FR: 05/00/82
Effluent Guidelines for Battery Manufacturing SAN No. 1434	Description: The Agency is developing BAT and other standards for seven subcategories of the battery manufacturing industry. The seven subcategories are based primarily on anode material and on electrolyte (acid and alkaline) use. Toxic pollutants of concern are mercury, lead, cadmium, phenols, nickel, and zinc. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 461 – New Small Entity:Not yet determined	Mary L. Belefski EPA (WH-552) Washington, DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 12/00/81 FR: 07/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Effluent Guidelines for Metal Moulding and Casting Foundries SAN No. 1432	Description: The Agency is developing BPT, BAT and other standards for the aluminum casting, cooper casting, iron and steel casting, magnesium casting, lead casting, zinc casting subcategories. The industry discharges approximately 8200 lb/day of toxic pollutants into waterways. Major toxic pollutants include zinc, copper, lead, and phenolic compounds. Classification: Major Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 464 – New Small Entity: Not yet determined	John Williams EPA (WH-552) Washington DC 20460 FTS:8-426-2586 COMM:202-426-2586	ANPRM: 05/00/81 NPRM: 02/00/82 FR: 11/00/82
Effluent Guidelines for Coil Coating SAN No. 1435	Description: The Agency is proposing BPT, BAT, NSPS and pretreatment standards for the steel, galvanized and aluminum coil subcategories. Toxic pollutants of concern are chromium, cyanide, copper, lead, nickel, and zinc. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 465 – New Analysis: RFA Small Entity: Unlikely	Rex Reges EPA (WH-552) Washington DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 46FR2934 (01/12/81) FR: 12/00/81
Effluent Guidelines for Porcelain Enameling SAN No. 1437	Description: Producers of porcelain enameled products include 28 direct and 88 indirect dischargers. The Agency is preparing BAT and other standards for the steel, cast iron, aluminum and copper subcategories. Toxic pollutants of concern are cadmium, chromium, copper, lead, nickel, selenium and zinc. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 466 – New Analysis: RFA Small Entity: Likely	Catherine M. Lowry EPA (WH-552) Washington, DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 46FR8860 (01/27/81) FR: 04/00/82
Effluent Guidelines for Aluminum Forming SAN No. 1438	Description: EPA is developing BPT, BAT, and other standards for the aluminum forming industry. Toxic pollutants of concern include chormium, zinc, lead, and cyanide. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 467 – New Small Entity: Not yet determined	Janet Goodwin EPA (WH-552) Washington DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 08/00/81 FR: 03/00/82
Effluent Guidelines for Copper Forming SAN No. 1433	Description: The Agency is developing BPT, BAT, and other standards for six subcategories of the copper forming industry. Pollutants of concern include copper, lead, zinc, and nickel. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: 40 CFR 468 – New Small Entity: Not yet determined	John Williams EPA (WH-552) Washington DC 20460 FTS:8-426-2586 COMM:202-426-2586	NPRM: 02/00/82 FR: 09/00/82
Effluent Guidelines-for Electrical and Electronic Products SAN No. 1431	Description: Industries producing electrical and electronic components include 2000 direct and 8000 indirect dischargers of pollutants. The Agency is currently working on BAT, NSPS, and pretreatment standards for two subcategories of the electronics industry, semiconductors and electronic crystals. Toxic pollutants of concern are organic chemicals, nickel, and chromium. Classification: Other Statutory Authority: CWA 301, 304, 306, 307 / 33 USC 1311, 1314, 1316, 1317 CFR Change: 40 CFR 469 – New Analysis: RFA Small Entity: Unlikely	John C. Newbrough EPA (WH-552) Washington DC 20460 FTS:8-426-2582 COMM:202-426-2582	NPRM: 08/00/81 FR: 03/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Effluent Guidelines for Alcohol Fuels SAN No. 1659	Description: EPA is developing new source performance standards for plants that manufacture fuel from alcohol. Classification: Other Statutory Authority: CWA 301, 304, 306, 307, 501 / 33 USC 1311, 1314, 1316, 1317, 1361 CFR Change: EPA will select a CFR part for this regulation.—New Analysis: RFA Small Entity: Not yet determined	Wendy Smith EPA (WH-552) Washington, DC 20460 FTS:8-426-4617 COMM:202-426-4617	NPRM: 10/00/81 FR: 07/00/82
Modified pH Standard for Effluent Guideline Limitations SAN No. 1655	Description: This regulation would adjust effluent guideline limitations for pH values on a monthly basis for industrial discharges whose NPDES permits require continuous monitoring. It would also limit the duration of individual excursions exceeding the range set forth in the applicable effluent guidelines. Classification: Other Statutory Authority: CWA 301, 304 / 33 USC 1311, 1314 CFR Change: 40 CFR 401—Revision Small Entity: Unlikely	Russell Roegner EPA (WH 586) Washington DC 20460 FTS:8-755-3624 COMM:202-755-3624	NPRM: 45FR81180 (12/09/80) FR: 08/00/81
Water Quality Standards Regulation SAN No. 1441	Description: EPA is revising its regulations governing the adoption, revision and approval of state water quality standards. The regulation will describe the environmental and economic evaluations necessary to change designated uses of surface waters, e.g. aquatic protection, recreation, public water supply. It will also describe the process for determining where criteria should be developed for toxic pollutants listed under section 307(a). Small communities will be subject to less stringent requirements. Classification: Other Statutory Authority: CWA 303 / 33 USC 1313. CFR Change: 40 CFR 35.1550, 120—Revision Analysis: ORA, RFA Small Entity: Not yet determined	John Cross EPA (WH-585) Washington DC 20460 FTS:8-245-3042 COMM:202-245-3042	ANPRM: 43FR29588 (07/10/78) NPRM: 06/00/81 FR: 11/00/81
Wasteload Allocation Requirements SAN No. 1656	Description: When technology-based discharge controls are not adequate to protect the water quality of the receiving waters, wasteload allocation among dischargers is one means of protecting water quality. This regulation will define EPA's wasteload allocation policy. Classification: Other Statutory Authority: CWA 303(d) / 33 USC 1313(d) CFR Change: EPA will assign a CFR part number for this regulation—New Analysis: RFA Small Entity: Not yet determined	Tim Stuart EPA (WH-553) Washington, DC 20460 FTS:8-426-7766 COMM:202-426-7766	NPRM: 07/00/81 FR: 05/00/82
Amendment to Secondary Treatment Regulations SAN No. 1657	Description: The secondary treatment regulations require municipalities to achieve one of two standards of removal efficiency for conventional pollutants. They must comply with the more stringent of the following two standards: maximum amounts of TSS or 5 day BOD of 30g/liter or 85% removal of BOD or TSS. The purpose of these amendments is to consider (1) adjustments to the 85% removal requirement and (2) use of a test for carbonaceous BOD5 in addition to the standard BOD5 test for certain plants experiencing significant interference from nitrification. Classification: Other Statutory Authority: CWA 304(d)(1) / 33 USC 1314(d)(1) CFR Change: 40 CFR 133, 136—Revision Analysis: RFA Small Entity: Likely	James Wheeler EPA (WH-547) Washington, D.C. 20460 FTS:8-426-8976 COMM:202-426-8976	ANPRM: 05/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	CLEAN WATER ACT—Continued		
Reportable Quantities of Oil Discharge SAN No. 1579	Description: This revision will extend reporting requirements for oil discharges from 12 miles to 200 miles offshore and will provide for statutory exemptions. Classification: Other Statutory Authority: CWA 311(b) / 33 USC 1321(b) CFR Change: 40 CRF 110 – Revision Small Entity: Not yet determined.	Hans Crump-Wiesner EPA (WH-548) Washington, DC 20460 FTS:8-245-3045 COMM:202-245-304	NPRM: Undetermined
Oil Pollution Prevention Regulation SAN No. 1584	Description: This revision to 40 CFR 112 will extend EPA's oil pollution authority from three miles to two hundred miles offshore. Classification: Other Statutory Authority: CWA 311(j)(1)(C) / 33 USC 1321(j)(1)(C) CFR Change: 40 CFR 112 – Revision Small Entity: Unlikely	Steve Heare EPA (WH-548) Washington DC 20460 FTS:8-245-3045 COMM:202-245-3045	NPRM: 45FR33814 (05/20/80) FR: 06/00/81
Hazardous Substances Pollution Prevention for Facilities Subject to Permitting Requirements of Section 402 SAN No. 1451	Description: This regulation's purpose is to prevent spills of hazardous substances. It sets forth requirements for the Spills Prevention Control and Countermeasure Plans for Facilities which (a) are not related to transportation, (b) which handle hazardous substances, and (c) are subject to NPDES permits. Classification: Other Statutory Authority: CWA 311(j)(1)(C) / 33 USC 1321(j)(1)(C) CFR Change: 40 CFR 151 – New Small Entity: Likely	Steve Heare EPA (WH-548) Washington DC 20460 FTS:8-245-3045 COMM:202-245-3045	NPRM: 43FR39276 (09/01/78) FR: 12/00/81
Guidelines for Specification of Disposal Sites for Dredged or Fill Material (Revision of Chemical and Biological Testing and Mixing Zone Determinations) SAN No. 1585	Description: This rulemaking will revise part of the section 404(b)(1) guidelines: (1) to bring the 1975 Interim Final Guidelines up-to-date in the light of new research and management information on testing procedures, and (2) to provide a format for the testing procedure; which will be clearer for both applicants and permitting officials. Classification: Other Statutory Authority: CWA 404(b)(1) / 33 USC 1344(b)(1) CFR Change: 40 CFR 230 – Revision Small Entity: Unlikely	Victor T. McCauley EPA (WH-585) Washington DC 20460 FTS:8-472-3400 COMM:202-472-3400	NPRM: 45FR85330 (12/24/80) FR: 05/00/81
Sewage Sludge Disposal Regulations SAN No. 1459 Docket No. 405	Description: The regulations will provide guidelines for the disposal and use of wastewater treatment plant sludge. Publicly owned treatment works generate annually 5 million dry tons of sludge. The first proposal will apply to the distribution and marketing of fertilizers and soil conditioners derived from sewage sludge. Sludge containing harmful levels of heavy metals and toxic organics poses a threat to human health if used on food chain crops. Additional proposals on landfilling, incineration, surface impoundments, thermal processing, and ocean disposal will come later. Classification: Other Statutory Authority: CWA 405 / 33 USC 1345 CFR Change: 40 CFR 258 – New Analysis: EIS Small Entity: Unlikely	Robert Tonetti EPA (WH-564) Washington DC 20460 FTS:8-755-9120 COMM:202-755-9120	NPRM: 06/00/81 FR: 06/00/82
Revision of Ocean Dumping Criteria SAN No. 1604	Description: This action opens ocean dumping criteria for possible revision based on public comment, new research information and operating experience. Classification: Other Statutory Authority: MPRSA / 33 USC 1401 et seq. CFR Change: 40 CFR 220-29 Small Entity: Unlikely	T. A. Wastler EPA (WH-548) Washington DC 20460 FTS:8-472-2836 COMM:202-472-2836	NPRM: 12/00/81 FR: 06/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION — Continued

Title	Summary	Contact	Timetable
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT			
The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, more popularly known as "Superfund," authorizes the federal government to respond to multi-media (e.g. air, water) releases of hazardous materials and other pollutants from hazardous waste sites and other facilities. It sets up a Hazardous Waste Response Fund to pay for clean up of releases and to respond to claims for natural resource damages. It also provides for liability of persons responsible for releases of hazardous substances. By Executive Order, EPA has been assigned responsibility to develop the following regulations.			
Determination of Reportable Quantities SAN No. 1642B	Description: EPA is developing minimum reportable quantities for hazardous substances that will trigger the requirement in section 103 that persons must notify the National Response Center of releases of hazardous substances that may present substantial danger to the public health, welfare, or the environment. Classification: Other Statutory Authority: CERCLA 102 CFR Change: EPA will assign a CFR part to this regulation.—New Small Entity:Unlikely	Jack Kooyoomjian EPA (WH-548) Washington, D.C. 20460 FTS:8-245-3045 COMM:202-245-3045	ANPRM: 05/00/81 NPRM: 09/00/81
Designation of Hazardous Substances SAN No. 1642A	Description: Section 102 of the Act requires EPA to designate hazardous substances which may present substantial danger to the public health or welfare or the environment if released into the environment. Section 103(a) requires that persons notify the National Response Center of releases of hazardous substances. EPA is developing this regulation to supplement the lists of hazardous substances already developed under CWA 307, 311, RCRA 3001, CAA 112, and TSCA 7. Classification: Other Statutory Authority: CERCLA 102 CFR Change: EPA will assign a CFR part to this regulation.—New Small Entity:Unlikely	Jack Kooyoomjian EPA (WH-548) Washington, D.C. 20460 FTS:8-245-3045 COMM:202-245-3045	ANPRM: 05/00/81 NPRM: 09/00/81
Site Recordkeeping Requirements SAN No. 1642C	Description: Section 103(d) authorizes EPA to develop regulations specifying records to be kept regarding sites which contained or contain hazardous substances. Anyone who must notify EPA of a site under section 103(c) must keep these records. Types of records include those relating to location, title or condition of a site and condition of substances contained at the site. Classification: Other Statutory Authority: CERCLA 103 CFR Change: EPA will assign a CFR part to this regulation. Small Entity:Not yet determined	Hal Snyder EPA (WH-548) Washington, DC 20460 FTS:8-245-3051 COMM:202-245-3051	ANPRM: 05/00/81 NPRM: 12/00/81 FR: 06/00/82
Claims Procedures SAN No. 1642D	Description: This regulation prescribes the procedures and circumstances under which claims may be presented to the fund to recover costs of clean-up. Allowable claims are (1) clean-up costs and (2) natural resource damage (which can be claimed only by the President or the affected State). Classification: Other Statutory Authority: CERCLA 111, 112 CFR Change: EPA will assign a CFR part to this regulation.—New Small Entity:Unlikely	Sandra Hill EPA (WH-548D) Washington, D.C. 20460 FTS:8-245-3154 COMM:202-382-2197	ANPRM: 05/00/81 NPRM: 07/00/81 FR: 09/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT			
The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), with the cooperation of the States for certain activities, regulates the use of pesticide products in the United States. Under Section 3 of the Act all manufacturers of pesticides must register their products with EPA. The Agency is presently working on regulations (SAN Nos. 1141-1148,1619-1623, 1701, 1703) that specify the test data standards and the reporting and labeling requirements for registration applications. EPA is also simplifying procedures for registration and reregistration of pesticide products (SAN No. 1524).			
Pesticide Registration Guidelines: Introduction SAN No. 1141	Description: This action states the general guidelines and specifies the degree of flexibility in their requirements and in the use of interim data. It also defines terms used throughout the guidelines and sets out requirements for keeping data and test samples at laboratories. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart A – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 43FR29696 (07/10/78) FR: 09/00/81
Applicability of Data Requirements SAN No. 1619	Description: This action provides instruction for registration applicants as to expected data requirements based on product type and use pattern. It will indicate whether the requirements apply to products from basic manufacturers or formulators, and who will be required to develop the data. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart B – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	ANPRM: 08/00/81 NPRM: 04/00/82 FR: 01/00/83
Chemistry Requirements: Product Chemistry SAN No. 1143	Description: This regulation covers requirements for data on formation, identification, and quantification of the ingredients and impurities in pesticide products, and on chemical and physical characteristics of the products and their components. The Agency will propose a new section on bioassays to detect unwanted contaminants and impurities. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart D – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 43FR29696 (07/10/78) FR: 06/00/81 NPRM: 06/00/81 FR: 06/00/82
Hazard Evaluations: Wildlife and Aquatic Organisms SAN No. 1144	Description: This action covers data requirements for studies of pesticide effects on birds, wild animals, fish, and aquatic animals. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart E – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 43FR29696 (07/10/78) FR: 05/00/81
Hazard Evaluation: Humans and Domestic Animals SAN No. 1145	Description: This regulation specifies data requirements for studies of pesticide effects in laboratory animals for assessment of potential hazards to humans and domestic animals. The sections on mutagenicity data requirements will be promulgated in January 1982. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart F – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 43FR37336 (08/22/78) FR: 10/00/81
Product Performance SAN No. 1146	Description: This action specifies the data that registrants must submit to demonstrate that pesticide products will control pests as specified in label claims. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart G – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 06/00/81 FR: 04/00/82
Label Development and Improvement SAN No. 1147	Description: This action describes all essential parts of a pesticide product label, including how labeling must comply with the requirements of FIFRA and how claims, precautions and directions must correspond to evidence developed in tests performed by or for the registration applicant. Classification: Other Statutory Authority: FIFRA 3 / 7 USC 136(a) CFR Change: 40 CFR 163 Subpart H – New Small Entity:Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 07/00/81 FR: 05/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT—Continued		
Experimental Use Permits SAN No. 1142	Description: This action specifies that data and labeling must be submitted in support of an application for an experimental use permit. It also defines procedures which must be followed to obtain a permit. Classification: Other Statutory Authority: FIFRA 3/7 USC 136(a) CFR Change: 40 CFR 163 Subpart I—New Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 05/00/81 FR: 03/00/82
Hazard Evaluation: Non-Target Plants and Micro-Organisms SAN No. 1148	Description: This action describes data required to evaluate adverse effects on plants in nontarget areas and desirable plants in target areas. It also provides guidance on developing data regarding spray drift. Classification: Other Statutory Authority: FIFRA 3/7 USC 136(a) CFR Change: 40 CFR 163 Subpart J—New Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 45FR72948 (11/03/80) FR: 10/00/81
Exposure Data Requirements SAN No. 1620	Description: This action provides guidance on means to calculate the length of time required before persons can safely re-enter a pesticidetreated area, and the data requirements needed for the calculation. Classification: Other Statutory Authority: FIFRA 3/7 USC 136(a) CFR Change: 40 CFR 163 Subpart K—New Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 07/00/81 FR: 06/00/82
Hazard Evaluation: Nontarget Insects SAN No. 1621	Description: This regulation specifies the data requirements for tests designed to reveal any potential adverse effects on bees and other useful nontarget insects. Classification: Other Statutory Authority: FIFRA 3/7 USC 136(a) CFR Change: 40 CFR 163 Subpart L—New Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 05/00/81 FR: 01/00/82
Data Requirements for Biorational Pesticides SAN No. 1622	Description: This action prescribes data requirements for studies conducted with pest control organisms such as bacteria, fungi, protozoa, and viruses to determine possible adverse effects to humans and other nontarget organisms in the environment. Studies with chemicals derived from organisms, such as sex attractants and insect growth regulators, are also covered by data requirements in this subpart. Classification: Other Statutory Authority: FIFRA 3/7 USC 136(a) CFR Change: 40 CFR 163 Subpart M—New Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 06/00/81 FR: 07/00/82
Chemistry Requirements: Environmental Fate SAN No. 1623	Description: This regulation specifies the data requirements to demonstrate fate of pesticides in the environment, such as through degradation, metabolism, mobility dissipation accumulation and similar routes. (This action was proposed as part of Subpart D). Classification: Other Statutory Authority: FIFRA 3/7 USC 136a CFR Change: 40 CFR 163 Subpart N—New Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 43FR29696 (07/10/78) FR: 06/00/81
Good Laboratory Practices SAN No. 1703	Description: This rule states requirements for the retention and handling of laboratory records and includes quality assurance procedures, records and similar information related to Good Laboratory Practice. Classification: Other Statutory Authority: FIFRA 3/7 USC 136(a) CFR Change: 40 CFR 163 Subpart Q—Revision Small Entity: Unlikely	Bill Preston EPA (TS-769) Washington, DC 20460 FTS:8-557-1405 COMM:703-557-1405	NPRM: 45FR26373 (04/18/80) FR: 07/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT—Continued		
Chemistry Requirements: Residue Chemistry SAN No. 1701	Description: This rule provides instruction regarding the development of data on pesticide residues in crop produce for human food, in meat, milk, and eggs, and in feed for domestic animals used for human food. Such information is generally required to support petitions for tolerances under the Federal Food, Drug, and Cosmetic Act, and must be reviewed by EPA in connection with registration under FIFRA. Classification: Other Statutory Authority: FFDCA 408(d)(1) CFR Change: 40 CFR 163 Subpart O – New Small Entity: Unlikely	Richard D. Schmitt EPA (TS-769) Washington, DC 20460 FTS:8-557-7377 COMM:703-557-7377	NPRM: 11/00/81 FR: 10/00/82
Data Submittal Criteria SAN No. 1706	Description: This regulation will establish minimum criteria applicable to scientific studies reporting the results of testing for certain long term chronic health effects of pesticide products. Studies that meet the criteria will qualify for submittal in support of pesticide reregistration actions. Classification: Other Statutory Authority: FIFRA 3(c)(2) / 7 USC 136d CFR Change: 40 CFR 163 – New Analysis: Report, RFA Small Entity: Likely	Tim Stanceu EPA (TS-791) Washington DC 20460 FTS:8-557-1127 COMM:703-557-1127	ANPRM: 44FR76311 (12/26/79) NPRM: 08/00/81 FR: 02/00/82
Modification of Regulations for Pesticides Registration, Classification, and Incorporation of Registration Standards SAN No. 1524	Description: These regulations will revise procedures and requirements for the registration of new pesticide chemicals and products, the registration and reregistration of old pesticide chemicals and products, and the classification and Rebuttal Presumption Against Registration (RPAR) process. Classification: Major Statutory Authority: FIFRA 3(c)(2)(C) / 7 USC 136d CFR Change: 40 CFR 162, Subpart A – Revision Small Entity: Likely	Henry Jacoby EPA (TS-767-C) Washington DC 20460 FTS:8-557-7060 COMM:703-557-7060	ANPRM. 44FR76311 (12/26/79) NPRM: 09/00/81 FR: 03/00/82
Revised Worker Protection Standards for Agricultural Pesticides SAN No. 1640	Description: This revision will clarify the authority of EPA to enforce and establish standards that protect farm families and workers from unreasonable adverse effects of agricultural pesticides. Classification: Other Statutory Authority: FIFRA 3, 25 / 7 USC 136(a), (w) CFR Change: 40 CFR 170 – Revision Small Entity: Not yet determined	Stanley Weissman EPA (TS 766) Washington, DC 20460 FTS:8-557-7271 COMM:703-557-7271	ANPRM: 06/00/81 NPRM: 09/00/81 FR: 02/00/82
Closed System Packaging SAN No. 1523	Description: The objective of this rule is to reduce the hazards associated with the transfer, mixing, and loading of pesticides. These hazards have resulted in adverse effects on pesticide mixers and loaders of certain classes of pesticides. Classification: Other Statutory Authority: FIFRA 25(c)(3) / 7 USC 136(e) CFR Change: 40 CFR 162 – Addition Small Entity: Likely	William Jacobs EPA (TS-767-C) Washington, DC 20460 FTS:8-557-7030 COMM:703-557-7030	ANPRM: 44FR54508 (09/20/79) NPRM: 09/00/81 FR: 06/00/82
State Enforcement of Pesticide Violations SAN No. 1563	Description: This interpretive rule will give the Agency interpretation of Sections 26 and 27 of FIFRA which provide for State enforcement of pesticide violations. Under Section 27(b) the Agency is writing a related specialized regulation to establish procedural rules for rescinding State enforcement primacy if the Administrator determines that a State is not carrying out its enforcement responsibility Classification: Other Statutory Authority: FIFRA 26, 27 / 7 USC 136-W-1, W-2 CFR Change: 40 CFR 173 – New Small Entity: Unlikely	Steve Leifer EPA (EN-342) Washington, DC 20460 FTS:8-755-0970 COMM:202-755-0970	NPRM: 05/00/81 FR: 10/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT—Continued		
Reporting Requirements for States with Primacy Enforcement Responsibility for Pesticide Use Violations SAN No. 1647	Description: This regulation details the requirements for States that have primarcy for pesticide use enforcement. These requirements will provide EPA with the information necessary to judge the adequacy of State enforcement. Classification: Other Statutory Authority: FIFRA 26(a)(3) CFR Change: 40 CFR 173 – New Analysis: Report Small Entity: Unlikely	Laura Campbell EPA (EN-342) Washington, D.C. 20460 FTS:8-755-0970 COMM:202-755-0970	ANPRM: 04/00/81 NPRM: 07/00/81
Tolerance Revocation Policy SAN No. 1560	Description: This regulation prescribes methods for revoking tolerance petitions when a pesticide registration is cancelled. It applies to dieldrin, aldrin, DDT, and BHC. Classification: Other Statutory Authority: FDCA 408,409 / 21 USC 678, 679 CFR Change: 40 CFR 180.147, 180.135, 180.137, 180.140 – Deletions Small Entity: Unlikely	Jesse Mayes EPA (TS-767-C) Washington, DC 20460 FTS:8-557-7110 COMM:703-557-7110	NPRM: 05/00/81 FR: 07/00/81
	NOISE CONTROL ACT		

The Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978, authorizes EPA to promulgate regulations to protect the public health and welfare from noise pollution.

Sections 5 and 6 of the Act require that the Agency identify major sources of noise pollution and promulgate noise emission standards for newly manufactured products listed as major sources of noise that are distributed in commerce under section 8. EPA is authorized to require labeling of consumer products as to their noise-related characteristics.

Section 17 of the Act provides for limiting noise from railroad engines, cars and facilities. These regulations are enforced by the Federal Railroad Administration of the Department of Transportation.

Additional Testing Requirement for Motorcycle and Motorcycle Exhaust Systems SAN No. 1670 Docket No. ONAC 80-03	Description: This action proposes to require manufacturers to remove all easily removable components from their exhaust systems before conducting the tests necessary to show compliance with any applicable motorcycle Noise Emission Standards. Classification: Other Statutory Authority: NCA 6,13 / 42 USC 4905,4912 CFR Change: 40 CFR 205 – Revision Small Entity: Likely	Fred Newberry EPA (ANR-490) Washington, D.C. 20460 FTS:8-557-7666 COMM:703-557-7666	NPRM: 45FR86732 (12/31/80) FR: Undetermined
Noise Emission Standards for Buses SAN No. 1170 Docket No. OANC-77-6	Description: This regulation sets noise emission standards for new interstate, city, and school buses Classification: Other Statutory Authority: NCA 5,6 / 42 USC 4904, 4905 CFR Change: 40 CFR 205 – Addition Analysis: EIS Small Entity: Unlikely	Francine Cannon EPA (ANR-490) Washington DC 20460 FTS.8-557-7666 COMM:703-557-7666	NPRM: 42FR45775 (09/12/77) FR: Undetermined
Low Noise Emission Products SAN No. 1177 Docket No. ONAC-77-7	Description: If a product has a low noise emission level, it may be entitled to special consideration in Federal purchasing. This regulation establishes procedures for making low level determinations. Classification: Other Statutory Authority: NCA 15 / 42 USC 4914 CFR Change: 40 CFR 203, 204, 205 – Addition Analysis: EIS Small Entity: Unlikely	Henry Thomas EPA (ANR-490) Washington, DC 20460 FTS:8-557-7743 COMM:703-557-7743	NPRM: 42FR27441 (05/27/77) FR: Undetermined
Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers – Property Line Noise Standards SAN No. 1179A Docket No. ONAC 80-1	Description: This regulation establishes noise emission standards (limits) on the overall noise generated from railroad facilities (including operations and equipment noise). The DC Circuit has set January 1981 as the deadline for promulgation of the final rule. See Association of American Railroads v. Costle, CA No. 76-1353. Classification: Other Statutory Authority: NCA-17 / 42 USC 4916 CFR Change: 40 CFR 201 – New Analysis: EIS Small Entity: Unlikely	Robert C. Rose EPA (ANR-490) Washington, DC 20460 FTS:8-557-7744 COMM:703-557-7744	NPRM: 44FR22960 (04/17/79) 44FR25268 (04/30/79) FR: Undetermined

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	NOISE CONTROL ACT—Continued		
Railroad Noise Emission Standards: Special Local Determinations SAN No. 1180 Docket No. ONAC 76-11	Description: This regulation establishes procedures and criteria for State and local governments to apply for exceptions from federal rules. The Agency expects that it will only make exceptions on those rare occasions when special circumstances make the federal rules inapplicable. Classification: Other Statutory Authority: NCA 17(c)2 / 42 USC 4916(c)(2) CFR Change: 40 CFR 201 – New Small Entity: Unlikely	Robert C. Rose EPA (ANR-490) Washington, DC 20460 FTS:8-557-7744 COMM:703-557-7744	NPRM: 41FR52317 (11/29/76) RPRM: Undetermined
	RESOURCE CONSERVATION AND RECOVERY ACT		

The primary goals of the Resource Conservation and Recovery Act are 1) to improve the management of solid wastes in order to protect human health and the environment and 2) to conserve valuable material and energy resources. More specifically, the Act calls for State programs authorized by EPA to regulate hazardous waste management from generation through disposal, and for the States to regulate the disposal on land of all other solid wastes in accordance with minimum Federal criteria. EPA's regulations in large part exempt small businesses that generate less than 1000 kg. of hazardous waste per month. The Act also establishes resource recovery and conservation as the preferred approach to solid waste management.

Identification and Listing of Hazardous Waste SAN No. 1191 Docket No. 3001	Description: This regulation defines wastes that EPA or the States will control under the nationwide hazardous waste management program. It defines criteria for identifying characteristics of hazardous wastes based on ignitability, corrosivity, reactivity, and extract procedure toxicity. It also defines criteria for listing hazardous wastes. It provides definitions of hazardous wastes characteristics and lists of hazardous waste. Future promulgations may include additional listed hazardous wastes as well as necessary changes or additions to other parts of Part 261 (in response to comments, field operations, etc.). Classification: Major Statutory Authority: RCRA 3001 / 42 USC 6921 CFR Change: 40 CFR 261 – New Analysis: EIS, ORIA Small Entity: Likely	Alan Corson EPA (WH-565) Washington DC 20460 FTS:8-755-9187 COMM:202-755-9187	NPRM: 43FR58946 (12/18/78) FR: 45FR33084 (05/19/80) FR: 45FR47835 (07/16/80) FR: 45FR74884 (11/12/80) IFR: 45FR76620 (11/19/80) FR: 45FR78524 (11/25/80) IFR: 45FR80286 (12/04/80) FR: 46FR4014 (01/16/81) IFR: 05/00/81
Revisions of Proposed Listing of Waste Oil as a Hazardous Waste; Revision of Proposed Waste Oil Regulations SAN No. 1713 Docket No. 3012	Description: In 1978, EPA proposed the listing of certain waste oils as hazardous wastes and proposed a set of standards applicable to the transportation, storage, treatment, recycling and disposal of these and other waste oils. EPA is reproposing this listing and the corresponding regulations because of the many new and revised provisions which have not been subjected to public review. Classification: Other Statutory Authority: RCRA 3001 / 42 USC 6921 CFR Change: 40 CFR 266– Revision Analysis: Report, RFA Small Entity: Likely	Arline M Sheehan EPA (WH-565) Washington DC 20460 FTS:8-755-9200 COMM:202-755-9200	NPRM: 43FR58946 (12/18/78) RPRM: 09/00/81 FR: 03/00/82
Standards Applicable to Owners and Operators of Hazardous Waste Treatment and Disposal Facilities SAN No. 1194 Docket No. 3004	Description: This regulation requires facilities that manage hazardous waste to meet certain standards for financial responsibility, operating practices, location, and design. These standards have been set to protect the quality of air, surface-water, and groundwater. Classification: Major Statutory Authority: RCRA 3004 / 42 USC 6924 CFR Change: 40 CFR 264,265,266 – New Analysis: EIS, ORA Small Entity: Likely	John Lehman EPA (WH-565) Washington DC 20460 FTS:8-755-9185 COMM:202-755-9185	FR: 45FR33154 (05/19/80) RPRM: 46FR11126 (02/05/81) IFR: 46FR2802 (01/12/81) 45FR86966 (12/31/80) 45FR86970 (12/11/80) 46FR7666 (01/23/81) FR: 01/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
RESOURCE CONSERVATION AND RECOVERY ACT			
Guidelines for Federal Procurement of Cement and Concrete Containing Fly Ash SAN No. 1200 Docket No. 6002(e)	Description: These guidelines are to help Federal agencies ensure procured products contain as much recycled material as possible. Section 6002(e) of RCRA directs EPA to prepare these guidelines to help maximize the energy and materials that the Federal Government recovers from solid waste. The first of these guidelines will cover regulations for fly ash in cement and concrete. Classification: Other Statutory Authority: RCRA 6002(e) / 42 USC 6962(e) CFR Change: 40 CFR 249 – New Small Entity: Unlikely	John Heffelfinger EPA (WH-565) Washington DC 20460 FTS:8-755-9206 COMM:202-755-9206	NPRM: 45FR76906 (11/20/80) FR: 07/00/81
Guidelines for Federal Procurement for Recycled Paper Products SAN No. 1200A	Description: RCRA directs EPA to prepare guidelines to help maximize energy and materials recovered from solid waste. This guideline gives advice to Federal purchasing agencies concerning purchasing practices which will increase the percentage of recycled paper products bought. Classification: Other Statutory Authority: RCRA 6002(e) / 42 USC 6962(e) CFR Change: EPA will assign a CFR part to this regulation. – New Small Entity: Unlikely	Frank Smith EPA (WH-563) Washington, D.C. 20460 FTS:8-755-9140 COMM:202-755-9140	NPRM: 06/00/81
SAFE DRINKING WATER ACT			
The Safe Drinking Water Act of 1974 requires EPA to establish primary and secondary drinking water regulations to assure safe drinking water supplies for the public. Primary regulations are aimed at protecting public health. They establish maximum allowable contaminent levels in drinking water and provide for water treatment technologies and general criteria for water supply system operation. Secondary regulations are designed to protect public welfare and deal with taste, odor, and appearance of drinking water.			
Maximum Contaminant Levels for Volatile Organic Chemicals Found in Ground Water SAN No. 1567	Description: The regulation will establish the Maximum Contaminant Level (MCL) for certain organic chemicals that are most commonly found in drinking water drawn from groundwater sources and that may have adverse effects on human health. These chemicals include trichloroethylene, tetrachloroethylene, and vinyl chloride. Classification: Major Statutory Authority: SDWA 1412 / 42 USC 300g-1 CFR Change: 40 CFR 141 – Addition Small Entity: Not yet determined	Craig Vogt EPA (WH-550) Washington DC 20460 FTS:8-472-5030 COMM:202-472-5030	ANPRM: 05/00/81 NPRM: 11/00/81 FR: 07/00/82
TOXIC SUBSTANCES CONTROL ACT			
EPA is writing regulations under four sections of the Toxic Substances Control Act (TSCA): under Section 4, standards for the development of test data and rules that require the testing of specific chemical substances and mixtures; under section 5, premanufacture notification rules and premanufacture testing guidance; a series of specific control actions under Section 6, for chemicals presenting unreasonable risks; and under Section 8, reporting and recordkeeping requirements necessary for implementing other TSCA provisions.			
Standards for the Development of Physical, Chemical, and Persistence Test Data SAN No. 1635A Docket No. OPTS 46007	Description: This is the first in a series of standards for tests on physical chemical and persistence properties. It prescribes standards for testing density/ relative density, melting temperature, vapor pressure, octanol/water partition coefficient, and soil thin layer chromatography. This rule also proposes Good Laboratory Practice standards for these kinds of tests. Classification: Other Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New Small Entity: Unlikely	Arthur Stern EPA (TS-798) Washington, D.C. 20460 FTS:8-755-8758 COMM:202-755-8758	NPRM: 45FR77332 (11/21/80) FR: 03/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	TOXIC SUBSTANCES CONTROL ACT—Continued		
Standards for Development of Health Test Data SAN No. 1461	Description: This regulation sets standards for tests to determine health effects including acute and subchronic toxicity, mutagenicity, teratogenicity and reproductive effects. These standards will be implemented, as appropriate, by separate chemical specific test rules which will refer to these standards. Classification: Other Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New Small Entity: Unlikely	Diane Beal EPA (TS-796) Washington, DC 20460 FTS:8-755-2890 COMM:202-755-2890	NPRM: 44FR44054 (07/26/79) FR: 11/00/81
Standards for Development of Health Test Data: Chronic Effects Data SAN No. 1132 Docket No. OTS-04600-3	Description: This regulation sets standards for testing for oncogenic and non-oncogenic chronic effects and good laboratory practices for health effects testing. It also establishes general provisions covering the scope, purpose, authority and applicability of test requirements. These standards will be implemented, as appropriate, by separate chemical specific test rules which will refer to these standards. Classification: Other Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New Small Entity: Unlikely	Diane Beal EPA (TS-796) Washington, DC 20460 FTS:8-755-2890 COMM:202-755-2890	NPRM: 44FR27334 (05/09/79) FR: 11/00/81
Standards for Environmental Test Data: Fish Toxicity and Other Effects SAN No. 1462 Docket No. OPTS 46007	Description: These regulations propose test standards for assessing the environmental effects of chemical substances and mixtures. Part I gives standards for fish-acute toxicity, fish embryo larval, avian dietary, and avian reproduction tests. Part II standards are for bioconcentration tests. Part III standards are for invertebrate acute and chronic toxicity, algal bioassay, and plant toxicity. Manufacturers and processors of those chemicals subject to test rules under Part 771 will conduct their tests according to these standards as appropriate. Classification: Other Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 772 – New Small Entity: Unlikely	James Gilford EPA (TS-796) Washington, DC 20460 FTS:8-755-1500 COMM:202-755-1500	NPRM: 07/00/81
Section 4 Exemption Policy SAN No. 1669	Description: This is a final notice of the policies EPA will use to grant exemption from testing under Section 4(c) of TSCA. Section 4 (c) requires EPA to exempt applicants from testing if the chemical they manufacture or process is equivalent to one which is already being tested or if testing by applicants for exemptions would duplicate data already submitted to EPA. Classification: Other Statutory Authority: TSCA 4(c) / 15 USC 2603(c) CFR Change: 40 CFR 773 – New Small Entity: Unlikely	Steven Newburg-Rinn EPA (TS-778) Washington D.C. FTS:8-557-5781 COMM:202-557-5781	NPRM: 45FR48512 (07/18/80) FR: 11/00/81
Test Rules for Chloromethanes and Chlorinated Benzenes SAN No. 1131 Docket No. OPTS 47002	Description: This regulation is intended to require chemical manufacturers and processors to test chloromethanes and chlorinated benzenes for specified health and environmental effects. EPA is acting under Section 4 of TSCA, which specifies that if a substance may present an unreasonable risk of injury, or there may be substantial human exposure, and if data on effects are inadequate and testing is necessary to obtain it, EPA may require testing. This is EPA's first rule under Section 4 requiring testing of specific chemicals. Classification: Other Statutory Authority: TSCA 4, 26 / 15 USC 2603, 2625 CFR Change: 40 CFR 771 – New Small Entity: Unlikely	Steven Newburg-Rinn EPA (TS-778) Washington, DC 20460 FTS:8-557-5781 COMM:703-557-5781	NPRM: 45FR48524 (07/18/80) FR: 10/21/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	TOXIC SUBSTANCES CONTROL ACT—Continued		
Test Rule for Nitrobenzene, Dichloromethane and 1, 1, 1-Trichloroethane SAN No. 1668	Description: This regulation may require chemical manufacturers and processors to test nitrobenzene, dichloromethane and 1,1,1-trichloroethane for specified health and environmental effects. This is the second of EPA's rules issued under Section 4 to require testing of specific chemicals. Classification: Other Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 771 – New Small Entity: Unlikely	Steven Newburg-Rinn EPA (TS-778) Washington, D.C. 20460 FTS:8-557-5781 COMM:703-557-5781	NPRM: 05/00/81 FR: 05/00/82
Test Rules for Chemical Substances and Mixtures: Acetonitrile and Others (III) SAN No. 1667	Description: This is the third of EPA's rules issued under Section 4 to require testing of specific chemicals or provide adequate reasons for not requiring testing. Eight of the following sixteen chemicals will be acted on in this rulemaking: Acetonitrile, alkyl, phthalates, antimony, antimony trioxide, antimony sulfide, aryl phosphates, benzidine dyes, chloroparaffins, chlorinated naphthalenes, cresols, dianisidine dyes, hexachloro-1,3,-butadiene, 4,4-methylene-dianile, o-tolidine dyes, thenylene-dianines, and polychlorinated terphenyls. Classification: Other Statutory Authority: TSCA 4 / 15 USC 2603 CFR Change: 40 CFR 771 – New Small Entity: Unlikely	Steven Newburg-Rinn EPA (TS-778) Washington, D.C. 20460 FTS:8-557-5781 COMM:703-557-5781	NPRM: 12/00/81 FR: 12/00/82
Premanufacture Notification Requirements and Review Procedures SAN No. 1134 Docket No. OPTS-50019	Description: This regulation establishes procedures for chemical manufacturers to submit notices to EPA before manufacturing new chemical substances for commercial purposes. EPA will use these notices to screen potentially harmful chemicals before they enter production and use. The Agency can allow production or take any of several different actions to prohibit, monitor, or control commercial development of a chemical. Smaller firms may have more difficulty in assessing their chemicals and supplying premanufacture notice information. Classification: Major Statutory Authority: TSCA 5 / 15 USC 2604 CFR Change: 40 CFR 720 – New Small Entity: Likely	Joe DeSantis EPA (TS-794) Washington, DC 20460 FTS:8-426-8493 COMM:202-426-8493	NPRM: 44FR2242 (01/10/79) RPRM: 44FR59764 (10/16/79) IFR: 44FR28564 (05/15/79) FR: 08/00/81
PCB's: Use in Electrical Equipment SAN No. 1709	Description: EPA is revising earlier regulations concerning the use of PCBs in electrical equipment following a ruling of the D.C. Circuit. EPA is reviewing its earlier determination that PCB-containing transformers, capacitors, and electromagnets are "totally enclosed." Under EPA's definition, the requirement of TSCA 6(e) that containers of PCB be totally enclosed to prevent significant exposure means that there must be no detectable exposure from any such container. Classification: Other Statutory Authority: TSCA 6(e) / 42 USC 2605(e) CFR Change: 40 CFR 761 – Revision Small Entity: Not yet determined	Bill Gunter EPA (TS-794) Washington DC 20460 FTS:8-426-2510 COMM:202-426-2510	ANPRM: 46FR16090 (03/10/81) NPRM: 03/00/82 FR: 07/00/82
Investigation of Di-(2-ethylhexyl) phthalate for Rulemaking SAN No. 1705	Description: Di-(2-ethylhexyl) phthalate is a plasticizer for polyvinyl chloride polymers which has widespread use in flooring, wall coverings, upholstery, shower curtains, toys, and furniture. Virtually the entire U.S. population is exposed to DEHP. According to a recent National Toxicology Program bioassay, DEHP is carcinogenic in rats and mice. The purpose of this investigation is to determine whether and how EPA or other federal agencies should address the risks associated with DEHP Classification: Other Statutory Authority: TSCA 6 CFR Change: 40 CFR 70 – New Small Entity: Not yet determined	Emery Lazar EPA (TS-794) Washington DC 20460 FTS:8-755-1806 COMM:202-755-1806	ANPRM: 11/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	TOXIC SUBSTANCES CONTROL ACT—Continued		
Labeling Rule for Treated Wood SAN No. 1680	Description: Pentachlorophenol, creosote, and inorganic arsenicals are used as wood preservatives. They may pose risks of teratogenicity, fetatoxicity, oncogenicity, or mutagenicity for persosn improperly handling treated wood. These substances are undergoing Rebuttable Presumption Against Registration (RPAR) review under FIFRA because EPA believes they may pose unreasonable risks to health. This regulation would require the distribution of labels containing safe handling directions. Classification: Other Statutory Authority: TSCA 6 / 15 USC 2605 CFR Change: EPA will assign a CFR part to this regulation.—New Small Entity: Not yet determined	Lynda Priddy EPA (TS-791-C) Washington, D.C. 20460 FTS:8-557-7451 COMM:703-557-7451	NPRM: 09/00/81 FR: 02/00/82
Rules Restricting the Commercial and Industrial Use of Asbestos Fibers SAN No. 1627	Description: Epidemological studies have established that exposure to asbestos fibers greatly increases risk of lung damage (asbestosis) and several kinds of human cancer. The Agency is investigating regulation of the commercial and industrial use of asbestos. Among the options under consideration are: (1) prohibiting the nonessential uses of asbestos; (2) establishing quotas for the use of asbestos; and (3) requiring the labeling of asbestos and asbestos-containing products. Classification: Major Statutory Authority: TSCA (6) / 15 USC 2605 CFR Change: 40 CFR 763—New Small Entity: Not yet determined	Albert Colli EPA (TS-794) Washington, DC 20460 FTS:8-755-1397 COMM:202-755-1397	ANPRM: 44FR60050 (10/17/79) NPRM: 04/00/82 FR: 06/00/83
Asbestos-Containing Materials in School Buildings—Identification and Notification SAN No. 1519A Docket No. OPTS-61004	Description: The purpose of this regulation is to protect school children and employees from unreasonable risks of exposure to asbestos. It will require local education agencies for some 109,000 public and private school buildings to inspect and identify friable asbestos-containing materials in their buildings and notify employees and parent-teacher associations of the presence of such materials. The Agency was considering a second phase requiring corrective action, but now has concluded that identifying hazards will provide local school districts with enough information to take corrective action on their own. Classification: Other Statutory Authority: TSCA 6(a)(3) / 15 USC 2605 CFR Change: 40 CFR 765—New Small Entity: Unlikely	Larry Longanecker EPA (TS-794) Washington, DC 20460 FTS:8-755-1397 COMM:202-755-1397	ANPRM: 44FR54670 (09/20/79) NPRM: 45FR61966 (08/17/80) FR: 05/00/81
Preliminary Assessment Information Reporting SAN No. 1137 Docket No. OTS-082004	Description: This rule is the first in a series of reporting regulations designed to obtain information for preregulatory assessment on toxic substances. The rule would apply to manufacturers and importers of about 2000 chemicals, and would require them to fill out a short form on general production, use and exposure. EPA will use this information to rank potentially important chemicals for investigation and preliminary risk assessment. Classification: Other Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712—New Analysis: Report Small Entity: Unlikely	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8-755-8024 COMM:202-755-8024	ANPRM: 44FR37517 (06/27/79) NPRM: 45FR13646 (02/29/80) FR: 08/00/81
General Assessment Information Reporting 8(a) SAN No. 1551	Description: This rule will require chemical manufacturers and processors to supply information on their products including exposures, byproducts and toxicity. EPA and other Agencies will use the information for chemicals being reviewed by the Agency. Classification: Other Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712—New Small Entity: Unlikely	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8-755-2778 COMM:202-755-2778	ANPRM: 06/00/81 NPRM: 12/00/81 FR: 08/00/82

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	TOXIC SUBSTANCES CONTROL ACT—Continued		
Detailed Assessment Reporting 8(a) SAN No. 1553	Description: This is the third in a series of reporting regulations to obtain preregulatory assessment information. This rule will help provide detailed information on chemicals for which regulatory controls are being developed. The rule will apply to chemical manufacturers and processors. Classification: Other Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712(D) – New Small Entity: Unlikely	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8-755-2778 COMM:202-755-2778	ANPRM: 06/00/81 NPRM: 07/00/82 FR: 07/00/83
Asbestos Use and Substitutes Reporting SAN No. 1552 Docket No. OPTS 84004	Description: This rule will use the reporting authority of Section 8(a) to obtain information on the industrial and commercial uses of asbestos fiber. EPA will use this information to support regulation of asbestos under TSCA Section 6. The rule will require information on quantities of asbestos used in various processes, employee exposure and monitoring, and waste disposal and pollution control. It will apply to asbestos manufacturers, importers, and processors. Firms of 10 or fewer employees are exempt. Classification: Other Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 763 – New Analysis: Report Small Entity: Unlikely	Suzanne Rudzinski EPA (TS-778) Washington DC 20460 FTS:8-755-6660 COMM:202-755-6660	ANPRM: 44FR60061 (10/17/79) NPRM: 46FR8200 (01/26/81) FR: 10/00/81
Standards for Excluding Small Manufacturers and Processors from TSCA 8(a) SAN No. 1529 Docket No. OPTS-8011	Description: Under Section 8(a) of TSCA, EPA can minimize burdens on small businesses by exempting small manufacturers and processors from reporting requirements, unless the chemical manufactured or processed is subject to certain Agency actions. This rule will establish a generic standard to determine who may qualify as "small" for the purpose of these exemptions. Classification: Other Statutory Authority: TSCA 8(a) / 15 USC 2607(a) CFR Change: 40 CFR 712 – New Small Entity: Unlikely	Barbara Ostrow EPA (TS-778) Washington, DC 20460 FTS:8-755-8024 COMM:202-755-8024	ANPRM: 45FR66180 (09/06/80) NPRM: 10/00/81 FR: 07/00/82
Health and Safety Data Reporting SAN No. 1139 Docket No. OTS-084003	Description: This rule would require chemical manufacturers, processors, distributors, and others who possess health and safety studies on specifically listed chemicals to submit them to EPA. EPA will use these studies to assess the health and environmental effects of the chemicals and to determine what kind of testing is needed on certain priroity existing chemicals. EPA will amend this rule from time to time by adding to the list of chemicals subject to this rule. Classification: Other Statutory Authority: TSCA 8(d) / 15 USC 2607(d) CFR Change: 40 CFR 716 – New Analysis: Report Small Entity: Unlikely	Suzanne Rudzinski EPA (TS-778) Washington DC 20460 FTS:8-755-6660 COMM:202-755-6660	NPRM: 44FR77470 (12/31/79) FR: 06/00/81
Records and Reports of Allegations of Significant Adverse Reactions to Health or the Environment SAN No. 1138 Docket No. OPTS-083001	Description: This regulation implements Section 8(c) of TSCA, which requires that any person who manufactures a chemical substance or mixture keep records of significant adverse reactions to health or the environment alleged to have been caused by the substance or mixture. Companies must keep employee allegations for thirty years, and all others for five years. This will enable EPA to find patterns of adverse effects and identify previously unknown chemical hazards. Classification: Other Statutory Authority: TSCA 8(c) / 15 USC 2607(c) CFR Change: 40 CFR 717 – New Analysis: Report Small Entity: Likely	Suzanne Rudzinski EPA (TS-778) Washington, DC 20460 FTS:8-755-5851 COMM:202-755-5851	ANPRM: 42FR56686 (03/11/77) NPRM: 45FR47008 (07/11/80) FR: 08/00/81

SIGNIFICANT EPA REGULATIONS UNDER CONSIDERATION—Continued

Title	Summary	Contact	Timetable
	GENERAL		
Historic Preservation Regulations SAN No. 1566	Description: On January 30, 1979, the Advisory Council on Historic Preservation promulgated regulations that direct Federal agencies to establish procedures for implementing historic preservation requirements. EPA will comply by adding a new subpart to the NEPA regulations. Classification: Other Statutory Authority: NHPA 6 CFR Change: 40 CFR 6 Subpart K—Revision Small Entity: Unlikely	Judith Troast EPA (A-104) Washington, DC 20460 FTS: 8-755-0780 COMM: 202-755-0780	ANPRM: 45 FR 67396 (10/10/80) NPRM: 05/00/81 FR: 09/00/81
	CLEAN AIR ACT—Additions		
NSPS: Phosphate Rock Operations SAN No. 1118 Docket No. OAQPS-79-6	Description: This regulation will control the emission of particulate matter from phosphate rock processes. It applies to new, reconstructed, or modified plants, and calls for both weight emission limits and visible emission limits of zero percent opacity for rock dryers, calciners, and grinders. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.400—New Analysis: EIS Small Entity: Unlikely	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS: 8-629-5624 COMM: 919-541-5624	NPRM: 44 FR 62914 (11/01/79) FR: 07/00/81
NSPS: Perchloroethylene Dry Cleaning SAN No. 1119 Docket No. A-79-30	Description: This regulation will control hydrocarbon emissions, including perchloroethylene, from professional and coin-operated dry cleaning establishments. It will also reduce the ambient ozone problem. The rule will limit process wastes and leaks, and will require the use of a carbon adsorber, or equivalent control device, to control emissions from exhausts and vents. Classification: Other Statutory Authority: CAA 111/42 USC 7411 CFR Change: 40 CFR 60.410—New Analysis: EIS Small Entity: Likely	John Crenshaw EPA (MD-13) Research Triangle Park NC 27711 FTS: 8-629-5624 COMM: 919-541-5624	NPRM: 45 FR 78174 (11/25/80) FR: 12/00/81

REGULATIONS DELETED FROM THE PREVIOUS AGENDA

Title and SAN(#)	Statutory Authority/CFR	Reason Deleted	Date & Cite of Last Action
Environmental Criteria for Radioactive Wastes SAN No. 1164	AEA 274(h)	Proposal withdrawn	Notice: 46FR17567 (3/19/81)
NSPS: Sodium Carbonate Manufacture SAN No. 1590	CAA 111/40 CFR 60.350	Canceled	NPRM: 45FR68816 (10/15/80)
NSPS: Non-Metallic Mineral Operations SAN No. 1009	CAA 111/40 CFR 60.380	Canceled	
NSPS: Urea Production SAN No. 1592	CAA 111/40 CFR 60	Postponed indefinitely	
NSPS: Electric Arc Furnaces in Ferrous Foundries SAN No. 1617	CAA 111/40 CFR 60.510	Canceled	
NSPS: Nitrate Fertilizer Industry SAN No. 1588	CAA 111/40 CFR 60	Postponed indefinitely	
NESHAPS: Airborne Radionuclides SAN No. 1595	CAA 112/40 CFR 61	Postponed	
Generic Standards for Airborne Carcinogens SAN No. 1618	CAA 112/40 CFR 61	These standards will be proposed as separate regulations for new organic pollutants listed under CAA 112.	
Allowable Maintenance for Light Duty Vehicles SAN No. 1597	CAA 207(c)(3)/40 CFR 86	Postponed indefinitely	
Effluent Guidelines for Auto and Other Laundries SAN No. 1422	CWA 301, 304, 307/40 CFR 444	Canceled under paragraph 8 of the NRDC Consent Decree	
Effluent Guidelines for Gum and Wood SAN No. 1425	CWA 301, 304, 307/40 CFR 454.7	Canceled under paragraph 8 of the NRDC Consent Decree	
Effluent Guidelines for Plastics Moulding and Forming SAN No. 1436	CWA 301, 304, 307/40 CFR 463	Postponed indefinitely	
Effluent Guidelines for Adhesives and Sealants SAN No. 1423	CWA 301, 304, 307/40 CFR 456	Postponed indefinitely	
Effluent Guidelines for Timber Products Processing SAN No. 1407	CWA 301, 304, 306, 307, 501/40 CFR 429	Completed—effective date March 30, 1981. BCT for wetprocess hardboard and insulation board are under review.	FR: 46FR8260 (01/26/81)
Effluent Guidelines for Coal Gasification SAN No. 1650	CWA 301, 304, 307	These guidelines will be developed as part of cross-media regulations for synthetic fuels to be developed after publication of Pollution Control Guidance Documents (PCGD).	
Effluent Guidelines For Nonferrous Metals Forming SAN No. 1568	CWA 301, 304, 307/40 CFR 471	Postponed indefinitely	
Effluent Guidelines for Grain Mills SAN No. 1576	CWA 301, 304, 316/40 CFR 406	Postponed indefinitely	
Effluent Guidelines For Poultry SAN No. 1602	CWA 301, 304, 307/40 CFR 432	Postponed indefinitely	
Effluent Guidelines for Beet Sugar Processing SAN No. 1575	CWA 301, 304, 316/40 CFR 409	Canceled under paragraph 8 of the NRDC Consent Decree	

REGULATIONS DELETED FROM THE PREVIOUS AGENDA

Title and SAN(#)	Statutory Authority/CFR	Reason Deleted	Date & Cite of Last Action
Effluent Guidelines For Fruits And Vegetables SAN No. 1569	CWA 301, 304, 307 /40 CFR 407	Postponed indefinitely	
Effluent Guidelines for Cane Sugar Refining SAN No. 1577	CWA 301, 304, 316 /40 CFR 409	Postponed indefinitely	
Effluent Guidelines for Dairy Processing SAN No. 1573	CWA 301, 304, 307 /40 CFR 405	Postponed indefinitely	
Amendments to General Pretreatment Regulations SAN No. 1502	CWA 307 /40 CFR 403	Completed—under review	FR: 46FR9404 (01/28/81)
Centralized Waste Treatment Facilities SAN No. 1676	CWA 307	Canceled	
Designation of Carcinogens as Hazardous Substances SAN No. 1580	CWA 311(b)(2)(A) /40 CFR 116	Canceled	NPRM: 45FR46094 (07/09/80)
Determination of Reportable Quantities for Carcinogenic Hazardous Substances SAN No. 1582	CWA 311(b)(4) /40 CFR 117	Canceled	NPRM: 45FR46097 (07/09/80)
Assessing the Environmental Effects of EPA Actions Abroad SAN No. 1565	E.O. 12114 /40 CFR 6 Subpart J	Completed—effective date March 30, 1981	FR: 46FR3364 (01/14/81)
Policy on Public Participation SAN No. 1626	EO 12044, CAA, CWA, FIFRA, TSCA, RCRA	Completed—effective date January 19, 1981	FR: 46FR5736 (01/19/81)
State Registration To Meet Special Local Needs SAN No. 1153	FIFRA 24(c) /40 CFR 162 Subpart D	Completed—under Congressional review	FR: 46FR2008 (01/07/81)
Noise Emission Standards for Motorcycles SAN No. 1173	NCA 5, 6 /40 CFR 208	Completed—effective date January 1, 1983	FR: 45FR86694 (12/31/80)
Noise Emission Standards for Wheel and Crawler Tractors SAN No. 1172	NCA 5, 6 /40 CFR 204	Canceled	NPRM: 42FR35803 (07/11/77)
Control of Organic Chemical Contaminants in Drinking Water by Granular Activated Carbon Systems SAN No. 1201	SDWA 1412 /40 CFR 141	Proposal withdrawn	Notice: 46FR17587 (03/19/81)
Standards for the Development of Test Data: General Provisions SAN No. 1130	TSCA 4 /40 CFR 771	Combined with SAN 1132	
Follow-up of New Chemical Substances SAN No. 1531	TSCA 5(a)(2), TSCA 8a /40 CFR 722	Under reconsideration	
Asbestos-Containing Materials in Commercial Buildings SAN No. 1550	TSCA 6	Canceled	

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APPENDIX

EPA's Synthetic Fuels Program

The next two decades will witness the creation of a domestic synthetic fuels industry. If not properly controlled, synthetic fuels plants could present potentially serious health and environmental problems. EPA is making an unprecedented effort to provide coherent, integrated guidance for this industry to speed permit review. The agency is considering issuing pollution control guidance documents (PCGD's) for each major synthetic fuel technology. These guidance documents would be non-binding, and would be supplanted eventually by environmental standards. A tentative schedule for the release and public review of the PCGD's is presented below. Staff drafts may be available earlier. For further information contact Don Ryan at (202) 426-7310.

Pollution Control Guidance Documents
Tentative Review Schedule

Technology	Public release	Forum
Indirect liquefaction	12/81	2/82
Low Btu gasification	8/81	10/81
Medium and high Btu gasification:[1]		
Lurgi	2/82	4/82
Others	6/83	8/83
Direct liquefaction	5/82	7/82
Oil shale	3/82	4/82
Geothermal	12/82	2/83

[1]Separate documents will be prepared for medium and high Btu gasification.

Regulations Affecting the Automobile Industry

On April 6, 1981, the President's Task Force on Regulatory Relief announced a number of actions to be taken by Federal Agencies to reduce regulatory burdens on the motor vehicle industry. We are reprinting here the steps that EPA has decided to take. Notice of these actions appeared in the Federal Register on April 13, 1981. For further information on these actions, contact Greg Dana, Mobile Source Air Pollution Control, Environmental Protection Agency, ANR-455, Washington, D.C. 20460, (202) 755-0596.

1. *Revise the statutory HC and CO standards for heavy-duty trucks to a level that would not require catalysts.*—EPA intends to revise the 1984 model-year hydrocarbon and carbon monoxide standards for heavy-duty trucks to a level that would not require the manufacturers to use catalysts on their gasoline-powered heavy trucks.

EPA will publish a notice of proposed rulemaking on this action by September 1981.

2. *Relax the 10 percent Acceptable Quality Level to 40 percent for assembly-line testing of light and heavy trucks.*—Exhaust emission regulations for light and heavy trucks, respectively, specify that light trucks and heavy-duty engines must not exceed a failure rate of 10 percent during assembly-line testing. 45 FR 63734 (September 25, 1980); 45 FR 4136 (January 21, 1980). This was a new requirement for heavy-duty engines and a change from the 40 percent AQL for light trucks. Automobiles are required to meet only a 40 percent AQL. EPA intends to revise its rules for both light and heavy trucks to require a 40 percent AQL, making the allowed failure rate consistent with that for automobiles.

EPA will propose these amendments by September 1981.

3. *Delay assembly-line testing for heavy-duty engines.*—EPA intends to delay for two years all assembly line testing (called selective enforcement audits) of 1984 and later model year heavy-duty engines for exhaust emissions. This will allow the manufacturers additional time to phase in the new transient test equipment required by the 1984 heavy-duty engine regulations.

EPA will propose this delay in the notice of proposed rulemaking for revision of the HC and CO standards for heavy-duty engines, to be published by September 1981.

4. *Relax the statutory NO_x emission limits for heavy-duty engines.*—Section 202(a) of the Clean Air Act requires a 75 percent reduction in heavy-duty NO_x emissions from 1969 levels emitted from gasoline engines; however, this requirement is subject to revision by the Administrator after determining the maximum degree of emission reduction that can reasonably be expected to be available for production.

Studies indicate that there are major technological problems for diesel-powered heavy-duty engines in meeting the statutory NO_x limit. EPA intends to propose a NO_x standard for all heavy-duty vehicles that represents the level that can be achieved by diesel engines. This standard would apply for three years.

The Agency will publish a notice this month announcing that the public hearing on this matter will be delayed at the request of the industry. Because of the industry-requested delay, EPA will not propose the heavy-duty NO_x emission standard until May 1982.

5. *Institute NO_x emission averaging for light and heavy trucks.*—EPA will propose to adopt an emission averaging scheme for manufacturers to meet the NO_x emission reduction requirement for light-duty trucks and heavy-duty engines. Averaging should provide manufacturers with additional flexibility without significantly increasing total emissions.

The Agency has published an advance notice of proposed rulemaking for NO_x averaging, 45 FR 79382 (November 28, 1980), and intends to propose an averaging scheme by May 1982, concurrent with the proposed NO_x standard for heavy-duty engines.

6. *Institute emission averaging for diesel particulate emissions.*—EPA will propose alternative diesel particulate averaging schemes to replace the individual-vehicle standards currently in place for 1985. Averaging should allow manufacturers to employ the most cost-effective control technology strategies for their diesel models, while assuring that total particulate levels will not significantly increase beyond those allowable under the current regulations.

EPA intends to propose internative averaging schemes by September 1981.

7. *Eliminate the 1984 high-altitude requirement.*—The Clean Air Act currently requires that 1984 model-year cars meet applicable emission standards at all altitudes. Section 202(f) of the Clean Air Act. EPA will request that Congress eliminate this requirement. This change will be included as part of the Administration's coordinated effort on revisions to the Clean Air Act.

8. *Adopt a self-certification program for vehicles to be sold at high altitude.*—Under existing regulations, vehicles to be sold at designated high-altitude areas must undergo prescribed high-altitude certification testing. 45 FR 66984 (October 8, 1980). EPA intends to substitute a program under which manufacturers self-certify that their vehicles will meet applicable standards. As an alternative to certification EPA will increase its emphasis on monitoring in-use vehicles at high altitudes to verify compliance with standards.

EPA will promulgate regulations accomplishing these changes by April 15, 1981, effective for model year 1982.

9. *Forgo assembly-line testing at high altitudes.*—Assembly-line testing for compliance with high-altitude emission standards currently requires testing under high-altitude conditions. 45 FR 66984 (October 8, 1980). Accordingly, to perform selective enforcement audit tests, manufacturers would be required either to construct test facilities in high-altitude areas or to contract with high-altitude commercial test facilities with limited capacity. EPA has decided not to direct manufacturers to perform assembly-line testing for high-altitude standards. Manufacturers will thus be able to avoid the costs associated with

such tests, including the costs of shipping vehicles to high-altitude test facilities.

EPA will announce this action on April 6.

10. *Initiate consolidated NO_X waiver proceedings for light-duty diesel-powered vehicles.*—EPA will initiate consolidated proceedings to waive the statutory NO_X standard from 1.0 to 1.5 gpm (to the maximum extent permitted by law) for all diesel-powered light-duty vehicles through the 1984 model year. This will provide manufacturers of vehicles qualifying for waivers additional flexibility to meet particulate standards, because more stringent NO_X control often increases particulate levels.

A notice has been sent to the Federal Register publication [1] announcing the date by which applications must be submitted for consideration in the consolidated proceedings and the date of the hearing on the applications.

11. *Initiate consolidated CO waiver proceedings for light-duty vehicles.*—EPA will initiate consolidated proceedings to waive the statutory CO standard from 3.4 to 7.0 gpm (to the maximum extent permitted by law) for classes of 1982 model-year light-duty vehicles not previously produced to meet the 3.4 gpm standard.

A notice has been sent to the Federal Register for publication [2] announcing the date by which applications must be submitted for consideration in the consolidated proceedings and the date of the hearing on the applications.

12. *Adopt equivalent non-methane hydrocarbon standards as an option for all vehicles.*—Current emission standards for hydrocarbons limit total hydrocarbon emissions including methane, a non-reactive hydrocarbon. Methane does not react with other pollutants to form smog. State-of-the-art measurement technology permits separate measurement of the non-methane component of hydrocarbon emissions. EPA intends to develop non-methane hydrocarbon standards equivalent to current total hydrocarbon standards as an option for all vehicles.

EPA will propose a rule establishing equivalent non-methane hydrocarbon standards by November 1, 1981.

13. *Do not require use of onboard technology for the control of hydrocarbon emissions resulting from the fueling of motor vehicles.*—EPA is charged with determining the feasibility and desirability of requiring motor vehicles to be equipped to control hydrocarbon emissions during motor vehicle fueling. Section 202(a)(6) of the Clean Air Act. EPA has decided not to require motor vehicles to be equipped with this technology.

The Agency's findings will be published in the Federal Register in June 1981.

14. *Further streamline the motor vehicle certification program.*—EPA will make changes in the administrative process by which motor vehicles and motor vehicle engines are certified for compliance with applicable exhaust emission standards. 40 CFR Part 86, Subpart A. This effort will focus on reducing paperwork and increasing industry flexibility, but will include steps to assure that in-use compliance will not suffer.

EPA will promulgate regulations effecting these changes in the certification program by October 1, 1981, effective for the 1983 model year.

15. *Relax test vehicle exemption requirements.*—Manufacturers desiring to operate uncertified prototype vehicles under *bona fide* test programs must first receive temporary exemptions from certification requirements. 40 CFR Part 85. EPA intends to review and revise existing exemption requirements to reduce administrative burdens presently associated with this program.

The Agency will propose amendments to the applicable regulations by May 30, 1981.

16. *Reduce the annual number of assembly line test orders.*—EPA will reduce the number of selective enforcement audit (i.e., assembly line) test orders to the maximum degree consistent with maintaining approximately the current level of compliance. EPA has already implemented a schedule reducing the number of test orders by 22 percent for model year 1981, and 25 percent for model year 1982, assuming no significant increase in industry noncompliance with exhaust emission standards.

17. *Explore deferring standards for paint shops.*—EPA will discuss with the states changes in their State Implementation Plans (SIPs) which, subject to their willingness to submit revisions of plans, would have the effect of not requiring electrostatic deposition of undercoat in the next two years. Additionally, SIP requirements in those states which now require electrostatic high transfer efficiency in topcoat application would be deferred until 1984.

EPA is also reviewing the recently promulgated[3] new source performance standard (NSPS) for auto body painting to consider the effects of increased use of clear coat.

EPA will discuss changes in SIPs with the states by May 1981, with timing of subsequent changes dependent on the states. EPA plans to complete its review of the NSPS for auto body painting by July 1981.

18. *Provide sufficient leadtime for compliance with emission regulations.*—EPA will assure, in future rulemakings, that there is sufficient leadtime for compliance with automobile emission regulations, as measured from the date of promulgation of regulations.

Withdrawal of Proposed Regulations

On March 19, 1981, 46 FR 17567, EPA withdrew regulations proposed before January 1, 1979, that EPA does not presently intend to promulgate. Some of these regulations may be reproposed at a later date. Because of their inactive status, most of these proposed regulations did not appear in recent EPA Agendas. Any interim final or final regulations issued at the same time as these proposals were not affected by the withdrawal notice. For each regulation being withdrawn, we have indicated the title, authorizing act, Federal Register citation and the affected CFR part number for the proposal. For further information, contact Susan Lepow at (202) 426-4497 The following proposed regulations have been withdrawn:

CFR part affected	FR citation	Subject matter
1. 40 CFR 141.51-141.55	43 FR 5756 (2/9/78)	Safe Drinking Water Act: Control of Organic Contaminants in Drinking Water by Granular Activated Carbon Systems.
	43 FR 29135 (7/6/78)	
2. 40 CFR 406.74, 406.84, 406.94, 406.104.	40 FR 921 (1/3/75)	Clean Water Act: Grain Mills Category: Proposed Pretreatment Standards for Existing Sources.
3. 40 CFR 409.43-409.46, 409.53-409.56, 409.63-409.66, 409.73-409.76, 409.83-409.86.	40 FR 8506 (2/27/75)	Clean Water Act: Sugar Processing Category: Proposal Concerning Best Available Technology, New Source Performance Standards and Pretreatment Standards.
4. 40 CFR 413.13, 413.15, 413.16; 413.23, 413.25, 413.26; 413.43, 413.45, 413.46; 413.53, 413.55, 413.56; 413.63, 413.65, 413.66.	40 FR 18140 (4/24/75)	Clean Water Act: Electroplating Category: Proposal Concerning Best Available Technology, New Source Performance Standards, and Pretreatment Standards for New Source.
5. 40 CFR 416.144, 416.154, 416.164, 416.174, 416.184, 416.194, 416.204, 416.214.	40 FR 3730 (1/23/75)	Clean Water Act: Plastics and Synthetics Category: Proposed Pretreatment Standard for Existing Sources.

[1] Published April 7, 1981, at 46 FR 20705.

[2] Published April 7, 1981, at 46 FR 20703.

[3] See rule published on December 24, 1980, at 45 FR 85410.

CFR part affected	FR citation	Subject matter
6. 40 CFR 418.14, 418.24, 418.34, 418.44, 418.54.	40 FR 12842 (4/8/74)	Clean Water Act: Fertilizer Category: Proposed Pretreatment Standards for Existing Sources.
7. 40 CFR 418.64, 418.74	40 FR 2654 (1/14/75)	Clean Water Act: Fertilizer Category: Proposed Pretreatment Standards for Existing Sources.
8. 40 CFR 420.223–420.226, 420.253–420.256.	41 FR 13017 (3/29/76)	Clean Water Act: Iron and Steel Category: Proposal Concerning Best Available Technology, New Source Performance Standards, Pretreatment Standards.
9. 40 CFR 421.14, 421.24	39 FR 12829 (4/8/74)	Clean Water Act: Nonferrous Metals Category: Proposed Pretreatment Standards for Existing Sources.
10. 40 CFR 421.44–421.46, 421.54–421.56, 421.65–421.66, 421.74–421.76, 421.84–421.86.	40 FR 8530 (2/27/75)	Clean Water Act: Nonferrous Metals Category: Proposed Pretreatment Standards and New Source Performance Standards.
11. 40 CFR 422.14, 422.24, 422.34	39 FR 6586 (2/20/74)	Clean Water Act: Phosphate Manufacturing Category: Proposed Pretreatment Standards for Existing Sources.
12. 40 CFR 422.44, 422.46, 422.54, 422.56, 422.64, 422.66.	40 FR 4110 (1/27/75)	Clean Water Act: Phosphate Manufacturing Category: Proposed Pretreatment Standards.
13. 40 CFR 424.14, 424.24, 424.34	39 FR 6813 (2/22/74)	Clean Water Act: Ferroalloy Manufacturing Category: Proposed Pretreatment Standards for Existing Sources.
14. 40 CFR 424.44–424.46, 424.54–424.56, 424.64–424.66, 424.74–424.76.	40 FR 8038 (2/24/75)	Clean Water Act: Ferroalloy Manufacturing Category: Proposed New Source Performance Standards and Pretreatment Standards.
15. 40 CFR 426.14	39 FR 2567 (1/22/74)	Clean Water Act: Glass Manufacturing Category: Proposed Pretreatment Standard for Existing Sources.
16. 40 CFR 426.54, 426.74	39 FR 5721 (2/14/74)	Clean Water Act: Glass Manufacturing Category: Proposed Pretreatment Standards for Existing Sources.
17. 40 CFR 426.84, 426.104, 426.114, 426.124, 426.134.	40 FR 2963 (1/16/75)	Clean Water Act: Glass Manufacturing Category: Proposed Pretreatment Standards for Existing Sources.
18. 40 CFR 428.14, 428.24, 428.34, 428.44.	39 FR 6666 (2/21/74)	Clean Water Act: Rubber Manufacturing Category: Proposed Pretreatment Standards for Existing Sources.
19. 40 CFR 428.54, 428.64, 428.74, 428.84, 428.94, 428.104, 428.114.	40 FR 2347 (1/10/75)	Clean Water Act: Rubber Manufacturing Category: Proposed Pretreatment Standards for Existing Sources.
20. 40 CFR 432.110–432.116, 432.120–432.126, 432.130–432.136, 432.140–432.146, 432.150–432.156.	40 FR 18150 (4/24/75)	Clean Water Act: Poultry Processing Category: Proposal Concerning Best Practicable Technology, Best Available Technology, New Source Performance Standards and Pretreatment Standards.
21. 40 CFR 435.13–435.16, 435.23–435.26.	40 FR 42573 (9/15/75)	Clean Water Act: Oil and Gas Extraction Category: Proposal Concerning Best Available Technology and Pretreatment Standards.
22. 40 CFR 435.33–435.36, 435.43–435.46, 435.53–435.56, 435.63–435.66.	41 FR 44950 (10/13/76)	Clean Water Act: Oil and Gas Extraction Category: Proposal Concerning Best Available Technology, New Source Performance Standards and Pretreatment Standards.
23. 40 CFR 436.23, 436.25, 436.26, 436.33, 436.35, 436.36, 436.43, 436.45, 436.46, 436.53, 436.55, 436.56, 436.63, 436.65, 436.66, 436.73, 436.75, 436.76, 436.103, 436.105, 436.106, 436.113, 436.115, 436.116, 436.123, 436.125, 436.126, 436.133, 436.135, 436.136, 436.143, 436.145, 436.146, 436.153, 436.155, 436.156, 436.183, 436.186, 436.193, 436.195, 436.196, 436.223, 436.225, 436.226, 436.233, 436.235, 436.236, 436.243, 436.245, 436.246, 436.253, 436.255, 436.256, 436.263, 436.265, 436.266, 436.323, 436.325, 436.326, 436.383, 436.385, 436.386.	41 FR 23563 (6/10/76)	Clean Water Act: Mineral Mining and Processing Category: Proposal Concerning Best Available Technology, New Source Performance Standards and Pretreatment Standards for New Sources.
24. 40 CFR 436.54, 436.64, 436.74, 436.104, 436.114, 436.124, 436.134, 436.144, 436.154, 436.194, 436.224, 436.234, 436.244, 436.254, 436.264, 436.324, 436.384.	40 FR 48667 (10/16/75)	Clean Water Act: Mineral Mining Processing Category: Proposed Pretreatment Standards for Existing Sources.
25. 40 CFR 440.13–440.16, 440.23–440.26, 440.33–440.36, 440–43–440.46, 440.53–440.56, 440.63–440.66, 440.73–440.76.	40 FR 51739 (11/6/75)	Clean Water Act: Ore Mining and Dressing Category: Proposal Concerning Best Available Technology, New Source Performance Standards and Pretreatment Standards.
26. 40 CFR 443.14, 443.24, 443.34, 443.44.	40 FR 31197 (7/24/75)	Clean Water Act: Paving and Roofing Materials Category: Proposed Pretreatment Standards for Existing Sources.
27. 40 CFR 457.13–457.16, 457.33–457.36.	41 FR 10187 (3/9/76)	Clean Water Act: Explosives Manufacturing Category: Proposal Concerning Best Available Technology, New Source Performance Standards and Pretreatment Standards.
28. 40 CFR 460.13, 460.15, 460.16	41 FR 18760 (5/6/76)	Clean Water Act: Hospital Category: Proposal Concerning Best Available Technology, New Source Performance Standards and Pretreatment Standards for New Sources.
29. Criteria Document 42 U.S.C. § 2021(h).	43 FR 53262 (11/15/78)	Atomic Energy Act: Environmental Criteria for Radioactive Wastes.

RCRA—Related "Federal Register" Notices

During the last year and a half, EPA has made a major effort to issue regulations to implement Subtitle C of the Resource Conservation and Recovery Act (RCRA). Court deadlines and the threats that hazardous waste poses to human health and the environment have pushed the Agency to implement RCRA as quickly as possible. As a result, EPA has sent a large number of notices to the Federal Register during this period.

The purpose of this appendix is to collect all of these notices in one place to facilitate public understanding of this program. It consists of all final and interim final notices of rulemaking since May 1980 as well as recent proposed notices of rulemaking that are still outstanding. We have organized the actions according to the CFR part to which they relate. The subpart or subsection affected by each individual section is also identified. Major RCRA actions have appeared in the main body of the Agenda. Most of the actions below, however, do not appear in the Agenda because the consist of minor amendments to the major actions.

Title/CFR	Action	FR citation	Effective date
EPA Administered Permit Programs 40 CFR Part 122.	Final	45 FR 33290 (5/19/80).	11/19/80.
	Statement of Policy (122.6)	45 FR 52149 (8/6/80).	8/6/80.
	Interpretive Notice (122.4(b))	45 FR 74489 (11/10/80).	11/10/80.
	Final (122.3, .21)	45 FR 76074 (11/17/80).	11/19/80.
	Proposal (122.26)	45 FR 76076 (11/17/80).	
	Interim Final (122.3)	45 FR 76626 (11/19/80).	11/19/80.
	Interim Final (122.22-.23)	45 FR 76630 (11/19/80).	11/19/80.
	Interim Final (122.3, .21)	45 FR 86966 (12/31/80).	12/31/80.
	Interim Final (122.3, .22)	46 FR 2344 (1/9/81).	1/9/81.
	Interim final (122.15, .17, .25, .29)	46 FR 2802 (1/12/81).	7/13/81.
	Interim Final (122.5, .27)	46 FR 7666 (1/23/81).	7/22/81.
	Reproposal (122.3, .15, .17, .22, .25 .26, .28, .29).	46 FR 1126 (2/5/81).	
	Interim Final (122.11, .29)	46 FR 12414 (2/13/81).	8/13/81.
State Program Requirements 40 CFR Part 123.	Final	45 FR 33456 (5/19/80).	11/19/80.
	Notice of Guidance	45 FR 33784 (5/20/80).	
	Interim Final (123.34, .35, .128)	45 FR 86970 (12/31/80).	12/31/80.
	Interim Final (123.128)	46 FR 5616 (1/19/81).	1/19/81.
	Interim Final (123.128)	46 FR 8312 (1/26/81).	1/26/81.
	Interim Final (123.121, .137)	46 FR 8298 (1/26/81).	1/26/81.
	Notice of Content of Components (123.129).	46 FR 7694 (1/26/81).	1/26/81.
Procedures for Decision Making 40 CFR Part 124.	Final	45 FR 33290 (5/19/80).	11/19/80.
Hazardous Waste Management System 40 CFR Part 260.	Final	45 FR 33073 (5/19/80).	11/19/80.
	Interim Final (260.10)	45 FR 72024 (10/30/80).	11/19/80.
	Final (260.10)	45 FR 76074 (11/17/80).	11/19/80.
	Proposal (260.10)	45 FR 76076 (11/17/80).	
	Interim Final (260.10)	45 FR 76630 (11/19/80).	11/19/80.
	Interim Final (260.10)	45 FR 86966 (12/31/80).	12/31/80.
	Interim Final (260.10)	46 FR 2344 (1/9/81).	1/9/81.
	Reproposal (260.10, .23)	46 FR 11126 (2/5/81).	
Identification and Listing of Hazardous Waste 40 CFR Part 261.	Final	45 FR 33119 (5/19/80).	11/19/80.
	Interim Final; (261.31, .32)	45 FR 47832 (7/16/80).	1/16/81.
	Proposal (261.32)	45 FR 47835 (7/16/80).	
	Interim Final (261.4)	45 FR 72024 (10/30/80).	11/19/80
	Interim Final (261.4)	45 FR 72035 (10/30/80).	11/19/80.
	Final (261.32)	45 FR 72037 (10/30/80).	10/30/80.
	Final (Appendix II)	45 FR 72040 (10/30/80).	10/30/80.
	Proposal (261.24)	45 FR 72029 (10/30/80).	
	Final and Interim Final (261.31, .32, Appendices VII & VIII).	45 FR 74884 (11/12/80).	11/18/80 and 5/12/81.
	Proposal (261.32)	45 FR 74893 (11/23/80).	

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Interim Final (261.4)		45 FR 76618 (11/19/80).	11/19/80.
	Interim Final (261.5)	45 FR 76620 (11/19/80).	11/19/80.
	Final and Interim Final (261.7, .33)	45 FR 78524 (11/25/80).	11/19/80 and 5/25/81.
	Interim Final (261.4)	45 FR 78530 (11/25/80).	11/19/80.
	Final (261.3)	45 FR 78532 (11/25/80).	11/19/80.
	Grant of temporary exclusion from list	45 FR 78544 (11/25/80).	11/19/80.
	Interim Final (261.4)	45 FR 80288 (12/4/80).	11/19/80.
	Final and Interim Final (261.31, .32, Appendix VII)	46 FR 4614 (1/16/81).	1/16/81, 7/16/81.
	Grant of temporary exclusion from list	46 FR 17196 (3/18/81).	3/18/81.
Standards Applicable to Generators of Hazardous Waste 40 CFR Part 262.	Final	45 FR 12722 (2/26/80).	11/19/80.
	Final	45 FR 33142 (5/19/80).	11/19/80.
	Interim Final (262.11)	45 FR 76620 (11/19/80).	11/19/80.
	Interim Final (262.34)	45 FR 76624 (11/19/80).	11/19/80.
	Interim Final (262.51)	45 FR 78524 (11/25/80).	5/25/81.
	Interim Final (262.10)	45 FR 86968 (12/31/80).	12/31/80.
	Interim Final (262.23)	45 FR 86970 (12/31/80).	12/31/80.
	Final (262.41)	46 FR 8395 (1/26/81).	1/26/81.
Standards Applicable to Transporters of Hazardous Waste 40 CFR Part 263.	Final	45 FR 12737 (2/26/80).	11/19/80.
	Final	45 FR 33151 (5/19/80).	11/19/80.
	DOT/EPA Memorandum of Understanding.	45 FR 51645 (8/4/80).	6/24/80.
	Interim Final (263.10, .12)	45 FR 86968 (12/31/80).	12/31/80.
	Interim Final (263.20, .22)	45 FR 86970 (12/31/80).	12/31/80.
Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities 40 CFR Part 264.	Final (except 264.12 which is interim final).	45 FR 33154 (5/19/80 (Subparts A-E).	11/19/80.
	Supplemental Notice of Proposed Rulemaking.	45 FR 66816 (10/8/80).	
Subpart A—General	Final (264.1)	45 FR 76074 (11/17/80).	11/19/80.
	Proposal (264.1)	45 FR 76078 (11/17/80).	
	Interim Final (264.1)	45 FR 76726 (11/19/80).	11/19/80.
	Interim Final	45 FR 86966 (12/31/80).	12/31/80.
	Reproposal (264.1, .2)	46 FR 11126 (2/5/81).	
Subpart B—General Facility Standards.	Interim Final (264.12, .18)	46 FR 2802 (1/12/81).	7/13/81.
	Final (264.10, .13-.16)	46 FR 2802 (1/12/81).	7/13/81.
	Interim Final (264.10, .13, .15)	46 FR 7666 (1/23/81).	7/22/81.
	Reproposal (264.10, .19-.21)	46 FR 11126 (2/5/81).	
Subpart C—Preparedness and Prevention.	Interim Final (264.36)	46 FR 2802 (1/12/81).	7/13/81.
Subpart E—Manifest System, Recordkeeping and Reporting.	Interim Final (264.71)	45 FR 86968 & 86970 (12/31/80).	12/31/80.
	Final (264.73, .75, .77)	46 FR 2802 (1/12/81).	7/13/81.
	Interim Final (264.73)	46 FR 7666 (1/23/81).	7/22/81.
	Final (264.75)	46 FR 8395 (1/26/81).	1/26/81.
Subpart F—Ground—Water and Air Emission Monitoring.	Reproposal	46 FR 11126 (2/5/81).	
Subpart G—Closure and Post Closure.	Interim Final (264.110-.120)	46 FR 2802 (1/12/81).	7/13/81.
	Interim Final (264.112)	46 FR 7666 (1/23/81).	7/22/81.
Subpart H—Financial Requirements.	Interim Final	46 FR 2802 (1/12/81).	7/13/81.
	Interim Final (264.142)	46 FR 7666 (1/23/81).	7/22/81.
Subpart I—Use and Management of Containers.	Interim Final	46 FR 2802 (1/12/81).	7/13/81.

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Subpart J—Tanks	Interim Final	46 FR 2802 (1/12/81).	7/13/81.
	Proposal	46 FR 2893 (1/12/81).	
Subpart K—Surface Impoundments.	Interim Final	46 FR 2802 (1/12/81).	7/13/81.
	Reproposal (264.220, .221, .228)	46 FR 11126 (2/5/81).	
Subpart L—Waste Piles	Interim Final	46 FR 2802 (1/12/81).	7/13/81.
	Proposal	46 FR 2893 (1/12/81).	
	Reproposal (264.250- .252, .254, .258)	46 FR 11126 (2/5/81).	
Subpart M—Land Treatment	Reproposal	46 FR 11126 (2/5/81).	
Subpart N—Landfills	Reproposal	46 FR 11126 (2/5/81).	
Subpart O—Incinerators	Interim Final	46 FR 7666 (1/23/81).	7/22/81.
	Proposal (264.342, .343)	46 FR 7684 (1/23/81).	
Subpart R—Underground Injection	Reproposal	46 FR 11126 (2/5/81).	
Subpart S—Seepage Facilities	Reproposal	46 FR 11126 (2/5/81).	
Subpart T—Minimum Acceptable Treatment of Hazardous Wastes Prior to Disposal.	Reproposal	46 FR 11126 (2/5/81).	
Interim Status Standards For Owners and Operators of Hazardous Wastes Treatment, Storage, and Disposal Facilities 40 CFR Part 265.	Final and Interim Final	45 FR 33154 (5/19/80).	11/19/80.
Subpart A—General	Final (265.1)	45 FR 76074 (11/17/80).	11/19/80.
	Proposal (265.1)	45 FR 76076 (11/17/80).	
	Interim Final (265.173)	45 FR 78524 (11/25/80).	5/25/81.
	Interim Final (265.1)	45 FR 76628 (11/19/80).	11/19/80.
		45 FR 86970 (12/31/80).	12/31/80.
Subpart E—Manifest System, Recordkeeping and Reporting.	Interim Final (265.71)	45 FR 86968 and 86970 (12/31/80).	12/31/80.
	Final (265.75)	46 FR 8395 (1/26/81).	1/26/81.
Subpart G—Closure and Post-Closure.	Interim Final (265.112, .118)	45 FR 72039 (10/30/80).	11/19/80.
	Proposal (265.119, .120)	46 FR 2893 (1/12/81).	
	Interim Final	46 FR 2802 (1/12/81).	7/13/81
Subpart H—Financial Requirements.	Final (265.142, .144)	45 FR 72039 (10/30/80).	11/19/80.
	Interim Final	46 FR 2802 (1/12/81).	7/13/81.
Subpart J—Tanks	Proposal	46 FR 2893 (1/12/81).	
Subpart L—Waste Piles	Proposal	46 FR 2893 (1/12/81).	
Subpart N—Landfills	Final (265.312)	46 FR 13492 (2/20/81).	2/20/81.
Subpart O—Incinerators	Final 265.340, .341, .345, .347, .351)	46 FR 7666 (1/23/81).	7/22/81.
Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Facilities 40 CFR Part 266.	Proposal	45 FR 76076 (11/17/80).	
Interim Standards for Owners and Operators of New Hazardous Waste Land Disposal Facilities 40 CFR Part 267 (Subparts A-G).	Interim Final	46 FR 12414 (2/13/81).	8/13/81.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

[Last Listing April 17, 1981; last cumulative listing for the 96th Congress (1980), January 7, 1981.]

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with Old Dominion University.

WHAT: Public briefings (approximately 2½ hours) to present:

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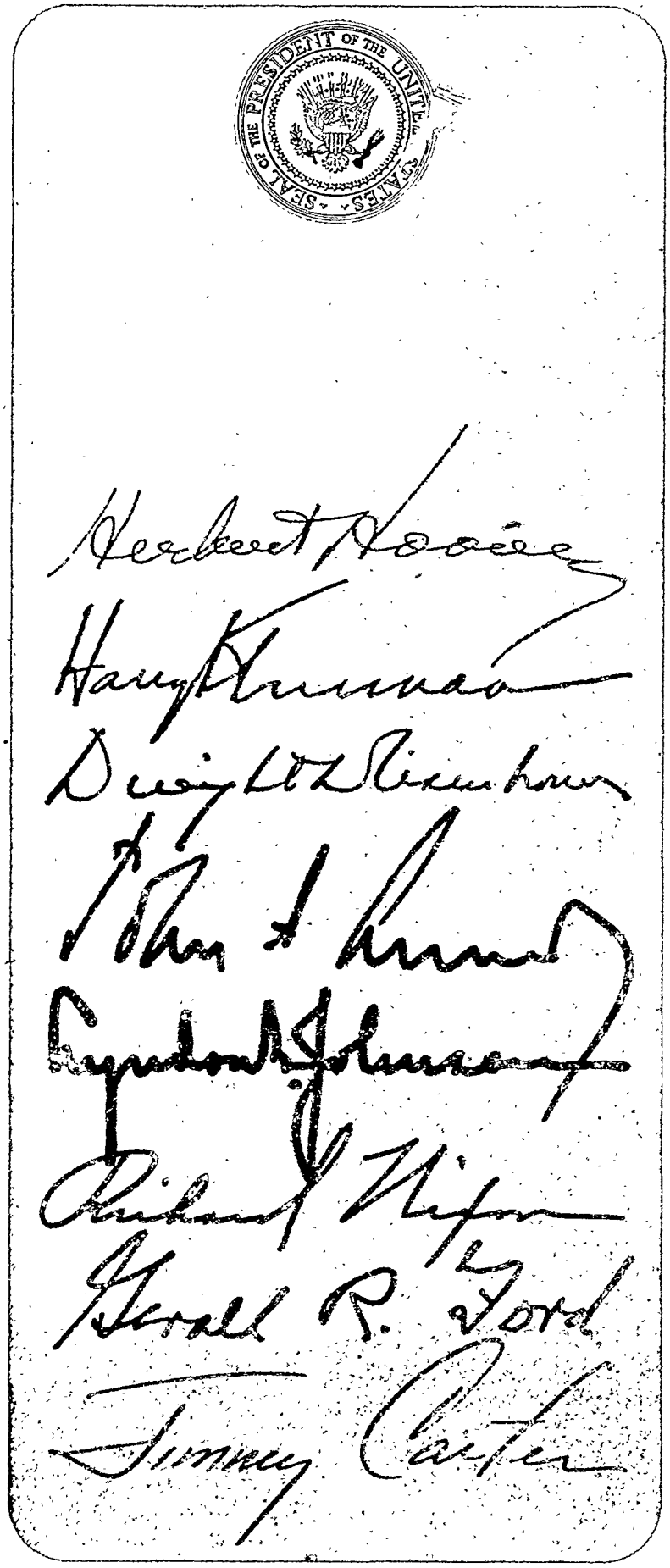
WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: April 29 at 9:00 a.m. and 1:00 p.m. (identical sessions).

WHERE: Webb Center, Old Dominion University, Norfolk, Va.

RESERVATIONS: Call Henry Schmoele, (804) 440-3329.



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